

## **FIRST AMENDMENT OF CONSTRUCTION MANAGER SERVICES AGREEMENT FOR PHASE 2 – CONSTRUCTION SERVICES**

**THIS FIRST AMENDMENT** to the Construction Manager Services Agreement dated April 18, 2024, is made and entered into by and between Lee County, a political subdivision and charter County of the State of Florida, acting by and through its Board of County Commissioners (Owner); and **Stulz, Inc.**, a Florida corporation, duly licensed to conduct business in the State of Florida (the “Construction Manager” or “CM”), collectively, the “Parties”.

### **RECITALS**

**WHEREAS**, the County desired to construct the LC Warehouse Remodel (Elevation Way) Project (the “Project”) within Lee County, Florida; and,

**WHEREAS**, the CM and the County entered into Construction Manager Services Agreement dated April 18, 2024 (“Agreement”) according to the selection of the CMAR pursuant to CMR220546NAT; and,

**WHEREAS**, the CM and the Owner completed Pre-Construction Services for the Project; and,

**WHEREAS**, Section 3.01 CM’s Compensation of the Construction Manager Services Agreement provides that the Guaranteed Maximum Price (“GMP”) for construction of the Project will be established in a separate amendment to the Agreement; and,

**WHEREAS**, Section 3.02 The Project; Changes in the Project; Additional Fee of the Construction Manager Services Agreement provides that the CM is entitled to an additional fee if the Owner increases the GMP; and

**WHEREAS**, Section 3.03 Period of Construction; Additional Fee of the Construction Manager Services Agreement provided that the number of calendar days for the period of construction to substantial completion and the number of calendar days to final completion are to be established by amendment to the Agreement, and that the First Construction GMP payment and the subsequent monthly installments shall be determined after the GMP has been established; and

**WHEREAS**, Section 4.06 Project Schedule; Substantial Completion; Occupancy, Subsection (1) Establishment of Substantial Completion Date of the Construction Manager Services Agreement, provides that Liquidated Damages will be established by amendment to the Agreement; and

**WHEREAS**, except as is specifically amended or modified herein, all of the terms and conditions of the Agreement for the Project are hereby ratified and confirmed, and

shall remain in full force and effect.

### OPERATIVE PROVISIONS

**NOW THEREFORE**, for and in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and the CM, intending to be legally bound, covenant and agree as follows:

1. **Recitals.** The recitals set forth above are true and correct and incorporated herein as if set forth below.

2. **CM's Compensation.** The Parties hereby agree that the last sentence of Section 3.01 CM's Compensation is replaced in its entirety as follows:

The CM fee for Construction Services shall be **\$31,456.32**.

3. **Establishment of Guaranteed Maximum Price.** The Parties hereby agree that the GMP for construction of the Project shall be **\$483,072.32**. In no event shall the cost of construction of the Project and the CM's Fee exceed the GMP, as adjusted by any County approved change orders.

4. **Establishment of Period of Construction.** The Parties hereby agree that the first paragraph of Section 3.03 Period of Construction; Additional Fee is replaced in its entirety as follows:

Owner, AE and CM expect and believe that the period of construction or construction phase for the Project shall be **One-Hundred Twenty (120)** calendar days to substantial completion from issuance of the Notice to Proceed and an additional **Thirty (30)** calendar days to final completion. No work shall take place under this Amendment until the date specified in the Construction Phase Notice to Proceed.

5. **Liquidated Damages.** Under Section 4.06 Project Schedule; Substantial Completion; Occupancy, Subsection (1) Establishment of Substantial Completion Date, the Parties hereby agree that the amount of liquidated damages the CM shall be assessed is **\$750 per calendar day** for each day completion is extended beyond the Project substantial completion date.

6. **Contract Documents.** The Construction Manager shall perform the services for the amount stated above in strict accordance with the following documents, all of which are attached hereto and incorporated by reference:

6.1 Exhibit A – Letter Dated August 6, 2024 Establishing the GMP and Schedule of Values from Stulz, Inc.

- 6.3 Exhibit B – Trench Safety Affidavit
- 6.4 Exhibit C – Lee County Affidavit of Compliance
- 6.5 Attachment 1– Construction Documents “Existing Warehouse Renovation”

7. **Effective Date.** This Amendment shall become effective on the date it is approved by the Lee County Board of County Commissioners.

[The remainder of this page intentionally left blank.]

**IN WITNESS WHEREOF**, the parties have made and executed this Amendment on the day and year of the last signature below.

WITNESS:

Signed By: Cindy Skripic  
Print Name: CINDY SKRIPIC

Stulz, Inc.  
Signed By: [Signature]  
Print Name: Jeff Stulz  
Title: President  
Date: 8/14/24

**BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA**

Signed By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

ATTEST:  
CLERK OF THE CIRCUIT COURT

BY: \_\_\_\_\_  
DEPUTY CLERK

APPROVED AS TO FORM FOR THE  
RELIANCE OF LEE COUNTY ONLY:

BY: \_\_\_\_\_  
OFFICE OF THE COUNTY ATTORNEY

**EXHIBIT A**  
**GMP LETTER**



August 6, 2024

Mr. Scott Musheff  
Lee County Dept of Facilities Construction  
1500 Monroe St.  
Fort Myers, Florida 33901

RE: Lee County Warehouse Reno (Elevation Wy)

Dear Mr. Musheff:

Stultz, Inc. is pleased to submit a Guaranteed Maximum Price (GMP) in the amount of \$483,072.32 for work associated with the Lee County Warehouse Renovation (Elevation Wy) project. Pricing is based on plans and specifications by Lee County and DTC Engineering. This GMP includes all labor, materials, and equipment to complete the work and is itemized in the attached Schedule of Values.

<b>Summary of Cost</b>	
Subcontract, Materials, Labor	\$346,126.00
Bonds & Insurance	\$15,750.00
Construction Contingency	\$25,000.00
<b>Sub Total</b>	<b>\$386,876.00</b>
Total CM Fee	\$31,456.32
General Conditions	\$64,740.00
<b>GMP Total</b>	<b>\$483,072.32</b>

The project duration shall be 120 calendar days to substantial completion and 150 calendar days to final completion.

We look forward to working with you on this project.

Sincerely,

Jeff Stultz  
President

# STULTZ INC.

GENERAL CONTRACTORS / CONSTRUCTION MANAGERS  
 CGC1504629  
 6216 Whiskey Creek Drive  
 Suite B  
 Ft. Myers, FL 33919  
 (239) 590-3033

## Proposal

Job #: 24009  
 Estimator:  
 Date: 08/06/24

Project: LC Warehouse Remodel - Construc  
 4664 Elevation Way  
 Fort Myers FL 33905

Cost Code	Description	Amount
<b>24009 LC Warehouse Remodel - Construction</b>		
<b>1 General Requirements</b>		
1290.000	Plan Cost	1,000.00
1300.000	Permits	2,000.00
1401.000	Direct Labor	42,240.00
1510.000	Temp. Power	Existing
1511.000	Temp. Water/Sewer	Existing
1520.000	Temp. Sanitary	See 2050 Temp Protection
1900.000	General Liability Insurance	See 999900 Bonds/Insurance
1910.000	Builder's Risk Insurance	See 999900 Bonds/Insurance
1950.000	Performance Bond	See 999900 Bonds/Insurance
<b>Division Total:</b>		<b>45,240.00</b>
<b>2 Existing Conditions</b>		
2050.000	Temp Protection	15,000.00
2420.000	Waste Removal & Salvage	4,500.00
<b>Division Total:</b>		<b>19,500.00</b>
<b>3 Concrete</b>		
3300.000	Cast-In-Place Concrete	4,500.00
Includes: - Condenser pads for new equipment		
<b>Division Total:</b>		<b>4,500.00</b>
<b>5 Metals</b>		
5100.000	Structural Metal Framing	3,600.00
<b>Division Total:</b>		<b>3,600.00</b>
<b>7 Thermal/Moisture Protection</b>		
7211.000	Foamed-in-Place Insulation	69,180.00
Includes: - R-17 closed cell foam and thermal barrier at exterior metal walls - R-17 closed cell foam and thermal barrier at newly constructed partitions at office areas - R-30 open cell foam and thermal barrier at roof - Corefill insulation at block walls - Demo existing insulation at roof		
<b>Division Total:</b>		<b>69,180.00</b>



**Proposal**

Job #: 24009  
 Estimator:  
 Date: 08/06/24

Cost Code	Description	Amount
<b>9 Finishes</b>		
9220.000	Non-Structural Metal Framing	22,000.00
	Includes:	
	- Frame new partitions and plywood one side from top of existing office walls to deck	
	<b>Division Total:</b>	<b>22,000.00</b>
<b>23 HVAC</b>		
23000.000	HVAC	152,100.00
	Includes:	
	- (2) split AC systems with t-stats, dampers, louvers, t-stats, and air devices	
	- Aluminum ductwork	
	- T&B	
	- (2) exhaust fans and related duct for newly created attic space	
	<b>Division Total:</b>	<b>152,100.00</b>
<b>26 Electrical</b>		
26000.000	Electrical	78,246.00
	Includes:	
	- Labor and material for ~100 LF of secondary feeders, setting new transformer pad, and gear	
	- Relocation of receptacles and lights for new foam insulation	
	<b>Division Total:</b>	<b>78,246.00</b>
<b>32 Exterior Improvements</b>		
32100.000	Asphalt Paving	14,500.00
	Includes:	
	- Patching of trenches for secondary feeders	
32920.000	Turf and Grasses	2,000.00
	<b>Division Total:</b>	<b>16,500.00</b>
<b>33 Utilities</b>		
33700.000	Electrical Utilities	Coordination Only
	All FPL fees to be paid by Lee County	
	<b>Division Total:</b>	
<b>99 Construction Management</b>		
999900.000	Bonds & Insurance	15,750.00
999997.000	Contingencies	25,000.00
999999.000	Contract Mgmt Fee	31,456.32
	<b>Division Total:</b>	<b>72,206.32</b>

**STULTZ**  
**INC.**  
GENERAL CONTRACTORS / CONSTRUCTION MANAGERS  
CGC1504629

**Proposal**

**Job #:** 24009  
**Estimator:**  
**Date:** 08/06/24

<u>Cost Code</u>	<u>Description</u>	<u>Amount</u>
<b>Grand Total:</b>		<b>\$483,072.32</b>

**Notes:**



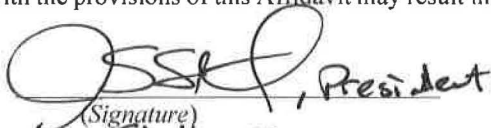
EXHIBIT B  
TRENCH SAFETY

Construction Manager acknowledges that included in the appropriate solicitation items of the solicitation and in the Total solicitation price are costs for complying with the Florida Trench Safety Act (90-96, Laws of Florida) effective October 1, 1990. The Construction Manager further identifies the costs of such compliance to be summarized below:

Trench Safety Measure (Description)	Units of Measure (LF, SF)	Unit (Quantity)	Unit Cost	Extended Cost
A. _____	_____	_____	_____	_____
B. _____	_____	_____	_____	_____
C. _____	_____	_____	_____	_____
D. _____	_____	_____	_____	_____
TOTAL \$ _____				

If applicable, the Construction Manager certifies that all trench excavation done within his control in excess of five (5') feet in depth shall be in accordance with the Florida Department of Transportation's Special Provisions Article 125-1 and Sub-article 125-4.1 (TRENCH EXCAVATION SAFETY SYSTEM AND SHORING, SPECIAL-TRENCH EXCAVATION).

Failure to comply with the provisions of this Affidavit may result in the termination of the Agreement at the discretion of the County.

  
(Signature) Stultz Inc.  
(Company Name)

STATE OF FLORIDA

COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me, by means of  physical presence or  online notarization, this 14TH day of AUGUST 2024, by JEFFREY STULTZ who has produced 13 PERSONALLY KNOWN TO ME (Print or Type Name)

\_\_\_\_\_ as identification.  
(Type of Identification)

  
Notary Public Signature

CINDY SHIPE  
Printed Name of Notary Public

HH 276470 / JUN 14, 2026  
Notary Commission Number/Expiration

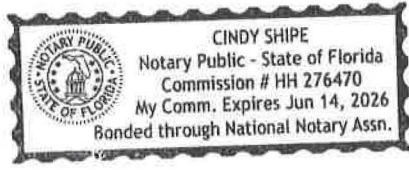


EXHIBIT C  
LEE COUNTY AFFIDAVIT OF COMPLIANCE

*Affidavit of Compliance with Section 287.138 and 787.06, Florida Statutes*  
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**AFFIDAVIT OF COMPLIANCE WITH SECTION 287.138 and 787.06, FLORIDA  
STATUTES**

Before me, the undersigned authority, personally appeared (Name of  
affiant)

Jeffrey S. Stultz, who, after being first duly sworn,

deposes and says of his or her personal knowledge the following:

1. Affiant is the (Title) President of (Business  
Name)

Stultz, Inc.

which does business in the State of Florida, hereinafter called the "Vendor."

2. Vendor, pursuant to Section 287.138, Florida Statutes, certifies that (1) Vendor is not owned by a government of a foreign country of concern; (2) a government of a foreign country of concern does not have a "controlling interest" in Vendor, as defined by Section 287.138(1)(a), Florida Statutes; and (3) Vendor is not organized under the law of nor has its principal place of business in a foreign country of concern. For the purposes of this affidavit, foreign country of concern means the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity of significant control of such foreign country of concern, as defined in Section 287.138(1)(c), Florida Statutes, as amended from time to time.
3. Vendor, pursuant to Section 787.06, Florida Statutes, certifies that Vendor does not use coercion for labor or services as defined in Section 787.06, Florida Statutes, as amended from time to time.
4. This Affidavit is executed by the Vendor in accordance with Section 287.138, Florida Statutes, for the purposes of preventing the County from entering contracts with foreign entities of concern which would provide Vendor access to an individual's personal identifying information.
5. This Affidavit is executed by the Vendor in accordance with Section 787.06, Florida Statutes.



(Plan Sheets redacted in accordance with  
Florida public records law)

Section 119.071(3)(b)1., F.S., exempts building plans, blueprints, schematic drawings, and diagrams of public buildings.