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Planning, Design, Construction and Related Services

CONSTRUCTION AGREEMENT
BETWEEN OWNER AND DESIGN/BUILDER
ON THE BASIS OF A STIPULATED PRICE

This Construction Agreement (the "Agreement") is made and entered into this day **13th May 2024** ("Effective Date"), by and between Atriax Building Solutions, LLC (Design/Builder), a North Carolina Limited Liability Company having a place of business at 703 Main Avenue NE, Hickory, NC 28602, ("ABS") and Caldwell County, a having a place of business at 905 West Avenue NW, Lenoir, Caldwell County, NC 28645 ("Owner"), each a "Party" or collectively the "Parties".

WHEREAS, Owner wishes to enter into this Agreement with ABS to provide the work set forth in Article 1 (the "**Work**"), as set forth herein; and

WHEREAS, the Parties desire to set forth the duties, responsibilities and obligations of each Party with respect to the provision of Work; and

WHEREAS, the Parties agree that the terms and conditions appearing within this Agreement and the Standard Conditions, attached hereto as **Exhibit A** (Standard General Conditions of the Contract between Owner & Design Builder) (the "**Standard General Conditions**"), shall govern and control the duties, responsibilities and obligations of the Parties in connection with the provision of Work.

NOW THEREFORE, in consideration of the foregoing, the covenants and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto acknowledge and agree as follows:

THE CONTACT INFORMATION FOR EACH PARTY IS:

ABS (Design/Builder):		OWNER:
Name:	Atriax Building Solutions, LLC	Name: Caldwell County
Address:	P.O. Box 1629 (28603)	Address: 905 West Avenue NW Lenoir NC 28645
Phone:	(828) 315-9962	Phone: (828) 757-1300

PROJECT**:** Remodel of existing medical facility and addition of a six (6) vehicle bay metal building to provide full EMS capability for the town of Cajah's Mountain.

LOCATION: 1901 Connelly Springs Road,
Cajah's Mountain,
Lenoir.
NC 28645

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ARTICLE 1 - WORK

1.01. Design/Builder shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Scope:

- Project planning to include code analysis, value engineering constructability, preliminary cost estimates, and schedule development.
- The use of design boards with materials and color selections.
- Evaluation of site to include survey, geotechnical evaluation, and existing utilities.
- Comprehensive project design, to include the building, site, and subterranean utilities.
- Working with staff to ensure a thorough visioning and design process.
- Update the budget and schedule once the location and design are finalized.
- Permitting for all aspects of the project.
- Construction of the project.
- Project management to assure subcontractors are performing to design and product specifications.
- Construction management to ensure all construction work conforms to OSHA standards.
- Timing of material delivery to ensure no interruptions in construction timeline.
- Adequate storage of materials in a secure location.
- Schedule management to assure completion in a timely manner.
- Weekly progress reports identifying current status and forecast activities.
- Project closeout, delivering manuals, establishing warrantees, equipment training, final inspection and acceptance, execution of punch list, record drawings and commissioning of systems.

1.02. The Parties have identified Atriax PLLC as the Architect of record and to provide professional engineering services.

ARTICLE 2 - THE PROJECT

2.01. The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

- The County intends through a Design- Build process to construct an EMS facility to provide full staff services for training, sleeping, living, bathrooms, storage and a six (6) EMS vehicle bay. It will also provide a satellite Sheriff's Office.

- Design/Builder to provide the following (as appropriate): civil, architectural, structural, electrical, plumbing, mechanical, fire protection, geo-tech, abatement surveying and general construction expertise through a team of registered and licensed professionals.

- Design/Builder will call and schedule all interim and final inspections with county/municipal authorities.

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ARTICLE 3 - CONTRACT TIMES

3.01. Time of the Essence

All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

3.02. Days to Achieve Substantial Completion and Final Payment

The Work will be substantially completed within 291 working days after the date when the Contract Times commence to run as provided in paragraph 2.02 of the General Conditions, and completed and ready for final payment in accordance with paragraph 13.08 of the General Conditions within 311 working days after the date when the Contract Times commence to run.

ARTICLE 4 - CONTRACT PRICE

4.01. Owner shall pay Design/Builder for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to paragraph 4.01.A below:

A. Lump Sum – $4,588,215

The specific cash allowances are included in the above price and have been computed in accordance with paragraph 10.02 of the General Conditions. Payment will be paid in installments or as agreed upon by Owner and Design/Builder. The first installment of $159,527 will be paid on the date of execution of this Agreement. The remainder will be paid to Design/Builder in accordance with Article 5.

Exclusions: (These are provided by way of example only and will be fully determined as contract negotiations proceed).
The scope of services specifically excludes the following items;

a. Lead based paint testing/reports
b. Asbestos testing/reports
c. Hazardous material testing/reports

As provided in paragraph 10.03.A of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Owner as provided in paragraph 10.03.A of the General Conditions. Unit prices have been computed as provided in paragraph 10.03 of the General Conditions.

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ARTICLE 5 - PAYMENT PROCEDURES

5.01. Design/Builder shall submit and Owner will process Applications for Payment.

A. Progress Payments.

Owner shall make progress payments on account of the Contract Price on the basis of Design/Builder's Applications for Payment which are to be submitted on the 5th and 20th day of each month during performance of the Work. Payments will be due net 15 days calendar days.

B. Final Payment.

Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price. Final payment will be due net 15 calendar days upon submittal of final invoice by Design/Builder.

C. Owner's Billing Information. Send invoices / inquiries to the following:

Company Name	Caldwell County
Address	905 West Avenue NW Lenoir Caldwell County NC 28645
Attn:	Carole Brown
Phone:	828-757-1300

ARTICLE 6 - INTEREST

6.01. All moneys not paid when due shall bear interest at the rate of 1.5 % percent compounded daily until payment is received.

ARTICLE 7 - DESIGN/BUILDER'S REPRESENTATIONS

7.01.

A. Design/Builder has examined and carefully studied the Contract Documents (including the Addenda) listed in paragraphs 8.01. A through D and the other related data identified in the Request for Proposals.

B. Design/Builder has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. Design/Builder is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Design/Builder has carefully studied all: (1) reports of explorations and tests of subsurface conditions (if any) at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site which have been identified or made

available by Owner and (2) reports and drawings of Hazardous Environmental Conditions (if any) at the Site which have been identified or made available by Owner.

E. Design/Builder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

F. Design/Builder has correlated the information known to Design/Builder, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.

G. Design/Builder has given Owner written notice of all conflicts, errors, ambiguities or discrepancies that Design/Builder has discovered in the Contract Documents and the written resolution thereof by Owner is acceptable to Design/Builder.

H. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 8 - CONTRACT DOCUMENTS

8.01. The Contract Documents consist of the following:

A. This Agreement (pages 1 to 7 inclusive)

B. Conceptual designs provided by Design/Builder - Attached

C. Design/Builder's Cost Proposal - Attached

D. Construction Schedule - Attached

The following, which may be delivered, prepared, or issued after the Effective Date of this Agreement and are not attached hereto:

1. All Work, Change Directives, and Change Orders amending, modifying or supplementing the Contract Documents;
2. Investigative Services and any engineering designs required by the project.

8.02. The documents listed in paragraph 8.01 above are attached to this Agreement (except as expressly noted otherwise above).

8.03. There are no Contract Documents other than those listed above in this Article 8.

8.04. The Contract Documents may be amended, modified, or supplemented by mutual agreement between Owner and Design/Builder.

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ARTICLE 9 - MISCELLANEOUS

9.01. The Standard General Conditions of the Contract Between Owner and Design/Builder are referred to herein as the General Conditions.

9.02. Terms used in this Agreement will have the meanings indicated in the General Conditions.

9.03. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.04. Owner and Design/Builder each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

9.05. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Design/Builder, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

9.06. Other Provisions

None.

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IN WITNESS WHEREOF, Owner and Design/Builder have signed this Agreement in duplicate. One counterpart each has been delivered to Owner and Design/Builder. All portions of the Contract Documents have been signed, initialed or identified by Owner and Design/Builder.

This Agreement will be effective on 13th May 2024 (which is the Effective Date of the Agreement).

OWNER:	DESIGN/BUILDER:
Caldwell County	Atriax Building Solutions, LLC
By: Donald Duncan	By: Simon Lucas
Sign:	Sign:
Address for giving notices:	Address for giving notices:
905 West Ave W	P.O. Box 1629
Lenoir	Hickory
NC 28645	NC 28603
	Contractor License No.: 51979
	State: North Carolina

Designated Representative:		Designated Representative:	
Name:	Donald Duncan	Name:	Simon Lucas
Title:	County Manager	Title:	General Manager
Address:	905 West Ave W Lenoir NC 28645	Address:	Atriax Building Solutions, LLC, P.O. Box 1629, Hickory, NC 28603
	Tel: 828-757-1300		Tel: 828-315-9962