

Type of Contract:

Master Contract

**WAKE COUNTY PUBLIC SCHOOL SYSTEM**  
**Contract Routing Form 1950**

Fiscal Year (FY): 2020-2021

Person to Call for Pick-up: Sharon Ferguson

Phone: 919-533-7743

Name of Contract: Town of Apex Secondary Employment for Apex Police Officers

If Change Order (Amount +/-): \_\_\_\_\_

Total Contract Amount: \_\_\_\_\_

Board Action: (Required at \$100,000)  Yes  No

Board Meeting Date: \_\_\_\_\_

Budget Code: \_\_\_\_\_

Items of Special Note: Off Duty Master Template/Agreement - no funds encumbered. Agency shall conduct annual check of Officers approved to work for the Board on the NC Dept. of Justice Sex Offender Registry and US Dept. of Justice Sex Offender Registry. Attachment A required for each event.

**To be completed by the School or Department required for all contracts \$2,500 and up**  
**INITIAL/DATE THIS FORM AFTER YOU HAVE REVIEWED AND APPROVED THE ATTACHED CONTRACT:**

	Initial	Date
Administrator (\$2,500 - \$9,999 and All MOAs)	<u>RS</u>	<u>5/19/2020</u>
Fiscal Administrator (\$2,500 and up and all MOAs)	<u>SP</u>	<u>5/20/20</u>
Assistant Superintendent or Area Superintendent (\$10,000 - \$99,999 and all MOAs)	_____	_____
Chief Officer (\$100,000+ and All MOAs)	<u>LT</u>	<u>5/27/2020</u>

**To be completed by the Administrative Services required for all contracts \$2,500 and up**

	Initial	Date
Risk Management (Insurance Review)	<u>gcb</u>	<u>6/1/20</u>
Finance Officer *	<u>mbw</u>	<u>5/29/20</u>
Chief Operating Officer (Required at \$100,000 +)	<u>//</u>	_____
School Board Attorney (As required by the Chief Officer or Superintendent)	_____	_____

Comments:

Master no funds mbw

\* "This instrument has been preaudited in the manner required by the School Budget and Fiscal Control Act." G.S. 115C-441(a).

STATE OF NORTH CAROLINA

**CONTRACT FOR OFF-DUTY  
POLICE OFFICER SERVICES**

COUNTY OF WAKE

This Agreement is made this the 1st day of July 2020 by and between the Wake County Board of Education, hereinafter known as Board, and The Town of Apex hereinafter known as Agency.

**WITNESSETH:**

WHEREAS, the Board wishes to secure law enforcement services to enhance the safety and security of the community at large through the increased presence of law enforcement at events and activities of the Wake County Public School System (WCPSS); and

WHEREAS, Agency wishes to provide such law enforcement services to the Board using off-duty Officer(s) employed with the Agency (hereinafter "Officer"); and

WHEREAS, the Board and Agency each desire to enter into a contract for their mutual benefit; and

WHEREAS, each party recognizes that the hiring of an off-duty Officer imposes unusual restraints and responsibilities on the parties.

NOW, THEREFORE, in consideration of these premises and the mutual considerations and promises set out herein and for other good and valuable consideration the parties agree as follows:

1. The Board agrees to hire Agency-approved Officer(s) during certain periods when Officer(s) is off duty from regular employment by the Agency. The Board shall submit a request for service to the Agency at least seven (7) days in advance of the event to the contact designated by the Agency. Agency will review and approve or deny the request in accordance with the terms of this Agreement and Agency rules, regulations, and policies.
2. Agency agrees to provide Officer(s) to work for the Board in an off-duty capacity to perform the work described herein and on Attachment A.
3. Board is contracting with the Agency because the Agency employs Officers who have territorial and geographic jurisdiction in the Town of Apex and have the power of arrest. Board expects Officer(s) to use law enforcement powers in carrying out the services anticipated pursuant to this Agreement. The Board wishes to engage the services of the Officer(s) to increase the safety of school events through the presence and law enforcement activity of the Officer(s) on Board property, including utilization, when necessary, of the power of arrest pursuant to North Carolina General Statutes § 1 SA401 and authority to use reasonable force in accordance with North Carolina law and policies promulgated by the Agency. It is understood and agreed that the Officer(s) is not an employee of the Board, and that Board employees do not supervise any Officer(s) providing services pursuant to this Agreement in the execution of his or her law enforcement functions and that any Officer(s) working pursuant to this Agreement exercise discretion in carrying out their law enforcement functions. The Agency and the Board shall be independent contractors, and nothing herein shall be construed as creating a partnership or joint venture between the Agency and the Board. Officer(s) employed as part of this Agreement remain employees of the Town of Apex under the supervision and control of the Apex Police Department.

4. It is specifically understood and agreed that the function of the Officer(s) shall not be outside the scope of any North Carolina, federal or local laws or Agency rules and regulations. Officer(s) is subject to all such North Carolina, federal or local laws and Agency rules and regulations while performing functions pursuant to this Agreement.
5. Agency agrees to provide Workers' Compensation insurance coverage for Officer(s) for law enforcement functions performed in the course and scope of services for Board as described in this Agreement. WCPSS shall not require or request Officer(s) to direct traffic or to assist pedestrians in crossing any street, highway, or public vehicular area or to perform any duties that are not customarily performed by sworn law enforcement officers. Board shall instruct WCPSS administration and staff that requests of Officer(s) to perform non-law enforcement functions are not permitted and outside the scope of this agreement. In the event that WCPSS requests or directs Officer(s) to do so, Officer(s) must inform WCPSS that the requested activity is not a traditional law enforcement duty and is outside the scope of this Agreement.
6. The Agency shall conduct an annual check of Officer(s) approved to work for the Board on the North Carolina Department of Justice State Sex Offender Registry ( <http://sexoffender.ncdoj.gov/>) and the United States Department of Justice National Sex Offender Registry ([www.nsopw.gov](http://www.nsopw.gov)), which include and incorporate checks of the North Carolina Sex Offender and Public Protection Registration Program, the North Carolina Sexually Violent Predator Registration Program, and the National Sex Offender Registry. The Agency shall certify that the registry checks were conducted prior to the commencement of services under this Agreement. The Agency acknowledges it may not approve Officer(s) to provide services to Board under this Agreement if the Officer(s) appears on any of the sex offender registries. In addition, the Agency acknowledges that the school system may conduct additional criminal records checks at the school system's expense. If the school system exercises this right to conduct additional criminal records checks, Agency agrees to provide within seven (7) days of request the Officer(s) full name, date of birth, state of residency for the past ten years, and any additional information requested by the school system consistent with all applicable laws.
7. Agency agrees to notify the Board if any legal action is instituted against Officer(s) as a result of the Officer's performance of this Agreement. The Board agrees to indemnify the Agency and/or Officer for any loss or cost as a result of any third party claims regarding the Agency and/or the Officer due to the Officer acting in the scope of his or her employment while providing services under this Agreement, but only to the extent that such loss is directly attributable to the negligent act or omission of the Board, WCPSS, or one or more Board employee(s) and as permitted and limited by North Carolina law.
8. Board agrees that Officer(s) working under this Agreement will complete records, reports and documentation as required by the Agency and that the Agency will maintain all such records relating to the provision of police services. Board, or designee, will maintain any record it deems appropriate regarding the performance of Officer(s) working under this Agreement and shall furnish all records pertaining to the Officer's performance of this Agreement.
9. Board agrees to provide equipment and facilities as needed for the proper provision of police services under this Agreement. This may include parking for police vehicles, access to school buildings as necessary and/or specific equipment, such as a school radio, that may be necessary. Agency agrees to provide all standard police equipment required for the Officer(s) to carry out their duties such as uniforms, service weapon, police radio, police vehicle, etc. and will request use of school equipment and/or facilities in advance of an event unless an emergency occurs making advance notice impractical.

10. The term of this Agreement will be from the date first written above through June 30, 2021.

11. This Agreement may be canceled by either party, at any time, upon delivery of written notice to the other party at the addresses below.

**FOR AGENCY:**

John Letteney  
Chief of Police  
Town of Apex PO  
Box 250  
Apex, NC 27502

**FOR BOARD:**

Russ Smith  
Senior Director of Security  
5625 Dillard Drive  
Cary, NC 27518

12. The Board shall compensate the Officer(s) at the rate of pay of \$35 per hour at a minimum of three hours per event. If a supervisor is required due to the nature of the event or the anticipated crowd size, the Board shall compensate the supervisory officer at the rate of pay of \$40 per hour at a minimum of three (3) hours per event. For purposes of this Agreement, a "supervisory officer" is defined as a sworn Apex Police Officer at the rank of Corporal or higher. Officer(s), including Supervisory Officer(s), are responsible for the payment of taxes, etc. as required by law.

13. If, in the Board sole discretion, it is necessary to cancel an event requiring the provision of services under this agreement, the Board will be under no obligation to compensate the Officer(s). Provided however, if the event has begun prior to the notice of cancellation, the Board shall compensate the Officer(s) in accordance with Paragraph 12 herein.

14. No party to this Agreement may assign, subcontract, or otherwise transfer any interest in this Agreement. Either party may request, in writing, for a review and revision of this Agreement at any time during the contract term. This Agreement may be modified only by written amendments duly executed by and between the Board and the Agency. North Carolina law will govern the interpretation and construction of this Agreement. This Agreement constitutes and expresses the entire agreement and understanding between the parties concerning the subject matter of this Agreement. If any provision of this Agreement shall be declared invalid or unenforceable, the remainder of the Agreement shall continue in full force and effect.

**[REMAINDER OF PAGE INTENTIONALLY BLANK  
SIGNATURE PAGE FOLLOWS]**

**FOR WCPSS BOARD:**

\_\_\_\_\_  
**Russ Smith, Sr. Director, Security**

\_\_\_\_\_  
**Date**

**FOR AGENCY:**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Title**

