

**SECOND AMENDMENT TO AGREEMENT BETWEEN
BROWARD COUNTY AND SALTZ MICHELSON ARCHITECTS, INC. FOR CONSULTANT SERVICES
FOR DESIGN SERVICES FOR TRADEWINDS PARK NORTH (RFP/RLI # PNC2118392P1)**

This Second Amendment ("Amendment") is entered into between Broward County, a political subdivision of the State of Florida ("County"), and Saltz Michelson Architects, Inc., a Florida corporation ("Consultant") (each a "Party" and collectively referred to as the "Parties").

RECITALS

A. The Parties entered into the Agreement Between Broward County and Saltz Michelson Architects, Inc. for Consultant Services for Design Services for Tradewinds Park North, dated May 19, 2020 (the "Original Agreement"), to provide professional design services, construction administration services, and warranty administration services for the Tradewinds Park – Educational Farm and Gardens project.

B. The Original Agreement was amended by a First Amendment, dated October 1, 2024, which increased the time for performance and compensation to account for the re-bidding of the Project and an update to the topographical survey. The Original Agreement, as amended by the First Amendment, is referred to herein as the "Agreement."

C. The Parties now desire to further amend the Agreement to modify the Services for the administration of the construction contract, and to provide additional and redistributed funding for these modified Services.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. The above Recitals are true and correct and are incorporated herein by reference. All capitalized terms not expressly defined within this Amendment shall retain the meaning ascribed to such terms in the Agreement.

2. Unless otherwise expressly stated herein, amendments to the Agreement made pursuant to this Amendment are indicated herein by use of strikethroughs to indicate deletions and bold/underlining to indicate additions. Except as modified herein, all remaining terms and conditions of the Agreement shall remain in full force and effect.

3. Section 5.1 of the Agreement is amended as follows:

5.1 Amount and Method of Compensation. The amounts set forth in this Article 5 are the total compensation payable to Consultant and constitute a limitation upon County's obligation to compensate Consultant for Services under this Agreement, but do not constitute a limitation of any sort upon Consultant's obligation to perform all Services required under this Agreement.

5.1.1 Maximum Amount Not-To-Exceed Compensation. For Basic Services

identified in this Agreement (including Exhibit A) as payable on a “Maximum Amount Not-To-Exceed” basis, compensation to Consultant shall be based upon the Salary Costs as described in Section 5.2 up to a maximum not-to-exceed amount of ~~\$117,431.90~~ **\$5,552.40**.

5.1.2 Lump Sum Compensation. For Basic Services identified in this Agreement (including Exhibit A) as payable on a “Lump Sum” basis, compensation to Consultant shall be not more than a total lump sum of ~~\$780,135.13~~ **\$1,189,286.40**.

5.1.3 Optional Services. County may procure Optional Services up to a maximum not-to-exceed amount of \$95,221.87 pursuant to Article 6. Unused amounts of these Optional Services monies shall be retained by County.

5.1.4 Reimbursable Expenses. County will reimburse authorized Reimbursable Expenses as defined in Section 5.3 up to a maximum not-to-exceed amount of ~~\$50,900.00~~ **\$52,520.00**. Unused amounts of those monies shall be retained by County.

5.1.5 Salary Costs. The maximum billing rates payable by County for each of Consultant’s employee categories are shown on Exhibit B and are further described in Section 5.2.

5.1.6 Subconsultant Fees. Consultant shall bill Subconsultant fees using the employee categories for Salary Costs on Exhibit B as defined in Section 5.2 and Reimbursable Expenses defined in Section 5.3. Consultant shall bill Subconsultant fees with no mark-up and within any applicable maximum not to exceed amount.

5.1.7 Phased Payments. Payments for Basic Services shall be paid out pursuant to the Project phasing specified in Exhibit A and shall not exceed the amount set forth below for the applicable phase. The invoiced fee amount for each phase shall be subject to retainage as set forth in Section 5.5.

Project Phase	Total Fee %	Total Fee Amount	Phase Amount (Lump Sum)	Phase Amount (Max Not to Exceed)
Predesign Services/ Programming Phase	7% <u>5%</u>	\$64,578.45	\$59,026.05 All Services except for those listed under Max Not to Exceed	\$5,552.40 Scope of Work 3.03.02, A) 6. Locate existing subsurface utilities areas near Welcome Center and Open Venue buildings
Phase I: Schematic Design	11% <u>8%</u>	\$99,866.37	\$99,866.37	\$0.00
Phase II: Design Development	18% <u>13%</u>	\$155,625.23	\$155,625.23	\$0.00

Phase III: Construction Documents	46% 35%	\$415,862.90 <u>\$414,796.82</u>	\$414,796.82 All Services except for those listed under Max Not to Exceed	\$1,066.08 Scope of Work 3.05.04, B) 3.b) v) Structural details for Stable Façade Upgrades <u>\$0.00</u>
Phase IV: Bidding & Award	6% 8%	\$50,820.66 <u>\$90,238.48</u>	\$50,820.66 <u>\$90,238.40</u>	\$0.00
Phase V: Administration of the Construction Contract	11% 29%	\$98,663.44 <u>\$351,003.23</u>	\$0.00 <u>\$351,003.23</u>	\$98,663.44 <u>\$0.00</u>
Phase VI: Warranty Administration and Post-Occupancy Services	1% 2%	\$12,149.98 <u>\$18,730.22</u>	\$0.00 <u>\$18,730.22</u>	\$12,149.98 <u>\$0.00</u>
Total Basic Services Fee	100%	<u>\$897,567.03</u> <u>\$1,194,838.80</u>	<u>\$780,135.13</u> <u>\$1,189,286.40</u>	<u>\$117,431.90</u> <u>\$5,552.40</u>

The Contract Administrator may, in their discretion, by written notice to Consultant, reallocate funding from any phase shown above to any other phase, provided that the Total Basic Services Fee is not increased.

4. Section 5.4, Method of Billing, of the Agreement is amended as follows:

5.4.1 ~~For Maximum Amount Not-To-Exceed Compensation under Section 5.1.1.~~ Consultant shall submit billings **through invoices** that are identified by the specific project number **to the Contract Administrator** on a monthly basis in a timely manner for all Salary Costs and Reimbursable Expenses attributable to the Project. **Invoices are due within fifteen (15) days after the end of the month covered by the invoice, except that the final invoice must be received no later than sixty (60) days after the expiration or earlier termination of this Agreement. Consultant's delayed submission of any invoice by more than sixty (60) days, absent good cause approved in writing by the Contract Administrator, may, at the Contract Administrator's sole discretion, result in a waiver of any right to payment for the invoiced Services.** These billings shall identify the nature of the work performed, the total hours of work performed, and the employee category of the individuals performing same. Billings shall itemize and summarize Reimbursable Expenses by category and identify the personnel incurring the expense and the nature of the work with which such expense was associated. Where prior written approval by Contract Administrator is required for Reimbursable Expenses, a copy of said approval shall accompany the billing for such reimbursable. Billings shall also indicate the cumulative amount of CBE participation to date. The statement shall show a summary of Salary Costs and Reimbursable Expenses with accrual of the total and credits for portions

paid previously. External Reimbursable Expenses and Subconsultant fees must be documented by copies of **paid** invoices or receipts that describe the nature of the expenses and contain a project number or other identifier that clearly indicates the expense is identifiable to the Project. Subsequent addition of the identifier to the invoice or receipt by Consultant is not acceptable except for meals and travel expenses. Internal expenses must be documented by appropriate Consultant's cost accounting forms with a summary of charges by category. When requested, Consultant shall provide backup for past and current invoices that records hours and Salary Costs by employee category, Reimbursable Expenses by category, and Subconsultant fees on a task basis, so that total hours and costs by task may be determined.

5.4.2 ~~For Lump Sum Compensation under Section 5.1.2.~~ Consultant shall submit billings **through invoices** that are identified by the specific project number **to the Contract Administrator** on a monthly basis in a timely manner. **Invoices are due within fifteen (15) days after the end of the month covered by the invoice, except that the final invoice must be received no later than sixty (60) days after the expiration or earlier termination of this Agreement. Consultant's delayed submission of any invoice by more than sixty (60) days, absent good cause approved in writing by the Contract Administrator, may, at the Contract Administrator's sole discretion, result in a waiver of any right to payment for the invoiced Services.** These billings shall identify the nature of the work performed, the phase of work, and the estimated percent of work accomplished **on each phase**. Billings for each phase shall not exceed the amounts allocated to said phase. Billings shall also indicate the cumulative amount of CBE participation to date. The statement shall show a summary of fees with accrual of the total and credits for portions paid previously. When requested, Consultant shall provide backup for past and current invoices that record hours, salary costs, and expense costs on a task basis, so that total hours and costs by task may be determined.

5. Section 5.5, Method of Payment, of the Agreement is amended, in part, as follows:

5.5.1 County shall pay Consultant within thirty (30) days after receipt of Consultant's proper invoice, as defined by County's Prompt Payment Ordinance, minus any applicable retainage or other deductions permitted by this Agreement. **To be deemed proper, all invoices must: (a) comply with all applicable requirements, whether set forth in this Agreement or the Broward County Code of Ordinances; (b) be submitted pursuant to instructions prescribed by the Contract Administrator; and (c) be submitted to both the County's Accounting Division (via email at AccountsPayable@Broward.org) and to the Contract Administrator.**

5.5.2 Unless otherwise provided in this section, retainage in the amount of ten percent (10%) of each invoice shall be retained by County until satisfactory completion of **each of the applicable phases specified in Exhibit A**. When the Services to be performed ~~on all phases of the Project~~ are **at least** fifty percent (50%) complete, upon written request by Consultant and written approval by the Contract Administrator that ~~the Project is~~

~~progressing~~ Services have progressed in a satisfactory manner, the Contract Administrator, in his or her sole discretion, may authorize the reduction of retainage to five percent (5%) of each invoice for subsequent payments. No amount shall be withheld from payments for Reimbursable Expenses or for Services performed during the construction phase. Any decision by County not to retain amounts as provided for in this section shall not be construed as a waiver of any right or claim that County may have associated with any failure of Consultant to properly complete the applicable phase. County may set off any amounts Consultant owes to County under this Agreement against any amounts County owes to Consultant under this Agreement.

5.5.3 Upon Consultant's completion of each phase to the satisfaction of the Contract Administrator, County shall remit to Consultant any amounts withheld as retainage for that phase. Final payment for the ~~Project~~ Services must be approved by the Purchasing Director.

* * *

6. Section 5.8 of the Agreement is amended as follows:

5.8 Withholding by County; Overcharges. Notwithstanding any provision of this Agreement to the contrary, County may withhold payment, in whole or in part, (a) in accordance with Applicable Law, or (b) to the extent necessary to protect itself from loss on account of (i) inadequate or defective work that has not been remedied or resolved in a manner satisfactory to the Contract Administrator, or (ii) Consultant's failure to comply with any provision of this Agreement. The amount withheld shall not be subject to payment of interest by County. In the event of an overcharge of any nature by Consultant ~~in excess of~~ any amount, Consultant shall promptly refund to County such overcharged amount. If the overcharge exceeds five percent (5%) of the total amount billed in the invoice where the overcharge occurred, Consultant ~~must refund~~ shall, in addition to refunding the overbilled amount ~~and,~~ pay liquidated damages in the amount of fifteen percent (15%) of the overbilled amount within thirty (30) days after demand by County as just compensation for damages incurred by County due to the overbilling, including, but not limited to, County's administrative costs and loss of potential investment returns (including interest).

7. Section 7.6 of the Agreement is amended as follows:

7.6 Discriminatory Vendor and Scrutinized Companies Lists; Countries of Concern. Consultant represents that it has not been placed on the "discriminatory vendor list" as provided in Section 287.134, Florida Statutes, and that it ~~is~~ has not been identified as a "scrutinized company" pursuant to company or other entity subject to scrutiny under Sections 215.473 or 215.4725, Florida Statutes. Consultant represents and certifies that it is not, and for the duration of the Agreement will not be, ineligible to contract with County on any of the grounds stated in Section 287.135, Florida Statutes. Consultant represents that it is, and for the duration of this Agreement will remain, in compliance

with Section 286.101, Florida Statutes.

8. Section 11.7 of the Agreement is amended as follows:

11.7 Subcontracting; Assignment; Change of Control. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered without the written consent of the other Party. **Any change of control (as defined herein) shall be deemed an assignment.** Any assignment, transfer, encumbrance, or subcontract in violation of this section shall be void and ineffective, constitute a breach of this Agreement, and permit the nonassigning Party to immediately terminate this Agreement, in addition to any other remedies available to the nonassigning Party at law or in equity. County reserves the right to condition its approval of any assignment, transfer, encumbrance, or subcontract upon further due diligence and an additional fee paid to County to reasonably compensate it for the performance of any such due diligence.

For purposes of this section, “change of control” means: (a) a transfer of more than fifty percent (50%) of the ownership interests in Consultant, whether in a single transaction or a series of related transactions; (b) a merger, consolidation, or other reorganization that results in a change in voting control in Consultant or in the entity that controls Consultant’s business; or (c) the sale, lease, or transfer of all or substantially all of Consultant’s assets. A change of control does not include (i) a transfer to an entity wholly owned, directly or indirectly, by Consultant or its parent, or (ii) a transfer between existing owners of Consultant that does not result in a change in majority ownership; provided, however, that any such transfer shall not relieve Consultant of its obligations under this Agreement unless County expressly agrees otherwise in writing.

9. Section 11.32 of the Agreement is amended as follows:

11.32 Polystyrene Food Service Articles. Consultant shall not sell or provide for use on County property expanded polystyrene products or food service articles (e.g., Styrofoam), unencapsulated expanded polystyrene products, or single-use plastic straws or stirrers, as set forth in more detail in Section ~~27.173~~ **27.172**, Broward County Administrative Code.

10. New Section 11.36 is added to the Agreement as follows (bold/underlining omitted):

11.36 Confidential Information; Generative Artificial Intelligence. Unless expressly authorized in this Agreement or in writing in advance by the Contract Administrator, Consultant is strictly prohibited from disclosing, uploading, or otherwise making available to third parties, directly or indirectly, including but not limited to through utilization of generative artificial intelligence tools, any exempt, confidential, sensitive security, or personal information of County. Consultant must ensure that any use of generative artificial intelligence tools by Consultant or its Subconsultants does not involve the disclosure of exempt, confidential, sensitive security, or personal information, including without limitation for large language model learning or training. Consultant must implement and maintain appropriate technological and operational safeguards to ensure

compliance with the obligations of this section.

11. Exhibit A, Scope of Services, Section 3.07.12 as follows:

3.07.12 CONSULTANT shall, within sixty (60) days of receipt of the CONSULTANT-approved as-built submittal from Contractor, provide COUNTY with **Project Record Documents, including** prints and electronic media copies of the final drawings, which CONSULTANT has revised to conditions based on information furnished by the Contractor ~~as Project Record Documents~~. **CONSULTANT shall include in its submittal the irrigation and landscaping Project Record Documents required by the AHJ.** These ~~prints and electronic media copies deliverables~~ shall become the property of COUNTY. ~~Submittal of these documents and their submittal~~ to COUNTY is a condition of final payment to CONSULTANT.

12. Exhibit A, Scope of Services, Section 3.08, is amended as follows:

3.08.01 ~~For one year following Substantial Completion of the construction project, CONSULTANT shall assist COUNTY, without additional compensation, in securing correction of defects, and shall in the sixth and eleventh months make inspections of the Project with COUNTY and report observed discrepancies to COUNTY and Contractor.~~ **During the tenth (10) month following Substantial Completion (no earlier than 300 days and no later than 330 days after Substantial Completion), COUNTY, CONSULTANT, and Subconsultants shall complete a warranty inspection of the Project to inspect for defects, deterioration, improper connections, material flaws, leaks, equipment inefficiencies, and other deficiencies that have occurred following Substantial Completion. Within fourteen (14) calendar days after completion of the warranty inspection, CONSULTANT shall provide COUNTY and Contractor with a written report of the inspection, including recommended corrections and repairs for the Contractor to complete before the end of the one-year warranty period.**

3.08.02 ~~CONSULTANT, with subconsultants who contributed to the design of the Project, shall participate in a Post-Occupancy Walkthrough and Evaluation which will be scheduled by COUNTY's Park Planning and Design Section at a time subsequent to the eleventh month warranty inspection specified above. During this Walkthrough and Evaluation, CONSULTANT shall:~~

- ~~A) Assist COUNTY in reviewing the built Project on site;~~
- ~~B) Participate in and assist COUNTY's Park Planning and Design Section in conducting interviews with principal building occupants and users;~~

- ~~C) Generate written commentary concerning the relative success or failure of the facilities design; specified materials, equipment and systems; the Project's design, bidding and construction process; construction cost, schedule and quality concerns that affected the Project, the effectiveness of administrative and managerial procedures utilized by COUNTY, CONSULTANT and the Contractor, and recommendations concerning future design and construction of the same or similar building types.~~
- ~~D) Assist COUNTY's Park Planning and Design Section in preparing and distributing a Post-Occupancy Evaluation Report that presents the findings and recommendations generated during the Post-Occupancy Walkthrough and Evaluation.~~
- ~~E) Participate in presentations of the Post-Occupancy report as required to COUNTY Commission, County Administrator and/or the public as required.~~

13. Anti-Human Trafficking. By execution of this Amendment by an authorized representative of Consultant, Consultant hereby attests under penalty of perjury that Consultant does not use coercion for labor or services, as such terms are defined in Section 787.06, Florida Statutes. Under penalties of perjury, the undersigned authorized representative of Consultant declares that they have read the foregoing statement and that the facts stated in it are true.

14. In the event of any conflict or ambiguity between this Amendment and the Agreement, the Parties agree that this Amendment shall control. The Agreement, as amended herein by this Amendment, incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein, and the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter hereof that are not contained in the Agreement as amended in this Amendment. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

15. Preparation of this Amendment has been a joint effort of the Parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than any other.

16. Consultant acknowledges that through the date this Amendment is executed by Consultant, Consultant has no claims or disputes against County with respect to any of the matters covered by the Agreement.

17. The effective date of this Amendment shall be the date of complete execution by the Parties.

18. This Amendment may be executed in multiple originals or in counterparts, whether signed physically or electronically; each of which shall be deemed to be an original, and all of which, taken together, shall constitute one and the same agreement.

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IN WITNESS WHEREOF, the Parties hereto have made and executed this Amendment: Broward County through its Board of County Commissioners, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the ____ day of _____, 20__; and Saltz Michelson Architects, Inc., signing by and through its duly authorized representative.

County

ATTEST:

BROWARD COUNTY, by and through
its Board of County Commissioners

By: _____
Broward County Administrator, as
ex officio Clerk of the Broward County
Board of County Commissioners

By: _____
Mayor
____ day of _____, 20__

Approved as to form by
Andrew J. Meyers
Broward County Attorney
115 South Andrews Avenue, Suite 423
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600

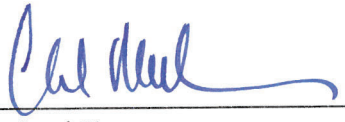
By **AMANDA M. TOLBERT** Digitally signed by
AMANDA M. TOLBERT
Date: 2025.10.10
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Amanda Tolbert (Date)
Assistant County Attorney

By **Michael Kerr** Digitally signed by
Michael Kerr
Date: 2025.10.10
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Michael J. Kerr (Date)
Chief Counsel

SECOND AMENDMENT TO AGREEMENT BETWEEN
BROWARD COUNTY AND SALTZ MICHELSON ARCHITECTS, INC. FOR CONSULTANT SERVICES
FOR DESIGN SERVICES FOR TRADEWINDS PARK NORTH (RFP/RLI # PNC2118392P1)

Consultant

Saltz Michelson Architects, Inc.

By: 
Authorized Signer

CHARLES MICHELSON, President
Print Name and Title

10 day of October 2025