

**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

**PURCHASE ORDER # 2025-XXXX
AGREEMENT FOR VOLUNTEER
SERVICES**

This Agreement (“Agreement”) is made by and between the Town of Apex, a North Carolina municipal corporation (hereafter, “Apex”) and Apex C.E.R.T., Inc. (hereafter “CERT”), a North Carolina nonprofit corporation.

RECITALS

WHEREAS, CERT is a 501(c)(3) nonprofit organization that serves citizens in the Apex community by assisting the Apex Fire Department with public safety activities (“Services”); and

WHEREAS, CERT has provided volunteer services to Apex in the past and Apex desires to continue to allow CERT to provide Services as requested; and

WHEREAS, Apex has agreed to engage CERT, and CERT has agreed to contract with Apex, for performance of services as described, and according to the further terms and conditions, set forth herein.

NOW THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt of which is acknowledged, the parties agree as follows:

ARTICLE 1: EFFECTIVE DATE AND SCOPE OF SERVICES

- 1.1 The Recitals are incorporated into Agreement. This Agreement shall be effective upon execution by both parties (“Effective Date”).
- 1.2 This Agreement is for assistance with public services provided by the Apex Fire Department (hereafter, “AFD”). CERT shall provide all services as described herein and in Attachment A, attached hereto and incorporated herein by reference (“Basic Services”). CERT shall also provide additional services as may from time-to-time be agreed upon by written amendment to this Agreement (“Written Amendment”). Basic Services and Additional Services are collectively referred to as “CERT Services” or “Services.”
- 1.3 The initial term of this Agreement shall be for a period of one year beginning on Effective Date and shall automatically renew for one (1) year unless either party provides written notice to decline renewal option.
- 1.4 CERT represents and agrees that now and continuing for the term of Agreement, CERT:
 - a. is experienced, qualified, skilled and fully capable of performing services in a competent and professional manner;
 - b. shall exercise reasonable care and diligence, and shall act in the best interest of Apex, and in the best interest of the state of North Carolina if deployed;

- c. shall act in accordance with generally accepted standards of CERT's practice applicable to the locality; and shall comply with this Agreement and all applicable federal, state and local laws, ordinances, codes, rules and regulations (collectively 'Laws and Regulations');
- d. possesses all necessary qualifications, licenses and certifications;
- e. shall work in good faith with Apex, and when deployed, in good faith with the state of North Carolina, to meet requirements imposed by the federal or state government or other funding entity if grants are used to fund any portion of Service; and
- f. shall assure that the individual(s) signing Agreement have the right and power to do so and bind CERT to the obligations set forth herein and such individuals do so personally warrant that they have such authority; and
- g. agrees to submit CERT member information to Apex to perform a background check. Apex may use a third-party contractor to collect the CERT member information and perform the background checks. This may include, but is not limited to, criminal background checks, employment verification, education verification, reference checks, and other relevant investigations deemed necessary by Apex. Apex will share the background check results with CERT for its own records and use. Apex will apply the Town of Apex Volunteer Background Check Policy, attached hereto as Attachment B, to determine whether an individual should be disqualified from providing the Services under this Agreement. Such decision shall not be binding on CERT in its decision to allow its members to participate in providing services outside of the scope of this Agreement.

ARTICLE 2: RESPONSIBILITIES OF CERT

- 2.1 Standard of Care. CERT shall perform Services in a competent and professional manner. CERT may not use Apex facilities for any non-Apex purpose. Apex in its sole discretion may also allow CERT to use its facilities for trainings consistent with CERT's 501(c)(3) nonprofit mission.

ARTICLE 3: COMPENSATION FOR SERVICES

- 3.1 Compensation for Basic Services. Apex will pay CERT \$5,000.00 each fiscal year that the Agreement is in place to cover administrative and operating expenses. There are no other reimbursable or compensable expenses.

ARTICLE 4: RESPONSIBILITIES OF APEX

- 4.1 Cooperation and Coordination. In addition to being responsible for the duties set forth as duties or responsibilities of Apex, Apex may designate, in writing, a person who shall coordinate the Services and who shall be available as often as may be reasonably required to render decisions within guidelines established by the Town manager and to furnish information. Apex shall examine documents submitted by CERT and shall make

reasonable efforts to render timely decisions pertaining thereto so as not to unduly delay the orderly progress of CERT's Services.

ARTICLE 5: INSURANCE

- 5.1 Insurance. CERT shall purchase and maintain during the term of this Agreement General Liability Insurance covering claims arising out of or related to bodily injury and to real and personal property in the amount of \$1,000,000 per occurrence/ \$10,000,000 aggregate. In addition, CERT shall purchase and maintain workers' compensation insurance.

All insurance policies maintained by CERT (except Workers Compensation) shall name Apex, its elected officials, officers, employees, and volunteers as an additional insured. Each policy shall provide that Apex shall receive not less than thirty (30) days prior written notice, when available, of any cancellation or non-renewal of coverage of any of the policies. The insurer shall have no right of recovery or subrogation against Apex, its agents or agencies, it being the intention of the parties that the insurance policies shall protect Apex and be primary coverage for any and all losses covered by the policies.

ARTICLE 6: DAMAGES AND REMEDIES

- 6.1 General Indemnity. To the fullest extent permitted by Laws and Regulations, CERT shall indemnify and hold Apex, its officers and employees, harmless from and against all claims, costs, charges, civil penalties, fines, losses, liabilities, and damages (including but not limited to reasonable professionals' fees and charges and all court or other dispute resolution costs), by whomsoever brought or alleged, arising out of, resulting from, or in connection with (a) any breach by CERT of any term or condition of this Agreement or Written Amendment, (b) any breach or violation by CERT of any applicable Law or Regulation, or (c) any other cause resulting from any act or failure to act by CERT under this Agreement or Written Amendment, but only to the extent caused by any negligence or omission of CERT. This indemnification shall survive the termination of this Agreement.

ARTICLE 7: TERMINATION AND SUSPENSION

- 7.1 Termination for Convenience. This Agreement may be terminated by either party without cause and for its convenience upon ten (10) days written notice to the other party.
- 7.2 Other Termination. After ten (10) days written notice to the other party of its material breach of the Agreement, this Agreement may be terminated by the noticing party, provided that the other party has not taken all reasonable actions to remedy the breach.
- 7.3 Survival. Termination of this Agreement, for whatever reason, shall not terminate a party's representations and warranties nor nullify any indemnity hereunder.

ARTICLE 8: ADDITIONAL PROVISIONS

- 8.1 Dissemination of Information. Apex takes efforts to assure that accurate information about Apex is disseminated such that neither the public trust nor the public's perception of Apex impartiality is compromised. CERT, mindful of those efforts, agrees that it shall not publicly disseminate any information concerning Services without prior approval of Apex. Any approval by Apex may be given with certain stipulations, such as Apex's participation in the creation of the public product or Apex's review and the option to refuse ultimate release of the final product should it fail to meet Apex's standards and goals. Publicly disseminate means but is not limited to electronic, video, audio, photographic or hard copy materials serving as, in whole or part, advertising, sales promotion, professional papers or presentations, news releases, articles, or other media products including social media, and/or CERT's business collateral pieces.
- 8.2 Limited Assignment/Delegation. This Agreement shall bind CERT and its successors and permitted assigns. CERT shall not assign or transfer its rights or interest in this Agreement (including the right to payment), nor shall CERT delegate its duties under this Agreement, without Apex's written consent, which Apex may grant or withhold in its sole discretion. Apex's consent shall not release CERT of any obligation under this Agreement and CERT and permitted assigns shall be subject to all of Apex's defenses. Any attempt to assign this Agreement without the prior written approval of Apex shall be void.
- 8.3 Governing Law. The parties acknowledge this Agreement is a "business contract" subject to the provisions of N.C.G.S. Chapter 1G and agree that this Agreement and the rights and duties of the Parties shall be governed by the laws of the State of North Carolina, without regards to conflict of laws provisions. The Parties further agree that any dispute arising from this Agreement shall be litigated in the courts of the State of North Carolina and any and all suits or actions related to this Agreement shall be brought exclusively in Wake County, North Carolina. Service of process may be affected by delivery by any method permitted under the N.C. Rules of Civil Procedure on the office or individual specified in Paragraph 10.9 "Notice" or on any officer of the CERT.
- 8.4 Entire Agreement; Amendments. This Agreement represents the entire and integrated agreement between the Parties and supersedes all prior negotiations, representations, or agreements, either written or oral, including clickthrough agreements, clickwrap agreements, clickwrap licenses, or similar non-reciprocal agreements (collectively, "clickthrough agreement"). This Agreement may be amended only by written amendment signed by both parties. Neither party may amend, or seek to amend, this Agreement by clickthrough agreement.
- 8.5 Severability. If any provision of this Agreement is held as a matter of law to be unenforceable, the remainder of this Agreement shall be enforceable without such provision.

8.6 Notice. Whenever any provision of this Agreement requires the giving of written notice, it will be deemed to have been validly given if (i) delivered in person to the Project Manager, if to Apex, or to an officer/member of the entity that is the CERT, if to the CERT, or (ii) delivered or sent by a nationally recognized overnight courier service or overnight express mail or registered or certified mail, postage prepaid, to Apex’s or CERT’s address. The date of receipt of said notice shall be the date of such delivery, in the case of delivery in person, or three days after deposit when sent by courier or mail.

TO CERT:
Apex CERT

shroyster@gmail.com

TO APEX:
Town of Apex
Attention:
PO Box 250
Apex, NC 27502
Timothy.Herman@apexnc.org

8.7 Gifts and Favors. CERT shall become aware of and comply with laws related to gifts and favors, conflicts of interest and the like, including G.S. §14-234, G.S. §133-1, and G.S. §133-32.

8.8 Public Records; Confidential Records and Information. CERT acknowledges that records made or received in connection with the transaction of public business are public records and subject to public records requests. Apex may provide copies of such records, including copyrighted records, in response to public record requests. If CERT during provision of Services becomes aware of or has access to confidential records or information or information otherwise protected from disclosure by Federal or State law, including the Health Insurance Portability and Accountability Act of 1996, as amended (“Confidential Information”), CERT shall not disclose any such Confidential Information, except when required by law to do so.

8.9 Electronic Version of Agreement. Apex may convert a signed original of this Agreement to an electronic record pursuant to an approved North Carolina Department of Natural and Cultural Resources approved procedure and process for converting paper records to electronic records for record retention purposes. Such electronic record of this Agreement shall be deemed for all purposes to be an original signed Agreement.

8.10 Verification of Work Authorization. To the extent required by law, CERT shall comply with Article 2, Chapter 64, of the North Carolina General Statutes.

8.11 No Third-Party Beneficiaries. There are no third-party beneficiaries to Agreement.

8.12 Independent Contractor. CERT is an independent contractor and is not an agent, representative, or employee of Apex. CERT has no authority to make any commitments on Apex’s behalf. If Apex notifies CERT in writing that any person providing Services appears to be incompetent, disorderly, or otherwise unsatisfactory to Apex, such person

shall be removed from providing Services and shall not again provide Services except with the prior written consent of Apex.

- 8.13 Nondiscrimination. To the extent permitted by law, neither Party, their officers, employees, contractors, agents, successors, or permitted assigns, shall discriminate against any member of a protected class as defined by Section 3-2 of the Town of Apex Code of Ordinances in connection with this Agreement.
- 8.14 Performance of Government Functions. Nothing contained in this Agreement shall be deemed or construed so as to restrict or inhibit Apex's police powers or regulatory authority.
- 8.15 No Waiver of Immunity. Nothing in this Agreement shall be construed to mandate purchase of insurance by Apex pursuant to N.C.G.S. §160A-485 or to in any way waive Apex's defense of governmental immunity from any cause of action alleged or brought against any Party for any reason if otherwise available as a matter of law. No officer, agent or employee of Apex shall be subject to any personal liability by reason of the execution of this Agreement or any other documents related to the transactions contemplated hereby. Such officers, agents, or employees shall be deemed to execute this Agreement in their official capacities only, and not in their individual capacities. This section shall not relieve any such officer, agent or employee from the performance of any official duty provided by law.
- 8.16 Further Assurances. CERT agrees that it will cooperate with Apex and will execute and deliver, or cause to be delivered, all such other instruments, and will take all such other actions, as Apex may reasonably request from time to time in order to effectuate the provisions and purposes of Agreement.
- 8.17 Principles of Interpretation and Definitions. In this Agreement, unless the context requires otherwise: (1) The singular includes the plural and the plural the singular. The pronouns "it" and "its" include the masculine and feminine. (2) References to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation. References to contracts and agreements shall be deemed to include all amendments to them. The words "include," "including," etc. mean include, including, etc. without limitation. (3) References to a "Section" or "section" or "paragraph" shall mean a section or paragraph of this Agreement. (4) "Contract" and "Agreement," whether or not capitalized, refer to this instrument. (5) Titles of sections, paragraphs, and articles are for convenience only, and shall not be construed to affect the meaning of this Agreement. (6) "Duties" includes obligations. (7) The word "person" includes natural persons, firms, companies, associations, partnerships, trusts, corporations, governmental agencies and units, and other legal entities. (8) The word "shall" is mandatory. (9) The word "day" means calendar day. (10) Normal business hours means Monday through Friday from 8:00 a.m. until 5:00 p.m. Eastern Standard Time.
- 8.18 Emergencies. Notwithstanding anything else in this Agreement, while federal, state, or local state(s) of emergency are in effect, or when a public health emergency has been

declared, CERT shall comply with all guidance and recommendations of the Centers for Disease Control, the State of North Carolina, or Wake County, unless mutually agreed to by Apex and CERT.

- 8.19 Electronic Signatures. Pursuant to Article 40 of Chapter 66 of the North Carolina General Statutes (the Uniform Electronic Transactions Act) this Agreement and all documents related hereto containing an electronic or digitized signature are legally binding in the same manner as are hard copy documents executed by hand signature. The Parties hereby consent to use electronic or digitized signatures in accordance with the Town's Electronic Signature Policy and intend to be bound by the Agreement and any related documents. If electronic signatures are used the Agreement shall be delivered in an electronic record capable of retention by the recipient at the time of receipt.

In cases of conflict between this Agreement and any of the above incorporated attachments or references, the terms of this Agreement shall prevail.

IN WITNESS WHEREOF, the contracting parties, by their authorized agents, affix their signatures and seals this ____ day of _____, 2025.

CERT

Town of Apex

(Signature)

Randal E. Vosburg, Town Manager

Title: _____

Attest:

Attest:

Allen L. Coleman, CMC, NCCCC
Town Clerk

(Secretary, if a corporation)

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

(Signature)

Antwan Morrison, Finance Director

Title: _____

Attest:

(Secretary, if a corporation)

Attachment A – Scope of Services

CERT will provide services to the AFD and town at the request of the AFD or town special event staff, subject to capability of CERT to provide said services, to include but not be limited to:

1. Supplement staffing at planned events such as:
 - PeakFest
 - Rotary Christmas Parade
 - Fireworks Frenzy
 - Apex Night Out
 - Other special events, such as festivals, sports events, and parades
 - Provide basic First-aid by trained members, not exceeding their scope of practice
 - Other services at events as needed, including, but not limited to, serving meals, WebEOC operation, and radio operation.
2. Apex Fire Training events and Emergency Incidents
 - Utilizing Volunteer as role players, acting as victims during training exercises and drills
 - Provide rehabilitation for firefighters when requested at training events and during prolonged emergency incidents.
 - Severe weather events or other disasters
 - Shelter Support
 - Crowd control and evacuations
 - Emergency Operations Center support staff
 - Large area search
 - Other Emergency Management support duties as needed
3. Public Education/Outreach
 - Smoke Detector Canvassing, installations, and education with AFD
 - Promote community awareness of potential hazards and preparedness measures through emergency plans, neighborhood exercises, preparedness outreach, fire safety education, and workplace safety.

Attachment B - Volunteer Background Check Policy

Town of Apex Parks, Recreation & Cultural Resources

Department Updated: 04/30/2024

PURPOSE

The Town of Apex Parks, Recreation & Cultural Resources Department (“PRCR”) conducts background checks to prioritize the safety of all of our participants. These checks serve to verify information provided by an applicant while promoting safety and security for program participants.

POLICY

PRCR general policy is as follows:

- A. A **volunteer** is defined as anyone who performs a task at the direction of and on behalf of the Town of Apex without compensation.
- B. **Sensitive positions** are defined as any role that works with vulnerable populations regularly or in unsupervised settings. **Vulnerable populations** are defined as any participant who may be vulnerable due to age or ability (children, seniors, the disabled or those with specialized recreation needs)
- C. **Background checks** will be conducted for any volunteer that will be working with vulnerable populations in sensitive positions. Any questionable items uncovered during a background check may require picture ID or other information to be submitted to PRCR for further consideration.
- D. Any volunteer who refuses to consent to a background check will be removed from consideration for a sensitive position with PRCR.
- E. All information received through the background check process will only be used as part of the volunteer application process and will be kept strictly confidentially according to the Fair Credit Reporting Act (FCRA).
- F. No information discovered as a result of the background check will be used to discriminate on the basis of race, color, religion, sex, national origin, political affiliation, qualified disability, or age.
- G. Background check shall be conducted on an annual basis. All volunteers will repeat the background check process one year after initial approval to continue volunteering.

DISQUALIFYING FACTORS

A. If any items are identified during the background check process, the applicant will be sent a pre-adverse letter, a copy of their rights under the FCRA and a copy of the background check report. This does not mean the applicant is automatically disqualified.

B. If an applicant is disqualified due to findings in the background check, an adverse letter will be sent to the applicant stating that they will not be considered for volunteer service opportunities by PRCR. The applicant is able to reapply after the necessary time since the conviction has passed according to the list of disqualifying convictions below.

C. If a volunteer is discovered to have withheld information with the intent to mislead or is found to have falsified information which is deemed pertinent to the volunteer position the volunteer will be disqualified from current and/or future consideration for volunteer service with PRCR.

D. Disqualifying factors will be used to accept and deny volunteer services.

E. A person shall be disqualified and prohibited from serving as a volunteer if the person has been found guilty following trial, entered a plea of guilty, entered a plea of no contest accompanied by a court finding of guilty. The following list includes disqualifying convictions based on offense:

1. Regardless of amount of time since the offense occurred:

- a. All sexually-related offenses
- b. All violence-related felonies
- c. All felonies involving a minor
- d. All violence-related misdemeanors involving a minor
- e. All drug and alcohol-related offenses involving a minor

2. Within the past 10 years:

- a. All felonies not related to sex, violence or involving a minor
- b. All violence-related misdemeanors
- c. More than two drug and/or alcohol related offenses

3. Within the past 5 years:

- a. All other felony or misdemeanors that would be considered a potential danger to vulnerable participants or is directly related to the functions of that volunteer
- b. One or more drug or alcohol related offenses

OTHER DISQUALIFYING FACTORS

A. Any applicant who has been charged with any of the disqualifying offenses above will not be allowed to volunteer until the disposition of the charge.

B. If a volunteer is currently serving in a role or has been previously approved should subsequently have any criminal charges brought against them during their term of service with PRCR, they are required to disclose the nature of the charges to the Volunteer Coordinator. A serving volunteer or approved volunteer who has been charged with any disqualifying offense will have their ability to volunteer suspended until the disposition of the charge.

POLICY REVIEW

A. This policy is subject to review and may be updated at any time by the Parks, Recreation & Cultural Resources Director or the Town of Apex Town Manager.

Questions regarding this policy should be directed to Ellison Lambert, Volunteer Coordinator, at ellison.lambert@apexnc.org or Patrick Fitzsimons, Pleasant Park Manager, at patrick.fitzsimons@apexnc.org.