



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.11.

8/27/2024

Subject:

Approval, Re: First Amendment to Lease Agreement with the City of Melbourne for Melbourne and Eau Gallie Public Libraries

Fiscal Impact:

None

Dept/Office:

Library Services

Requested Action:

It is requested that the Board of County Commissioners approve and authorize the Chair to sign the First Amendment to Lease Agreements with the City of Melbourne.

Summary Explanation and Background:

The original lease agreement between the City of Melbourne and the County is for the operation of the Eau Gallie and Melbourne libraries. The lease agreement states the City agrees to appoint a library board (the City of Melbourne Library Board).

On June 30, 2022, the County Commission adopted Ordinance No. 2022-13, directing staff to only participate in advisory boards whose members are appointed by the Brevard County Commission. County staff no longer participates in the City of Melbourne Library Board.

On July 23, 2024, the Melbourne City Council passed Resolution 4276 to amend the lease with the County in order to remove the requirement for the City to appoint a board. The First Amendment to Lease Agreements removes that requirement. All other provisions of the Lease Agreements shall remain in full force and effect.

Residents residing in the City of Melbourne are eligible to participate in two other library boards as positions become available, the Brevard County Library System Advisory Board and the South/Central Public Library Advisory Board.

Contact: Wendi Bost, Library Services Director, 321-633-1801

Clerk to the Board Instructions:

Please return signed copy to Wendi Bost, Library Services Department, 308 Forrest Avenue, 2nd Floor, Cocoa, FL 32922.



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

August 28, 2024

M E M O R A N D U M

TO: Wendi Bost, Library Services Director


RE: Item F.11., Approval for First Amendment to Lease Agreements with the City of Melbourne for Melbourne and Eau Gallie Public Libraries

The Board of County Commissioners, in regular session on August 27, 2024, approved and authorized the Chair to sign the First Amendment to Lease Agreements with the City of Melbourne for Melbourne and Eau Gallie Public Libraries. Enclosed is the fully-executed Agreement.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK



Kimberly Powell, Clerk to the Board

/ds

Encl. (1)

cc: Contracts Administration

FIRST AMENDMENT TO LEASE AGREEMENTS

THIS FIRST AMENDMENT TO LEASE AGREEMENTS (this "First Amendment") is made this August 27, 2024 between the CITY OF MELBOURNE, a Florida municipal corporation (the "CITY"), and BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS (the "COUNTY").

WITNESSETH:

WHEREAS, the CITY and the COUNTY entered into certain Lease Agreements dated May 12, 1987 for the lease of the Melbourne Library (540 East Fee Avenue) and Eau Gallie Library (1521 Pineapple Avenue); and

WHEREAS, those Lease Agreements include a provision requiring the CITY to appoint a local Library Board to assist the Brevard County Public Library Board and the Brevard County Library Services Manager; and

WHEREAS, the COUNTY notified the CITY via a letter dated June 30, 2022, that the COUNTY adopted Ordinance No. 2022-13 directing staff not to participate in municipal non-mandatory Library Board meetings and that Brevard County library staff would no longer attend or facilitate future meetings; and

WHEREAS, upon receipt of this notification, the CITY began to facilitate Library Board meetings to ensure the board members' compliance with the Florida Sunshine Law; and

WHEREAS, during its June 7, 2024, meeting, the Library Board unanimously approved a motion to approve City staff pursuing an amendment to the Lease Agreements in order to remove the City's requirement to appoint a local Library Board; and

WHEREAS, since June 2022, the CITY has determined that the meetings of the Library Board no longer hold a valid public purpose since all matters and concerns of the Library Board would need to be addressed by the COUNTY, who has knowledge of and jurisdiction over the operation of the libraries but has directed its staff to no longer support the facilitation of the CITY's Library Board meetings.

NOW, THEREFORE, the CITY and the COUNTY agree to amend the Lease Agreements dated May 12, 1987, as follows:

SECTION 1. The CITY and the COUNTY agree to delete from the recitals in the Lease Agreements the following statement:

Lease Agreement #L-86-21 (Melbourne Library)

~~6. The CITY hereby agrees to provide for the development and improvement of local public library services by appointing a local Library Board to represent public~~

~~interests and to serve as an information resource in planning the local library service programs for discussion and review by the Brevard County Public Library Board. This local Board is to help facilitate the transmission of information from the local community pertaining to the needs of that particular library to the Brevard County Library Board and the Library Services Manager.~~

Lease Agreement #L-86-2 (Eau Gallie Library)

~~7. The CITY hereby agrees to provide for the development and improvement of local public library services by appointing a local library Board to represent public interests and to serve as an information resource in planning the local library service programs for discussion and review by the Brevard County Public Library Board. This local Board is to help facilitate the transmission of information from the local community pertaining to the needs of that particular library to the Brevard County Library Board and the Library Services Manager.~~

SECTION 2. The CITY and the COUNTY agree that all other provisions of the Lease Agreements shall remain in full force and effect.

SECTION 3. The effective date of this First Amendment shall be the date that the First Amendment is signed by both parties.

IN WITNESS WHEREOF, the parties have signed this First Amendment on the day and year below written.

CITY:


COUNTY:

CITY OF MELBOURNE,
A Florida municipal corporation

**BREVARD COUNTY BOARD OF
COUNTY COMMISSIONERS**



Jenni Lamb
City Manager



Jason Steele
Chair

As approved by the Board 08-27-2024.

Dated: 7/25/24

Dated: AUG 27 2024

Attest:


Kevin McKeown, City Clerk

Attest:


Rachel Sadoff, Clerk of Courts

(Seal)



RESOLUTION NO. 4276

A RESOLUTION OF THE CITY OF MELBOURNE, BREVARD COUNTY, FLORIDA, RELATING TO APPROVAL OF AN AMENDMENT TO THE LEASE AGREEMENTS WITH THE BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS RELATED TO THE MELBOURNE AND EAU GALLIE LIBRARIES; MAKING FINDINGS; REMOVING THE REQUIREMENT FOR THE CITY TO APPOINT A LOCAL LIBRARY BOARD; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT TO THE LEASE AGREEMENT; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR ADOPTION.

WHEREAS, Resolution No. 11, dated December 3, 1969, first established the Library Board and at this time, the City of Melbourne (the "City") operated two libraries – the Melbourne Library (540 East Fee Avenue) and the Eau Gallie Library (1521 Pineapple Avenue); and

WHEREAS, Special Act of Florida 72-480 (the "Act") created a special district known as the Brevard County Free Library District with the Brevard County Board of County Commissioners (the "County") as the governing body; and

WHEREAS, in December 1973, following enactment of the Act, the City and the County entered into a Library Contract providing for both the Melbourne Library and Eau Gallie Library to be operated by the County as free public libraries; and

WHEREAS, in October 1980, the County agreed to include the Stone Community Library (now known as the Dr. Martin Luther King, Jr. Library) into the Brevard County Library System under several conditions; and

WHEREAS, in May 1987, the City and the County entered into Lease Agreements providing for the Melbourne Library and Eau Gallie Library to be leased from the City to the County in perpetuity as long as the properties are maintained as public libraries; and

WHEREAS, both Lease Agreements state the following: "the city hereby agrees to provide for the development and improvement of local public library services by appointing a local library

board to represent public interests and to serve as an information resource in planning the local library service programs for discussion and review by the Brevard County Public Library Board. This local board is to help facilitate the transmission of information from the local community pertaining to the needs of that particular library to the Brevard County Library Board and the Library Services Manager”; and

WHEREAS, under the direction of the Brevard County Library System, the Library Board has historically advised and consulted with the Library Directors on the operation and maintenance of the libraries; reviewed and made recommendations on proposed operational budgets for each fiscal year; and created, fostered and coordinated interest in the local community in the operation and programs of the libraries; and

WHEREAS, on June 30, 2022, the County’s Library Services Director notified the City that the County had approved Ordinance No. 2022-13, directing its staff not to participate in municipal non-mandatory Library Board meetings and that County staff would no longer attend or facilitate future meetings; and

WHEREAS, in September 2022, the City Attorney’s Office advised the City Clerk to continue to facilitate Library Board meetings in the absence of County staff to ensure the board’s compliance with the Sunshine Law; and

WHEREAS, since October 2022, the City has facilitated several Library Board meetings and has determined that the meetings, without involvement of County staff, who have knowledge of and jurisdiction over the operation of the libraries, no longer serve a valid public purpose; and

WHEREAS, at its June 7, 2024 meeting, the Library Board unanimously approved a motion to approve City staff pursuing an amendment to the Lease Agreements to remove the City’s requirement to appoint a local Library Board; and

WHEREAS, in doing so, the current members of the Library Board expressed that removing such requirement would free members of the requirement to comply with the Sunshine Law and would provide them and other interested persons with more flexibility to meet with the community and the Library Directors to advance the same goals of the current Library Board; and

WHEREAS, on June 26, 2024, the County notified the City that the Library Services Director does not have any objections to the First Amendment to Lease Agreements; and

WHEREAS, all other terms and conditions of the Lease Agreements dated May 12, 1987 between the City and the County remain in full force and effect; and

WHEREAS, the City Council finds that entering into this First Amendment to Lease Agreements with the County will be in the public interest and will promote the public health, safety, economic order, and welfare of the City; and

WHEREAS, approval of this resolution is authorized pursuant to Section 2-646, Melbourne City Code, and the First Amendment to Lease Agreements are entered into pursuant to powers in the City's Charter and home rule powers set forth in Article VIII, Section 2, Florida Constitution of 1968 and Section 166.021, Florida Statutes.

BE IT RESOLVED BY THE CITY OF MELBOURNE, FLORIDA:

SECTION 1. That the First Amendment to Lease Agreements, substantially in the form of the attached hereto, by and between the City of Melbourne and the Brevard County Board of County Commissioners is hereby approved.


SECTION 2. That the City Manager or her designee is hereby authorized to execute the First Amendment to Lease Agreements, substantially in the form of the attached hereto on behalf of the City of Melbourne.

SECTION 3. That this resolution shall become effective immediately upon its adoption in accordance with the Charter of the City of Melbourne.

SECTION 4. That this resolution was duly adopted at a regular meeting of the City Council on the 23rd day of July, 2024.



BY: _____
Paul Alfrey, Mayor



ATTEST: _____
Kevin McKeown, City Clerk



Attachment: First Amendment to Lease Agreements
Resolution No. 4276

CONTRACT REVIEW AND APPROVAL FORM

SECTION I - GENERAL INFORMATION

1. Contractor: City of Melbourne		2. Amount: N/A	
3. Fund/Account #: N/A		4. Department Name: Library Services	
5. Contract Description: Lease Agreement			
6. Contract Monitor: Karen DiNatale		8. Contract Type:	
7. Dept/Office Director: Library Services/Wendi Bost		LEASE/RENTALS	
9. Type of Procurement: Other			

SECTION II - REVIEW AND APPROVAL TO ADVERTISE

APPROVAL

COUNTY OFFICE	YES	NO	SIGNATURE
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____
Purchasing	<input type="checkbox"/>	<input type="checkbox"/>	_____
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	_____
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>	_____

SECTION III - REVIEW AND APPROVAL TO EXECUTE

APPROVAL

COUNTY OFFICE	YES	NO	SIGNATURE
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Wendi Bost <small>Digitally signed by Wendi Bost Date: 2024.08.20 15:00:52 -04'00'</small>
Purchasing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bowers, Mary <small>Digitally signed by Bowers, Mary Date: 2024.08.20 15:53:30 -04'00'</small>
Risk Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Jones, Julie <small>Digitally signed by Jones, Julie Date: 2024.08.20 15:21:34 -04'00'</small>
County Attorney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Balsler, Heather <small>Digitally signed by Balsler, Heather Date: 2024.08.20 15:45:10 -04'00'</small>

SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

CM DATABASE REQUIRED FIELDS	Complete ✓
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
Program	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>
Cost Center, Fund, and G/L Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
Contract Status, Title, Type, and Amount	<input type="checkbox"/>
Storage Location (SAP)	<input type="checkbox"/>
Contract Approval Date, Effective Date, and Expiration Date	<input type="checkbox"/>
Contract Absolute End Date (No Additional Renewals/Extensions)	<input type="checkbox"/>
Material Group	<input type="checkbox"/>
Contract Documents Uploaded in CM database (Contract Form with County Attorney/ Risk Management/ Purchasing Approval; Signed/Executed Contract)	<input type="checkbox"/>
"Right To Audit" Clause Included in Contract	<input type="checkbox"/>
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	<input type="checkbox"/>