



CITY OF CHARLESTON West Virginia



Council Member – 12th WARD

Joseph Jenkins
839 Gordon Drive
Charleston, West Virginia 25303
304-575-9202
joseph.jenkins@cityofcharleston.org

Finance Committee, Chair
Parking Committee, Chair
Parks and Recreation Committee

AGENDA
FINANCE COMMITTEE MEETING
Monday, November 1, 2021
6:15 PM

CITY COUNCIL CHAMBERS, CITY HALL, CHARLESTON, WV

AVAILABLE TO VIEW VIA LIVESTREAM AT <https://charlestonwv.civicclerk.com/web/home.aspx>

I. DISCUSSION:

- a. Approval of Previous Minutes 10-18-2021

II. RESOLUTIONS:

- a. Resolution No. 549-21 - Authorizing the Finance Director to amend the 2021 Community Development Block Grant budgets.
- b. Resolution No. 550-21 - A Resolution authorizing the City Manager or his designee to enter into a lease renewal for space in 601 Morris Street with Yoga Power LLC.
- c. Resolution No. 551-21 - Authorizing "Citizen Appreciation Parking" for November 27, 2021, December 4, 2021, December 11, 2021, December 18, 2021, December 25, 2021, and January 1, 2022 that shall include the waiving of hourly parking fees at all metered on-street parking spaces.
- d. Resolution No. 552-21 - Authorizing Change Order No. 1 to the City's 2021 concrete sidewalk and accessible ramp project contract with McClanahan Construction Co., LLC.

***Meetings may be recorded and broadcast via internet <https://charlestonwv.civicclerk.com>**

MINUTES
FINANCE COMMITTEE MEETING
6:15 P.M., OCTOBER 18, 2021
COUNCIL CHAMBERS, CITY HALL

Joseph Jenkins, Chairperson, called the meeting of the Charleston City Council Committee on Finance to order at 6:15 p.m., October 18, 2021.

A silent roll was taken by the Clerk and a quorum was established. The following committee members were present:

Joseph Jenkins, Chair
Bobby Reishman, Vice Chair
Ben Adams
Becky Ceperley
Mary Beth Hoover
Chad Robinson

Absent:
Brent Burton

Other Councilmembers present:
None

I. DISCUSSION:

a. Approval of Previous Minutes - Councilmember Reishman asked for unanimous consent to dispense with the reading of the minutes for the October 4, 2021 meeting and that they be approved as distributed. There were no objections, and the minutes were approved.

II. RESOLUTIONS:

- a. Resolution No. 544-21 – Authorizing the Mayor or City Manager to purchase 8 Ford Explorer SUVs (model year 2022) from Stephens Auto in the amount of \$225,328, where the purchase price was determined through a competitively sourced state-wide contract. The vehicles will replace current Charleston Police Department and Fire Department staff vehicles, which are scheduled to be replaced this fiscal year.

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor or City Manager is authorized to purchase 8 Ford Explorer SUVs (model year 2022) from Stephens Auto in the amount of \$225,328, where the purchase price was determined through a competitively sourced state-wide contract. The vehicles will replace current Charleston Police Department and Fire Department staff vehicles, which are scheduled to be replaced this fiscal year.

City Manager, Jonathan Storage, added that five vehicles will be for the Charleston Police Department and three will be for the Charleston Fire Department. They will be administrative vehicles that are part of the normal, capital rotation. The Administration has proposed to purchase these vehicles with cash as opposed to financing them.

Councilmember Reishman moved to approve the Resolution. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Resolution No. 544-21 approved.

- b. Resolution No. 545-21 – Authorizing the Mayor or City Manager to enter into a contract with Mr. Asphalt, Inc., in the amount of \$157,975 to re-pave the parking lot and connect roadways to the North Charleston Community center.

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor or City Manager is authorized to enter into a contract with Mr. Asphalt, Inc., in the amount of \$157,975 to re-pave the parking lot and connect roadways to the North Charleston Community center.

Storage added that two bids were received for the project. He added that it is a very needed project. The winning bidder is also the current street paver for the City.

Councilmember Jenkins thanked the Administration for doing this project.

Councilmember Reishman moved to approve the Resolution. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Resolution No. 545-21 approved.

- c. Resolution No. 546-21 - Authorizing the Mayor or City Manager to enter into a contract with Rock Forge Bridge Company, LLC, in the amount of \$110,800.00 to correct a roadway embankment slip located on Stone Road approximately 200 ft from the intersection with Overbrook Road.

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor or City Manager is authorized to enter into a contract with Rock Forge Bridge Company, LLC, in the amount of \$110,800.00 to correct a roadway embankment slip located on Stone Road approximately 200 ft from the intersection with Overbrook Road.

Storage added that three bids were received for the project.

Councilmember Reishman moved to approve the Resolution. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Resolution No. 546-21 approved.

- d. Resolution No. 547-21 - Authorizing the Mayor or City Manager to purchase a Mercedes Sprinter 3500XD 4x4 from Alpine Armoring Inc. in the amount of \$197,900, where the vendor maintains a competitively sourced federal contract with the General Services Administration.

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor or City Manager is authorized to purchase a Mercedes Sprinter 3500XD 4x4 from Alpine Armoring Inc. in the amount of \$197,900, where the vendor maintains a competitively sourced federal contract with the General Services Administration. The van will be used by the Charleston Police Department SWAT team for training and for deployment to critical incidents within the City. The purchased van will replace the SWAT van currently in service, which is 20 years old.

Storage added that the resolution will replace a twenty-year-old SWAT van. The current van has had engine issues and has become unreliable.

Councilmember Reishman moved to approve the Resolution. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Resolution No. 547-21 approved.

- e. Resolution No. 548-21 - Authorizing approval of Amendment No. 4 of the FY 2021—2022 General Fund Budget as indicated on the attached list of accounts.

Be it Resolved by the Council of the City of Charleston, West Virginia:

That Amendment No. 4 of the FY 2021—2022 General Fund Budget as indicated on the attached list of accounts is approved.

Director of Finance, Andy Wood, added that the amendment will compensate for the fact that the City will no longer be using a lease purchase package to pay for vehicles. Funds will be used from the Municipal Stabilization Fund. Over the next few years, all lease packages will hopefully be completely phased out by 2025/2026.

Storage added that by paying cash for these purchases, the City will save hundreds of thousands of dollars each fiscal year.

Councilmember Jenkins added that he has been discussing this with the Administration since the beginning of his term, and that it is great that the City will be able to save money in this way. He confirmed with Wood that the current year's savings will likely be \$106,000.

Councilmember Reishman moved to approve the Resolution. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Resolution No. 548-21 approved.

General Fund FY 2021-2022 Budget Amendment No. 04 - October 18, 2021

Account No.	Department	Account Description	Amount
001 975 00 436 4 461	Capital Outlay - General Government	Lease Purchase Payment	(984)
001 975 00 567 4 461	Capital Outlay - General Government	Lease Purchase Payment	(5,062)
001 976 00 700 4 461	Capital Outlay - Public Safety	Lease Purchase Payment	(112,779)
001 976 00 706 4 461	Capital Outlay - Public Safety	Lease Purchase Payment	(78,065)
001 976 00 712 4 461	Capital Outlay - Public Safety	Lease Purchase Payment	(4,564)
001 977 00 750 4 461	Capital Outlay - Streets & Transportation	Lease Purchase Payment	(72,430)
001 977 00 754 4 461	Capital Outlay - Streets & Transportation	Lease Purchase Payment	(1,026)
001 978 00 800 4 461	Capital Outlay - Health & Sanitation	Lease Purchase Payment	(65,170)
001 979 00 900 4 461	Capital Outlay - Culture & Recreation	Lease Purchase Payment	(5,176)
001 980 00 952 4 461	Capital Outlay - Social Services	Lease Purchase Payment	(837)
001 377 00 0000	Revenue	Lease Proceeds	1,811,000
001 369 06 0000	Revenue	Transfers in - Municipal Stabilization	(1,464,907)

To reduce the estimate lease proceeds revenue and associated new FY 2022 lease series payments and transfer in Municipal Stabilization funds to purchase the FY 2022 vehicle replacement cycle

Reportable: To Maintain compliance with the budgetary guidelines of the State of West Virginia

Councilmember Reishman motioned to adjourn the meeting.
Meeting adjourned.

Resolution No. 549-21

Introduced in Council:

November 1, 2021

Adopted by Council:

Introduced by:

Joseph Jenkins

Referred to:

Finance

Resolution No. 549-21 - Authorizing the Finance Director to amend the 2021 Community Development Block Grant budgets as indicated on the accounts listed below.

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Finance Director is hereby authorized and directed to amend the 2021 Community Development Block Grant budgets as indicated on the accounts listed below:

<u>Account Number</u>	<u>Description</u>	<u>Amount</u>
009-021-00-054-0-999	Kanawha Valley Senior Services	(9,500.00)
009-021-00-199-0-999	Contingencies	9,500.00
009-021-00-011-0-999	Covenant House – change of scope only	9,000.00

The City proposes to reduce CDBG funding for the Kanawha Valley Senior Service activity originally allocated for a crosswalk. Funds will now be used for two flashing safety signs. In addition, Covenant House has requested a change of scope for a different direct service position and miscellaneous outreach supplies. Written comments regarding the proposed changes may be made to MOECD, 105 McFarland Street, Charleston, WV 25301; fax (304)348-0704 or e-mail MOECD@cityofcharleston.org until 4:00 p.m., November 1, 2021.

Resolution No. 550-21

Introduced in Council:

November 1, 2021

Adopted by Council:

Introduced by:

Joseph Jenkins

Referred to:

Finance

Resolution No. 550-21 - A Resolution authorizing the City Manager or his designee to enter into a lease renewal for space in 601 Morris Street with Yoga Power LLC, for the purpose of operating a yoga studio for a term of five (5) years at a monthly rental amount of \$7,500.00, with an option of a monthly credit of \$1,000.00 in exchange for providing free yoga classes to City employees.

Now Therefore, Be it Resolved by the Council of the City of Charleston, West Virginia:

That, upon final review and approval of the lease by legal counsel, the City Manager or his designee is hereby authorized to enter into lease for space in 601 Morris Street with Yoga Power LLC, for the purpose of operating a yoga studio for a term of five (5) years at a monthly rental amount of \$7,500.00, with an option of a monthly credit of \$1,000.00 in exchange for providing free yoga classes to City employees.



CITY OF CHARLESTON
LEASE ADDENDUM

This Lease Addendum (hereinafter “Addendum”) is made on this _____ day of _____, 2021, by and between the **CITY OF CHARLESTON** (hereinafter “Landlord”), and **YOGA POWER, LLC** (hereinafter “Tenant”).

WHEREAS, Landlord and Tenant entered into that certain Indenture of Lease, dated February 1, 2017, and attached hereto as Exhibit A (the “Lease”); and

WHEREAS, Tenant has submitted written notice to Landlord at least ninety days prior to the expiration date of the Lease that it is requesting its one-time extension of the term of the Lease for one five-year period upon the same terms and conditions as contained in the Lease, pursuant to Section 2 of the Lease; and

WHEREAS, Tenant acknowledges that in order for this extension request to be effective, the City Council for the City of Charleston must approve a resolution authorizing the extension.

NOW, THEREFORE, be it resolved that Landlord and Tenant agree as follows:

That pursuant to Resolution No. _____, which was duly adopted by the City Council for the City of Charleston on _____ day of _____, 2021, the Tenant’s requested one-time Lease extension for five years is accepted by Landlord. Landlord and Tenant agree that this Addendum serves to extend the Lease term through January 31, 2027, with all remaining terms of the Lease remaining intact. Pursuant to this Addendum, the 60-month lease extension is in the total amount of Four Hundred Fifty Thousand Dollars (\$450,000.00), payable in monthly installments of Seven Thousand Five Hundred Dollars (\$7,500.00) from February 1, 2022, to January 1, 2027. The Landlord specifically reserves its rights to apply the Utilities Escalation Adjustment contained in Section 3 of the Lease at its sole discretion.

IN WITNESS WHEREOF, by the duly authorized signatures below, the Landlord and Tenant hereby agree and accept the terms set forth in this Addendum and acknowledge that they are freely signing this Addendum after reading and understanding the entire Addendum and Lease.

CITY OF CHARLESTON

YOGA POWER, LLC

By: _____
Jonathan Storage
Its: City Manager

By: _____
Jamelia A. Dickenson
Its: Managing Member



OFFICE OF THE CITY ATTORNEY

City of Charleston | P.O. Box 2749, Charleston WV 25330 | 304-348-8031
Writer's Fax: 304-348-0770 | Writer's email: paul.ellis@cityofcharleston.org

Paul D. Ellis
City Attorney of Charleston

March 21, 2017

Jamie Dickenson
Yoga Power LLC
601 Morris Street, Suite 302
Charleston, WV 25301

Re: Yoga Power Lease

Dear Jamie:

Please find enclosed for execution the Lease Agreement between the City of Charleston and Yoga Power, LLC, for your premises at 601 Morris Street. The term of the lease is for sixty months beginning February 1, 2017.

This letter is also intended to memorialize that the parties agreed to amend the date of the beginning of the lease from September 1, 2016, to February 1, 2017, reflecting the date of substantial completion of the build-out and final acceptance of the premises by you in late January 2017. This letter further acknowledges that between September 2016 and February 1, 2016, you provided free yoga classes to City of Charleston employees, in exchange for partial occupation of the Morris Street premises during the completion of the build-out of the premises.

Please sign and return the enclosed Lease Agreement to us. We will have the lease executed by the City and return a copy to you. If you have any questions, please contact me.

Sincerely,

Paul D. Ellis
City Attorney of Charleston

PDE/sde
Enclosure

cc: David Molgaard, City Manager

THIS INDENTURE OF LEASE, Made as of this 1st day of February, 2017, by and between THE CITY OF CHARLESTON, WEST VIRGINIA, a municipal corporation, whose address is P.O. Box 2749, Charleston, West Virginia 25330, party of the first part, hereinafter referred to as "Landlord", and Yoga Power, LLC, a Limited Liability Company, whose address will be 601 Morris Street, Suite 302, Charleston, WV, party of the second part, hereinafter referred to as "Tenant";

W I T N E S S E T H:

That, for and in consideration of the premises, covenants and agreements herein entered into between the parties, the parties do hereby agree to and with each other as follows:

1. DEMISED PREMISES: The Landlord does hereby rent and lease unto the Tenant, and the Tenant takes and leases from the Landlord, approximately Five Thousand Six Hundred Ninety-four and one-half (5694.5) square feet of floor space (the "Premises") on the Third (3rd) Floor of 601 Morris Street (Suite 302), in Charleston, Kanawha County, West Virginia, together with the right to use the common areas thereof. The Premises are delineated on the drawing attached hereto as "Exhibit A" and hereby incorporated in and made a part hereof.

2. TERM: The term of this lease shall be for a period of sixty (60) months, commencing on the 1st day of February, 2017, and ending on the 31st day of January, 2022. Tenant may request an extension of the term of this Lease for one (1) consecutive five (5) year period upon the same terms and conditions as contained in this Lease; provided however, Landlord reserves the right, in its sole discretion, to adjust the Base Rental to compensate for changes in the market value of the Premises. To request the extension, Tenant shall give City written notice at least ninety (90) days prior to the

expiration date of the Initial Term (the "Extension Request"). Tenant's Extension Request shall be effective to extend the Term of the Lease subject to approval of the Request by Resolution of the City Council and without any further documentation other than such approved Resolution. Passage of the Resolution and Tenant's Extension Request shall evidence intent by both parties to renew the Lease.

Any holding over by Tenant or retention of the Premises shall not be construed as renewing or extending this Lease Agreement but it may, at the sole option of Landlord, be construed as creating a tenancy from month to month, subject to all the terms and conditions of this Lease excepting the term, and terminable by either party upon thirty (30) days written notice.

3. RENTAL AMOUNT:

a. The Landlord agrees to accept, and the Tenant agrees to pay a Base Rental for the sixty months lease term in the amount of Four Hundred Fifty Thousand Dollars (\$450,000.00), payable in monthly installments of Seven Thousand Five Hundred Dollars (\$7,500.00) from February 1, 2017, to January 1, 2022.

b. In addition to the Base Rental, Tenant shall pay a monthly Utilities Escalation Adjustment beginning February, 2018, which shall be recalculated annually thereafter. The initial Utilities Escalation Adjustment shall be calculated as a pro rata share of any increase in operating expenses assumed by the Landlord as part of this lease associated with utilities over and above the cost of those expenses to the Landlord for the Base Year of February 1, 2017 to January 31, 2018. That pro rata share shall be determined by dividing the square footage of the Tenant's exclusive space (5694.5 sq.ft.) by the overall rentable square footage (excluding common area allocations) of the building which is subject to the same expenses (i.e., 54,902 sq.ft.), which is 10.37%, and dividing the gross amount of the

increase by a divisor of twelve (12) to derive the monthly Rental Escalation. After the initial adjustment, the formula shall be applied in a similar fashion for subsequent years to recalculate and apply the escalation on an annual basis.

c. In addition to the Base Rental and Utilities Escalation Adjustment, Tenant shall honor the Corporate Yoga Program Proposal for the City of Charleston attached hereto as Exhibit "B" or shall pay an additional rental adjustment of One Thousand Dollars (\$1,000.00) per month.

4. RENTAL PAYMENTS: Said rentals are to be payable in advance on the first day of each and every month during the term of this lease; said payments to be made at the office of the City Manager, 501 Virginia Street East, Charleston, West Virginia 25301, or at such other location as the Landlord may designate in writing to the Tenant.

5. GENERAL COVENANTS: The parties hereby covenant and agree as follows:

a. The Tenant shall pay said rentals and any other amounts payable hereunder punctually and promptly.

b. Unless the Landlord consents thereto in writing, which consent shall not be unreasonably withheld, the Tenant:

(i) Shall not use or permit the Premises, or any part thereof, to be used for any purpose other than for a yoga studio and/or related commercial offices.

(ii) Shall not make any alterations, additions or improvements without the prior written consent of the Landlord, and any and all such alterations and improvements shall, at the option of the Landlord, become and be the property of the Landlord upon the termination of the Lease.

(iii) Shall not assign nor mortgage this lease, nor re-let or sublet the Premises, or any part thereof without written consent of Landlord and any approval that may be required by Landlord's governing body.

(iv) Shall not suffer any act of commission or omission which will increase the rate of fire or general liability insurance of the Premises or of the building of which the Premises are a part.

6. COMPLIANCE WITH LAWS:

a. The Tenant shall materially comply with all statutes, ordinances, orders, requirements and regulations, present and future, of any Federal, State, County or Municipal authority, or agency or subdivision thereof having jurisdiction over or affecting the use of the Premises.

b. The Landlord shall at all times and at its own cost keep and maintain the common areas and fixtures in a condition comparable to common areas in first-class commercial office space and in compliance with all applicable statutes, ordinances, orders, requirements and regulations, present and future, of any Federal, State, County or Municipal authority, or agency or subdivision thereof having jurisdiction over or affecting the common areas.

7. INDEMNIFICATION; INSURANCE; CASUALTY LOSS

a. Tenant shall indemnify, hold harmless and defend Landlord, its officers, employees, and agents from and against any and all costs, expenses (including reasonable attorney fees), liabilities, losses, damages, suits, actions, fines, penalties, claims or demands of any kind, and asserted by or on behalf of any person or governmental authority, arising out of or in any way connected with: (i) the Lease or the Premises; or (ii) the negligent or intentional acts or omissions of Tenant, its employees,

agents, and invitees; or (iii) Tenants business activities. Tenant agrees that Landlord shall not be liable to Tenant on account of: (i) any failure by Tenant to perform any of the agreements, terms, covenants or conditions of this Lease; (ii) any failure by Tenant to comply with any statutes, ordinances, regulations, requirements or orders, present and future, of any governmental authority; or (iii) any accident, death or personal injury or damage, including fire or water damage, or loss or theft of property, which shall occur in the Premises or as a result of any act or omission by Tenant, its employees, agents, or invitees unless caused by the sole negligence or intentional act or omission of Landlord, its employees or agents.

b. In addition to, and not in lieu of the indemnity provisions set forth in paragraph 7(a) herein, Tenant agrees to defend, indemnify and hold harmless Landlord, its officers, employees, and agents from any claims, liabilities, and/or any types of actions whatsoever, and from any and all fines, alleged damages and/or expenses, including attorneys' fees and costs, arising out of alleged injury to person(s) or property, or contamination of the environment, whether or not prosecuted by a private or governmental entity. Tenant further agrees to defend, indemnify and hold harmless Tenant, its officers, employees and agents in connection with any administrative proceeding arising out of alleged damage to person, property, or the environment, including, but not limited to, notification that Landlord, its officers, employees or agents, are potentially responsible parties for any alleged damage to any environmental hazard created by Tenant as a result of Tenant's business activities on the Premises.

c. Tenant shall maintain general liability insurance during the term of this Lease and any extensions thereof in the minimum amount of \$1,000,000.00 and shall name City as an additional insured for purposes of this Lease and the indemnity provisions herein.

Tenant agrees to obtain renter's insurance at its own expense and with adequate coverage for the duration of this Lease. Tenant acknowledges and agrees that in the event that it does not have renter's insurance or if its policy provides insufficient coverage, then Tenant shall be solely liable for all damages and losses that would normally be covered under a renter's insurance policy. Tenant shall also purchase and maintain all such other kinds of insurance and minimum amounts required by law to be purchased and maintained by Tenant throughout the term of this Lease. Tenant shall be responsible for all deductibles, and its insurance shall provide primary coverage. Tenant shall provide Landlord with a copy of its insurance policies prior to the commencement of this Lease and any extensions thereof. In the event that Tenant's insurer denies coverage, terminates Tenant's insurance coverage, or materially changes the coverage provided, Landlord may, upon notice of denial, termination, or material change, and at its option, terminate this Lease upon written notice.

d. If the Premises or the building in which the Premises are a part are partially damaged by fire or other casualty, unless caused by the negligence or willful actions of Tenant, the damages shall be repaired by and at the expense of Landlord and the Base Rent, until such repairs shall be made, shall be apportioned, based on the amount of unusable square footage of the Premises, from the date of such fire or other casualty according to the part of the Premises which is usable by Tenant. Subject to the terms herein, Landlord agrees to repair such damage within a reasonable period of time, except that Tenant agrees to repair and replace its own furniture, furnishings and equipment at Tenant's expense.

e. If the entire Premises is damaged and is rendered wholly untenable by fire or other casualty, and if Landlord in its sole discretion shall decide not to restore/rebuild the

same, or if the building shall be so damaged that Landlord shall decide not to restore/rebuild the building or demolish it, then Landlord shall, within thirty (30) days after such fire or other casualty, give Tenant written notice of such decision and thereupon, the term of this Lease shall expire by lapse of time upon the third day after such notice is given, and Tenant shall vacate the Premises and surrender the same to Landlord. Upon the termination of this Lease under the conditions provided in this subsection (e), Tenant's liability for rent shall cease as of the date of the fire or other casualty. In addition, under any such circumstance Tenant may, within thirty (30) days after such fire or other casualty, elect to terminate this Lease by giving written notice to Landlord, in which event this Lease shall expire as of the date of such fire or other casualty. No damages shall be owed by Landlord arising from its decision not to repair/replace, or to demolish the Premises, or from termination of this Lease as provided for in this section.

8. CONDEMNATION: In the event that the land or building in which the Premises are located, or any part of said land or building are condemned, or the right of entry is granted as a part of the condemnation proceeding, for public use (irrespective of whether or not any portion of the Premises is condemned), the Landlord, at its option, may terminate this lease upon one hundred twenty (120) days' notice in writing of its election to do so and upon the date set forth in said notice this lease shall cease, terminate and come to an end in the same manner and to the same effect as if such date were fixed herein for the expiration of the term. The Tenant shall have no claim against the Landlord nor be entitled to any portion of the amount which may be awarded as damages or paid as a result of such condemnation; provided, however, that nothing contained herein shall impair the Tenant's right to pursue a claim against the condemning authority for Tenant's

relocation expenses. Landlord agrees to promptly advise Tenant of the filing of any condemnation proceeding.

9. BREACH: If at any time Tenant fails to pay any monthly installment of rent as set forth herein and does not make all reasonable efforts to cure such breach to the satisfaction of Landlord within ten (10) days after written notice, or violates any other term, covenant, or condition of this Lease, and does not make all reasonable efforts to cure such breach to the satisfaction of Landlord within twenty (20) days after written notice, then Landlord may, at its election, terminate this lease and upon such election, this lease and all of the estate of the Tenant in the Premises shall come to an end and the Landlord may thereupon reenter the premises as of its former estate. Provided, however, that if the breach is the result of an action taken under any statute, ordinance, rule or requirement of any governmental body, and Tenant institutes and prosecutes diligently any bona fide action to establish the invalidity thereof, the period of twenty (20) days shall be suspended until the final determination of such proceedings or unless otherwise ordered by a competent Court of law. Any waiver by the Landlord of any breach shall not be deemed a waiver of any similar or other further breach. The rights and privileges herein reserved shall be in addition to the remedies afforded to the Landlord in the courts of law and equity.

10. ABANDONMENT: If the Premises shall become vacant or abandoned, or if the Tenant or any assignee or subtenant to whose assignment or sublease the Landlord shall have consented, shall be dispossessed or removed from the Premises, or if the term hereof shall terminate prior to the expiration date fixed herein because of any act or omission of the Tenant or such assignee or subtenant, or because of the happening of any contingency or of the abandonment herein provided for, or as a result of any election exercised by the Landlord pursuant to the terms hereof, the Tenant does hereby authorize

and empower the Landlord, at its option, to reenter the Premises as agent of the Tenant or for any occupant of the Premises under the Tenant, or for its own account or otherwise, and to re-let the same for any term expiring either prior to the original expiration date hereof or simultaneously therewith, or beyond such date and to repair the same if necessary or desirable for re-letting purposes and to receive and apply the rent so received to the cost of reentry, repair, and re-lett and to the payment of the rent and other charges due hereunder. The Tenant shall not be entitled to any surplus accruing from such re-letting. Moreover, other than an early termination as provided for in paragraph 7, herein, Tenant shall remain liable for any deficiency, which deficiency shall be, at the Landlord's option, payable monthly as the amount thereof shall be ascertained, or in a single payment, with reasonable allowance for acceleration, on demand.

In the event that at any time before the expiration of the term hereby granted the Tenant shall cease to occupy the Premises, and shall remove substantially all of their furniture therefrom, the Landlord shall have the right to enter upon the Premises for the purpose of cleaning, altering or redecorating the same; and the exercise of such right by the Landlord shall in no way affect or modify the obligations and covenants of the Tenant under this lease for the remainder of the term thereof.

11. QUIET ENJOYMENT: The Landlord hereby covenants that if the Tenant shall perform all the covenants and agreements herein stipulated to be performed on the Tenant's part, Tenant shall at all times during the Term, or of any renewal term, have the peaceful and quiet enjoyment and possession of the Premises.

12. SURRENDER OF PREMISES: Tenant shall, at expiration or termination of the Term, or of any renewal term, peaceably surrender the Premises with all the improvements and additions thereto, broom-cleaned and in good condition, excepting ordinary wear and

tear. All repairs, alterations and additions made either by the Landlord or Tenant to the Premises except unattached moveable business fixtures, shall, at the option of the Landlord, be the property of the Landlord and remain upon and be surrendered with the Premises.

13. SUBORDINATION:

a. This Lease shall be subject, junior and subordinate to that certain Contract of Lease-Purchase dated as of November 1, 2004 (the "Primary Lease"), between the West Virginia Economic Development Authority as lessor (the "Authority") and City as lessee, which expires on November 1, 2024, subject to annual termination as provided for below. The Primary Lease is of record in the office of the Clerk of the County Commission of Kanawha County, West Virginia, in Lease Book 251 at page 191.

b. Under the terms of the Primary Lease, the City has the right to terminate the Primary Lease at the end of any fiscal year upon 30 days' prior written notice to the Authority and to WesBanco Bank, Inc, as trustee (the "Trustee") under that certain Indenture, Credit Line Deed of Trust and Security Agreement (the "Indenture"), dated as of November 1, 2004, between the Authority and the Trustee. The Indenture constitutes a deed of trust on the baseball stadium complex known as "West Virginia Power Park," including the Premises. The Indenture is of record in the aforesaid Clerk's office in Trust Deed Book 3194 at page 567.

c. Notwithstanding the above, and in addition thereto, this Lease shall be subject and subordinate at all times to the lien of any mortgages and/or deeds of trust and/or bond issues and/or trust debentures in any amount or amounts whatsoever now or hereafter placed on the land and buildings of which the Premises form a part and/or on the Landlord's interest or estate therein without the necessity of any further instrument or act

on the part of the Tenant to effectuate such subordination, provided, however, the Tenant covenants and agrees to execute and deliver upon demand such further instrument or instruments evidencing such subordination of this Lease to the lien of any such mortgage or mortgages and/or deeds of trust and/or bond issues and/or deeds of trust and/or bond issues and/or trust debentures as may reasonably be desired or requested by Landlord, and Tenant's execution of any and all documents necessary and proper to effectuate a subordination shall not be unreasonably withheld by Tenant.

14. UTILITIES AND MAINTENANCE: The Landlord does covenant and agree that during the term of this lease the following will be furnished at the Landlord's expense:

a. Heating and air-conditioning within the Premises between the hours of 6:00 am and 9:00 pm, seven days per week unless otherwise agreed to in writing by Tenant and Landlord. Upon twenty-four (24) hours written notice from the Tenant to the Landlord with regard to a particular day or time outside of the hours set forth hereinabove, the Landlord agrees to keep the premises comfortably heated or cooled for that particular day or time outside of the hours set forth hereinabove.

b. Electric power and light necessary to operate elevator, building air-conditioning and heating systems and to light building and operate Tenant's equipment, including washers and dryers for clothing, and customary kitchen equipment. In addition to the amounts set forth in paragraph 3 herein, the Tenant shall pay for all other electricity for equipment that requires more than usual and customary amounts of electricity and will be charged on a metered or pro-rata share basis.

c. Janitor service reasonably necessary to keep the Premises in a neat and tidy condition and to be equivalent to the type of service provided in first-class buildings including the following:

DAILY:

Clean rest rooms.

Provide soap and toilet paper in toilet area.

Vacuum carpets and spot mop common area hallways and corridors.

TWICE WEEKLY:

Empty waste paper baskets.

Sweep and dust and mop floors.

Clean fingerprints from door glass.

Dust furniture and equipment.

Vacuum carpet in Tenant's exclusive Premises.

PERIODICALLY:

Clean outer window glass and all interior partition glass.

Clean all tile floors.

Replace light tubes.

d. Maintenance and repair of the outside of the building and all common areas, including the sidewalk, the parking area, lawns and shrubbery, in a neat and tidy condition, normal wear and tear excepted.

e. All cleaning of carpets within Tenant's exclusive Premise, except vacuuming twice weekly, shall be done by Tenant at Tenant's expense.

15. ENTRY UPON PREMISES: Tenant shall permit Landlord, its employees, agents, or any other person or persons authorized by the Landlord, upon reasonable notice and at any reasonable time, to enter the Premises for the purpose of inspection or to make repairs, additions, or alterations to the Premises or the building of which the Premises are a

part. Landlord shall exercise due care to minimize any disruption to Tenant's business activities. Unless emergency or other exigent circumstances exist, Landlord shall provide Tenant with at least 48 hours notice before entering the Premises. Except as specifically provided for in Paragraph 7 of this Lease, no diminution or abatement of rent or other compensation shall be claimed or allowed for inconveniences, discomfort or interruption of business arising from the making of repairs or improvements to the building, or any part thereof, or to the machinery, fixtures or appurtenances thereto and therein. Beginning six months prior to the expiration of the Term or of any renewal term and subject to the notice provisions herein, Landlord may exhibit the Premises to any person or persons, and may also maintain "For Lease" and "For Sale" notices on the outside walls thereof or otherwise advertise that the Premises are for lease or sale. Landlord shall, however, exercise reasonable care to minimize any disruption to Tenant's business activities.

16. NOTICES: All written notices by the Landlord to the Tenant shall be sent by certified mail to the Tenant at 601 Morris Street, Suite 302, Charleston, WV, or at such other location as the Tenant may designate in writing. All notices by the Tenant to the Landlord shall be sent by certified mail to the Landlord in care of the City Manager at City Hall, 501 Virginia Street East, Charleston, WV, 25301, or at such other location as the Landlord may designate in writing.

17. GOVERNING LAW, DISPUTE RESOLUTION, AND EXCLUSIVE JURISDICTION: The terms, covenants and conditions of this Lease shall be governed by the laws of the State of West Virginia.

If any breach, default, or other dispute arises out of this Lease, the Parties agree that they will exercise good faith and commercially reasonable efforts to resolve said breach, default or other dispute through negotiation. If the Parties cannot resolve the

matter without litigation, the Parties acknowledge and agree that either the Circuit Court of Kanawha County, West Virginia or the Federal District Court for the Southern District of West Virginia shall have exclusive jurisdiction to resolve the breach, default or other dispute giving rise to the litigation.

18. BUILD-OUT and ACCEPTANCE OF PREMISES: Landlord agrees to build-out the space pursuant to Tenant's specifications subject to a build-out allowance of One Hundred Forty-seven Thousand Dollars (\$147,000.00) inclusive of all labor, material, and supplies. The buildout shall be complete on or before February 1, 2017 or the monthly rental installments referenced herein shall be abated until the first day of the month after the build-out is complete and the Premises is surrendered to Tenant for occupancy. The taking of possession by Tenant of the Premises is conclusive evidence that Tenant has examined the Premises and is satisfied that the build-out was performed consistent with tenant's specification, was constructed in a workman-like manner, and acknowledges receipt of it in good order and repair, except as otherwise specified to Landlord in writing within ten (10) days of taking possession. Tenant agrees that no representation as to condition of repair has been made by Landlord, except as is contained in the lease and further agrees that no promise to decorate, alter, repair, modify, or improve the Premises has been made except as is set forth herein.

19. REPAIRS: The Tenant shall immediately give written notice to Landlord of any repairs to the Premises that Tenant believes are necessary to be performed. Landlord agrees that upon written notice it will examine the Premises and conduct and complete any repairs deemed necessary in a reasonable period of time.

20. SIGNS: Tenant shall not display any signage visible from the outside of the Premises without written authorization from Landlord. If requested and desired by Tenant

and agreed to by Landlord, Landlord will facilitate installation of exterior signage, the cost of which shall be reimbursed by Tenant. Tenant may place direction signage near the elevator on the third floor, on the entrance door or sidelight windows to Tenant's suite, and will be identified on the common area marquee maintained by the Landlord in the first floor lobby.

21. PARKING: Tenant acknowledges and agrees that no parking facilities are provided by Landlord in this Lease for Tenant, its employees, agents, or invitees.

22. TAXES AND FEES: Tenant shall pay any and all taxes and fees levied and assessed upon any personal property, fixtures and improvements belonging to Tenant and located upon the Premises. Tenant shall pay Business Occupation Tax, City Service Fee (User Fee) and any and all other applicable local or state taxes or fees imposed on businesses in the City of Charleston or State of West Virginia.

23. SEVERABILITY AND BINDING EFFECT: If any provision of this agreement is held to be illegal, invalid or unenforceable under present or future law, such provision shall be fully severable, and further the remainder of this agreement shall be fully enforceable and remain in force and effect. All covenants and representations are binding upon and inure to the benefit of the heirs, executors, administrators, and assigns of Landlord and Tenant.

23. ENTIRE AGREEMENT; EFFECTIVE DATE OF LEASE: This Agreement constitutes the entire agreement between the Landlord and the Tenant pertaining to the subject matter contained herein. The Landlord and Tenant agree to execute any and all supplementary documents and to take all supplementary steps to give full force and effect to the basic terms and intent of this lease. Notwithstanding any agreement of this lease to

the contrary, this lease is not effective until it is approved by the City Council of Landlord and duly executed by its Mayor.

IN WITNESS WHEREOF, the party of the first part, The City of Charleston, and the party of the second part, Yoga Power, LLC, have caused these presents to be executed by their duly authorized representatives as of the date first above written:

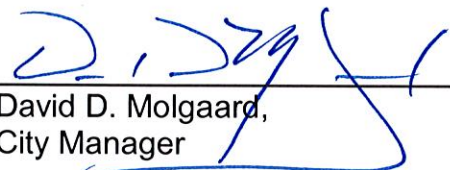
Landlord:

Tenant:

City of Charleston

Yoga Power, LLC

By:



David D. Molgaard,
City Manager

By:



Jamelia A. Dickenson
Its: Managing Member



Corporate Yoga Program Contract

This contract is made and entered into this 26th day of August, 2016, by and between the City of Charleston (the "City"), a municipal corporation, and Yoga Power, LLC ("Yoga Power"), (together, the "Parties").

WHEREAS, Yoga Power has signed a lease with the City for property at 601 Morris Street, Charleston, WV 25301 (the "Lease");

WHEREAS, Yoga Power agrees to offer a Corporate Yoga Program, including a free Silver Membership or similar credit toward the cost of an upgraded yoga membership to City employees as an offset for the consideration of Yoga Power's monthly rent for the premises described above; and

NOW, THEREFORE, in consideration of the mutual promises and covenants hereafter provided and the performance thereof by the Parties hereto, the specific terms of this Contract are hereby agreed as follows:

1. The City's employees shall be entitled to Yoga Power's Silver Membership at no cost to them. If an employee chooses to upgrade at any time to Yoga Power's Gold, Platinum, VIP Elite, or other memberships, the monthly cost of the Silver Membership will be credited to the monthly cost of the upgraded membership.
2. The free Silver Membership shall be available only to City employees, but family members of City employees shall receive fifty percent (50%) off any membership package(s) purchased.
3. This membership offer is limited to one-hundred (100) City employees at any given time on a first come, first served basis. If excess of 100 employees request membership, those employees will be placed on a waiting list until open spaces are available.
4. If Yoga Power discontinues the Silver Membership at any time during the Lease, Yoga Power shall provide an equivalent free membership consistent with the terms and conditions herein.
5. The term of this Contract shall be the same as the term of the Lease, including any extensions thereof.

This Contract cannot be modified in any way unless such modifications are made in writing and signed by both Parties. This document constitutes the entire agreement between the Parties. This contract is legally binding upon the Parties, their successors, and heirs, and will be enforced according to the laws of the State of West Virginia.



IN WITNESS WHEREOF, the Parties hereto have executed this agreement as of the day and year first written above.

City of Charleston

By: _____

Its: _____

Yoga Power, LLC

By: _____

Its: _____

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This contract is made and entered into this 26th day of August, 2016, by and between the City of Charleston (the "City"), a municipal corporation, and Yoga Power, LLC ("Yoga Power"), (together, the "Parties").

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This Contract cannot be modified in any way unless such modifications are made in writing and signed by both Parties. This document constitutes the entire agreement between the Parties. This contract is legally binding upon the Parties, their successors, and heirs, and will be enforced according to the laws of the State of West Virginia.

IN WITNESS WHEREOF, the Parties hereto have executed this agreement as of the day and year first written above.

City of Charleston

By: [Signature]
Its: City Manager

Yoga Power, LLC

By: Jamelia A. Neekerson
Its: Managing Member

Resolution No. 551-21

Introduced in Council:

November 1, 2021

Adopted by Council:

Introduced by:

Mary Beth Hoover

Referred to:

Finance

Resolution No. 551-21 – Authorizing “Citizen Appreciation Parking” for November 27, 2021, December 4, 2021, December 11, 2021, December 18, 2021, December 25, 2021, and January 1, 2022. “Citizen Appreciation Parking” shall include the waiving of hourly parking fees at all metered on-street parking spaces. The parking revenue losses will amount to approximately \$1,600 per Saturday.

Be it Resolved by the Council of the City of Charleston, West Virginia:

That “Citizen Appreciation Parking” is authorized for November 27, 2021, December 4, 2021, December 11, 2021, December 18, 2021, December 25, 2021, and January 1, 2022. “Citizen Appreciation Parking” shall include the waiving of hourly parking fees at all metered on-street parking spaces. The parking revenue losses will amount to approximately \$1,600 per Saturday.

Resolution No. 552-21

Introduced in Council:

November 1, 2021

Adopted by Council:

Introduced by:

Joseph Jenkins

Referred to:

Finance

Resolution No. 552-21 - Authoring the Mayor or City Manager to approve Change Order No. 1 to the City's Concrete Sidewalk and Accessible Ramp Project Agreement—Summer 2021— in the amount of \$36,312.50 to permit the installation of new sidewalk in the 1900 block of Washington Street, West, raising the total contract amount to \$493,800.00.

Now Therefore, Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor or City Manager is authorized to approve Change Order No. 1 to the City's Concrete Sidewalk and Accessible Ramp Project Agreement—Summer 2021— in the amount of \$36,312.50 to permit the installation of new sidewalk in the 1900 block of Washington Street, West, raising the total contract amount to \$493,800.00.



CONCRETE SIDEWALK AND ACCESSIBLE RAMP PROJECT
SUMMER 2021

PROJECT NUMBER E2 06/21-136

Change Order No.1
October 4, 2021

This change order will consist of installing new sidewalk in the 1900 Bl. of Washington St. W.

1900 Bl. of Washington St. W.

Sidewalk Replacement (Approx.)	1400.00 s.f. @ \$20.75/s.f.	\$ 29,050.00
Integral Curb (Approx.)	350.00 l.f. @ \$20.75/l.f.	<u>\$ 7,262.50</u>
	Total:	\$ 36,312.50

Original Contract Price.....\$457,487.50

Change Order No.1 Price.....\$ 36,312.50

New Contract Price\$493,800.00

**THE CITY OF CHARLESTON,
a municipal corporation**

By _____

Its City Manager _____

Date _____

McCLANAHAN CONSTRUCTION CO., LLC

By _____

Its _____

Date _____