

Thirteenth Amendment to Agreement between Broward County and The Weitz Company, LLC for Construction Project Management Services for the New Broward County Courthouse

This Thirteenth Amendment ("Thirteenth Amendment") to the February 2, 2010, Agreement ("Agreement") between Broward County ("County"), a political subdivision of the State of Florida, and The Weitz Company, LLC, ("Construction Project Manager"), an Iowa Limited Liability Company authorized to do business in Florida (collectively, "the Parties"), is entered into and effective as of the date the Thirteenth Amendment is fully executed by the Parties (the "Effective Date").

Recitals

A. On February 2, 2010, the Parties entered into the Agreement for construction management services for the new Broward County Courthouse.

B. On January 27, 2011, the Parties entered into a First Amendment to the Agreement to allow for the addition of Optional Services.

C. On April 9, 2012, the Parties entered into a Second Amendment to the Agreement to allow for the continuity of construction project management services during Phase II of the construction of the new Broward County Courthouse, to provide related cost adjustments, and to revise the project schedule accordingly.

D. On August 31, 2012, the Parties entered into a Third Amendment to the Agreement to allow for the continuity of construction project management services during Phase II, to provide cost adjustments, and to revise the project schedule accordingly.

E. On February 26, 2013, the Parties entered into a Fourth Amendment to the Agreement to provide cost adjustments for Phase III of the construction of the new Broward County Courthouse, and to revise the project schedule accordingly.

F. On December 10, 2013, the Parties entered into a Fifth Amendment to the Agreement to provide for cost adjustments and to revise the project schedule.

G. On October 7, 2014, the Parties entered into a Sixth Amendment to the Agreement to add more management support services and associated subconsultant salary costs; to add construction project management services for renovations to the east wing building, including a new west facade, the abatement and demolition of the west and central wing buildings, and associated structures; and to add construction project management services for the 500-car secure parking garage, and new plaza.

H. On August 4, 2015, the Parties entered into a Seventh Amendment to the Agreement to provide for cost adjustments, to revise the project schedule, and to increase the compensation for Optional Services to ensure project continuity arising from the construction contractor's failure to achieve substantial completion by June 18, 2015.

I. On January 12, 2016, the Parties entered into an Eighth Amendment to the Agreement to provide for cost adjustments, to revise the project schedule, and to increase the compensation for Optional Services to ensure project continuity arising from the construction contractor's failure to achieve substantial completion by November 20, 2015.

J. On April 5, 2016, the Parties entered into a Ninth Amendment (the "Ninth Amendment") to the Agreement to provide for cost adjustments, to revise the project schedule to ensure project continuity arising from the construction contractor's failure to achieve substantial completion by February 29, 2016, and to increase the compensation for Optional Services for additional construction project management services for the Broward County Judicial Complex's Midrise Building.

K. The Ninth Amendment also authorized the Contract Administrator to continue, at his or her sole discretion, progress payments to the Construction Project Manager for an additional three (3) months until August 31, 2016 if the construction contractor failed to achieve substantial completion by May 31, 2016.

L. On August 11, 2016, the Parties entered into a Tenth Amendment (the "Tenth Amendment") to the Agreement to provide for cost adjustments, to revise the project schedule, and to increase the compensation for Optional Services to ensure project continuity arising from the construction contractor's failure to achieve substantial completion by November 30, 2016.

M. The Tenth Amendment also authorized the Contract Administrator to continue, at his or her sole discretion, progress payments at a daily rate if the construction contractor failed to achieve substantial completion by November 30, 2016.

N. On July 26, 2017, the Parties entered into an Eleventh Amendment to provide for cost adjustments; to revise the project schedule; to increase the compensation for Optional Services to ensure project continuity arising from the necessary building refinements beneficial to the security, accessibility, and usability of the new Broward County Courthouse; and to add construction project management services for the full redesign and renovation of the east wing building.

O. On June 5, 2018, the Parties entered into a Twelfth Amendment to increase the Optional Services amount by Five Hundred Thousand Dollars (\$500,000) to compensate for any unforeseen work related to post-construction operations and services at the new tower as well as the future phases of the project. The Agreement and its twelve amendments are collectively referred to as the "Amended Agreement".

P. The Parties desire to amend the Amended Agreement a thirteenth time ("Thirteenth Amendment") to add post construction services that will provide observations, testing, and inspection services for the correction of the contractor's construction defects.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. The above recitals are true and correct and incorporated herein as if set forth in full hereunder.
2. Unless otherwise stated, words and numbers in ~~strike through~~ type are deletions from existing text and words in underlined type are additions to existing text.
3. Section 7.1.2 of Article 7, Lump Sum Compensation of the Agreement is hereby amended, in part, as follows:

7.1.2 Lump Sum Compensation

COUNTY agrees to pay Construction Project Manager, as compensation for performance of all Basic Services related to Exhibit "A" that are required under the terms of this Agreement and amendments thereto, a lump sum of Seventeen Million Three Hundred Fourteen Thousand Five Hundred Ninety Eight Dollars and One Cent (\$17,314,598.01) ~~Sixteen Million Twenty Four Thousand Six Hundred Twenty Three Dollars and One Cent (\$16,024,623.01)~~. In addition, COUNTY agrees to pay Construction Project Manager up to Two Million Four Hundred Fifty Eight Thousand One Hundred Eighty Five Dollars and Seventy One Cents (\$2,458,185.71) for Optional Services, and to reimburse Construction Project Manager for Reimbursables up to a maximum amount not-to-exceed of Two Hundred Ninety-Five Thousand Dollars (\$295,000.00) as described in Section 7.3. The method of compensation for Basic Services shall be "lump sum," which means Construction Project Manager shall perform all Basic Services set forth herein for total compensation in the amount stated above. The total hourly rates payable by COUNTY for each of Construction Project Manager's employee categories are shown on Exhibit "B." COUNTY shall not pay Construction Project Manager any additional sum for reimbursable expenses or additional services, if any, unless otherwise stated in Section 7.3 and Article 8.

The lump sum compensation of Seventeen Million Three Hundred Fourteen Thousand Five Hundred Ninety Eight Dollars and One Cent (\$17,314,598.01) ~~Sixteen Million Twenty Four Thousand Six Hundred Twenty Three Dollars and One Cent (\$16,024,623.01)~~ for Basic Services shall be paid on a progress basis with the fee amount for each phase set forth below:

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| Project Phase | Fee Amount/Phase |
|---|-------------------------|
| Phase Ia: Schematic Design | \$497,728.00 |
| Phase Ib: Design Development | \$723,968.00 |
| Phase Ic: 50% Construction Documents | \$542,976.00 |
| Phase Id: 100% Construction Documents | \$452,478.00 |
| Phase II: Bid/Award/Permit | \$1,410,539.02 |
| Phase III: Construction | \$9,429,340.99* |
| <u>Phase IIIa: Correction of Construction Defects</u> | <u>\$1,289,975.44</u> |
| Phase IV: Close-Out | \$219,876.00 |

*County will pay a lump sum of \$5,275.20/day during the period from September 1, 2016 to November 30, 2016 up to a maximum amount of \$474,768. Unused portions of the \$474,768 lump sum will remain vested with the County. If the Substantial Completion date for Phase III as listed above is not achieved by November 30, 2016, the Contract Administrator, at his/her sole discretion, is authorized to continue payments up to that \$5,275.20/day.

| | |
|-----------------------------------|----------------|
| Phase V: Abatement and Demolition | \$998,303.00** |
|-----------------------------------|----------------|

**The fees for Construction Project Manager work during the Construction Phase will be increased or reduced \$99,830.00 for each month the work extends beyond or is less than 10 months in duration.

| | |
|---|-------------------|
| Phase VI: 500 Secure Parking Garage and Plaza | \$1,207,947.00*** |
|---|-------------------|

***The fees for Construction Project Manager work during the Construction Phase will be increased or reduced \$120,795.00 for each month the work extends beyond or is less than 10 months in duration.

| | |
|---|--------------|
| Phase VII: East Wing Full Building Renovation Design Phase | \$277,527.00 |
|---|--------------|

Construction Administration Phase
East Wing Full Building Renovation

\$263,940.00****

****The fees for Construction Project Manager work during the Construction Phase of the East Wing will be reduced by \$21,995.00 for each month if the work is completed sooner than the 12 month duration.

4. Exhibit "J," Project Schedule, to the Amended Agreement is deleted in its entirety and replaced with Exhibit "J," Project Schedule, attached hereto and made a part hereof.
5. Except as set forth in this Thirteenth Amendment, all other terms, conditions, and covenants contained in the Amended Agreement shall remain in full force and effect.
6. In the event of any conflict or ambiguity between this Thirteenth Amendment and the Amended Agreement, the Parties agree that this Thirteenth Amendment shall control.
7. This Thirteenth Amendment may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.
8. All capitalized terms not identified in this Thirteenth Amendment shall have the same meaning as the defined terms found in the Amended Agreement.

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IN WITNESS WHEREOF, the Parties hereto have made and executed this Thirteenth Amendment to Amended Agreement on the respective dates under each signature: 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 _____, 2018 and The Weitz Company, LLC, signing by and through its President/Vice President, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, by and through its Board of County Commissioners

Broward County Administrator, as
Ex-officio Clerk of the Broward County
Board of County Commissioners

By _____
Mayor
_____ day of _____, 2018

Insurance requirements
approved by Broward County
Risk Management Division

Approved as to form by
Andrew J. Meyers,
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By Colleen Pounall 09/05/18
Signature (Date)

By Michael J. Kerr 9/11/18
Michael J. Kerr (Date)
Deputy County Attorney

Colleen Pounall Risk Analyst
Print Name and Title above

THIRTEENTH AMENDMENT TO AMENDED AGREEMENT BETWEEN BROWARD COUNTY AND THE WEITZ COMPANY, LLC FOR CONSTRUCTION PROJECT MANAGEMENT SERVICES FOR THE NEW BROWARD COUNTY COURTHOUSE

CONSTRUCTION PROJECT MANAGER

ATTEST:

THE WEITZ COMPANY, LLC

Carolyn DeSanti
Secretary/Print Name

By 
Authorized Manager

Carolyn DeSanti
Signature

Dennis Gallagher EVP
Type or Print Name and Title

31 day of August, 2018

EXHIBIT "J"
PROJECT SCHEDULE

The required project schedule milestones for this project are presented below.

| ACTIVITY | DAYS REQUIRED FOR ESTIMATED TIME PERIOD |
|--|--|
| <u>Schematic Design:</u> | |
| Consultant's Document Preparation & Submittal | 85 Days |
| County Review | 14 Days |
| <u>Design Development</u> | |
| Consultant's Document Preparation & Submittal | 98 Days |
| County Review | 14 Days |
| <u>50% Construction Document Development</u> | |
| Consultant's Document Preparation & Submittal | 103 Days |
| County Review | 14 Days |
| <u>100% Construction Document Development</u> | |
| Consultant's Document Preparation & Submittal | 95 Days |
| County Review | |
| <u>Bidding, Award of Contract, Permitting</u> | |
| Bidding, Award of Contract, Permitting through August 24, 2012 | 468 Days |
| <u>Administration of the Construction Phase of Contract through Final Completion (August 31, 2017)</u> | 1851 Days |
| <u>Correction of Construction Defects</u> | <u>365 Days</u> |
| <u>Warranty Tower</u> | 365 Days |
| <u>Abatement and Demolition</u> | 270 Days |
| <u>Owner Acceptance</u> | 30 Days |
| <u>500 Secure Parking Garage and Plaza</u> | 270 Days |
| Owner Acceptance | 30 Days |
| <u>Warranty Garage/Plaza</u> | 365 Days |
| <u>East Wing Full Renovation Design</u> | |
| Design | 365 Days |
| Construction Administration | 365 Days |