



AGENDA	
Section	Consent
Item No.	II B.2

Meeting Date
October 24, 2017

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Amendment No. 5 to Lease Agreement with Brevard Cultural Alliance, Inc.
DEPT/OFFICE:	Community Services Group / Parks and Recreation Department

Requested Action:

It is requested the Board authorize the Chairman to execute Amendment No. 5 to the Lease Agreement with Brevard Cultural Alliance, Inc.

Summary Explanation & Background:

The Brevard Cultural Alliance, Inc. (BCA) is a nonprofit corporation with IRS 501(c)(3) status. The County has historically designated the BCA as the single "Local Arts Agency" to serve as a catalyst for community and cultural development in Brevard County.

The original term of the Lease Agreement for office space in Building C at the Brevard County Government Center – Viera was October 1, 2010 through September 30, 2011 and the Agreement included the option to renew for additional one year terms. The Lease Agreement was renewed for additional one year terms in FY 11-12, FY 12-13, and FY 13-14. On October 21, 2014 the Board authorized an Amendment granting a three (3) year term extending the term of the Lease Agreement through September 30, 2017. The requested action will extend the current term for an additional three (3) years to September 30, 2020.

Brevard County Code of Ordinances, Chapter 2, Section 2-241 through Section 2-251, establishes procedures for the sale, leasing and donation of real property. It requires the intent and County Code to be published on the County Internet Website at least 5 days prior to the public meeting and also requires a supermajority vote by the Board. The posting requirement was successfully completed on October 11, 2017.

FISCAL IMPACT: BCA pays \$1/year for the lease of the County Property during the 3 year term and they will be able to use the value of the office space as in-kind match for grants and other fundraising efforts. No fiscal impact to County budgeted funds.

Clerk to the Board Instructions: Two originals

Exhibits Attached: Amendment No. 5, Exhibit A, Resolution, Public Notice

Contract /Agreement (If attached): Reviewed by County Attorney Yes No PR

County Manager	Assistant County Manager, John Denninghoff	Mary Ellen Donner, Parks & Recreation Director 633-2046; Maryellen.donner@brevardparks.com
Frank Abbate, County Manager	Interim Assistant County Manager, Jim Liesenfelt	<i>Mary Ellen Donner</i>

PUBLIC NOTICE
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

As provided in Brevard County Code Section 2-249, notice is hereby given that the Board of County Commissioners will hold a public meeting at 9:00 a.m. on October 24, 2017 at the Brevard County Government Center Board Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida. At the meeting the Board will consider Resolution and Lease Agreement with Brevard Cultural Alliance, Inc. for the leasing of a portion of Brevard County Government Center - Viera. Any person objecting to the Agreement may submit written objections to the county manager's office or may appear and speak in objection at the meeting. Additional information may be obtained by contacting Mary Ellen Donner, Parks and Recreation Department Director at (321) 633-2046.

If a person desires to appeal any decision made by this Board with respect to any matter considered at this meeting or hearing, such a person will need a record of this proceeding and that, for such purposes, such person may need to ensure that a verbatim record of this proceeding is made, at his/her own expense, which record includes testimony and evidence on which any such appeal is to be based.

In accordance with the Americans with Disabilities Act and Section 286.26, F.S., persons needing accommodations or an interpreter to participate in the meeting should notice County Administration no later than 48 hours prior to the public meeting at 321-633-2012.

RESOLUTION NO. 2017- 207

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, PURSUANT TO SECTION 125.35, FLORIDA STATUTES AND SECTION 2-247 BREVARD COUNTY CODE OF ORDINANCES, AUTHORIZING THE LEASING OF REAL PROPERTY TO A NOT FOR PROFIT CORPORATION ORGANIZED UNDER THE LAWS OF THE STATE OF FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the **BREVARD CULTURAL ALLIANCE, INC.**, a 501(c)(3) tax exempt Non-Profit Corporation organized under the laws of the State of Florida (hereinafter referred to as “BCA”) has applied to the **BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA**, a political subdivision of the State of Florida (hereinafter referred to as “County”) to lease a County owned facility which is known as the Brevard County Government Center - Viera (hereinafter referred to as the “Property”);

WHEREAS, BCA desires to act as the single “Local Arts Agency” to serve as a catalyst for community and cultural development in Brevard County; and

WHEREAS, the County finds that BCA’s proposed use of the Property will promote public health, safety or welfare, will serve the public interest, will serve a public purpose, constitutes a service that could be provided by the local government, and is compatible with the County purposes for which the Property was constructed.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, that:

1. The Brevard County Government Center - Viera is a County owned facility and was constructed for the purpose of being used for community and cultural development.
2. The County has determined that the Property located at the Brevard County Government Center - Viera is not needed by the County.
3. BCA shall utilize the Property for the benefit and enjoyment of the citizens of Brevard County.
4. BCA shall act as the single “Local Arts Agency” to serve as a catalyst for community and cultural development in Brevard County.
5. The County shall enter into an Amendment No. 5 to the Lease, attached hereto as **Exhibit “A”**, with BCA beginning on October 1, 2017 for a term of three (3) years.
6. The consideration for Amendment No. 5 to the Lease shall be \$1.00 per year.
7. This Resolution shall take effect immediately upon its adoption. No obligation to Lease the Property to BCA shall arise until Amendment No. 5 to the Lease is executed by both parties.
8. In the event BCA fails to comply with the Lease, then Property shall immediately revert to the County which shall thereafter have the right to reenter and repossess the property.

DONE, ORDERED AND ADOPTED this 24th day of October, 2017.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA



A handwritten signature in black ink, appearing to read 'Scott Ellis', is written over a faint circular seal of the Board of County Commissioners of Brevard County, Florida. The seal contains the text 'BOARD OF COUNTY COMMISSIONERS' and 'BREVARD COUNTY, FLORIDA' around the perimeter.

Scott Ellis, Clerk



A handwritten signature in blue ink, appearing to read 'Rita Pritchett', is written over a faint circular seal of the Board of County Commissioners of Brevard County, Florida. The seal contains the text 'BOARD OF COUNTY COMMISSIONERS' and 'BREVARD COUNTY, FLORIDA' around the perimeter.

RITA PRITCHETT VICE CHAIRWOMAN

As approved by the Board on 10/24/17.

Exhibit "A" to the Resolution

AMENDMENT NO. 5 TO LEASE AGREEMENT

THIS AMENDMENT made and entered into this 24th day of October, 2017, by and between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida, hereinafter referred to as "County" and the BREVARD CULTURAL ALLIANCE, INC., a Florida nonprofit corporation with IRS 501c3 status, hereafter referred to as "BCA".

WITNESSETH:

WHEREAS, on October 26, 2010, the parties hereto entered into a Lease Agreement, hereinafter referred to as the "Agreement", for property located at 2725 Judge Fran Jamieson Way, Building C – Room 307, Viera, Florida for one dollar (\$1) per year. The term of the Agreement was for a one year period from October 1, 2010 to September 30, 2011, amended on October 4, 2011 to extend the Agreement to September 30, 2012, amended on October 9, 2012 to extend the Agreement to September 30, 2013, amended on October 8, 2013 to extend the Agreement to September 30, 2014 and amended on October 21, 2014 to extend the Agreement to September 30, 2017; and

WHEREAS, the parties desire to extend the term of the Agreement for an additional three (3) years, upon written request from BCA.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties hereby agree as follows:

1. The term of the Agreement shall be extended from October 1, 2017, to September 30, 2020. The County shall have the option to renew the Agreement for an additional term of three (3) years, upon written request of the BCA received thirty (30) days prior to the end of the term.
2. All terms and conditions of said Agreement and its amendments, which are incorporated herein by reference, not inconsistent with the provisions of this Amendment, shall remain in full force and effect.
3. All terms and conditions of the Cultural Arts Agreement, between the County and BCA, dated October 26, 2010, and any subsequent amendments, not inconsistent with the provisions of this Amendment, are incorporated herein by reference.

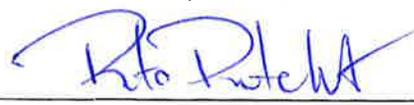
IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the date first above written.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

By: 

Scott Ellis, Clerk

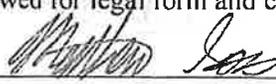
By: 

RITA PRITCHETT VICE CHAIRWOMAN

Reviewed for legal form and content:

Date: October 24, 2017

As authorized by the Board on 10/24/17


Assistant County Attorney

BREVARD CULTURAL ALLIANCE, INC.

Witness: _____

By: _____
Jill Reyes, Board Chair

Witness: _____

Date: _____

AMENDMENT NO. 4 TO LEASE AGREEMENT

THIS AGREEMENT made and entered into this 21st day of October, 2014, by and between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida, hereinafter referred to as "County" and the BREVARD CULTURAL ALLIANCE, INC., a Florida nonprofit corporation with IRS 501c3 status, hereafter referred to as "BCA".

WITNESSETH:

WHEREAS, on October 26, 2010, the parties hereto entered into a Lease Agreement for property located at 2725 Judge Fran Jamieson Way, Building C – Room 307, Viera, Florida for one dollar (\$1) per year. The Term of the Agreement was for a one year period from October 1, 2010 to September 30, 2011, amended on October 4, 2011 to extend the Agreement to September 30, 2012, amended on October 9, 2012 to extend the Agreement to September 30, 2013, and amended on October 8, 2013 to extend the Agreement to September 30, 2014.

WHEREAS, the Agreement provides the County the option to renew the Agreement for additional one (1) year, upon written request from BCA, and the parties hereto desire to extend the term of said Agreement for an additional period of time.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties hereby agree as follows:

1. The term of the Agreement shall be extended from October 1, 2014 to September 30, 2017.
2. That all terms and conditions of said Agreement, which are incorporated herein by reference, not inconsistent with the provisions of this Agreement, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the date first above written.

ATTEST:

By: [Signature]
Scott Ellis, Clerk

BREVARD COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

By: [Signature]
Mary Bolin Lewis, Chairman

Date: _____
As authorized by the Board on 10/21/14

BREVARD CULTURAL ALLIANCE, INC.

Witness: [Signature]

By: [Signature]
Karen Montas, Board Chair

Witness: [Signature]

Date: 11/13/14

Reviewed for legal form and content:

[Signature]
Assistant County Attorney

AMENDMENT NO. 3 TO LEASE AGREEMENT

THIS AGREEMENT made and entered into this 8 day of October, 2013, by and between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida, hereinafter referred to as "County" and the BREVARD CULTURAL ALLIANCE, INC., a Florida nonprofit corporation with IRS 501c3 status, hereafter referred to as "BCA".

WITNESSETH:

WHEREAS, on October 26, 2010, the parties hereto entered into a Lease Agreement for property located at 2725 Judge Fran Jamieson Way, Building C – Room 307, Viera, Florida for one dollar (\$1) per year. The Term of the Agreement was for a one year period from October 1, 2010 to September 30, 2011, amended on October 4, 2011 to extend the Agreement to September 30, 2012, and amended on October 9, 2012 to extend the Agreement to September 30, 2013.

WHEREAS, the Agreement provides the County the option to renew the Agreement for additional one (1) year, upon written request from BCA, and the parties hereto desire to extend the term of said Agreement for an additional period of time.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties hereby agree as follows:

1. The term of the Agreement shall be extended from October 1, 2013 to September 30, 2014.
2. That all terms and conditions of said Agreement, which are incorporated herein by reference, not inconsistent with the provisions of this Agreement, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the date first above written.

ATTEST:

BREVARD COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

By: [Signature]
Scott Ellis, Clerk

By: [Signature]
Andy Anderson, Chairman

Date: October 8, 2013
As authorized by the Board on 10-8-13

BREVARD CULTURAL ALLIANCE, INC.

Witness: [Signature]
Kathy Giger

By: [Signature]
Michael LaFortune, Board Chair
Sm Ha-orth

Witness: [Signature]

Date: 10/17/13

Reviewed for legal form and content:

[Signature]
Assistant County Attorney

AMENDMENT NO. 2 TO LEASE AGREEMENT

THIS AGREEMENT made and entered into this 4th day of September, 2012, by and between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida, hereinafter referred to as "County" and the BREVARD CULTURAL ALLIANCE, INC., a Florida nonprofit corporation with IRS 501c3 status, hereafter referred to as "BCA".

WITNESSETH:

WHEREAS, on October 26, 2010, the parties hereto entered into a Lease Agreement for property located at 2725 Judge Fran Jamieson Way, Building C – Room 307, Viera, Florida for one dollar (\$1) per year. The Term of the Agreement was for a one year period from October 1, 2010 to September 30, 2011 and amended on October 4, 2011 to extend for one additional year.

WHEREAS, the Agreement provides the County the option to renew the Agreement for additional one (1) year, upon written request from BCA, and the parties hereto desire to extend the term of said Agreement for an additional period of time.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties hereby agree as follows:

1. The term of the Agreement shall be extended from October 1, 2012 to September 30, 2013.
2. That all terms and conditions of said Agreement, which are incorporated herein by reference, not inconsistent with the provisions of this Agreement, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the date first above written.

ATTEST:

By: 
 Laurie S. Rice,
 Chief Deputy Clerk

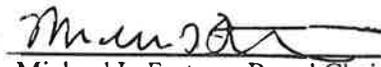
BREVARD COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

By: 
 Chuck Nelson, Chairman

Date: _____
 As authorized by the Board on 10/09/12

BREVARD CULTURAL ALLIANCE, INC.

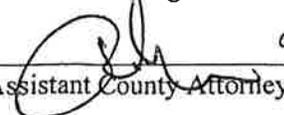
Witness: 

By: 
 Michael LaFortune, Board Chair

Witness: 

Date: 10/25/12

Reviewed for legal form and content:

 9/11/12
 Assistant County Attorney

AMENDMENT NO. 1 TO LEASE AGREEMENT

THIS AGREEMENT made and entered into this 4th day of October, 2011, by and between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida, hereinafter referred to as "County" and the BREVARD CULTURAL ALLIANCE, INC., a Florida nonprofit corporation with IRS 501c3 status, hereafter referred to as "BCA".

WITNESSETH:

WHEREAS, on October 26, 2010, the parties hereto entered into a Lease Agreement for property located at 2725 Judge Fran Jamieson Way, Building C – Room 307, Viera, Florida for one dollar (\$1) per year. The Term of the Agreement was for a one year period from October 1, 2010 to September 30, 2011.

WHEREAS, the Agreement provides the County the option to renew the Agreement for additional one (1) year, upon written request from BCA, and the parties hereto desire to extend the term of said Agreement for an additional period of time.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties hereby agree as follows:

1. The term of the Agreement shall be extended from October 1, 2011 to September 30, 2012.
2. That all terms and conditions of said Agreement, which are incorporated herein by reference, not inconsistent with the provisions of this Agreement, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the date first above written.

ATTEST:

BREVARD COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

BY: Laurie S. Rice
Laurie S. Rice, Chief Deputy
Clerk

By: Robin Fisher
Robin Fisher, Chairman

Date: October 4, 2011
As authorized by the Board on 10/4/11.

BREVARD CULTURAL ALLIANCE, INC.

Witness: u. Rice

By: Marilyn "Bunny" Finney
Marilyn "Bunny" Finney, Board Chair

Witness: Kathy Guggenham

Date: October 17, 2011

Reviewed for legal form and content:
[Signature]
County Attorney

LEASE AGREEMENT

This LEASE AGREEMENT made this 26 day of October, 2010, by and between the Brevard Cultural Alliance, Inc., a Florida nonprofit corporation, hereinafter referred to as "BCA", and the Board of County Commissioners of Brevard County, a political subdivision of the State of Florida, hereinafter referred to as "County".

WITNESSETH:

WHEREAS, the County, pursuant to Section 125.35, Florida Statutes, may lease county owned property upon a finding that it is in the best interest of the County; and

WHEREAS, the County is the owner of certain office space (hereinafter referred to as the "Property") located in Brevard County, Florida that is not needed for County purposes at this time.

NOW THEREFORE, in consideration of the covenants herein contained, it is mutually agreed between the parties as follows:

1. The County agrees to lease the Property, located at 2725 Judge Fran Jamieson Way, Building C - Room 307, Viera, Florida, to the BCA for the term of this Agreement. Payment shall be one dollar (\$1.00) per year. As determined by the County's Facilities Management, based on the current market rates, the value of the office space is \$46,376 (\$17/s.f.). BCA shall be permitted to utilize the value of this as in-kind match for grants and other fundraising efforts. The County, at the request of the BCA, shall provide appropriate letters or other documentation for the value of the space and services provided.

2. The term of this Agreement shall be from October 1, 2010 through September 30, 2011. The County will have an option to renew for additional one (1) year, upon written request of the BCA thirty (30) days prior to the end of this term. Either party may terminate this Agreement upon providing sixty (60) days written notice to the other party.

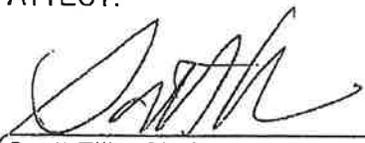
3. BCA shall be authorized to utilize County internal services such as facilities management, purchasing, information and communications systems as needed to support the operation of its programs and services.

4. In the event the Property is not used or ceases to be used for a public purpose, the lease term shall immediately cease and the Property shall revert to the County.

5. This Agreement may only be amended by a written instrument duly executed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the day and year first above written.

ATTEST:



Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: 

Mary Bolin, Chairperson

As approved by the Board 10-26-10.

Reviewed for legal form and content:
Miana Johnson
Assistant County Attorney

As approved by the Board on 10-26-10

WITNESS:

BREVARD CULTURAL ALLIANCE, INC.

[Signature]
Signature
Pablo Remansellez
Printed Name
[Signature]
Signature
KATHY ENGERRAN
Printed Name

By: [Signature]
Jim Ridenour, Chair