

AGREEMENT BETWEEN
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS AND LITERACY FOR
ADULTS IN BREVARD, INC. REGARDING THE LEASE OF WORK SPACE INSIDE
THE CATHERINE SCHWEINSBURG CENTRAL LIBRARY

THIS AGREEMENT is made and entered into this _____ day of _____, 2021, by and between the Brevard County Board of County Commissioners, a political subdivision of the State of Florida, hereinafter referred to as the "Landlord," and Literacy for Adults in Brevard, Inc., a Florida not-for-profit corporation with a mailing address of 308 Forrest Avenue, Cocoa, FL 32922, hereinafter referred to as the "Tenant."

WITNESSETH

WHEREAS, Tenant is a not-for-profit corporation with the primary purpose of providing education and literacy skills to adults in Brevard County so that these individuals may reach their full potential and become successful members in the Brevard County community; and

WHEREAS, Tenant desires and needs a work space for meetings, tutoring and storage; and

WHEREAS, Landlord has space available inside the Catherine Schweinsburg Central Library, owned by the Landlord and located at 308 Forrest Avenue, Cocoa, Florida, 32922, hereinafter referred to as the "Property,"; and

WHEREAS, Landlord finds that leasing space located inside the Property to the Tenant benefits the public, serves a valid public purpose, and is in the best interest of Brevard County; and

WHEREAS, there is certain reasonable storage and meeting room space located on the Property which the Tenant desires to utilize, and which the Landlord agrees to make available, hereinafter referred to as the "Work Space".

NOW, THEREFORE, in consideration of the covenants and premises contained herein, the Landlord and Tenant agree as follows:

1. Term:

- a. The term of this Lease Agreement shall commence on the _____ day of _____, 2021, hereinafter referred to as the "Lease Date," and continue for a period of two (2) years.

- b. Tenant shall have the option of two renewals, with each renewal being a period of two (2) years. Tenant shall provide written notice to Landlord of Tenant's intent to renew.
 - c. Either party may terminate this Agreement upon providing written notice to the other Party sixty (60) days in advance.
 - d. Either party may request that this Agreement be amended. Such requests must be placed in writing and address the reason for the amendment as well as provide proposed revised language.
2. **Rental Payment:** The Tenant agrees to pay the Landlord as rent, for the use and occupancy of the Work Space, the sum of one dollar and no cents (\$1.00) per year, payable in advance together with all applicable sales or other taxes due under State law for the rental of the Work Space for which the Tenant is subject to pay. Checks shall be made payable to the Board of County Commissioners of Brevard County, Florida, and mailed to Brevard County Library Operations, Attn: Library Services Director, 308 Forrest Avenue, Cocoa, Florida 32922.
3. **Utilities:** The Tenant shall pay the Landlord the sum of one-hundred dollars and no cents (\$100.00) per month for a share of the expenses for electricity, water, wireless internet, custodial services and for the use of furniture supplied and maintained by Landlord. Payment shall be made pursuant to Florida's Prompt Payment Law. Checks shall be submitted in accordance with the information provided for in Section 2 above.
4. **Repairs and Maintenance:**
- a. The Tenant acknowledges that the Property is leased in as-is condition.
 - b. The Landlord shall ensure that the building conforms to all fire, building, and other codes. The Landlord shall maintain the structural portions of the Property, including the roof, exterior walls, and structural foundation, in good order and conditions, as well as the mechanical equipment installed in the Property as of the Lease Date, including the HVAC system, except for damage occasioned by act or omission of the Tenant, or its contractors, agents, invitees, licensees, or employees, the repair of which damage shall be paid by the Tenant. The Landlord shall be responsible for providing grounds maintenance, exterior pest control, and maintaining fire extinguishers.

- c. The Tenant shall, at its own expense and at all times, maintain the designated Work Space in good and safe condition. Tenant agrees to keep and maintain the Work Space in at least its present condition, and to return same to the Landlord at the end of the term in the same condition as it was received, reasonable wear and tear excepted.
5. **Damage and Obligation to Restore:** The Tenant shall give immediate written notice to the Landlord of any damage caused to the Work Space by fire or other casualty. In the event the Work Space or Property shall be partially or totally damaged by fire or other natural disaster in such manner that the Tenant cannot use the Work Space within the Property, the Landlord, in its sole discretion, will determine if the damaged or destroyed portions of the Work Space or Property may be replaced, or whether the Parties will have to vacate. Should the Landlord elect to terminate this Agreement it shall give written notice of such election to Tenant within ninety (90) days after Landlord is notified of the occurrence of such casualty.
6. **Improvements:** The plans and specifications and location for all improvements, fixtures and equipment made by the Tenant to the Work Space shall be submitted to and approved by the Library Services Director prior to installation of such improvement. Tenant's improvements shall comply with all zoning, building, construction, and other applicable codes enforced by the City of Cocoa, or any other regulatory agency with jurisdiction. The Tenant shall be responsible for applying for, paying for, and obtaining any permits required by any governmental entity for the performance of any work on the Property. The Library Services Director is authorized to cooperate in providing necessary approvals needed by the Tenant to obtain required permits upon the Director's approval of the plans/specifications. It is hereby mutually agreed and understood that any improvements affixed or constructed on the Work Space or Property, and permanently attached thereto, shall become the property of the County upon termination of this Agreement, whether by breach or expiration of its natural term.
7. **Use of Property:**
Landlord agrees that the Work Space provided shall be suitable for the Tenant's use for tutoring, meetings, office work and storage. The Director of the Library Services Department shall have the sole discretion as to the location of the Work Space within the property.

The Tenant shall use the Work Space within the Property for business associated with Literacy for Adults in Brevard, except as otherwise authorized in Paragraph 13. The Tenant hereby agrees and understands that the use herein set forth shall be the only use allowed for the Work Space, and failure to comply with this provision shall be considered a material breach of this Agreement, whereupon the Landlord shall be entitled to immediately re-enter and retake possession of the Work Space and terminate this Agreement.

- a. Tenant shall have use of the Work Space every Monday through Friday between the hours of 9:00 a.m.– 5:00 p.m.
- b. Tenant may use the rest of the Property as a patron during regular library hours, which may be different hours than those listed in subparagraph (a) above.

8. **Condition of Property:** The Tenant accepts the Work Space as of the execution of this Agreement in its existing condition as of such date as-is, where-is, and with all faults, without representation or warranty of any kind, express or implied, including, but not limited to, with respect to such matters as title, zoning use, economic feasibility, and soil, environmental and other physical conditions, subject to all recorded matters, laws, ordinances, and governmental regulations and orders. The Tenant hereby acknowledges that it has been afforded full opportunity to and has fully investigated such matters to its full satisfaction prior to entering into this Agreement or will investigate such matters fully and is entering into this Agreement based solely upon such investigations. Except as provided herein, the Tenant acknowledges that the Landlord has not made any representations or warranties to the Tenant as to the condition of the Work Space or the suitability of the Work Space for the Tenant's intended use.

9. **Illegal, Unlawful, or Improper Use(s):** The Tenant shall make no illegal, improper, immoral, or unlawful use of the Work Space nor will the Tenant allow the use of the Work Space for any purpose other than that herein above set forth. Failure of the Tenant to comply with this provision shall be considered a material default under this Agreement, and subject same to immediate termination.

10. **Insurance:** Tenant, at its own expense, shall keep in force and at all times maintain during the term of this Agreement:

- a. General Liability Insurance. General Liability Insurance issued by responsible insurance companies and in a form acceptable to the County, protecting and

insuring against all the foregoing with combined single limits of not less than one million dollars and no cents (\$1,000,000.00) for bodily injury and property damage.

- b. Automobile Liability Insurance. Automobiles liability coverage shall be in the minimum amount of one million dollars and no cents (\$1,000,000.00) combined single limit for bodily injury and property damage.
- c. Insurance Certificates. Tenant shall provide the Landlord with Certificate(s) of Insurance on all policies of insurance, and renewals thereof, in a form(s) acceptable to the Landlord. Said liability policies shall provide that the Landlord is an additional insured, and that the Landlord shall be notified in writing of any reduction, cancellation, or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action. All insurance policies shall be issued by responsible companies who are acceptable to the County and licensed and authorized under the laws of the State of Florida.

11. Indemnification: Tenant shall indemnify and hold harmless the Landlord, its employees, agents, officers, and other personnel, from any and all claims, damages, losses, and expenses, including attorney's fees arising out of or resulting from the performance of its work under this Agreement, where such claim, damage, loss, or expense is caused, in whole or in part, by the act or omission of Tenant, or anyone directly or indirectly employed or under the direction of the Tenant, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused, in part, by the a party indemnified hereunder. In any and all claims against the Landlord, or any of its employees, agents, officers, or other personnel, or anyone directly or indirectly employed or under the direction of the Tenant, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by a limitation on the amount or type of damages, compensation or benefits payable by or for Tenant, under workers' compensation acts, or other related policies of insurance. The Parties acknowledge that specific and adequate consideration has been exchanged for this provision.

The Landlord's indemnity and liability obligations hereunder shall be subject to the County's common law right of sovereign immunity and limited to the extent of the protections of and limitations on damages as set forth in Section 768.28, Florida Statutes. Nothing in this Agreement is intended to inure to the benefit of any third party for the purposes of allowing any claim which would otherwise be

barred under the doctrine of sovereign immunity or by operation of law. Nothing herein shall constitute a waiver of the County's sovereign immunity.

All personal property housed or placed at the Work Space or in the Property shall be at the risk of the Tenant and the Landlord shall not be liable for any loss or damage to the Tenant's personal property located thereon for any cause whatsoever. Tenant agrees and understands that the Landlord does not and shall not carry liability, theft or fire insurance on the Work Space or the Property to cover the Tenant's interest. The Tenant warrants that they have adequate limits of self-insurance and agrees that proof of such limits of self-insurance shall be filed with the Brevard County Library Operations, 308 Forrest Avenue, Cocoa, Florida, 32922, within ten (10) days of the date of execution of this Agreement.

12. **Encumbrances and Liens:** Tenant shall not encumber and/or lien the Work Space in any form or fashion whatsoever, without prior written consent of Landlord. Any such encumbrance and/or lien shall be secondary and inferior to any rights or claims Landlord may have against Tenant. Tenant shall pay, when due, all claims for labor and material furnished to the Work Space when contracted for by Tenant. Tenant shall give Landlord at least twenty (20) days prior written notice of the commencement of any work on the Work Space, regardless of whether Landlord's consent to such work is required.
13. **Right of Entry by Landlord:** The Landlord, or its agent, may at reasonable times, enter in and on the Work Space for the purpose of inspecting the Work Space or performing other duties as required by the terms of this Lease Agreement and the rules and regulations, ordinances or laws of the appropriate governmental agencies.
14. **Compliance with Statutes:** The Tenant shall comply with all Federal, State, County, and City laws, ordinances, rules, and regulations (including but not limited to the Americans with Disabilities Act as amended) affecting or respecting the use or occupancy of the Work Space by the Tenant, or the business at any time thereon transacted by the Tenant, and the Tenant shall comply with all rules which may be hereafter adopted by Landlord for the protection, welfare and orderly management of the building and its occupants and visitors.
15. **Covenants Against Assignments and Subletting:** The Tenant, its Successors or assigns will not assign or sublet any of the Work Space nor allow the same to be assigned by operation of law or otherwise

16. **Default:** Tenant understands and agrees that this Agreement is made upon the express condition that should the Tenant fail or neglect to perform or observe any or all of the covenants herein contained, or fail to make any constructive use, for the purpose designated herein, of the Work Space for a period of thirty (30) days, this Agreement shall at the option of the Landlord, become null and void upon thirty (30) days written notice to the Tenant.

Time is of the essence in the performance of all covenants and conditions. Tenant shall be in material default under this Lease (a) if Tenant abandons the Work Space or if Tenant's vacation of the Work Space results in the cancellation of any insurance described herein; (b) if Tenant fails to pay rent or any other charge when due; or (c) if Tenant fails to perform any of Tenant's material non-monetary obligations under this Lease for a period of thirty (30) days after written notice from Landlord; provided that if more than thirty (30) days are required to complete such performance, Tenant shall not be in default if Tenant commences such performance within the thirty-day period and thereafter diligently pursues its completion. On the occurrence of any material default by Tenant, Landlord may, at any time thereafter, with or without notice or demand, without limiting Landlord in the exercise of any right or remedy which Landlord may have: (a) terminate Tenant's right to possession of the Work Space by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Work Space to Landlord; (b) maintain Tenant's right to possession in which case, this Lease shall continue in effect whether or not Tenant has abandoned the Work Space; or (c) pursue any other remedy now or hereafter available to Landlord under the laws of judicial decisions of the State of Florida.

17. **Miscellaneous Provisions:** The Tenant promises, and it is a condition to the continuance of this lease, that there will be no discrimination against or segregation of any person or group of persons on the basis of race, color, sex, creed, national origin, ancestry or disability in the occupancy, tenure or use of the Work Space or any portion thereof.

18. **ADA COMPLIANCE:** Landlord represents and warrants that the Work Space will conform to the current requirements of the American with Disabilities Act as amended at time of construction.

19. **Attorneys' Fees:** In the event of any legal action to enforce the terms of this contract each party shall bear its own attorney's fees and costs.

20. **Surrender:** Upon the last day of the lease term, the Tenant shall peaceably and quietly leave the Work Space in good order and repair.

21. **Notice:** Notice under this Lease Agreement shall be given to the Landlord at the office of the Library Administration, 308 Forrest Avenue, Cocoa, Florida, 32922. Notice to the Tenant shall be given at 308 Forrest Avenue, Cocoa, Florida, 32922.

22. **Severability:** If any section or provision of this Agreement is determined to be invalid by a court of competent jurisdiction, all other sections and provisions of this Agreement will remain in full force and effect

23. **Governing Laws:** This Agreement shall be construed and interpreted under the laws of the State of Florida. Any action brought pursuant to this Agreement shall be in accordance with Florida law.

24. **Venue:** Venue for any action brought pursuant to this Agreement shall be in a court of competent jurisdiction in and for Brevard County, Florida.

25. **No Waiver:** No section or provision of this Agreement shall be deemed to have been waived by the Landlord unless such waiver shall be in writing and signed by the Landlord. The failure of the Landlord to insist upon the strict performance of this Agreement, or the failure of the Landlord to exercise any right, option or remedy herein contained shall not be construed as a waiver of any other right, option or remedy the Landlord may have under this Agreement or as a waiver of a subsequent breach thereof.

26. **Audit.** In the performance of this Agreement, the Tenant shall keep books, records, and accounts of all activities, related to the Agreement, in compliance with generally accepted accounting procedures. Books, records and accounts related to the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the County and shall be retained by the Tenant for a period of three years after termination of the Agreement. All records, books and accounts related to the performance of this agreement shall be subject to the applicable provisions of the Florida Public Records Act, Chapter 119, Florida Statutes.

No reports, data, programs or other materials produced, in whole or in part for the benefit and use of the County, under this Agreement shall be subject to copyright by the Tenant in the United States or any other country.

27. Entire Agreement This Agreement, including the Exhibits, Riders, and/or Addenda, if any, attached hereto, sets forth the entire Agreement between the parties. This Agreement shall not be modified except by a writing subscribed to by all parties.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK. SIGNATURE PAGE TO FOLLOW.]

IN WITNESS WHEREOF, the Landlord and Tenant have hereunto set their hands and seals the day and year first above written.

ATTEST:

BREVARD COUNTY, FLORIDA

By: _____
Rachel M. Sadoff, Clerk

By: _____
Rita Pritchett, Chair

As approved by the Board on: _____

Reviewed for legal form and content
for Brevard County:


Assistant County Attorney



WITNESS:

**LITERACY FOR ADULTS IN
BREVARD, INC.**

 11/1/21
Signature Date


Print

 11/1/2021
Signature Date


Print

Title