

MUNICIPAL FIRE PROTECTION AGREEMENT

Town of Apex



FY2026 – FY2028

Table of Appendices

Title	Appendix
Fire Insurance and Response District	A
Mutual Aid Agreement	B
Automatic Aid Agreement	C
FEMA Disaster Services	D
Business Associate Agreement	E
Contract Amendments	F
Body Armor SOG	G

**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

THIS AGREEMENT, made and entered into this the 1st day of, July 2025, by and between WAKE COUNTY, hereinafter referred to as the “County”, and the Town of Apex, hereinafter referred to as the “Town”;

RECITALS:

- A. WHEREAS, North Carolina General Statutes §69-25.5 provides that the board of county commissioners may provide for fire protection in a fire protection district by contracting with any incorporated city or town; and
- B. WHEREAS, North Carolina General Statutes §153A-233 additionally provides that a county may contract for fire-fighting or prevention services with counties, cities, or other units of local government, and may for these purposes appropriate funds not otherwise limited as to use by law;
- C. WHEREAS, the Town agrees to contract with Wake County to provide fire protection services; and
- D. WHEREAS, North Carolina General Statutes §159-13 et seq. provides that the county budget ordinance may be in any form that the Board of County Commissioners of any County deems most efficient in enabling it to make the fiscal policy decision embodied therein and provides for a fund for each special district whose taxes are collected by the county; and
- E. WHEREAS, the Town is a municipal corporation authorized to establish, organize, equip, maintain, and furnish fire protection services and other services authorized by its charter to the citizens of its district pursuant to N.C.G.S. 160A-291; and
- F. WHEREAS, the Hipex Fire Insurance and Response District(s) of Wake County have boundaries defined by the most current description on file maintained by the Wake County Geographic Information Services in the Department of Fire Services Office, as illustrated by the map contained in Appendix A; and
- G. WHEREAS, the Town has secured equipment, land and buildings for the operation of Fire Station(s); and
- H. WHEREAS, Wake County presently levies and collects a special tax and is responsible for appropriating the funds derived there from for fire protection in Wake County; and
- I. WHEREAS, the County and Town desire to enter into this Agreement for the Town to furnish fire protection for and within the described District.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises contained herein and other good and valuable considerations, the receipt of which is hereby acknowledged, the parties hereto contract and agree as follows:

Section 1. RECITALS INCORPORATED

The recitals above are part of this Agreement and incorporated herein by reference.

Section 2. USE AND AMOUNT OF SERVICE TAX LEVIED

Wake County agrees to make funds, equipment, facilities and/or personnel available to the Town, from the proceeds of the tax levied from the special fire protection service tax district. The amount of such service tax levy shall be determined by the Board of the County Commissioners from year to year. The County will collect the funds from the special tax as may be levied as provided by law. For each fiscal year, the funds provided from the service tax district shall be based on the needs projected in the budget request jointly submitted by the Town and the County staff to the County Commissioners and as approved by and deemed necessary by the County Commissioners for furnishing fire protection and emergency services within the District.

Special fire district tax funds levied and collected by the County and paid to the Town by the County to provide fire protection pursuant to G.S. 69-25.5 shall be used solely for fire department operations, fire protection and emergency services in the Hipex Insurance and Response Districts as shown in Appendix A and other areas of response as dispatched and to meet the standards established by this Agreement.

Section 3. ACCOUNT MAINTAINED FOR RECEIPTS FROM SERVICE TAX

A separate account shall be maintained by the County for the receipts from the special tax levied for the service tax district. Out of this account:

- 3.1. The County will pay the retained fees for system-wide services provided in the unincorporated areas of the County, including forestry, fire training, communications (including WECO), County computer-aided dispatch fees for County areas no matter dispatched from Raleigh-Wake or Cary, 800 MHZ radio system and hazardous materials response, and any other fees that may be recommended by the Wake County Fire Commission, herein referred to "Fire Commission "and approved by the County.
- 3.2. The County will pay the approved total appropriations for the Town, as calculated according to the cost share methodology in Section 16, in equal monthly payments to

said Town in the third week of each month, provided that prior to and as a condition of payment, the Town has submitted such funding request to the Fire Commission in a line item budget format for the Fire Commission's review and recommendation, and the County's Board of Commissioners has reviewed and approved said funding request.

Section 4. SERVICE TAX REVENUES IN EXCESS OF APPROPRIATIONS

Any fire protection service tax district revenues collected annually in excess of the approved total appropriations and retained County fees shall be maintained in the separate account established by the County. The Wake County Fire Commission shall make recommendations to the County for distribution of these revenues. The Wake County Board of Commissioners will issue final approval of distribution.

Section 5. SERVICES FURNISHED BY THE COUNTY

The County shall furnish the following services to the contracting Town for the term of this Agreement:

- 5.1. such vaccinations as are deemed necessary for all full time, part time and volunteer members of the Town's fire department by the County's contracted medical provider in order to maintain such fire protection or special services throughout the County. Reimbursement shall be for the cost of the exam multiplied by the Town's Final Fiscal Year Cost Share Percentage (FFYCSP) as determined in Section 16
- 5.2. fire investigation and emergency scene assistance services as requested, and
- 5.3. annual Fitness for Duty medical examinations for Town fire department's fire suppression personnel
 - 5.3.1. Fitness for duty medical exams shall follow NFPA 1582 standards and evaluate the employee's physical ability to perform the essential functions of their job classification. Exams must conform to the Wake County Medical Exam Guidelines or best industry standards as found on the Wake Fire Services website under general documents. Cost for exams, provided by the County's contracted medical provider, shall be paid by the Town with reimbursement provided by the county. Reimbursement shall be for the cost of the exam multiplied by the Town's Final Fiscal Year Cost Share Percentage (FFYCSP) as determined in Section 16
 - 5.3.2. Towns shall have the option of obtaining fitness for duty medical exams for their fire suppression personnel through the department's own medical provider.

5.3.3. In such event, physical exam costs eligible for reimbursement shall not exceed the County exam cost, as established through bid process. The actual reimbursement paid by the County shall equal the qualifying exam cost multiplied by the Town's Final Fiscal Year Cost Share Percentage (FFYCSP) as determined in Section 16.

5.3.4. Exams provided by Town fire department's medical provider must conform to the Wake County Medical Exam guidelines as found on the Wake County Fire Services website under general documents.

5.3.5. To be eligible for reimbursement, Town shall follow Wake County Fire Tax District Medical Program guidelines as outlined in the Wake County Medical Exam guidelines.

Section 6. SERVICES FURNISHED BY TOWN

The Town will furnish fire protection and other emergency services as determined and approved by the Town's governing body and as contracted for by the Board of Commissioners within the District and shall provide the necessary equipment, personnel and those things necessary for furnishing such protection in the District. The services shall be in accordance with minimum standards set forth in this Agreement and all future amendments adopted in accordance with Section 28 of this Agreement. The Town shall furnish said fire protection without charge to all persons and property located in the District in an efficient and workmanlike manner. This provision shall not prohibit the Town from entering into contracts with the Federal, State or local governments, or utility companies for the provision of fire protection services exceeding the scope of this Agreement for a fee. Wake County Fire Services Director or designee approval is required to utilize County Assets outside of the County for any purposes other than mutual aid and automatic aid responses or other agreements. This requirement shall not prohibit the Town from billing for certain services, including but not limited to inspection services, false alarm responses, and hazardous materials mitigation responses, based on a fee schedule or other cost recovery program, provided that such fee schedule has been approved by the governing body.

Section 7. BOOKS AND RECORDS

The County may inspect the financial books and records of the Town at reasonable times during regular business hours of the Town. The Town agrees that it will supply such financial books, records, staff and information or verification as may be reasonably requested by the County. The Town shall maintain an accounting system which provides adequate documentation of all of its receipts and disbursements including, but not limited to, those related to the expenditure of funds subject to this Agreement at a minimum as required by law.

Section 8. ANNUAL REPORT

The Town shall provide to the County an annual audit and accompanying management letter prepared in accordance with generally accepted accounting principles and generally accepted auditing standards for the preceding fiscal year as soon as the Town's audit is completed by the Town's auditor, according to the legally established deadlines for municipalities.

In the event that the audit, management letter or self-reporting reveals any reportable and/or material issue(s) with regard to accounting processes; compliance with laws, regulations, or agreement provisions; fraud or abuse; or other financial mismanagement, the Town shall provide a written statement to the County that contains an explanation of each such issue and an action plan (with implementation timetable) for resolving each such issue, and shall provide periodic reports to the County on progress made in resolution of each issue.

Should the Town fail to submit its audit report, unaudited financial statements, and/or any requested follow up documentation to the County within 30 days from time of submittal to the LGC pursuant to G.S. 159-34., the County may suspend all funds immediately until the audit, financial statements, or documentation is delivered as set forth above, except that the County's Director of Finance may grant a reasonable submittal extension if the Town is unable to deliver the audit, financial statements or documentation for reasons beyond the control of the Town.

Section 9. DECISION MAKING PROCESS OPEN TO PUBLIC

The Town acknowledges that it is a public body subject to the provisions of N.C.G.S. Chapter 143, Article 33C and agrees to comply with all provisions of said statute in conducting any decision-making process required by the terms of this Agreement.

Section 10. NON-COMPLIANCE BY TOWN

If the County has a reasonable belief that the Town has violated any provision of this Agreement, the County will provide the Town written notice of the possible noncompliance and initiate an audit to verify compliance. If the County determines that the Town has failed to render the fire protection and services as provided in this Agreement or has otherwise operated in a manner that violates the provisions of this Agreement, then the County shall give the Town ninety (90) days advance written notice that the funds allocated are subject to suspension and shall additionally provide a list of the improvements needed for compliance. If during the said ninety (90) day period, the Town makes improvements satisfactory to the County, no suspension shall occur. During the ninety (90) day period, the Town is not relieved of their responsibility to provide fire protection and emergency services in a manner otherwise consistent with the terms of this Agreement. If after the ninety (90) period, the Town has failed to make satisfactory improvements to comply with this Agreement, then the County may suspend any or all of the monthly payment of funds allocated to the Town pursuant to Section 2 herein.

Section 11. AUTHORITY TO MAINTAIN DELIVERY OF SERVICES

In the event that the Town's governing body determines that the Town is unable to reliably deliver the services described herein, for reasons including, but not limited to, resignation or withdrawal of volunteer, part-time or full-time members or other withdrawal or loss of ability to deliver services, the Town shall immediately so notify the County, at which time the Town authorizes the County or its agents to suspend the monthly payment to the Town and the Town authorizes the County, as limited by this Section, to use such Town facilities and equipment as are necessary to maintain the delivery of fire services in the Town's contracted county unincorporated service area (to the extent the Town exercises operational control and/or ownership interest over such facilities and equipment), so that an interruption of the Town's ability to deliver fire services will not interfere with the standards of fire protection service provided for in this Agreement. Notwithstanding anything to the contrary in this Section, the County and Town recognize and agree that the Town has an obligation to continue to provide fire protection services within the Town's corporate limits and that existing Town facilities and equipment are necessary and intended for such purposes and therefore no use of Town facilities or equipment by the County shall interfere with, hinder, impede, prevent, or compromise the Town's ability to continue to provide fire protection services within the Town's corporate limits even if the Town ceases to provide services to the county unincorporated service area. The Town's fire chief shall have sole discretion in determining the use and operation of Town facilities and equipment during any period in which the Town is not providing services to the county unincorporated area.

Should such use become necessary, upon the request of the Town, the County and the Town's governing body will jointly select an independent third-party trustee who will regularly evaluate the County's use of such Town facilities, equipment and resources on behalf of the Town. The Wake County Fire Tax District and the Town will be responsible for paying the trustee fees associated with the study. The Town's cost will be based on the current cost share amount at the time of the request. During the time that the Town is unable to provide services, the governing body of the Town shall cooperate with the Fire Commission. The Fire Commission shall determine if the Town is able to resume delivery of reliable service.

Section 12. FINANCIAL COMPLIANCE

The Town acknowledges that it is a local government subject to the provisions of N.C.G.S. Chapter 159, Article 3, "The Local Government Budget and Fiscal Control Act" and agrees to comply and conform with all provisions of said statute in conducting any budget and financial activities required by the terms of this Agreement.

Section 13. DISCONTINUATION OF TOWN'S FIRE OPERATIONS

In the event of voluntary (e.g. reorganization or restructuring of services) or involuntary (e.g. bankruptcy or failure to appropriate funding) of the Town's Fire Operations, the Town's inability to provide fire protection services to the district, or the termination of this Agreement, all assets and equipment that have been acquired using solely County funds shall be returned to the County.

- 13.1. Real property (including equipment) owned by the Town that was acquired using partial County funding shall either be sold, and the proceeds distributed between the Town and County based upon the original funding Agreement, or the Town shall pay the County an amount equal to their share (based upon the proportions of the original funding Agreement) of the fair market value of the property, which shall in no event be less than the tax value of the property.

Section 14. TOWN'S USE OF FUNDS

The Town shall use the funds subject to this Agreement in accordance with the annual Department Budget. This budget may be amended by the Town within the approved total appropriations made available by this Agreement, provided that all appropriations must be used for furnishing fire protection within said district, and amendments providing for any expenditure that establishes a new operating expense that will extend beyond the current fiscal year shall conform with the requirements of N.C.G.S. Chapter 159, Article 3 "The Local Government Budget and Fiscal Control Act and the requirements of N.C.G.S. Chapter 143, Article 3 "Purchases and Contracts", and N.C.G.S. 143 Article 8 " Requirements for Certain Building Contracts " which apply to the Town as a local unit of government.

Section 15. TOWN'S BUDGET PREPARATION

The Town agrees that it shall continue to use the County's electronic financial reporting method, furnished by Wake County for budget preparation and presentation purposes only, based upon the County's "chart of accounts" which provides accurate documentation of all of its receipts and disbursements, including (but not limited to) those related to the funds subject to this agreement, and the Town and County will use the product(s) of that reporting system in the development and analysis of the budget for FY 2023 and subsequent fiscal years.

Section 16. COST SHARE METHODOLOGY

- 16.1. Annually, as part of the budget process, the County shall calculate the percentage of Town Fire Department's annual operating budget of which the County shall base the Town's annual fiscal year's appropriation on. At Town's request, the County agrees to

provide reasonable substantiation and additional financial information to permit the Town to audit the County's cost share calculation. The Town and County shall communicate prior to budget submission on potential budget increases outside of uncontrollable expenses.

16.2. The cost share percentage (CSP) shall be calculated by using the ratio of County versus Municipal portions of the following elements:

16.2.1. Geographic area (GA) – geographic area (in square miles) of the fire insurance district in relation to the geographic area of the municipal corporate limits.

16.2.2. Total property valuation (TPV) – property valuation, as determined by Wake County Tax Administration Department, of the fire insurance district in relation to the property valuation of the municipality.

16.2.3. Total heated square footage (THSF) – total heated square footage of structures within the fire insurance district in relation to the total heated square footage within the municipality.

16.2.4. Fire Department service demand (FDSD) – The workload (calls for service) of the fire department within the fire insurance district in relation to the fire department's workload within the municipality.

16.2.5. Total population (TP) – population as determined by the Wake County Department of Community Services. The population estimates are done by isolating "residential units" from the wake county parcel data and selecting the total parcels for each fire insurance district. The total units are summed then multiplied by the occupancy rate and average person per household based off of US census information.

16.3. Each data element shall carry the following weight in calculation of the overall cost share percentage:

16.3.1. Geographic area – 7.5 %

16.3.2. Total property valuation – 20.0%

16.3.3. Total heated square footage – 7.5%

16.3.4. Fire Department service demand – 35.0%

16.3.5. Total population – 30.0%

16.4. Data for each element shall be derived from the following sources on January 1 of each calendar year.

16.4.1. Geographic area - Wake County GIS shape file of municipal corporate limits and fire insurance district (current as approved by NCDOT)

16.4.2. Total property valuation - Wake County Department of Tax Administration

16.4.3. Total heated square footage - Wake County Department of Tax Administration

16.4.4. Fire Department service demand

- Annual dispatch incident data from Raleigh Wake Emergency Call Center (RWECC) and Town of Cary Emergency Call center (if needed) for last completed calendar year.
- Responses for out-of-county incidents shall not be included in cost share calculations
- Incident responses to any county unincorporated region shall be counted as a "county" response (Responses to the Town of Wendell shall be credited as a "county" response)
- Incident responses within this contracted cost shares municipal boundaries shall count as a "municipal" response. Responses to other municipal boundaries shall not be counted as a municipal response to departments providing automatic or mutual aid.

16.4.5. Total population - Wake County Department of Community Services

16.5. Calculation of **Final Fiscal Year Cost Share Percentage** (FFYCSP) shall be based on a rolling average of the last three calendar year's CSPs. Fiscal year appropriations shall be based on the approved Wake County Fire Department municipal operating budget multiplied by the FFYCSP.

16.6. Municipal staffing levels funded by county cost share shall be based on approved Wake County Fire Commission staffing levels. County cost share funded municipal fire positions exceeding approved staffing levels but in existence prior to 2017 shall be grandfathered. The funding of additional staffing levels will be consistent with data driven reports that are in accordance with Wake County Long Range Plan Standards & Guiding Principles for on scene personnel in the unincorporated areas of Wake County based on response minimums and Effective Response Force as required. Staffing levels unfunded by Wake County that can be shown to contribute to the arrival of the

required staffing levels and Effective Response Force, should be considered for cost share funding first prior to adding additional staffing levels for the Municipal Department. Requested Staffing expansions that address other system needs included but not limited to, geographic coverage, service demand workload, and response time goals that are consistent with Wake County Standards & Principles should be considered for funding by Wake County Fire Services, Wake County Fire Commission and Wake County Board of Commissioners.

16.7. Wake County Fire Services and Emergency Management along with Wake County Budget & Management Services shall meet with Town representatives during the budget process to properly vet requested budget Increases that are considered controllable or new operational expenditures outside of additional staffing requests and/or items that are a part of the Wake County Fire Tax District Capital Replacement program. Uncontrollable budget increases such as, but not limited too; utility increases, fuel increases, insurance increases, retirement system changes, etc. shall be approved based on documentation provided. If the total submitted budget is below the County's modeled target base (5% increase based on previous fiscal year operating appropriation), the associated funding requested will be included in the Fire Tax District operating budget for consideration. For expansions that cause more than a 5% increase to the total budget submitted, the County and Municipality must agree to the expansion. All budget increases are ultimately at the discretion of the recommending body of the Wake County Fire Commission and contingent upon approval of the Wake County Board of Commissioners.

16.8. The calculated FFYCSP shall be applied to the municipal fire department's operating budget, as reviewed and approved by Wake County Fire Services. Items excluded from cost share calculations include:

16.8.1. 800 MHz Radio costs

16.8.2. Computer Aided Dispatch costs (RWECC or Cary Dispatch)

16.8.3. NC Forestry – Wildfire Prevention costs

16.8.4. Tone and Voice Pager Maintenance costs

16.8.5. Hazardous Materials Response Program costs

16.8.6. RWECC Dispatch Service costs

16.8.7. Mobile Data Terminal (MDT) connectivity fees

16.8.8. First Due Pre-plan Module

16.8.9. ESO- Emergency Reporting Software

- Wake County will pay 100% of the annual fees for the following modules from ESO Solutions, Inc: Incidents, CAD integration, Electronic Health Record, Personnel Management, Assets, Checklists, Activities, Scheduling.

16.9. Cost sharing of Capital purchases

16.9.1. The county provides for the following cost sharing of municipal capital expenditures:

- Firefighter Personnel Protective Equipment (PPE) – The county utilizes an RFP process to obtain bid prices for PPE purchases. PPE purchased by the Town will be reimbursed up to the current Wake County PPE bid price multiplied by the Town’s FFYCSP according to the established Wake County replacement schedule.
- Self-Contained Breathing Apparatus (SCBA) The county utilizes an RFP process to obtain bid prices for SCBA purchases. SCBA purchased by the Town will be reimbursed up to the current Wake County SCBA bid price multiplied by the Town’s FFYCSP according to the established Wake County replacement schedule.
- Thermal Imaging Cameras (TIC) - The county utilizes an RFP process to obtain bid prices for TIC purchases. TICs purchased by the Town will be reimbursed up to the current Wake County TIC bid price multiplied by the Town’s FFYCSP according to the established Wake County replacement schedule.
- Cardiac Defibrillators (Defib) - The county utilizes an RFP process to obtain bid prices for Defib purchases. Defibs purchased by the Town will be reimbursed up to the current Wake County Defib bid price multiplied by the Town’s FFYCSP according to the established Wake County replacement schedule.
- Large firefighting vehicles (LFFV) - The county utilizes an RFP process to obtain bid prices for LFFV purchases. LFFVs purchased by the Town will be reimbursed up to the current Wake County LFFVs bid price multiplied by the Town’s FFYCSP according to the established Wake County replacement schedule.
- Small firefighting vehicles (SFFV) - The county utilizes an RFP process to obtain bid prices for SFFV purchases. SFFV purchased by the Town will be reimbursed up to the current Wake County SFFV bid price multiplied by the Town’s FFYCSP according to the established Wake County replacement schedule.
- Facility renovations and repairs – The county will reimburse the Town for facility renovations and repairs which have been recommended by the Wake County

Fire Commission and approved by the Wake County Board of Commissioners in the annual budget process. Reimbursement shall be the actual cost of the renovation/repair multiplied by the FFYCSP.

- Mobile Data Terminals – The County will communicate with the Town and identify replacement cycles for all associated equipment to operate Mobile Data Terminals. Wake County will invoice the Town for its cost share portion of the replacements.
- Annual Apparatus Payment Option - Starting with the FY 24 Fire Tax District Budget process, as an alternative to 16.9.1.5 and 16.9.1.6 herein, any Town traditionally paying cash for apparatus may instead opt to enter a new apparatus agreement with the County for all of the Town's LFFV and SFFV upon the following conditions:
 - a. Town receives an annual capital apparatus payment based on predicted modeled cost of apparatus with yearly adjustments on cost share percentage (The updated cost share % and annual payment will be provided and mutually agreed upon during the budget process each year).
 - b. Town may purchase apparatus on the Town's timeline instead of the County's apparatus schedule.
 - c. All Apparatus from the Town shall be removed from the County's apparatus replacement schedule.
 - d. County shall pay for 100% of the cost of brush trucks and tankers.
 - e. Agreement shall encompass all large firefighting vehicles and small firefighting vehicles including administrative vehicles.
 - f. Town cannot switch back to the old system after the new apparatus agreement is established.
 - g. When the Town sells each LFFV and SFFV at its end of useful life, the County shall receive the cost share percentage of the sale, which shall be based on the sale in the year that the vehicle was purchased.
 - h. All apparatus must be insured in accordance with the requirements set forth in Section 17 of the Agreement.
- Body Armor - The county utilizes an RFP process to obtain bid prices for Body Armor purchases. Body Armor purchased by the Town will be reimbursed up to the current Wake County Body Armor bid price multiplied by the Town's FFYCSP according to the established Wake County replacement schedule.

16.9.2. New station construction

- Wake County cost share participation on a new municipal fire stations shall be considered based on the Fire Commission adopted policies and funding matrix adopted in November of 2020.
- The final cost share determined percentage will be calculated utilizing the cost share metrics that are applicable to the station's coverage area based upon the most recent 6-month period that is calculated in either January or July of the calendar year.
- The new calculated percentage shall not move plus or minus more than 5% from the original calculated percentage that was determined during the initial request and memorialized in a Memorandum of Agreement.
- The County's final cost share determined percentage will be calculated within 60 days of scheduled groundbreaking.
- Wake County's cost-share financial obligation in support of a new facility will be paid in annual installments of no less than 10 years to the municipality on a schedule that coincides with the terms of the loan.
- Total funding provided by Wake County as a whole should never exceed 49% of the total construction project cost.
- A funding "cap" equal to the municipality's cost-share percentage should be maintained.
- A deduction equal to the weighted total for county "area" in the approved cost share metrics should be applied to the total funding amount when significant response improvements are not realized in the county.
- Any station rebuild or relocation shall not create district outside of any departments 5-mile response boundaries.
- The approval of the Wake County Board of Commissioners is required for all new station construction involving cost share participation by Wake County.

Section 17. INSURANCE

The Town shall obtain and keep in force during the term of this Agreement and any subsequent renewals of this Agreement the following minimum insurance coverage, providing the Wake County Finance Department with a certificate of insurance upon each policy renewal. Insurance companies must be authorized to do business in North Carolina and have an AM Best rating of "A-/VII" or better; or have reasonable equivalent financial strength to the satisfaction of Wake County's Finance Department. Coverage shall be maintained continuously during the term of this agreement. Any request for consideration of alternate insurance coverage must be approved by Wake County PRIOR TO final execution of this Agreement.

- 17.1. Worker's Compensation, covering both regular employees and volunteers, with minimum limits for Coverage A: Statutory for State of North Carolina, and Coverage B – Employers Liability: \$100,000 each accident/\$100,000 disease each employee/\$500,000 disease.
- 17.2. Commercial General Liability, Including Medical Malpractice/Errors and Omissions, with minimum limits of \$1,000,000 per occurrence or incident, including contractual liability.
- 17.3. Commercial Auto Liability, with minimum limits of \$1,000,000 per accident for bodily injury liability and property damage, including coverage for owned, hired, and non-owned vehicles.
- 17.4. Auto Physical Damage Coverage for any vehicle, including permanently attached equipment, listed by the Fire Department on the Fire Tax District replacement schedule, regardless of whether owned by County or Town. Each vehicle shall be insured on an Agreed Value basis. Values will be provided by Wake Fire Services at the end of each calendar year. Wake County shall be included as Loss Payee for any County-owned or leased vehicle used in the provision of agreement services; the certificate of insurance must list County-owned vehicles. For the purpose of this section, "Agreed Value" is the value agreed upon by the insured and the insurer at the beginning of the policy period but may be amended by endorsement.
- 17.5. Portable Equipment Coverage for equipment used in the provision of agreement services. For any equipment not insured at replacement cost coverage, Town agrees that adequate resources exist to cover any difference between the cost to replace and insurance proceeds in the event of a loss.
- 17.6. Management/Public Officials Liability, with minimum limits of \$1,000,000 per claim and \$2,000,000 aggregate.

- 17.7. Umbrella or Excess Liability, with minimum limits of \$2,000,000, extending coverage over the underlying Employer's Liability; General Liability including Medical Malpractice/Errors and Omissions Liability; Auto Liability; and Management/Public Officials Liability. There shall not be any "drop down deductibles" in areas where underlying coverage is not required but the Umbrella Policy provides coverage.
- 17.8. Fidelity/Employee Dishonesty Coverage, covering all employees and volunteers, with limits not less than \$100,000.
- 17.9. Wake County shall be included as additional insured on the General Liability, including Medical Malpractice/Errors and Omissions; Auto Liability, Management/Public Officials Liability; Umbrella Liability; and loss payee on any policy covering vehicles or other property owned by Wake County or where Wake County has funds at risk.
- 17.10. Claims Made Coverage: Any claims made policy must include either 1. a retroactive date prior to or equal to the effective date of this agreement, or 2. full prior acts coverage. If any policy written on a claims made basis is canceled or non-renewed, it must be replaced with another claims made policy with the same retroactive date as the canceled or non-renewed policy. If this agreement is terminated and not renewed, either the policy in force at that time must be maintained for three years, or extended reporting period ("tail") coverage must be purchased and maintained for a period of three years-beyond the date of termination. The duty to provide extended coverage as set forth herein survives the effective dates of this Agreement.

Section 18. INDEMNIFICATION

To the extent permitted by N.C. law, the Town shall indemnify and save harmless Wake County from any and all liability and expenses including attorney's fees, court costs, and other costs incurred by Wake County which are caused by the negligence or willful misconduct of the Town, its agents, or employees, provided that such liability arises out of acts for which any defense of governmental, statutory, or common law immunity is not available. The indemnification provided for herein shall not be construed as a waiver of any applicable defense of governmental, statutory, or common law immunity, and shall not prevent the Town from asserting any defense of such immunity; provided that if a court of competent jurisdiction determines that no such immunity applies, then the indemnity provided for herein shall apply.

Section 19. TOWN INDEMNIFICATION

To the extent permitted by N.C. law, the County shall indemnify and save harmless the Town from any and all liability and expenses including attorney's fees, court costs, and other costs incurred by the Town which are caused by the negligence or willful misconduct of the County, its agents, or employees, provided that such liability arises out of acts for which any defense of governmental, statutory, or common law immunity is not available. The indemnification provided for herein shall not be construed as a waiver of any applicable defense of governmental, statutory, or common law immunity, and shall not prevent the County from

asserting any defense of such immunity; provided that if a court of competent jurisdiction determines that no such immunity applies, then the indemnity provided for herein shall apply.

Section 20. INSURANCE SERVICES OFFICE, INC. RATING

The Town shall make a good faith effort to maintain its current rating, or better, with the North Carolina Department of Insurance, and Insurance Services Office, Inc. The Town shall continuously comply with all applicable laws, ordinances and regulations. Cases in which a Town's fire operation loses or receives a reduced rating will be examined by the Wake County Department of Fire Services. The Wake County Director of Fire Services shall make a report to the Wake County Fire Commission containing recommendations for corrective action.

In the event the Town's fire operation ISO rating falls below a Class 6 public protection classification for fire insurance grading purposes in contracted unincorporated areas, the Town shall prepare and submit to the County a plan to obtain a minimum of a Class 6 public protection classification, such classification to be in effect no later than July 1, 2025. If the Town has a public protection classification equal to or better than a Class 6, the Town is not required to downgrade to a Class 6.

The Town agrees to implement said plan after its completion subject to availability of funds as recommended by the Fire Commission and approved by the Town's governing body.

The Wake County Board of Commissioners reserves the right to alter or merge insurance district boundaries in their sole discretion. The Department of Fire Services will notify the Town when considering insurance district boundary changes. The Town agrees to cooperate with Wake County Fire Services in developing and implementing any County Commission approved insurance and response district changes. Any changes which occur during the life of this agreement shall be identified in an amended insurance and response area map to be attached in Appendix A.

Section 21. STANDARDS OF PERFORMANCE

The Town shall furnish fire protection and emergency services in a professional, efficient and workmanlike manner, in particular so as to meet the requirements of and comply with rules and regulations of the North Carolina Department of Insurance, Insurance Services Office, Inc., Article 11, Chapter 153A of the North Carolina General Statutes, Article 14, Chapter 160A of the North Carolina General Statutes, and other pertinent federal, state and County laws, regulations and standards. The Town agrees to participate jointly with the County in development and implementation of countywide fire service system performance standards through the Fire Commission including (but not limited to) staffing, turnout time, response time, fire and emergency-event outcomes, customer satisfaction and dissatisfaction, documentation consistency and compliance with standard operating procedures.

The following minimal standards of performance are agreed to by the County and the Town and are a part of this agreement:

- 21.1. STAFFING ON SCENE: The Town shall have adopted standard operating guidelines that are in line with the Wake County Long Range Plan Standards & Guiding Principles that addresses the appropriate number of firefighters needed on all types of fire calls. A current copy of the Town's guideline shall be made available to Wake County Department of Fire Services upon request.
- 21.2. AUTOMATIC AID AGREEMENTS: The Town shall provide automatic aid service for all calls for service as documented in Appendix C. Each fire department shall participate in countywide automatic aid through the quickest unit response program. Appropriate units will be dispatched based on quickest response as configured in computer aided dispatch system and automatic vehicle location. Fire stations that are not continuously staffed on a 24 hour a day / 7 day a week basis may or may not participate in quickest unit response inside a municipality's corporate limits.
- 21.3. MUTUAL AID AGREEMENTS: The Town shall cooperate and participate in the most current Wake County Mutual Aid system plan. The Raleigh Wake Emergency Communication Center (RWECC) and Town of Cary Emergency Call Center will automatically dispatch the nearest mutual aid department after failure in 2 minutes and 30 seconds of the initially dispatched department to acknowledge the call. This shall apply to all calls. Wake County will supply the Town with a copy of the officially adopted mutual aid system plan. The agreement can be found as Appendix B of this agreement.
- 21.4. TRAINING: The Town shall have formally adopted written guidelines for appropriate initial training of firefighters and continuing education of firefighters that meet or exceed all state requirements ("Training Guidelines"). The Town shall be responsible for providing Wake County Department of Fire Services with a current, valid copy of the Town's training guidelines and any amendments of the training guidelines that go into effect during this agreement upon request by the County. The training guidelines shall include the following minimum standards:
 - 21.4.1. Initial firefighter training shall include education on hazardous materials responder, National Fire Protection Association (NFPA) 1001 – Standard for Firefighter Professional Qualifications, incident command system, and blood borne pathogens.
 - 21.4.2. The Town shall annually conduct and/or participate in a minimum of one (1) live fire training exercise.

21.4.3. The Town shall annually participate in a minimum of one (1) multi-company and one (1) multi-department training exercise.

21.4.4. No member of the Town's fire department shall engage in structural firefighting without having first completed the Wake County Essentials of Firefighting course or equivalent course as determined by the Town's fire department's chief officer.

21.5. DEPRECIATION: Town shall have a depreciation schedule for equipment and property valued over \$25,000.00.

21.6. COMMUNITY RISK REDUCTION: The Town shall develop and utilize programs for providing public fire and life safety education to a variety of age groups and occupancies within their service area, based upon the needs of the area served. Documentation of the programs and number of attendees will be maintained by the Town, and be available for review by the County, when desired. The Town shall support public fire education programs through assistance of materials, equipment and personnel from the Wake County Department of Fire Services.

21.7. PRE-FIRE INCIDENT SURVEYS: The Town shall develop pre-fire incident surveys and update them annually for all commercial buildings within the fire district. Facilities, which should be given priority, are those buildings displaying NFPA 704 placards, hazardous, institutionalized and assembly occupancies. The Town shall work with local fire code enforcement officials to determine hazards and occupancies. Upon request, the Wake County Department of Fire Services staff shall assist the Town in developing pre-fire incident surveys for buildings within Wake County Department of Fire Services' fire code enforcement service area.

21.8. FIRE INVESTIGATIONS: The Town fire officer in charge at all fire scenes, occurring in the unincorporated area of the county, shall attempt to determine the origin and cause of every fire. When the officer in charge cannot determine the origin and cause OR if the cause is suspected to be incendiary in nature, the officer in charge shall request a representative from the Wake County Fire Services Department to assist. The Town shall provide reasonable assistance if needed by Wake County staff at the fire scene. The responsibilities under this section shall be in addition to, and not in replacement of the responsibilities outlined under subsection 20.9 "Post Incident Review".

21.9. POST INCIDENT REVIEW: In order to provide a systematic and consistent approach for reviewing and evaluating fire response, the Town shall be required to conduct a post incident review for the following incidents occurring in the unincorporated areas of the county: fires resulting in fatalities, fires resulting in more than \$400,000 property loss, fires resulting in civilian injury, fires resulting in firefighter injury, and any other incident as determined by the Town. Post incident reviews will be facilitated by a fire service

member that has completed a post-incident review training program approved by the Fire Commission, or equivalent training as determined by the Fire Commission.

21.10. FIRE HYDRANTS: The Town shall have an adopted guideline that addresses fire hydrant testing and maintenance.

21.11. MEDICAL FIRST RESPONDER: Town shall participate in the Wake County Medical First Responder Program. The Town shall conform to the Wake County Medical First Responder policies and procedures and direction of the Wake County Medical Director and Emergency Medical Services Director. The Town shall have an adopted guideline that addresses the Medical First Responder Program and Operation. The most current Medical Responder Guidelines can be found on the Wake Fire Services website under Fire District Documents

21.12. EMERGENCY DISASTER RESPONSE: The Town shall follow the Wake County Emergency Operations All Hazards Plan and all applicable appendices.

21.13. DISPOSING OF EQUIPMENT: For any equipment acquired wholly or partially with county funding which the town has deemed necessary to sell or donate, the Town shall, to the extent permitted by North Carolina surplus property laws, offer such equipment for sale or donation to other Fire Departments in Wake County prior to offering to outside agencies. All sold or donated items should be within their NFPA-specified service life, in serviceable condition, and retested or recertified by the manufacturer or certified third-party testing organization. For a sale, the Town shall provide the cost share percentage, at the time of original purchase, proceeds of the sale back to the County.

21.14. PERSONNEL: The Town agrees to adopt and to initiate compliance with, and enforcement of personnel rules for compensated and volunteer members that are in compliance with FLSA and any other applicable federal or state law, and not substantially and materially different from, or inconsistent with the current Fire Compensation Administrative Guidelines adopted by the Fire Commission or within 30 (thirty) days of Fire Commission revision of such guidelines for volunteer members.

21.15. USE OF COUNTY-OWNED VEHICLES

21.15.1. Vehicle Use. The Town agrees that in the event it uses or leases County-owned vehicles in the performance of duties under this Agreement, the Department shall not make these vehicles available to individual employees or volunteers for personal use or other employment not provided for under the Fire Services Contract.

- 21.16. AUXILIARY SERVICES: The Town may choose to provide additional Emergency Services and programs within their response districts. Participation is voluntary. Any Town or fire department choosing to participate in these programs shall have adopted guidelines that address the appropriate functions.
- 21.17. FIRE COMPENSATION ADMINISTRATIVE GUIDELINES: The County and Town agree to meet or exceed the minimum job requirements contained in the Wake County Fire Compensation Administrative Guidelines as approved by the Wake County Board of Commissioners on October 20, 2003 and as they may be amended from time to time during the existence of the Agreement. The Town acknowledges review and acceptance of the most current Wake County Fire Compensation Administrative Guidelines originally effective July 1, 2003 as updated November 2020.
- 21.18. ADVERSE FINDINGS: The Town agrees to notify the Wake County Department of Fire Services within 30 days of any adverse finding by any Municipal, State or Federal agency against the Towns Fire Department, pertaining to employment practices, employee safety, environmental issues, North Carolina Department of Insurance Rating Violations, etc.
- 21.19. EMERGENCY ALERTING: The County agrees to maintain both primary and secondary methods of emergency dispatch alerting for fire department personnel, including but not limited to tone/voice paging systems and countywide alphanumeric paging. The Town agrees to rely only on the countywide alphanumeric and tone/voice paging systems for emergency alerting and response purposes that originate from Raleigh-Wake Communication Center or Town of Cary Communication Center.
- 21.20. WEAPONS: With the exception of sworn law enforcement officers, operating within their jurisdiction, no weapons of any sort are permitted to be carried by Town fire department personnel while performing services under this Agreement within county-owned department vehicles or buildings, or while on calls for service within county fire districts. This applies to all weapons whether concealed or visible. This includes firearms, knives, conducted electrical weapons and chemical irritants, such as mace and pepper spray, but shall exclude any equipment required for the performance of services under this Agreement. This shall not prohibit a lawful concealed handgun permittee from securing a firearm in a locked personal motor vehicle within the trunk, glove box, or other enclosed compartment on or near county owned vehicles or property.
- 21.21. BODY ARMOR: The Town agrees to follow the minimum standard for use and care of body armor. Body Armor is defined as an item of personal protective equipment that provides protection against specific ballistic threats within its coverage area. 20.13 of the Agreement shall apply to disposal of Body Armor.

Section 22. RELATIONSHIP OF PARTIES

The Town, including any officer, employee, or agent of the Town is an independent contractor of the County and none of these shall be considered employees of the County. The relationship between the parties shall be limited to the performance of this Agreement in accordance with its terms. County and the Town agree that the Town shall operate and act as an independent contractor in accordance with the standards set forth herein, and the County shall not be responsible for any of the Town's acts or omissions. Neither the Town, any officer, employee, or agent of the Department shall be deemed an officer, employees, or agent of the County. No liability for benefits, such as workers compensation, pension rights, or other provisions shall arise out of or accrue to any party, its officers, agents, or employees as a result of this Agreement or performance thereof.

Section 23. TERM OF AGREEMENT

The term of this agreement shall be for three (3) years, beginning on July 1, 2025 and ending on June 30, 2028, unless earlier terminated by either party in accordance with Section 25 of this agreement. This term is subject to the continued legal existence of the District(s) and the Town.

Section 24. NON-ASSIGNABILITY

This agreement may not be transferred, assigned, or subcontracted by the Town without the written consent of the County.

Section 25. TERMINATION

This agreement may be terminated by either party with or without cause upon advance written notice to the other party, served upon the other party by certified mail at least three hundred sixty-five (365) days prior to termination. Failure of the County and the Town to agree upon the amount of funding shall terminate this agreement in accordance with this section of this Agreement. The Town acknowledges that the 365-day prior notice requirement is calculated to allow sufficient time to provide alternate fire protection for the covered district in the event of a termination. Unless the parties mutually agree in writing to an earlier termination, the Town is required to provide fire protection up until the effective date of termination. Upon termination of this agreement, Town agrees to reimburse County for the County's share of equipment, apparatus and facilities funded, in part, by the Fire Tax District. Reimbursement shall be based upon current value of said items multiplied by the cost share percentage in effect at time of item purchase.

Section 26. RESERVATION OF RIGHTS

Wake County reserves the right to provide the highest level of fire protection and emergency services possible, subject to the availability of funding.

Section 27. NO WAIVER

Failure of the County to enforce any of the provisions of this Agreement at any time, or to request performance by the Town pursuant to any of the provisions of this Agreement at any time shall in no way be construed as a waiver of such provisions, nor in any way affect the validity of this Agreement, or any part thereof, or the right of the County to enforce each and every provision. In the event that there is disagreement between representatives of the County Department of Fire Services and the Town as to the meaning and/or applicability of any section of the Agreement, the County and the Town shall endeavor in good faith to mediate the disagreement, and agree to select and share the cost (if any) of the services of a trained community mediator to mediate the disagreement. However, nothing herein shall be construed to prevent either party from seeking legal or equitable relief in a court of competent jurisdiction.

Section 28. AMENDMENTS

It is recognized and agreed to by the County and the Town that specific amendments may be necessary on an individual department-by-department basis. Any amendment to this Agreement shall be made in writing and signed by both parties in order to be effective. All contract amendments shall be listed in Appendix E.

Section 29. NO THIRD-PARTY BENEFICIARIES

This contract is not intended for the benefit of any third party. The rights and obligations contained herein belong exclusively to the parties hereto and shall not confer any rights or remedies upon any person or entity other than the parties hereto.

Section 30. ENTIRE AGREEMENT

The terms and provisions herein contained constitute the entire agreement by and between the County and the Town and shall supersede all previous communications, representation or agreement, either oral or written between the parties hereto with respect to the subject matter hereof; except, that this paragraph shall not be construed to supersede any existing and applicable Mutual Aid Agreements.

Section 31. NOTICES

All notices, reports, records, or other communications which are required or permitted to be given to the parties under the terms of this Agreement shall be sufficient in all respects if given

in writing and delivered in person, or by confirmed Electronic Version of Contract. Town may convert a signed original of the Agreement to an electronic record pursuant to a 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 the Agreement shall be deemed for all purposes to be an original signed Agreement.

If to Wake County:

Mr. Darrell Alford
Wake County Department of Fire Services
P.O. Box 550
331 South McDowell Street
Raleigh, North Carolina 27602

Telephone: (919) 856-6349
Facsimile: (919) 856-6236
Email: Darrell.Alford@wake.gov

If to Town:

Town of Apex
Randy Vosburg, Town Manager
73 Hunter Street
Apex, NC 27502

Telephone: (919) 249-1042
Facsimile:
Email: Sandy.Burke@apexnc.org

Section 32. GOVERNING LAW AND VENUE

The Parties acknowledge that North Carolina law shall govern this Agreement. Any action, claim, suit, or proceedings arising out of or relating to this agreement shall be brought in the state or federal courts, whichever is applicable, located in Wake County, North Carolina.

Section 33. SEVERABILITY

If any provision of this Agreement shall be determined to be unenforceable by a court of competent jurisdiction, such determination will not affect any other provision of this Agreement.

Section 34. COUNTERPARTS

This Agreement may be executed in several counterparts, each of which shall be deemed an original.

Section 35. NO WAIVER OF SOVEREIGN IMMUNITY

The County and the Town agree that nothing herein shall be construed to mandate purchase of insurance by the County pursuant to N.C.G.S. 153A-435; or to be inconsistent with Wake County's "Resolution Regarding Limited Waiver of Sovereign Immunity" enacted October 6, 2003; or to in any other way waive the County's defense of sovereign or governmental immunity from any cause of action alleged or brought against the County for any reason if otherwise available as a matter of law. Nothing herein shall be construed to constitute waiver of the Town's governmental immunity in any respect, under North Carolina law or pursuant to N.C.G.S. 160A-485.

Section 36. VERIFICATION OF EMPLOYEE WORK AUTHORIZATION

To ensure compliance with the E-Verify requirements of the General Statutes of North Carolina, all contractors, including any subcontractors employed by the contract(s), by submitting a bid, proposal or any other response, or by providing any material, equipment, supplies, services, etc., attest and affirm that they are aware and in full compliance with Article 2 of Chapter 64, (NCGS 64-26(a)) relating to the E-Verify requirements.

Section 37. IRAN DIVESTMENT AND DIVESTMENT FROM COMPANIES BOYCOTTING ISREAL. By signing this agreement, Town certifies that as of the date of execution, receipt, or submission they are not listed on the Final Divestment List created by the NC Office of State Treasurer pursuant to NCGS 147 Article 6E, Iran Divestment Act, Iran Divestment Act Certification. Town shall not utilize any subcontractor that is identified on the Final Divestment List. Any organization defined under NCGS 147-86.80(2), Divestment from Companies Boycotting Israel, shall not engage in business totaling more than \$1,000 with any company/business, etc. that boycotts Israel. A list of companies that boycott Israel is maintained by the NC Office of State Treasurer, pursuant to NCGS 147-86.81(a)(1). Any company listed as boycotting Israel is not eligible to do business with any State agency or political subdivision of the State.

Section 38. ANTIDISCRIMINATION. In consideration of signing this Agreement, the Parties hereby agree not to discriminate in any manner on the basis of race, natural hair or hairstyles, ethnicity, creed, color, sex, pregnancy, marital or familial status, sexual orientation, gender identity or expression, national origin or ancestry, National Guard or veteran status, religious belief or non-belief, age, or disability with reference to the subject

matter of this Contract. The Parties agree to comply with the provisions and intent of Wake County Code of Ordinances Title III, Section 34. This anti-discrimination provision shall be binding on the successors and assigns of the Parties with reference to the subject matter of this Contract.

Section 39. EFFECTIVE DATE OF AGREEMENT

The effective date of this Agreement shall be the date upon which Wake County executes this agreement. This date shall be reflected in the first paragraph of this Agreement. The terms and conditions of this Agreement shall apply to the entire Term as set forth in Section 23 or as amended by the parties.

IN TESTIMONY WHEREOF, the County has caused this instrument to be executed by the Wake County Manager, and the Town has caused this instrument to be signed in its name by its Town Manager, attested by its Town Clerk, and its corporate seal hereto affixed, all by authorization of its Town Council duly given.

This the _____ day of _____, 20_____.

WAKE COUNTY

BY: _____
David Ellis or designee
Wake County Manager

BY: _____
Darrell Alford
Wake County Fire Services & Emergency Management Director

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

Finance Director or designee

This person is responsible for monitoring the contract performance requirement is:

Darrell Alford _____ Department Head Initials

Town of Apex
BY: _____
Randy Vosburg
Town Manager

ATTESTED TO:
BY: _____
Its _____ (Town Clerk)