



AGENDA | SPECIAL TOWN COUNCIL MEETING

Tuesday, July 09, 2024 at 5:00 PM

Council Chambers - Apex Town Hall, 73 Hunter Street

The meeting will adjourn when all business is concluded or 10:00 PM, whichever comes first

Town Council and Town Executive Leadership

Mayor: Jacques K. Gilbert | Mayor Pro Tempore: Edward Gray

Council Members: Audra Killingsworth; Brett D. Gantt; Terry Mahaffey; Arno Zegerman

Town Manager: Randal E. Vosburg

Deputy Town Manager: Shawn Purvis

Assistant Town Managers: Demetria John and Marty Stone

Town Clerk: Allen L. Coleman | Town Attorney: Laurie L. Hohe

COMMENCEMENT

Call to Order | Invocation | Pledge of Allegiance

NEW BUSINESS

NB1 Construction Contract Award - Lomax Construction Inc. - Finance Renovation Project

Daniel Edwards, Senior Capital Projects Manager, Town Manager's Office

CLOSED SESSION

Council will enter into closed session pursuant to:

CS1 Laurie Hohe, Town Attorney

NCGS § 143-318.11(a)(3)

"To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body."

ADJOURNMENT

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: NEW BUSINESS

Meeting Date: July 9, 2024

Item Details

Presenter(s): Daniel Edwards, Senior Capital Projects Manager

Department(s): Town Manager's Office

Requested Motion

Possible motion to award a building construction contract to Lomax Construction, Incorporated, for the Town Hall Finance Renovation Project, and authorize the Town Manager, or their designee, to execute the contract on behalf of the Town.

Approval Recommended?

Yes

Item Details

The town received nine bids for the Town Hall Finance Renovation Project on June 20, 2024. Lomax Construction, Inc. of Colfax, North Carolina, was the lowest responsive, responsible bidder with a total bid price of \$554,900.00. The bid price is within the architect's estimate.

Staff and Consultant (Hobbs Architects) recommends awarding the contract to Lomax Construction, Inc.

Attachments

- NB1-A1: Recommendation of Award - Construction Contract Award Lomax Construction Inc. - Finance Renovation Project
- NB1-A2: Certified Bid Tab - Construction Contract Award Lomax Construction Inc. - Finance Renovation Project
- NB1-A3: Bid Package - Construction Contract Award Lomax Construction Inc. - Finance Renovation Project
- NB1-A4: Construction Contract (**for reference only**) - Construction Contract Award Lomax Construction Inc. - Finance Renovation Project
- NB1-A5: Notice of Award - Construction Contract Award Lomax Construction Inc. - Finance Renovation Project





Hobbs Architects, P.A.

159 W. Salisbury St.
Pittsboro, North Carolina 27312

919.545.2004
www.hobbsarchitects.com

Date: July 1, 2024

To: Mr. Daniel Edwards
Capital Projects Manager
Town of Apex
Apex, NC 27502

Re: Town of Apex Finance Department Renovations– Bid Award Recommendation

Dear Mr. Edwards,

The purpose of this letter is to provide you with the Certified Bid Tabulation and our recommendations regarding the Town of Apex Finance Department Renovations Project. Nine (9) qualified contractors submitted bids for this project, and the low bidder is Lomax Construction, Incorporated with a Base Bid of \$548,800.00.

In addition to the Base Bid for the project, bid alternates may be accepted. Below is a listing of the recommended alternates:

Base Bid:	\$ 548,800.00
Alternate # G-1: Preferred Brand Alternate for Door Hardware	\$ 6,100.00
Alternate # P-1: Preferred Brand Alternate for Sink Faucets	\$ 0.00
Alternate # M-1: Preferred Brand Alternate for Direct Digital Controls (DDC) System for HVAC	\$ 0.00
<hr/>	
Total Contract Amount with Alternates:	\$ 554,900.00

I have been in contact with Lomax Construction, Incorporated, who indicated that there are no issues with the bid as submitted and the owner and designer references provided by the contractor provided positive feedback. The bid submission included all the necessary documentation for bonding and MBE. As a result, I recommend the award of the construction contract to Lomax Construction, Incorporated.

If you have any questions or need additional information, please contact me.

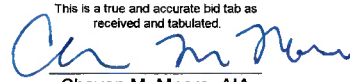
Sincerely,

Chevon (File) Moore, AIA
Hobbs Architects, PA

Enclosures:

- Lomax Construction, Incorporated – Bid Proposal
- Certified Bid Tab

**BID TABULATION -
 BID - Apex Town Hall Finance Department Renovations**

This is a true and accurate bid tab as
 received and tabulated.

 Chevon M. Moore, AIA

CONTRACTOR	License Number	Add. Rev'd 1-2-3-4-5	MBE Cert	Bid Bond	BASE BID	Plumbing Sub-Contractor	Mechanical Sub-Contractor	Electrical Sub-Contractor	BID ALT #G-1	BID ALT #P-1	BID ALT #M-1
BAR Construction Co, Inc.	7973	x	x	x	\$ 681,200.00	Plumb V	CB Trades	Modern Electric	\$0.00	\$0.00	\$0.00
Brawley Company	73240	x	x	x	\$ 670,000.00	Earnhardt Plumbing	Watco	Gregory Electric	\$1,200.00	\$1,700.00	\$6,000.00
CMC Building	52920	x	x	x	\$ 678,582.00	Earnhardt Plumbing	CB Trades	Gregory Electric	\$0.00	\$0.00	\$0.00
Harrod and Associates Constructors, Inc.	32791	x	x	x	\$ 689,900.00	Paul Adrian's Plumbing	CB Trades	Modern Electric	\$13,200.00	\$0.00	\$0.00
H.M. Kern Corporation	8542	x	x	x	\$ 671,000.00	Tim McCarter Plumbing	Duggins Mechanical	Elrod Electrical	\$0.00	\$0.00	\$0.00
Holden Building Company, Inc.	68119	x	x	x	\$ 675,000.00	Tim McCarter Plumbing	CB Trades	Roy Electric	\$0.00	\$0.00	\$0.00
Lomax Construction, Inc	37571	x	x	x	\$ 548,800.00	Paul Adrian's Plumbing	CB Trades	Modern Electric	\$6,100.00	\$0.00	\$0.00
MLB Construction Services, LLC	56418	x	x	x	\$ 747,400.00	Plumbing Concepts	CB Trades	Modern Electric	\$0.00	\$0.00	\$0.00
Salisbury and Moore Construction	100735	x	x	x	\$ 576,000.00	Plumbing Concepts	CB Trades	Modern Electric	\$0.00	\$0.00	\$0.00

ALTERNATES

Alternate # G-1: Preferred Brand Alternate for Door Hardware

Alternate # P-1: Preferred Brand Alternate for Sink Faucets

Alternate # M-1 Preferred Brand for Alternate for Direct Digital Control (DDC) System for HVAC

FORM OF PROPOSAL

Town of Apex Finance Department Renovations

Contract: Single Prime Proposal

Town of Apex, North Carolina

Bidder: Lomax Construction, Incorporated

Date: June 20, 2024

The undersigned, as bidder, hereby declares that the only person or persons interested in this proposal as principal or principals is or are named herein and that no other person than herein mentioned has any interest in this proposal or in the contract to be entered into; that this proposal is made without connection with any other person, company or parties making a bid or proposal; and that it is in all respects fair and in good faith without collusion or fraud. The bidder further declares that he has examined the site of the work and the contract documents relative thereto, and has read all special provisions furnished prior to the opening of bids; that he has satisfied himself relative to the work to be performed. The bidder further declares that he and his subcontractors have fully complied with NCGS 64, Article 2 in regards to E-Verification as required by Section 2.(c) of Session Law 2013-418, codified as N.C. Gen. Stat. § 143-129(j).

The Bidder proposes and agrees if this proposal is accepted to contract with the

Town of Apex

in the form of contract specified below, to furnish all necessary materials, equipment, machinery, tools, apparatus, means of transportation and labor necessary to complete the construction of

Work includes interior renovations of the first floor of the Apex Town Hall Building to accommodate the Finance Department. The area of renovation is approximately +/- 4,300 sf and include exterior improvements to the southwest side of the building. Interior renovation work includes selective demolition, new interior framing and suspended ceilings, modifications to the existing mechanical systems, reuse and rework of the existing electrical systems, new plumbing fixtures, and new finishes and casework. Exterior Improvements include new storefront infill at existing entrance archway and new lighting. Building portions outside of the area of renovation will remain occupied during construction.

in full in complete accordance with the plans, specifications and contract documents, to the full and entire satisfaction of the laws of the State of North Carolina, and the

Town of Apex and Hobbs Architects. PA

with a definite understanding that no money will be allowed for extra work except as set forth in the General Conditions and the contract documents, for the sum of:

SINGLE PRIME CONTRACT:

Base Bid:

Five - Hundred Forty Eight thousand, Eight - Hundred Dollars (\$) 548,800

General Subcontractor:

Lomax Construction, Incorporated Lic 37571

Plumbing Subcontractor:

Paul Adrian's Plumbing Lic 22925

Mechanical Subcontractor:

CB Trades Lic 35950

Electrical Subcontractor:

Modern Electric Lic 29681-U

GS143-128(d) requires all single prime bidders to identify their subcontractors for the above subdivisions of work. A contractor whose bid is accepted shall not substitute any person as subcontractor in the place of the subcontractor listed in the original bid, except (i) if the listed subcontractor's bid is later determined by the contractor to be non-responsible or non-responsive or the listed subcontractor refuses to enter into a contract for the complete performance of the bid work, or (ii) with the approval of the awarding authority for good cause shown by the contractor.

ALTERNATES:

Should any of the alternates as described in the contract documents be accepted, the amount written below shall be the amount to be "added to" or "deducted from" the base bid. (Strike out "Add" or "Deduct" as appropriate.)

GENERAL CONTRACT:**Alternate No. G-1** Preferred Brand Alternate for Door Hardware

1. Base bid: Provide rough-in, infrastructure, and complete door hardware by acceptable manufacturers as indicated in Section 08 71 00.
2. Alternate G-1: To include the total cost of all labor, materials, and equipment required to provide rough-in, infrastructure, and complete door hardware by owner- preferred brand manufacturers as scheduled in Section 08 71 00.

(Add) Six thousand , One hundred Dollars(\$) 6,100

Alternate No. P-1 Preferred brand alternate for Sink Faucets

1. Base Bid: Base bid: Provide and install lavatory sink faucets by acceptable manufacturers as indicated in Section 22 42 16.13.
2. Alternate P-1: To include the total cost of all labor, materials, and equipment required to provide and install lavatory sink faucets by Sloan Valve Company.

(Add) No Charge Dollars(\$) 0

Alternate No. M-1 Preferred brand alternate for Direct Digital Control (DDC) System for HVAC

1. Base Bid: Provide factory standard packaged equipment standalone controls.
2. Alternate M-1: To include the total cost of all labor, materials, and equipment required to provide complete DDC system as specified in Section 23 09 23 by Siemens.

(Add) No Charge Dollars(\$) 0

The bidder further proposes and agrees hereby to commence work under this contract on a date to be specified in a written order of the designer and shall fully complete all work thereunder within the time specified in the Contract Documents. Applicable liquidated damages amount is also stated in the Contract Documents.

MINORITY BUSINESS PARTICIPATION REQUIREMENTS

Provide with the bid - Under GS 143-128.2(c) the undersigned bidder shall identify on its bid (Identification of Minority Business Participation Form) the minority businesses that it will use on the project with the total dollar value of the bids that will be performed by the minority businesses. **Also** list the good faith efforts (Affidavit **A**) made to solicit minority participation in the bid effort.

NOTE: A contractor that performs all of the work with its own workforce may submit an Affidavit (**B**) to that effect in lieu of Affidavit (**A**) required above. The MB Participation Form must still be submitted even if there is zero participation.

After the bid opening - The Owner will consider all bids and alternates and determine the lowest responsible, responsive bidder. Upon notification of being the apparent low bidder, the bidder shall then file within 72 hours of the notification of being the apparent lowest bidder, the following:

An Affidavit (C) that includes a description of the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, which is equal to or more than the 10% goal established. This affidavit shall give rise to the presumption that the bidder has made the required good faith effort and Affidavit D is not necessary;

*** OR ***

If less than the 10% goal, Affidavit (D) of its good faith effort to meet the goal shall be provided. The document must include evidence of all good faith efforts that were implemented, including any advertisements, solicitations and other specific actions demonstrating recruitment and selection of minority businesses for participation in the contract.

Note: Bidders must always submit with their bid the Identification of Minority Business Participation Form listing all MB contractors, vendors and suppliers that will be used. If there is no MB participation, then enter none or zero on the form. Affidavit A **or** Affidavit B, as applicable, also must be submitted with the bid. Failure to file a required affidavit or documentation with the bid or after being notified apparent low bidder is grounds for rejection of the bid.

Proposal Signature Page

The undersigned further agrees that in the case of failure on his part to execute the said contract and the bonds within ten (10) consecutive calendar days after being given written notice of the award of contract, the certified check, cash or bid bond accompanying this bid shall be paid into the funds of the owner's account set aside for the project, as liquidated damages for such failure; otherwise the certified check, cash or bid bond accompanying this proposal shall be returned to the undersigned.

Respectfully submitted this day of June 20, 2024

Lomax Construction, Incorporated

(Name of firm or corporation making bid)

WITNESS:

(Proprietorship or Partnership)

By: 

Signature

Name: Travis Langley

Print or type

Title Partner / VP of Preconstruction

(Owner/Partner/Pres./V.Pres)

Address P. O. Box 35169

Greensboro, NC 27425-5169

ATTEST:

By: 

Eric Lomax

Title: Corporate Secretary

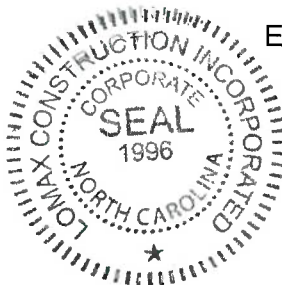
(Corp. Sec. or Asst. Sec. only)

License No. 37571

Federal I.D. No. 56-1981228

Email Address: tlangley@lomaxconstruction.com

(CORPORATE SEAL)



Addendum received and used in computing bid:

Addendum No. 1 5-23-24 Addendum No. 3 6-06-24 Addendum No. 5 6-12-24 Addendum No. 7 _____

Addendum No. 2 6-03-24 Addendum No. 4 6-11-24 Addendum No. 6 _____ Addendum No. _____

FORM OF BID BOND

KNOW ALL MEN BY THESE PRESENTS THAT _____

Lomax Construction, Incorporated

as

principal, and Travelers Casualty and Surety Company of America, as surety, who is
duly licensed to act as surety in North Carolina, are held and firmly bound unto

Town of Apex

as obligee,

in the penal sum of Five Percent of Amount Bid 5% DOLLARS, lawful money of
the United States of America, for the payment of which, well and truly to be made, we bind
ourselves, our heirs, executors, administrators, successors and assigns, jointly and
severally, firmly by these presents.

Signed, sealed and dated this 20th day of June, 2024

WHEREAS, the said principal is herewith submitting proposal for

Apex Town Hall Finance Department Renovations

and the principal desires to file this bid bond in lieu of making the cash deposit as required
by G.S. 143-129.

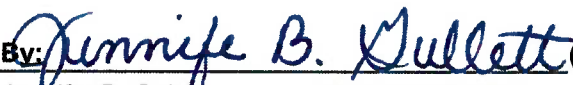
NOW, THEREFORE, THE CONDITION OF THE ABOVE OBLIGATION is such, that
if the principal shall be awarded the contract for which the bid is submitted and shall
execute the contract and give bond for the faithful performance thereof within ten days after
the award of same to the principal, then this obligation shall be null and void; but if the
principal fails to so execute such contract and give performance bond as required by G.S.
143-129, the surety shall, upon demand, forthwith pay to the obligee the amount set forth in
the first paragraph hereof. Provided further, that the bid may be withdrawn as provided by
G.S. 143-129.1

Lomax Construction, Incorporated (SEAL)

By:  (SEAL)
Eric Lomax, Corporate Secretary

(SEAL)

Travelers Casualty and Surety Company of America (SEAL)

By:  (SEAL)
Jennifer B. Gullett, Attorney-in-Fact





Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company
Farmington Casualty Company

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, St. Paul Fire and Marine Insurance Company, and Farmington Casualty Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint Jennifer B. Gullett of Charlotte, NC, their true and lawful Attorney(s)-in-Fact to sign, execute, seal and acknowledge the following bond:

Surety Bond No.: Bid Bond

OR

Principal: Lomax Construction, Incorporated

Obligee: Town of Apex

Project Description: Apex Town Hall Finance Department Renovations

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this 21st day of April, 2021.



State of Connecticut

By: 
 Robert L. Raney, Senior Vice President

City of Hartford ss.

On this the 21st day of April, 2021, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of each of the Companies, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the 30th day of June, 2026




 Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of each of the Companies, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kevin E. Hughes, the undersigned, Assistant Secretary of each of the Companies, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this 20th day of June, 2024.




 Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
 Please refer to the above-named Attorney(s)-in-Fact and the details of the bond to which this Power of Attorney is attached.

Identification of HUB Certified/ Minority Business Participation

I, Lomax Construction, Incorporated

(Name of Bidder)

do hereby certify that on this project, we will use the following HUB Certified/ minority business as construction subcontractors, vendors, suppliers or providers of professional services.

Firm Name, Address and Phone #	Work Type	*Minority Category	**HUB Certified (Y/N)
Modern Electric Raleigh, NC 919-916-5110	Electrical	H	Y
CB Trades Durham, NC 984-259-7597	HVAC	B	Y

*Minority categories: Black, African American (B), Hispanic (H), Asian American (A) American Indian (I), Female (F) Socially and Economically Disadvantaged (D)

** HUB Certification with the state HUB Office required to be counted toward state participation goals.

The total value of minority business contracting will be (\$) 0.00 ~~20,000~~

\$133,081

State of North Carolina AFFIDAVIT A – Listing of Good Faith Efforts

County of Guilford

(Name of Bidder)

Affidavit of Lomax Construction, Incorporated

I have made a good faith effort to comply under the following areas checked:

Bidders must earn at least 50 points from the good faith efforts listed for their bid to be considered responsive. (1 NC Administrative Code 30 I.0101)

- ☒ **1 – (10 pts)** Contacted minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor, or available on State or local government maintained lists, at least 10 days before the bid date and notified them of the nature and scope of the work to be performed.
- ☒ **2 --(10 pts)** Made the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bids are due.
- ☒ **3 – (15 pts)** Broken down or combined elements of work into economically feasible units to facilitate minority participation.
- ☒ **4 – (10 pts)** Worked with minority trade, community, or contractor organizations identified by the Office of Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses.
- ☒ **5 – (10 pts)** Attended prebid meetings scheduled by the public owner.
- ☒ **6 – (20 pts)** Provided assistance in getting required bonding or insurance or provided alternatives to bonding or insurance for subcontractors.
- ☐ **7 – (15 pts)** Negotiated in good faith with interested minority businesses and did not reject them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualification should have the reasons documented in writing.
- ☐ **8 – (25 pts)** Provided assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisted minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit.
- ☐ **9 – (20 pts)** Negotiated joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible.
- ☐ **10 - (20 pts)** Provided quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

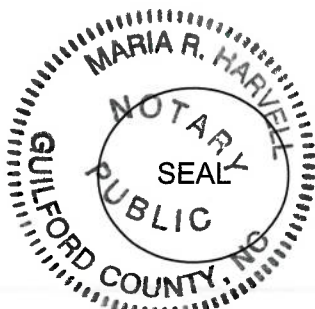
The undersigned, if apparent low bidder, will enter into a formal agreement with the firms listed in the Identification of Minority Business Participation schedule conditional upon scope of contract to be executed with the Owner. Substitution of contractors must be in accordance with GS143-128.2(d) Failure to abide by this statutory provision will constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of the minority business commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: June 20, 2024 Name of Authorized Officer: Travis Langley

Signature: _____

Title: Partner / VP of Pre-construction



State of N. C., County of Guilford

Subscribed and sworn to before me this 20th day of June, 2024

Notary Public Maria R. Harvell

My commission expires April 15, 2026

TOWN OF APEX FORMAL CONSTRUCTION CONTRACT

FOR

Construction of the Apex Town Hall Finance Department Renovations
Apex, NC

SCOPE OF WORK

Construct interior renovations of +/- 4,300 SF of the first floor of the Apex Town Hall Building to accommodate the Finance Department in accordance with Plans titled “Apex Town Hall Finance Department Renovations Bid Set” dated May 10, 2024 including the following sheets:

CS-101	Cover Sheet		
CS-102	Building Data/Code Summary	P1.01	Plumbing Demolition Plans
CS-103	Original Appendix B	P1.02	Plumbing Renovation Plans
CS-104	UL Details	P2.01	Plumbing Details
CS-111	First Floor Life Safety Plan	P3.01	Plumbing Schedules & Notes
CS-122	Partition Legend	M1.01	Mechanical Plans
CS-123	Abbreviations, Symbols, and Staging Diagram	M1.02	Mechanical Piping Plans
AD-101	Demolition Plan & Demo RCP	M2.01	Mechanical Details
A-101	Renovation Plan & Renovation RCP	M3.01	Mechanical Notes and Legends
A-351	Enlarged Elevations	FP1.01	Fire Protection Plans
A-701	Enlarged Plans	FP2.01	Fire Protection Details
A-801	Interior Elevations	E.1.01	Electrical Plans
A-802	Interior Elevations	E1.02	Electrical Plans
A-803	Casework Sections	E2.01	Electrical Details
A-804	Casework Sections	E2.02	Electrical Details
A-901	Door Schedule and Details	E3.01	Electrical Schedules
A-902	Signage	E4.01	Electrical Notes
A-1001	Finish Plan and Schedule	FA1.01	Fire Alarm Plans
A-1101	Furniture Plan	FA2.01	Fire Alarm Details
		FA3.01	Fire Alarm Notes

by Hobbs Architects, PA., EnTech Engineering

**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

**PURCHASE ORDER #
FORMAL CONSTRUCTION CONTRACT**

THIS CONTRACT is entered into this the 13th day of August, 2024, by and between, Lomax Construction, Inc., a Corporation with its principal business offices located at 8517 Norcross Road, Colfax, NC 27235 (the “Contractor”), and the Town of Apex, a municipal corporation of the State of North Carolina, (the “Town”). Town and Contractor may collectively be referred to as “Parties” hereinafter.

WITNESSETH:

WHEREAS, Town is engaged in the planning, operation, and utilization of town facilities which from time to time require construction, building, design, reconfiguration, renovation, installation, evaluation, testing, and other related projects; and

WHEREAS, the professional services of contractors from time to time are needed by the Town for the services as described above; and

WHEREAS, Contractor provides services of the nature required by the Town and employs trained and experienced technical personnel possessing adequate knowledge, skills, and experience to provide such professional services to the Town; and

WHEREAS, the Town has complied with Article 8 of Chapter 143 of the North Carolina General Statutes in announcing its need for services of the nature described in this Contract through a “Request for Proposal” and associated advertisement.

NOW THEREFORE, in consideration of the foregoing recitals, and the premises and mutual covenants herein contained, the receipt and adequacy of which is hereby acknowledged, the Parties, intending to be legally bound, hereto do contract and agree as follows:

1. SCOPE OF SERVICES.

The Contractor agrees to provide all materials, equipment, machinery, tools, apparatus, means of transportation and labor necessary for the construction of the Apex Town Hall Finance Department Renovations, located at 73 Hunter Street, Apex, NC 27502, consistent with the “Contract Documents.” “Contract Documents” includes this Contract and the following which are hereby incorporated into this Contract as if fully contained herein:

- A. General Conditions
- B. Supplementary General Conditions (if any)
- C. Plan sheets titled “Apex Town Hall Finance Department Renovations Bid Set”, dated May 10, 2024 including the following sheets:

CS-101	Cover Sheet
CS-102	Building Data/Code Summary
CS-103	Original Appendix B
CS-104	UL Details
CS-111	First Floor Life Safety Plan
CS-122	Partition Legend
CS-123	Abbreviations, Symbols, and Staging Diagram

AD-101	Demolition Plan & Demo RCP
A-101	Renovation Plan & Renovation RCP
A-351	Enlarged Elevations
A-701	Enlarged Plans
A-801	Interior Elevations
A-802	Interior Elevations
A-803	Casework Sections
A-804	Casework Sections
A-901	Door Schedule and Details
A-902	Signage
A-1001	Finish Plan and Schedule
A-1101	Furniture Plan
P1.01	Plumbing Demolition Plans
P1.02	Plumbing Renovation Plans
P2.01	Plumbing Details
P3.01	Plumbing Schedules & Notes
M1.01	Mechanical Plans
M1.02	Mechanical Piping Plans
M2.01	Mechanical Details
M3.01	Mechanical Notes and Legends
FP1.01	Fire Protection Plans
FP2.01	Fire Protection Details
E.1.01	Electrical Plans
E1.02	Electrical Plans
E2.01	Electrical Details
E2.02	Electrical Details
E3.01	Electrical Schedules
E4.01	Electrical Notes
FA1.01	Fire Alarm Plans
FA2.01	Fire Alarm Details
FA3.01	Fire Alarm Notes

by Hobbs Architects, PA and EnTech Engineering.

- D. Bid Advertisement
- E. Instructions to Bidders
- F. Execution of Bid
- G. Bid Form
- H. Bid Form Submission
- I. Bid Bond
- J. Accepted Form of Proposal
- K. Notice of Award
- L. Performance & Payment Bonds
- M. Power of Attorney
- N. Notice to Proceed
- O. Special Provisions
- P. Addenda:
 - 1. No. 1 Dated: May 23, 2024
 - 2. No. 2 Dated: June 3, 2024
 - 3. No. 3 Dated: June 6, 2024
 - 4. No. 4 Dated: June 11, 2024
 - 5. No. 5 Dated: June 12, 2024
- Q. Certificate(s) of Insurance

2. TIME OF COMMENCEMENT AND COMPLETION.

Contractor shall commence the work required in this Contract upon the issuance of a Notice to Proceed, and the Contractor shall complete entire work and reach Final Acceptance (as defined by the General Conditions) within **180** consecutive calendar days of the issuance of the Notice to Proceed ("time of completion"). For each day in excess thereof, liquidated damages, reasonably estimated in advance to cover the losses to be incurred by the Owner by reason of failure of Contractor to complete the Work within the time specified, such time being of the essence in this Contract and a material consideration thereof, shall be assessed in the amount of **\$1,000** per calendar day. If Contractor has not satisfactorily completed the work and reached Final Acceptance within the times specified in the Contract Documents, the Town may declare such delay a material breach of contract and default and may pursue all available remedies outlined in this Contract as well as all other legal and equitable remedies. Any changes to the schedule(s) provided in the Contract Documents must be agreed to in writing by the Town and the Contractor.

If the Contractor is delayed at any time in the progress of its work by any act or negligence of the Town, its employees, or its separate contractor, by changes ordered in the work; by abnormal weather conditions; by any causes beyond the Contractor's control or by other causes deemed justifiable by Town, then the contract time may be reasonably extended in a written order from the Town upon written request from the Contractor within ten days following the cause for delay. Time extensions for weather delays, labor disputes, fire, delays in transportation, unavoidable casualties or other delays which are beyond the control of the Town do not entitle the Contractor to compensable damages for delays. Any Contractor claim for compensable damages for delays is limited to delays caused solely by the Town or its agents.

3. CONSIDERATION AND PAYMENT OF SERVICES.

In consideration of the above services, the Town will pay the Contractor, subject to additions and deductions as provided in the Contract Documents, as follows:

Five Hundred fifty four thousand, nine hundred dollars (\$554,900.00).

Summary of Contract Award:

Base Bid:	\$ 548,800.00
Alternate G-1:	\$ 6,100.00
Alternate P-1:	\$ 0.00
<u>Alternate M-1:</u>	<u>\$ 0.00</u>
Total:	\$ 554,900.00

Contractor shall submit applications for payment reflecting work completed during the preceding calendar month to the Designer in accordance with the General Conditions. If certified by the Designer and approved by the Town, the Town will process all pay applications within 30 days after receipt from the Designer. Town has the right to require the Contractor to produce for inspection all of Contractor's records and charges to verify the accuracy of all applications for payment. Town shall pay Contractor's invoices at times set forth above unless a bona fide dispute exists between Town and Contractor concerning the accuracy of said invoice or the services covered thereby.

Retainage:

In accordance with N.C.G.S 143-134.1, Town may withhold a percentage of payment until the project has been satisfactorily completed for projects costing more than \$100,000.00. For projects costing \$100,000.00 or more:

- a. Retainage withheld shall not exceed 5% at any time.
- b. The same terms shall apply to the general contractor and subcontractors alike.
- c. Following 50% completion of the project no further retainage will be withheld if the Contractor/subcontractor has performed satisfactorily and any nonconforming work identified in writing prior to that time by the architect, engineer, or Owner has been corrected by the Contractor and accepted by the architect, engineer, or Owner.
- d. Town may reinstate retainage if the Contractor/subcontractor does not continue to perform satisfactorily. Following 50% completion of the project, Town is authorized to withhold additional retainage from a subsequent payment application if the amount of retainage withheld falls below 2.5%.

Upon completion, the Contractor shall submit satisfactory evidence that all payrolls, material bills and other costs incurred by the Contractor in connection with the construction of the work have been paid in full. Final payment will be made within forty-five (45) days after Final Acceptance (as defined by the General and Supplementary General Conditions) and Final Acceptance of the work by the Town and after the Town has received all required warranty information, Operation and Maintenance Manuals, releases and waivers of liens, red-line drawings have been submitted to Designer as required, and receipt by the Owner of the final pay request which shall include the Contractor's affidavit in the following form:

"This is to certify that all costs of materials, equipment, labor, subcontracted work, and all else entering into the accomplishment of this contract, including payrolls, have been paid in full."

The Town, or the Designer with the Town's approval, may withhold payment for any of the following reasons:

- a. Faulty or defective work not corrected.
- b. The unpaid balance remaining on the Contract is not sufficient to complete the work in the sole judgement and discretion of the Designer or Town.
- c. To provide a sufficient contract balance to cover liquidated damages that will be assessed.
- d. Evidence that subcontractors have not been paid.

Payment will be released once the grounds for withholding payments has been removed.

4. SURETY.

If at any time after the execution of this Contract and the surety bonds included in the Contract Documents for the faithful performance of the Contract, the Town shall deem the surety or sureties upon such bonds to be unsatisfactory, or if, for any reason, such bonds cease to be adequate to cover the performance of the work, the Contractor shall, at its expense, within five (5) days after the receipt of notice from the Town so to do, furnish an additional bond or bonds in such form and amount, and with such surety or sureties as shall be satisfactory to the Town. In such event no further payment to the Contractor shall be deemed to be due under this Contract until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the Town.

5. CHANGE ORDERS.

In the event Town has changes in the work not covered by the Contract, these changes will not invalidate or relieve Contractor from any guarantee it has given in this Contract. If a bond was required these changes will not relieve the surety or sureties of said bond. Changes in work shall not proceed without a Change Order approved by the Town. Change Orders will be governed by the General Conditions and Supplementary General Conditions. Any work performed pursuant to an approved change order shall be governed by the terms of this Contract.

6. INDEMNIFICATION.

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, the Designer and the agents, consultants, elected officials, and employees of the Owner and Designer, from and against all claims, damages, losses and expenses, including, but not limited to, attorneys' fees, arising out of or resulting from the performance or failure of performance of the work, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself) including the loss of use resulting there from, and (2) is caused in whole or in part by any negligent act or omission of the Contractor, the Contractor's subcontractor, or the agents of either the Contractor or the Contractor's subcontractor. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this article.

7. APPLICABILITY OF LAWS AND REGULATIONS.

The Contractor shall adhere to all laws, ordinances, and regulations of the United States, the State of North Carolina, the County of Wake, and the Town of Apex in the performance of the services outlined in this contract and any attached specifications. This Contract shall be governed by the laws of the State of North Carolina.

Contractor shall obtain all required permits and inspections and shall give all notices required by law in performance of this project. In the event Contractor observes that any drawings or specifications are not in compliance with any such rules, laws, or regulations, Contractor shall promptly notify the Town in writing. Contractor shall not perform any work knowing it to be contrary to any laws, ordinances, codes, rules or regulations.

All work under this Contract shall be performed in accordance with the North Carolina Building Code and all other applicable state or national codes.

8. E-VERIFY COMPLIANCE.

The Contractor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes (E-Verify). Contractor shall require all of the Contractor's subcontractors to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes (E-Verify).

9. QUALITY AND WORKMANSHIP.

Contractor shall provide services in accordance with all governing agency regulations and shall be held to the same standard and shall exercise the same degree of care, skill and judgment in the performance of services for Town as is ordinarily provided by a similar professional under the same or similar circumstances at the time in North Carolina. Contractor hereby certifies that he/she is a licensed general contractor as defined by N.C.G.S. 87-1.

10. INSURANCE.

Work under this Contract shall not begin until the Contractor has obtained all required insurance. The Contractor shall maintain insurance as detailed in the General Conditions and Supplementary General Conditions. All required certificates of insurance, endorsements, and blanket additional insured policy provisions are attached and considered part of this document. Notwithstanding the foregoing, neither the requirement of Contractor to have sufficient insurance nor the requirement that Town is named as an additional insured, shall constitute waiver of the Town's governmental immunity in any respect, under North Carolina law.

11. SUBCONTRACTORS.

Contractor shall be fully responsible for his/her own acts or omissions as well as those of any subcontractor retained to perform services pursuant to this Contract. Contractor acknowledges that no contractual relationship exists between the subcontractor and the Town in regards to this Contract and that the subcontractor is acting as an agent or employee of the Contractor. Contractor acknowledges that the terms of this Contract apply to each subcontractor as it does to the Contractor and Contractor will take whatever steps necessary to bind all subcontractors working on this project to these terms.

12. DEFAULT.

In the event of default by the Contractor the terms in the General Conditions and Supplementary General Conditions shall control.

13. TERMINATION FOR CONVENIENCE.

Town shall have the right to terminate this Contract for the Town's convenience in accordance with the General and Supplementary General Conditions.

14. NOTICE.

Any formal notice, demand, or request required by or made in connection with this Contract shall be deemed properly made if delivered in writing in person by registered mail to the address specified below.

TO CONTRACTOR: Lomax Construction, Inc Attn: Travis Langley 8517-A Norcross Road Colfax, NC 27235 tlangley@lomaxconstruction.com	TO TOWN: Town of Apex Attn: Daniel Edwards PO Box 250 Apex, NC 27502 Daniel.edwards@apexnc.org
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15. NONWAIVER FOR BREACH.

No breach or non-performance of any term of this Contract shall be deemed to be waived by either party unless said breach or non-performance is waived in writing and signed by the parties. No waiver of any breach or non-performance under this Contract shall be deemed to constitute a waiver of any subsequent breach or non-performance and for any such breach or non-performance each party shall be relegated to such remedies as provided by law.

16. CONSTRUCTION.

Should any portion of this Contract require judicial interpretation, it is agreed that the Court or Tribunal construing the same shall not apply a presumption that the terms hereof shall be more strictly construed

against any one party by reason of the rule of construction that a document is to be more strictly construed against the party who prepared the documents.

17. NO REPRESENTATIONS.

The parties hereby warrant that no representations about the nature or extent of any claims, demands, damages, or rights that they have, or may have, against one another have been made to them, or to anyone acting on their behalf, to induce them to execute this Contract, and they rely on no such representations; that they have fully read and understood this Contract before signing their names; and that they act voluntarily and with full advice of counsel.

18. SEVERABILITY.

In the event for any reason that any provision or portion of this Contract shall be found to be void or invalid, then such provision or portion shall be deemed to be severable from the remaining provisions or portions of this Contract, and it shall not affect the validity of the remaining portions, which portions shall be given full effect as if the void or invalid provision or portion had not been included herein.

19. COUNTERPARTS.

This Contract may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one instrument.

20. MODIFICATION.

This Contract contains the full understanding of the parties. Any modifications or addendums to this Contract must be in writing and executed with the same formality as this Contract.

21. BINDING EFFECT.

The terms of this Contract shall be binding upon the parties' heirs, successors, and assigns.

22. ASSIGNMENT.

Contractor shall not assign, sublet, or transfer any rights under or interest in (including, but without limitation, monies that may become due or monies that are due) this Contract without the written consent of the Town. Nothing contained in this paragraph shall prevent Contractor from employing such independent consultants, associates, and sub-contractors as it may deem appropriate to assist Contractor in the performance of services rendered.

23. INDEPENDENT CONTRACTOR.

Contractor is an independent contractor and shall undertake performance of the services pursuant to the terms of this Contract as an independent contractor. Contractor shall be wholly responsible for the methods, means and techniques of performance.

24. NON-APPROPRIATION.

Notwithstanding any other provisions of this Contract, the parties agree that payments due hereunder from the Town are from appropriations and monies from the Town Council and any other governmental entities. In the event sufficient appropriations or monies are not made available to the Town to pay the terms of this Contract for any fiscal year, this Contract shall terminate immediately without further obligation of the Town.

25. IRAN DIVESTMENT ACT CERTIFICATION.

N.C.G.S. 147-86.60 prohibits the State of North Carolina, a North Carolina local government, or any other political subdivision of the State of North Carolina from contracting with any entity that is listed on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-86.58. N.C.G.S. 147-86.59 further requires that contractors with the State, a North Carolina local government, or any other political subdivision of the State of North Carolina must not utilize any subcontractor found on the State Treasurer's Final Divestment List. As of the date of execution of this Contract the Contractor hereby certifies that the Contractor is not listed on the Final Divestment List created by the North Carolina State Treasurer and that the Contractor will not utilize any subcontractors found on the Final Divestment List.

26. ANTI-HUMAN TRAFFICKING.

The Contractor warrants and agrees that no labor supplied by the Contractor or the Contractor's subcontractors in the performance of this Agreement shall be obtained by means of deception, coercion, intimidation or force, or otherwise in violation of North Carolina law, specifically Article 10A, Subchapter 3 of Chapter 14 of the North Carolina General Statutes, Human Trafficking.

27. NONDISCRIMINATION.

Pursuant to Section 3-2 of the Town of Apex Code of Ordinances, Contractor hereby warrants and agrees that Contractor will not discriminate against a protected class in employment, subcontracting practices, or the solicitation or hiring of vendors, suppliers, or commercial customers in connection with this Agreement. For the purposes of this Agreement "protected class" includes age, race, religious belief or non-belief, ethnicity, color, national origin, creed, sex, sexual orientation, gender identity, marital status, natural hair style, genetic information, pregnancy, familial status, disability, veteran or military status, or disabled veteran status.

[The Remainder of This Page Intentionally Left Blank; Signatures Follow]

In witness thereof, the contracting parties, by their authorized agents, affix their signatures and seals this ____day of _____, 2024.

Contractor:_____

Town of Apex

(Print name)

Randal E. Vosburg, Town Manager

Signature

Attest:

Title

Allen L. Coleman, CMC, NCCCC, Town Clerk

Attest:

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Secretary (if a corporation)

Antwan Morrison, Finance Director



Hobbs Architects, P.A.

159 W. Salisbury St.
Pittsboro, North Carolina 27312

919.545.2004
www.hobbsarchitects.com

NOTICE OF AWARD

August 13, 2024

Mr. Travis Langley
Vice President
Lomax Construction
8517-A Norcross Road
Colfax, NC 27235

Re: Contract Documents- Town of Apex Town Hall Finance Department Renovations
73 Hunter Street
Apex, NC 27502

Dear Mr. Langley:

The Apex Town Council awarded the above Contract to your company on August 13, 2024, based on your bid submitted on June 20, 2024, in the amount of five hundred fifty-four thousand nine hundred dollars (\$554,900.00).

Enclosed are four (4) copies of the Notice of Award, Agreement, Payment Bond, and Performance Bond for execution (a fifth set is included for your records and use during construction). Please execute the Notice of Award and Agreement and obtain the Performance and Payment Bonds as soon as possible. The date of the Performance and Payment Bonds shall be the same as the date of the Agreement. Please note that the Agreement date has been set as August 13, 2024. The 4 sets of executed Contract Documents must be returned to our office within 10 calendar days of receipt of this notice.

Please submit the Certificates of Insurance required by the Contract Documents for insurance to be purchased and maintained by the Contractor. Provide documentation that the issuing company will inform the certificate holder, in accordance with the Contract Provisions, regarding any cancellation of policies before the expiration date. Additionally, the Town of Apex and Hobbs Architects, PA shall be included as an additional insured as required the Contract Documents.

Upon receipt, these documents will be forwarded to the Owner for execution. Upon execution of the documents by the Owner, one set of complete Contract Documents will be sent to your office for your files.

Should you have any questions or need additional information, please let us know.

Sincerely,

A handwritten signature in blue ink that reads "Chevon M. Moore".

Chevon (File) Moore, AIA
Hobbs Architects, PA

Enclosures: As stated.

c: Mr. Daniel Edwards, Town of Apex (w/o enclosures)

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CLOSED SESSION

Meeting Date: July 09, 2024

Item Details

Presenter(s): Laurie Hohe, Town Attorney

Department(s): Legal Services

Requested Motion

Motion to go into closed session pursuant to NCGS 143-318.11(a)(3) to consult with the Town Attorney in order to preserve attorney-client privilege.

Approval Recommended?

N/A

Item Details

NCGS § 143-318.11(a)(3)

"To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body"

Attachments

- N/A

