



REQUEST FOR COUNCIL ACTION

City of Greenville, South Carolina

Agenda Item No.

11h

TO: Honorable Mayor and Members of City Council
FROM: Nancy P. Whitworth, Interim City Manager

Ordinance/First Reading Ordinance/Second & Final Reading Resolution/First & Final Reading Information Only

AGENDA DATE REQUESTED: January 28, 2019

ORDINANCE/RESOLUTION CAPTION:

TO CONFIRM THE LEASE OF FALLS COTTAGE AND THE FALLS COTTAGE PROPERTY TO THE CAROLINA FOOTHILLS GARDEN CLUB, THE SUBLEASE OF THE LEASE OF FALLS COTTAGE AND THE FALLS COTTAGE PROPERTY TO MARY S. JONES, ALLEN D. JONES, AND KENT T. FISHER, AND FOR OTHER PURPOSES AS SET OUT HEREIN

SUMMARY BACKGROUND:

This Ordinance confirms the lease and subleases of the Falls Cottage Property.

IMPACT IF DENIED:

If denied, the lease and subleases of the Falls Cottage Property will not be confirmed.

FINANCIAL IMPACT

N/A

REQUIRED SIGNATURES

Department Director _____

OMB Director _____

City Attorney Michael S. Pitts

City Manager Nancy Whitworth

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A N O R D I N A N C E

TO CONFIRM THE LEASE OF FALLS COTTAGE AND THE FALLS COTTAGE PROPERTY TO THE CAROLINA FOOTHILLS GARDEN CLUB, THE SUBLEASE OF THE LEASE OF FALLS COTTAGE AND THE FALLS COTTAGE PROPERTY TO MARY S. JONES, ALLEN D. JONES, AND KENT T. FISHER, AND FOR OTHER PURPOSES AS SET OUT HEREIN

WHEREAS, pursuant to Ordinance No. 2004-45, the City of Greenville, as Landlord, leased Falls Cottage and the Falls Cottage property, hereinafter “Falls Cottage,” to the Carolina Foothills Garden Club, as Tenant, by lease dated July 9, 2004, but effective as of July 12, 2004, said lease hereinafter referred to as the “Original Lease”; and

WHEREAS, pursuant to Resolution No. 2004-30, the City approved the sublease of the Original Lease to Mary S. Jones, individually, and Allen D. Jones, individually, d/b/a Mary’s Restaurant, as subtenants (“Subtenants”); and

WHEREAS, the Original Lease expired of its own terms on July 11, 2013; and

WHEREAS, pursuant to Ordinance No. 2013-38, the City, as Landlord, continued the lease of Falls Cottage to the Carolina Foothills Garden Club, as Tenant, by lease dated July 31st, 2013, but effective as of July 1, 2013, hereinafter referred to as the “Second Lease”; and

WHEREAS, the Carolina Foothills Garden Club continued the sublease of Falls Cottage to Mary D. Jones, individually, and Allen D. Jones, individually, d/b/a Mary’s Restaurant by document dated September 4, 2013, and added Kent T. Fisher as an additional subtenant by document dated December 31, 2017; and

WHEREAS, the Second Lease was stated to be for a term of five (5) years, with the right of Tenant to extend for two subsequent terms of five years each, for a total possible term through June 30, 2028; and

WHEREAS, pursuant to Tenant’s request, City Council wishes to grant Tenant the option to extend the Second Lease for an additional term of one (1) year, through June 30, 2029, provided that the Second Lease remains in effect at that time and City Manager determines that Tenant is not in default with the terms of the Second Lease; and

WHEREAS, pursuant to Tenant’s further request, City Council wishes to provide the City’s approval to Tenant under the Second Lease to allow Mary S. Jones, Allen D. Jones, and Kent. T. Fisher to transfer, on or before June 30, 2019, all of their interest in Mary’s Restaurant at Falls Cottage and the sublease of the Second Lease to Cottage Hospitality, LLC, a South Carolina limited liability company in which Kent. T. Fisher is the sole member, leaving Cottage Hospitality, LLC as the sole remaining Subtenant, provided that City Manager has determined that Tenant is not in default of the terms of the Second Lease at the time of the assignment, and that City Manager knows of no reason why such assignment should not go forward;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GREENVILLE, SOUTH CAROLINA:

1. The Second Lease to Carolina Foothills Garden Club, as Tenant, and the sublease of the Second Lease to Mary S. Jones, individually, Allen D. Jones, individually, and Kent T. Fisher, individually, as Subtenants, is confirmed as being in full force and effect.

2. The City Manager is authorized to execute an Amendment of the Second Lease to grant the Carolina Foothills Garden Club the option to extend the term of the Second Lease for an additional one (1) year period, until June 30, 2029, provided that the Second Lease remains in effect at that time and City Manager determines that Tenant is not in default with the terms of the Second Lease; and to further provide City's approval to the Carolina Foothills Garden Club to allow Mary S. Jones, Allen D. Jones, and Kent. T. Fisher to transfer, on or before June 30, 2019, all of their interest in Mary's Restaurant at Falls Cottage and the sublease of the Second Lease to Cottage Hospitality, LLC, a South Carolina limited liability company in which Kent. T. Fisher is the sole member, leaving Cottage Hospitality, LLC as the sole remaining Subtenant, provided that City Manager has determined that Tenant is not in default of the terms of the Second Lease at the time of the assignment, and that City Manager knows of no reason why such assignment should not go forward.

DONE, RATIFIED AND PASSED THIS THE _____ DAY OF _____, 2019.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

REVIEWED:

CITY MANAGER