



REQUEST FOR COUNCIL ACTION

City of Greenville, South Carolina

Agenda Item No.

11a

TO: Honorable Mayor and Members of City Council
FROM: John McDonough, City Manager

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

AGENDA DATE REQUESTED: June 28, 2021

ORDINANCE/RESOLUTION CAPTION:

AN ORDINANCE TO ENTER INTO A LEASE AGREEMENT WITH REBUILD UPSTATE FOR PROPERTY LOCATED AT 601 GREEN AVENUE (TAX MAP NUMBER 0086010101900)

SUMMARY BACKGROUND:

Rebuild Upstate is a non-profit organization that provides home repair services to low income individuals. The organization has leased the Green Avenue Multi-service center since 2014 after an RFP process with neighborhood input.

IMPACT IF DENIED:

No tenant will occupy the multi-service center at this location.

FINANCIAL IMPACT

City funding is awarded to the organization for its services but does not impact the lease agreement.

REQUIRED SIGNATURES

Department Director Merle Johnson
DocuSigned by:
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OMB Director _____

City Attorney Michael Pitts
DocuSigned by:
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City Manager John McDonough
DocuSigned by:
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A N O R D I N A N C E

TO ENTER INTO A LEASE AGREEMENT WITH REBUILD UPSTATE FOR PROPERTY LOCATED AT 601 GREEN AVENUE (TAX MAP NUMBER 0086010101900)

WHEREAS, the city of Greenville owns certain property that it has leased to Rebuild Upstate since June 4, 2014, for the purpose of providing home repair services to low income citizens; and

WHEREAS, the City wishes to lease to Rebuild Upstate, and Rebuild Upstate wishes to lease from the City, said property for the continuation of Rebuild Upstate’s services to low income citizens;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GREENVILLE, SOUTH CAROLINA, the City Manager is authorized to execute an agreement to lease property located at 601 Green Avenue (Tax Map Number 0086010101900) to Rebuild Upstate for \$1.00 per year for a term of three (3) years, in substantially the same form as Exhibit “A” attached hereto and incorporated herein by reference. The City Manager, in consultation with the City Attorney, may make or accept minor modifications to the wording and designations of the attached documents as may be necessary or appropriate, provided there is no compromise of the substantive purposes of this Council action. Should the City Manager or City Attorney, or both, determine that any modification of previously negotiated terms is significant and warrants further action by City Council, then the matter shall be presented to Council for further review before the final execution. This Ordinance shall become effective upon the date of passage.

DONE, RATIFIED AND PASSED THIS THE _____ DAY OF _____, 2021.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

REVIEWED:

CITY MANAGER

EXHIBIT A

LEASE AGREEMENT BY AND BETWEEN
THE CITY OF GREENVILLE
AND REBUILD UPSTATE

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

THIS LEASE AGREEMENT, hereinafter referred to as Lease, is made and entered into this _____ day of _____, 2020, but effective as of June 4, 2020 ("Effective Date"), by and between the City of Greenville, South Carolina, hereinafter sometimes referred to as the "LESSOR", and Rebuild Upstate, a South Carolina non-profit corporation, hereinafter sometimes referred to as the "LESSEE".

WITNESSETH:

Whereas, LESSOR owns certain property that it has leased to LESSEE since June 4, 2020 for the purpose of providing home repair services to low income citizens; and

Whereas, LESSEE desires to continue to use said property to provide these services; and

Whereas, LESSOR wishes to lease to LESSEE, and LESSEE wishes to lease from LESSOR, said property for the continuation of LESSEE’s low income citizens.

NOW, THEREFORE, for and in consideration of the foregoing, the parties hereto agree as follows:

1. Lease of Premises. LESSOR does hereby lease and demise to the LESSEE, and LESSEE does hereby take and lease from LESSOR, upon and subject to the terms, conditions, covenants and provisions hereinafter set forth, all that certain piece, parcel, and tract of land located in the City and County of Greenville, State of South Carolina known as 601 Green Avenue, Greenville, South Carolina, and further identified as Tax Map Number 86.1-1-19, together with all improvements thereon and therein, said property hereinafter referred to as “Lease Premises”, all as more particularly described on Attachment 1 attached hereto and made a part hereof for all purposes.
2. Use of the Lease Premises. The Lease Premises shall be used by LESSEE during the term of this Lease solely and exclusively for the provision of providing home repair services to low income citizens, or for such other purposes as are consistent with the purposes and services of LESSEE and as approved in writing by the LESSOR. Additionally, LESSEE agrees to abide by the provisions of all applicable Community Development Block Grant regulations in the use of the Lease Premises.

It is expressly understood and agreed to between the parties hereto that the LESSOR retains the right to provide use for the Green Avenue Area Civic Association at all reasonable times.

3. Alterations and Improvements to the Lease Premises. No permanent improvements to the Lease Premises shall be made by LESSEE without the prior written consent of LESSOR; and such improvements, if any, shall inure to the benefit of the LESSOR and become the property of LESSOR upon termination of the Lease, unless LESSOR agrees otherwise in writing.

4. Term. This Lease shall be for a term of three (3) years, conditioned, however, upon full compliance with all the terms and conditions herein set forth. Said term shall commence on the “Effective Date”, first set out hereinabove.
5. Rental / Consideration. For the rights granted herein, during the term of this Lease, LESSEE shall pay to LESSOR the sum of One and No/100 Dollars (\$1.00) per year. It is expressly understood and agreed to between the parties hereto that the LESSOR is providing the use of the Lease Premises to LESSEE as a contribution to the furtherance of LESSEE’s activities and that the normal market value of the use of the Lease Premises is valued at \$2,841.00 per month.
6. Maintenance. During the term of this Lease; LESSEE shall be responsible for the maintenance of the parking lot on the Lease Premises, the interior of the structure on the Lease Premises, the costs of all utilities for the Lease Premises, the maintenance of regular pest control services for the Lease Premises, and the repair of the roof, plumbing, electrical, and HVAC systems. LESSOR shall be responsible for the maintenance and structural integrity of the exterior of the structure on the Lease Premises as well as the replacement of the roof, plumbing, electrical, and HVAC systems should any such component be of such a condition that repair would be more costly than replacement or the parties otherwise agree to replacement in writing. Notwithstanding the foregoing, should the Lease Premises be destroyed or damaged by fire, rot, deterioration, weather, or other events such that the Lease Premises, in LESSOR’s sole estimation, are uneconomic for repair and/or rehabilitation, then LESSOR may terminate this Lease upon notice to LESSEE and be relieved of all obligations of LESSOR not incurred prior to said termination.
7. Surrender of Leased Premises. Upon expiration or earlier termination of this Lease, LESSEE shall surrender the Lease Premises to LESSOR in good order and condition, reasonable wear and tear and damage to any improvements by fire, other casualty and the elements excepted.
8. Taxes. LESSEE shall pay when due any and all taxes or special assessment charges of any kind or character pertaining to the Lease Premises resulting from LESSEE’s operations thereon.
9. Insurance. LESSEE shall procure and maintain insurance for the duration of this Lease against any and all claims for damages to property and/or injuries to persons, including death, which may in any way arise from, or in connection with, the use of the Lease Premises by LESSEE, its contractors, agents, invitees, representatives or employees. Such insurance shall be in the following minimum amounts: General Liability - \$1,000,000 per occurrence. A certificate showing proof of such insurance shall be submitted to LESSOR at e-mail inscerts@greenville.gov prior to commencement of use of the Lease Premises by LESSEE. Further, it shall be an affirmative obligation upon LESSEE to advise City, by e-mail sent to inscerts@greenville.gov, within two days of the cancellation or substantive change of any insurance policy set out herein, and failure to do so shall be construed to be a breach of this Agreement.

The General Liability policy is to contain or be endorsed to name LESSOR, its officers, officials, agents and employees as additional insureds as respects the liability arising out of the use of the Lease Premises by LESSEE. Such coverage shall be primary and shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability. Such insurance shall comply with all applicable state laws and provide a waiver of subrogation against LESSOR, its officers, officials, agents and employees.

Insurance is to be placed with insurers with a current A.M. Best’s rating of not less than A:VII and licensed to do business in the State of South Carolina, unless otherwise approved by LESSOR; and LESSEE shall not self-insure for any insurance coverage required herein without the express, written consent of LESSOR’s Risk Manager.

10. Indemnification. Notwithstanding anything herein to the contrary, LESSEE shall indemnify and hold LESSOR, its employees, officers, officials, contractors, agents, and/or representatives, free and harmless from and against any and all liabilities, losses, claims, demands, suits, judgments, causes of action and/or expenses of any kind or nature, including the payment of reasonable attorney's fees, resulting from property damage and/or personal injury, including death, resulting from LESSEE's use of the Lease Premises. Such losses, liabilities, expenses, damages and/or claims shall include, but not be limited to, civil or criminal fines or penalties, a taking, whether direct, indirect or inverse, or for loss of use and/or service, personal injury, death, libel, slander, and reasonable attorneys' fees in the underlying action through all levels of appeals. The foregoing indemnity shall survive the expiration or termination of this Lease.
11. Personal Property of LESSEE. All property kept, stored or maintained in or on the Lease Premises shall be kept, stored or maintained at LESSEE's sole risk and expense, and LESSEE agrees to pay and discharge any and all mechanic's, materialman's or other liens against the Lease Premises arising from LESSEE's use thereof.
12. Breach or Default. Both parties hereto shall have all remedies available at law or in equity for any breach or default by the other party under the terms and provisions of this Lease, and the prevailing party in any action or proceeding brought to enforce the provisions of this Lease shall be entitled to recover reasonable attorney's fees and costs in addition to any other damages.
13. LESSOR's Right to Entry. LESSOR, its agents or representatives, shall have the right to enter onto the Lease Premises or any part thereof for the purpose of inspecting the same to ensure that the covenants and conditions of this Lease are being complied with. Nothing contained herein shall be deemed to restrict or limit the right of governmental departments or agencies from entering upon the Lease Premises where such entry is incidental to carrying out the duties of such governmental entity in protecting the health, safety and welfare of the public.
14. Title and Quiet Enjoyment. LESSOR warrants that it has the full right to lease the Lease Premises for the term and purposes aforesaid and, subject to the limitations stated herein, as long as LESSEE is not in default hereunder, LESSEE shall peaceably and quietly have, hold, occupy and enjoy the Lease Premises for the purposes set out herein without hindrance on the part of LESSOR.
15. Holdover. Upon the expiration of this Lease, the rights set out herein shall continue on a month-to-month basis unless terminated by either party hereto upon thirty (30) days written notice.
16. Termination. During term of lease, either party may terminate said Lease by giving the other party six (6) months written notice of the intent to terminate.
17. Should a material breach or violation of any provision of this Lease occur, either party may terminate this Lease upon written notice to the other, provided that the violating party shall be given a reasonable time to cure such breach or violation, but in no event more than 30 days after said written notice.
18. Notices. All notices required hereunder shall be in writing and shall be deemed to have been duly given if either hand delivered or mailed by certified or registered mail, postage prepaid, addressed to the party to whom intended at the address provided below or at such other address as such party shall hereinafter designate to the other party in writing:

LESSOR: City of Greenville, State of South Carolina
Attention: Rebecca Edwards, Community Development
(864) 467-4570
Post Office Box 2207
Greenville, South Carolina 29602

LESSEE: Rebuild Upstate
Attention: Chris Manley, Executive Director
(864) 239-3708
PO Box 8693
Greenville, SC 29604

Such notice or demand shall be deemed to have been received within three (3) days of having been deposited, postage prepaid, in the United States mail. The above addresses may be changed at any time by giving ten (10) days prior written notice as hereinabove provided.

19. Assignment. The rights and obligations herein shall not be assigned by either party, in whole or in part, without the prior written consent of the other party.
20. Entire Agreement. This Lease constitutes the entire agreement between the parties hereto and may not be modified or amended except in writing signed by all parties hereto.
21. Severability. If any part or provision of this Lease is held invalid or unenforceable under applicable law, such invalidity or unenforceability shall not in any way affect the validity or enforceability of the remaining parts and provisions of this Lease.
22. Nonwaiver. The waiver by LESSOR or LESSEE of a breach of this Lease shall not operate as a waiver of any subsequent breach, and no delay in acting with regard to any breach of this Lease shall be construed to be a waiver of the breach.
23. Governing Law and Venue. This Agreement and the rights, obligations and remedies of the parties hereto, shall in all respects be governed by and construed in accordance with the laws of the State of South Carolina, and venue for the resolution of all disputes regarding the terms of this Agreement or the performance thereunder, whether in law or in equity, shall be exclusively in the courts of Greenville County, South Carolina.
24. Successors and Assigns. The rights and obligations herein shall inure to, and be binding upon, the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed the day and year above first written.

WITNESSES:

CITY OF GREENVILLE, SOUTH CAROLINA

By: _____
John F. McDonough
Its: City Manager

WITNESSES:

REBUILD UPSTATE

By: _____
Chris Manley
Its: Executive Director

Approved as to Form:

Legal Department

Reviewed:

Community Development Administrator

Reviewed:

Risk Manager

ATTACHMENT 1

601 Green Avenue
Greenville, SC 29601

