

# (ATTACHMENT 2) ACTION ON THE AWARD OF PROFESSIONAL SERVICES CONTRACTS

Contract Requisition Number: CR054561  
Contract Number: C030458  
Vendor Number: V031824

## MILWAUKEE BOARD OF SCHOOL DIRECTORS PROFESSIONAL SERVICES CONTRACT

This Contract is being entered into this 25<sup>th</sup> day of March 2022, by and between **Apptegy, Inc.** (“Contractor”) and Milwaukee Board of School Directors (“MPS”). This Contract is the result of an open competitive procurement, specifically Request for Proposal (RFP) 1061.

### 1. SCOPE OF SERVICES

Contractor shall specifically perform the following tasks:

Contractor shall provide all activities as requested by MPS and in accordance with the Scope of Services of RFP 1061, including, but not limited to the following:

All labor, equipment and services, including training/ongoing support, necessary to work with district website Manager to design, develop, and implement a new, innovative, state-of-the-art district website for both public and internal audiences and school websites for public audiences with a unique and flexible design that meets the requirements of the District.

Migration of some content from the two current platforms, district and schools will be required, in addition to creating sections of the website with content provided by MPS.

RFP 1061 (including all exhibits and addenda), Contractor’s Response to RFP 1061 (including all exhibits, addenda, and any other documentation submitted), and Contractor’s Software and Services Agreement (which includes it’s Terms and Conditions of Service, and which is attached hereto as "Exhibit A”), are incorporated herein by reference. All minimum respondent qualifications of the RFP are material terms of this Contract with which Contractor must comply. Notwithstanding the foregoing or anything else to the contrary in this Contract, the Parties acknowledge and agree that the Services or any other obligations or performance as described in RFP 1061 and Contractor’s Response to RFP 1061 shall be considered to meet the specifications or requirements of this Contract (including as applicable the Scope of Services or other minimum respondent qualifications in the RFP). As such, Contractor’s performance of the Services in conformance with Contractor’s Response to 1061 shall be considered material compliance with applicable provisions of this Contract, including the RFP.

Contractor shall provide, at its own expense, all personnel required to perform the services under this Contract.

### 2. TERM

This Contract shall be in effect from April 1, 2022 through June 30, 2026 (the “Initial Term”), with the option to extend for up to two additional one-year terms to run from July 1, 2026 through June 30, 2027 and July 1, 2027 through June 30, 2028 (the “Term”) upon mutual consent of the parties and Board approval. MPS will base its renewal decision on the following performance metrics to be rated by MPS personnel. Contractor must attain a minimum score of 90 points to be eligible for contract renewal; however, 90 points does not guarantee renewal.

Performance Metrics	Points
Respondent provided timely system upgrades to new version of content management system (if applicable)	10
Respondent provided timely response within 12 hours via email or phone call	30
Respondent met SLA requirements as outlined in the Scope of Services on an annual basis	20
Respondent provided the ability to meet current ADA requirements for HTML, Cascading Style Sheets (CSS) and JavaScript generated website content	20
Respondent provided multi-language support beyond English	20
<b>Total</b>	<b>100</b>

**No work** shall commence before a Contractor receives a fully executed Contract and has been given approval to proceed. Any work performed by the Contractor prior to obtaining a fully-executed Contract with approval to proceed shall not be compensated pursuant to this Contract. Any continuation of the Contract beyond this Term must be set forth in writing and signed by the original signatories to the Contract.

### 3. COMPENSATION

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Total compensation under this Contract shall not exceed \$432,700.00 in the Initial Term. This compensation includes the initial Year 1 total Thrillshare annual fee of \$95,800 plus a one-time development cost of \$49,500. Thereafter, Year 2, 3, and 4 total annual cost will be invoiced at \$95,800. *See Exhibit A* for complete Pricing and Payment Schedule.

MPS reserves the right to determine in its sole discretion whether services have been adequately and fully delivered or to withhold payment until services are fully and adequately delivered.

No payment shall be made until a properly submitted invoice is approved. Invoices shall be submitted to:

Milwaukee Public Schools  
ATTN: Chad Meyer  
5225 W. Vliet Street  
Milwaukee, WI 53208

A properly submitted invoice must include a detailed description. As a matter of practice, MPS attempts to pay all invoices in 30 days. It is mutually agreed that State Prompt pay law does not apply to this Contract.

#### 4. NON APPROPRIATION OF FUNDS

This Contract is contingent upon the appropriation of sufficient funds by appropriate MPS officials. If funds are not appropriated, Contractor agrees to terminate any services supplied to MPS under the Contract and relieve MPS of any further payment obligations under the Contract.

#### 5. NON-DISCRIMINATION

In the performance of work under this Contract, Contractor shall not discriminate in any way against any employee or applicant for employment on the basis of a person's sex, race, age, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, disability, or socio-economic status. This prohibition includes but is not limited to employment; promotions, demotions and transfers; recruitment; advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships. Contractor is required to include a similar provision in all subcontracts to this Contract.

If MPS determines Contractor has violated this non-discrimination policy, MPS may terminate this Contract without liability for undelivered services or materials. MPS may also deem the Contractor ineligible to participate in future contracts with MPS.

#### 6. INDEMNITY

Notwithstanding any references to the contrary, Contractor assumes full liability for all of its acts or omissions in the performance of this Contract, as well as the acts or omissions of its subcontractors. Contractor shall indemnify and hold harmless MPS, its agents, officers and employees against all liabilities, losses, judgments, decrees, costs, and expenses that may be claimed against MPS as a result of granting of this Contract to said Contractor, or that may result from the carelessness or neglect of said Contractor, its agents, or employees in their performance of the services provided for under this Contract. If judgment is recovered against MPS in suits of law or equity for any reason, including by reason of the carelessness, negligence, or acts or omissions of the Contractor, against such persons, firms or corporations carrying out the provisions of the Contract for the Contractor, the Contractor assumes full liability for such judgment, not only as to any monetary award, but also as to the costs, attorneys' fees or other expenses resulting therefrom.

In accordance with applicable laws, MPS shall be responsible for defending and paying judgments on behalf of its officers, employees and agents while acting within the scope of their employment or agency, for any claims that may arise out of MPS's negligence for acts, policies, or directives that affect the activities covered by this Contract.

#### 7. BACKGROUND CHECKS

Contractor will conduct, at Contractor's expense, a criminal information records background check, (hereinafter referred to as "background check"), through the Wisconsin Department of Justice and other appropriate states' agencies, on all current and potential administrators, board members, officers, and employees who have, or who are anticipated to have, "direct, unsupervised contact" with MPS students in the performance of this Contract.

An out of state background check should be completed in the state(s) in which the individual resided for at least six months within the last two years and was eighteen years or older at the time.

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Contractor will submit to MPS's Department of Employment Relations (DER), (via mail to Milwaukee Public Schools Background Checks, Attn: Department of Employment Relations, Room 116, 5225 West Vliet Street, Milwaukee, WI 53208, or via email at [564@milwaukee.k12.wi.us](mailto:564@milwaukee.k12.wi.us)), all completed background checks. Such records will be reviewed and MPS will notify Contractor of any individual(s) who, based on MPS standards, are unfit and should not have contact with MPS students. All determinations made by MPS with regards to whether an individual is fit to provide services pursuant to this Contract are made in MPS's sole discretion.

The following will each be a material failure to comply with the terms of this Contract and cause for immediate termination of this Contract by MPS: failure to perform background checks as outlined in this Section 7; failure to submit background checks to MPS as outlined in this Section 7; allowing services to be provided by an individual who has not be subjected to a background check; and allowing services to be performed by an individual who has been determined to be unfit by MPS as outlined in this Section 7.

## 8. INSURANCE AND PROOF OF FINANCIAL RESPONSIBILITY

Contractor and its subcontractors shall effect and maintain any insurance coverage, including, but not limited to, Workers' Compensation, Employers' Liability, General Liability, Contractual Liability, and Automobile Liability to support its such financial obligations for any claims or damages it may become responsible for pursuant to the terms of this Contract. The indemnification obligation, however, shall not be reduced in any way by existence or non-existence, limitation, amount or type of damages, compensation, or benefits payable under Workers' Compensation laws or other insurance provisions.

The minimum limits of insurance required of the Contractor by MPS shall be:

Workers' Compensation	Statutory Limits
Employers' Liability	\$100,000 per occurrence
General Liability	\$1,000,000 per occurrence/\$2,000,000 aggregate
Auto Liability	\$1,000,000 per occurrence

The Milwaukee Board of School Directors shall be named as an additional insured by blanket additional insured clause under Contractor's and subcontractors' general liability insurance. Certificates of insurance of all required insurances of Contractor shall be submitted to MPS for electronic recording in MPS's third party vendor system, EXIGIS Risk Management Services. Waivers and exceptions to the above limits will be in the sole discretion of MPS and shall also be recorded in MPS's EXIGIS system, which applicable records are incorporated into this Contract by reference. The certificate of insurance or policies of insurance evidencing all coverages shall include a statement that MPS shall be afforded a thirty (30) day written notice of cancellation, non-renewal or material change by any of Contractor's insurers providing the coverages required by MPS for the duration of this Contract.

## 9. SHIPPING /TAXES

If goods are provided pursuant to this Contract, please note that MPS is exempt from Federal Excise and Wisconsin Sales Taxes. All vendor quotes, bids and invoices must include delivery FOB destination to the MPS location receiving the goods and freight must be prepaid. This means any freight, shipping, processing, handling or like charges must be part of a unit price. Any separate line items for freight, shipping, processing, handling or like charges listed on an invoice will be deleted and NOT PAID.

All textbook purchases shall be governed by the terms and conditions in the Milwaukee Board of School Directors' Textbook Contract, which provides that textbooks shipped to MPS or its schools must be done at no additional charge to MPS or its schools.

MPS reserves the right to reject any items that do not conform to the bid, quote or Purchase Order. All return freight charges associated with the rejected materials shall be borne by the vendor.

## 10. IRREPARABLE HARM

It is mutually agreed the breach of this Contract on Contractor's part may result in irreparable and continuing damage to MPS for which money damages may not provide adequate relief. Therefore, the breach of this Contract on Contractor's part shall entitle MPS to both preliminary and permanent injunctive relief and money damages insofar as they can be determined under the circumstances.

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### **11. TERMINATION BY CONTRACTOR FOR NON-PAYMENT**

Contractor may, at its option, terminate this Contract upon the failure of MPS to pay any amount, which may become due hereunder for a period of sixty (60) days following submission of appropriate billing and supporting documentation. Upon said termination, Contractor shall be paid the compensation due through the date of termination.

### **12. TERMINATION BY MPS - BREACH BY CONTRACTOR**

If Contractor fails to fulfill its obligations under this Contract in a timely or proper manner, or violates any of its provisions, MPS shall thereupon have the right to terminate it by giving five (5) days written notice before the effective date of termination of the Contract, specifying the alleged violations, and effective date of termination. The Contract shall not be terminated if, upon receipt of the notice, Contractor promptly cures the alleged violation with five (5) days. In the event of termination, MPS will only be liable for compensation due through the date of termination.

### **13. TERMINATION BY MPS**

MPS further reserves the right to terminate this Contract at any time for any reason by giving Contractor written notice by Registered or Certified Mail of such termination. MPS will attempt to give Contractor 20 days' notice, but reserves the right to give immediate notice. In the event of said termination, Contractor shall reduce its activities hereunder, as mutually agreed to, upon receipt of said notice. Upon said termination, Contractor shall be paid all compensation due through the date of termination. This section also applies should the Milwaukee Board of School Directors fail to appropriate additional monies required for the completion of the Contract.

### **14. INDEPENDENT CONTRACTOR**

Contractor agrees and stipulates that in performing this Contract, it is acting as an Independent Contractor, and that no relationship of employer and employee, partnership or joint venture is created by this Contract. Contractor has exclusive control over work hours, location, and other details of such services, and MPS's sole interest is to ensure that said service shall be performed and rendered in a competent, safe, efficient, timely and satisfactory manner in accordance with the terms of this Contract.

Contractor has the sole obligation to provide for and pay any contribution or taxes required by federal, state or local authorities imposed on or measured by income. Contractor specifically covenant not to file any complaint, charge, or claim with any local, state or federal agency or court in which Contractor claims to be or to have been an employee of MPS during the period of time covered by this Contract and that if any such agency or court assumes jurisdiction of any complaint, charge or claim against MPS on Contractor's behalf, Contractor will request such agency or court to dismiss such matter. MPS shall not be charged any obligation or responsibility whatsoever of extending any fringe benefits which may be extended to MPS employees, including any insurance, or pension plans.

Contractor further agrees that MPS is not to be charged with the obligation or responsibility of extending any fringe benefits such as hospital, medical and life insurance, or pension plans which may be extended to employees of MPS from time-to-time and further agree to indemnify and hold harmless MPS and all its employees, officers and agents from any liability for personal injuries, including death, or for damage to or loss of personal property, which might occur as a result of the performance of the services provided for under this Contract.

### **15. ASSIGNMENT LIMITATION**

This Contract shall be binding upon and inure to the benefit of the parties and their successors and assigns; provided, however, that neither party shall assign its obligations hereunder without the prior written consent of the other. Notwithstanding the foregoing, Contractor may without the prior written consent of MPS, assign, transfer or convey its respective rights or obligations under this Contract to a successor third party in connection with a sale of the company, the sale or transfer of its assets, or similar restructuring actions; provided that (i) Contractor will provide MPS with prior written notice of such assignment as soon as reasonably practicable in accordance with the notice terms and conditions set out in Section 18 of this Contract below, (ii) the applicable successor agrees in writing to be bound by the terms and conditions of this Contract and to perform this Contract in accordance with its then-current terms and quality of services as previously provided; and provided further that if such successor requests to materially amend the terms of conditions of this Contract or materially changes its performance, then MPS will have a right to terminate this Contract upon written notice to such successor," and (iii) if this Contract is terminated pursuant to section ii before the end of the sixth month of the then-current term, MPS shall be refunded the prorated portion of the annual compensation paid thereafter the termination date.

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### 16. PROHIBITED PRACTICES

- A. Contractor during the period of this Contract shall not hire, retain or use for compensation any member, officer, or employee of MPS to perform services under this Contract, or any other person who, to the knowledge of Contractor, has a conflict of interest.
- B. Contractor hereby attests it is familiar with MPS's Code of Ethics, providing in pertinent part, "[a]n employee of Milwaukee Public Schools may not accept any gift or gratuity in excess of \$25.00 annually from any person, persons, group or any firm which does business with or is attempting to do business with MPS."
- C. No person may enter into this Contract for services that the MPS employee would otherwise perform as an employee.
- D. No current or former MPS employee may perform services on a professional services contract without the prior written consent of the MPS Chief Human Capital Officer or his/her designee.
- E. If the Contract is for apparel for \$5,000.00 or more, the Contractor agrees to provide only items manufactured by responsible manufacturers. Contractor is required to include a similar provision in all subcontracts to this Contract.

### 17. LIVING WAGE REQUIREMENT

Contractor shall comply with, and ensure its subcontractors performing work under this Contract comply with, Milwaukee Board of School Directors' Administrative Policy 3.09(17), which requires that employees be paid a "living wage."

### 18. NOTICES

Notices to either party provided for in this Contract shall be sufficient if sent by Certified or Registered mail, postage prepaid, addressed to the signatories on this Contract, or to their designees.

### 19. WAIVER

The waiver or failure of either Party to exercise in any respect any rights provided for in this Contract shall not be deemed a waiver of any further right under this Contract.

### 20. INTEGRATION / SEVERABILITY

This Contract and its exhibits and addenda, if any, RFP 1061, Contractor's Response to RFP 1061, and Contractor's Additional Terms and Conditions of Service, constitute the entire Contract among the Parties with respect to the subject matter hereof and supersede all prior proposals, negotiations, conversations, discussions and Contracts among the Parties concerning the subject matter hereof. No amendment or modification of any provision of this Contract shall be effective unless the same shall be in writing and signed by both Parties.

The District shall not be bound by any terms and conditions included in of Contractor's packaging, service catalog, brochure, technical data sheet or other document which attempts to impose any conditions at variance with or in addition to the terms and conditions contained herein.

If any term or provision of this Contract should be declared invalid by a court of competent jurisdiction or by operation of law, the remaining terms and provisions of this Contract shall be interpreted as if such invalid Contracts or covenants were not contained herein.

### 21. CHOICE OF LAW & FORUM

The state courts of Wisconsin shall be the sole forum for all disputes arising of this Contract. The validity, construction, enforcement and effect of this Contract shall be governed solely by the laws of the State of Wisconsin.

### 22. TIMING

Time is of the essence in this Contract.

### 23. CERTIFICATION REGARDING DEBARMENT OR SUSPENSION

Contractor certifies that neither Contractor or its principals; its subcontractors or their principals; the sub-recipients (if applicable) or their principals are suspended, debarred, proposed for debarment, voluntarily excluded from covered transactions, or otherwise disqualified by any federal department or agency from doing business with the Federal Government pursuant to Executive Orders 12549 and 12689. Contractor specifically covenants that neither the Contractor or its principals, its sub-contractors or their

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principals, or the sub-recipients (if applicable) or their principals are included on the Excluded Parties List System (“EPLS”) maintained by the General Services Administration (“GSA”).

### 24. FORCE MAJEURE

MPS will not be liable to pay Contractor for any work that the Contractor is unable to perform due to act of God, riot, war, civil unrest, flood, earthquake, outbreak of contagious disease or other cause beyond MPS’s reasonable control (including any mechanical, electronic, or communications failure, but excluding failure caused by a party’s financial condition or negligence).

### 25. STUDENT DATA

Contractor acknowledges that student data is protected by both federal and state law. *See* Wis. Stat. § 118.125; 20 U.S.C. § 1232g(b); 34 C.F.R. § 99.1 *et seq.* If MPS determines that Contractor has disclosed any student record information in violation of either federal or state law, without prejudice to any other rights or remedies the MPS may have, MPS shall be entitled to immediately terminate this and every other existing Contract without further liability. Moreover, MPS may bar Contractor from future MPS contracts for varying periods up to and including permanent debarment.

### 26. NON-DISCLOSURE

Contractor shall not: (1) disclose, publish, or disseminate any information, not a matter of public record, that is received by reason of this Contract, except any information disclosed, published or disseminated per the scope of this Contract, regardless of whether the Contractor is or is not under contract at the time of the disclosure; or (2) disclose, publish, or disseminate any information developed for MPS under this Contract except any information disclosed, published or disseminated per the scope of this Contract. Contractor agrees to take all reasonable precautions to prevent any unauthorized use, disclosure, publication, or dissemination of the same information.

### 27. MPS LOGO/PUBLICITY

Except as needed to perform the services provided for under this Contract, no Contractor shall use the MPS Logo in its literature or issue a press release about the subject of this Contract without prior written notice to and written approval of MPS’s Executive Director of Communications & Outreach.

### 28. ORDER OF PRIORITY

In the event of a conflict among the documents constituting this Contract, the order of priority to resolve the conflict shall be: 1) this Contract; 2) RFP 1061 (including all exhibits and addenda); 3) Contractor’s Response to RFP 1061 (including all exhibits, addenda, and any other documentation submitted by Contractor), and 4) Contractor’s Additional Terms and Conditions of Service.

### 29. PUBLIC RECORDS

Both parties understand that the Board is bound by the Wisconsin Public Records Law, and as such, all of the terms of this Contract are subject to and conditioned on the provisions of Wis. Stat. § 19.21, *et seq.* Contractor agrees to assist and comply with reasonable requests of the Board in retaining, producing, or limiting (for example limiting production of proprietary and confidential information as provided for in the RFP and Wis. Stat. § 19.36(5)) records that are subject to Wisconsin Public Records Law, and that the failure to do so shall constitute a material breach of this Contract, and that the Contractor must defend and hold the Board harmless from liability under the law for any such material breach. Except as otherwise authorized, those records shall be maintained for a period of seven years after receipt of final payment under this Contract.

### 30. CONTRACT COMPLIANCE REQUIREMENT

The HUB requirement on this Contract is 10%. The student engagement requirement of this Contract is 300 hours. The Career Education requirement for this Contract is 10 hours. Failure to achieve these requirements may result in the application of some or all of the sanctions set forth in Administrative Policy 3.10, which is hereby incorporated by reference. Notwithstanding the foregoing, both parties acknowledge and agree that: (i) Contractor has conferred with the Milwaukee Public Schools Department of Contract Compliance Services (“CCS”); and (ii) if Contractor, on its own initiative but with approval of MPS, complies with any HUB, student engagement, or Career Education requirements on a good faith effort as detailed and represented by Contractor in applicable appendices and/or schedules in Contractor’s Response to RFP 1061 (attached hereto as “Exhibit B”), then Contractor shall be considered in compliance with and to have satisfied the requirements of this paragraph.

[Signature Page to Follow]

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IN WITNESS WHEREOF, the parties here to have executed this Contract on the day, month and year first above written.

CONTRACTOR (Vendor #: V031824)

**MILWAUKEE BOARD OF SCHOOL DIRECTORS**

By: \_\_\_\_\_  
Authorized Representative

By: \_\_\_\_\_  
*Janine Adamczyk, Director  
Procurement & Risk Management*

Date: \_\_\_\_\_  
APPTEGY, INC.  
2201 BROOKWOOD DR., SUITE 115  
LITTLE ROCK, AR 72202  
(501) 791-9673

Date: \_\_\_\_\_  
By: \_\_\_\_\_  
*Keith P. Posley, Ed.D.  
Superintendent of Schools*

SSN / FEIN: XXXXXXXXXX

Date: \_\_\_\_\_

Budget Code: INF-0-0-TLN-DW-EMTC

By: \_\_\_\_\_  
*Robert E. Peterson, President  
Milwaukee Board of School Directors*

Date: \_\_\_\_\_

Reviewed by Risk Management:

By: \_\_\_\_\_

Date: \_\_\_\_\_

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Exhibit A

Software and Services Agreement



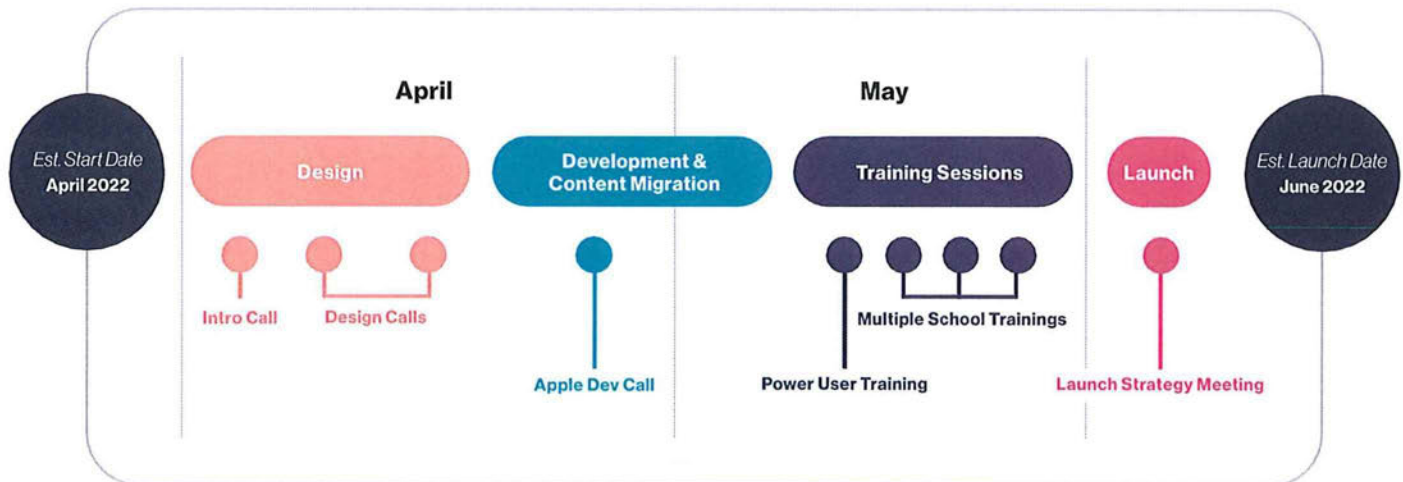
# Software and Services Agreement

## Implementation Timeline

We have **onboarded over 2,000 school districts in the past six years.** Through this experience, we have optimized our implementation process.

We know that each implementation is unique, and we tailor our proven process to fit your timeline and needs. Much of the onboarding process does not need to be linear and will be **adjusted to MPS's specific needs.**

Below, we've outlined our proposed timeline with our most common sequence of milestones. Based on your answer in Addendum 1, we slotted a three month implementation ranging from April to June 2022. This fits in with our average 2-3 month timeline. However, if you need to change these dates, we would be happy to discuss this with you further.



**Design | April**

We get our partnership started with a meeting to introduce stakeholders on your team and ours. In this meeting, we will cover our detailed roadmap, responsibilities, and the overall structure of the planned implementation. Since we have everyone together, this meeting also starts our design process.

Once equipped with your unique needs and requirements for our implementation, we're ready to get started on designing your website and mobile app. We create a high fidelity mockup as a first draft and iterate from there. Since we've already established a good understanding of what you're looking for, this process is typically quite fast.



- 2-4 meetings with us, averaging 30 minutes
- 1-2 additional internal discussions

**Development & Content Migration | April - May**

With an approved design, we're ready to build out your iOS app, your Android app, and your website. Once we're done with the development, we will migrate your content. While we touch on content structure during the design process, this is where we hash out the details and get the work done.

Finally, we run through quality assurance testing. After our team has gone through your entire website and app and confirmed that everything is working, we will ask you to approve the content and functionality as well.



- 30 minute meeting to configure app on Apple/Google stores

### Training Sessions | May

Trainings with Apptegy are unlimited and included for everyone. An ideal training schedule will include a setup call with your project lead, in-depth sessions for all of your power users, and introduction sessions for casual users. We typically schedule several sessions over a few weeks to accommodate different schedules. This way, everyone is set up for success and can get started using Thrillshare before we go live officially.



- One 90 minute meeting with power users
- One 45 minute meeting with key users at each school and at the central office

### Launch Strategy | June

With everyone trained, your new website and app built, and our launch strategy prepared, we're ready to flip the switch. And flipping the switch is all it takes: we just point your domain—mps.milwaukee.k12.wi.us—to our servers, and the change to the new website will be instant.



- One meeting to discuss our launch strategy
- One meeting to change your domain settings

### Post Launch

Now that your website is live, we work together to drive adoption of your new website and mobile app. This is where your launch campaign gets executed. You will also be working closely with your Client Success Manager, Seigen, on trainings and best practices; and our support team on any questions your users have after the switch.



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Bill Date	Amount
June 2023	\$95,800 annual
June 2024	\$95,800 annual
June 2025	\$95,800 annual

\*Agreed to and accepted by: \_\_\_\_\_

BY THE SIGNATURE ABOVE, the institution (“Client”) agrees that this Software and Services Agreement of Apptegy, Inc. (consisting of the foregoing Estimated Implementation Timeline and Schedule of Pricing, the “Agreement”) includes and is subject to the additional Terms and Conditions of Service (the “Terms”) attached to and incorporated in this Agreement.

Client acknowledges receipt of this Agreement and the Terms, and hereby accepts and agrees to be bound by this Agreement and the Terms. By signing above, the person warrants that she or he has the authority to act on behalf of and bind Client to this Agreement and the Terms.

# Terms and Conditions

The following Terms and Conditions of Service (the “Terms”) are a binding part of this Software and Services Agreement of Apptegy, Inc. (together with its affiliates, agents, and assigns, “Apptegy”), to which they are attached. References to the “Agreement” below collectively include the Software and Services Agreement and these Terms. Capitalized terms used but not otherwise defined in these Terms will have the meanings given to them in the Software and Services Agreement.

## 1. Services; License

Apptegy will provide the products and services at the prices and for the Term (collectively, the “Services”) as set out in this Agreement. During the Term, Client hereby grants Apptegy a limited, nonexclusive, revocable, worldwide, fully-paid, royalty-free license to use, copy, and modify Client’s information, photographs, videos, intellectual property (including without limitation all copyrights, trademarks, service marks, and similar rights), and other content (collectively, “Client Content”) for providing and improving the Services. Upon termination or expiration of this Agreement, Client’s right and license to use the Services, and Apptegy’s right and license to Client Content, will automatically terminate.

## 2. Fees

Client will pay to Apptegy all fees set out in the Schedule of Pricing of this Agreement. Client acknowledges that (i) Thrillshare fees are payable in annual portions for each year of the Term as set out in the Schedule of Pricing. Upon execution of this Agreement, Apptegy will submit invoices to Client as indicated in the Payment Schedule above. Client agrees to pay all invoices in full within 30 days of the date of the invoice.

Client acknowledges that the fees for the Services do not include sales and use taxes, as applicable, and Client is solely responsible for any such taxes.

## 3. Term; Termination

The term of this Agreement (the “Term”) will start on the date Apptegy receives an executed Agreement from Client (April 1, 2022) and will terminate on the anniversary date of the Thrillshare start date that is after the number of term years purchased by client (June 30, 2026), as set out in the Schedule of Pricing. The implementation period will run through June 30, 2022 with July 1, 2022 set to the Official Thrillshare services start date.

## 4. Client Restrictions and Responsibilities

Client’s Thrillshare account is solely for Client’s use. Client is exclusively responsible for all activities under its Thrillshare account and for maintaining the confidentiality of its username

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and password. Client agrees to notify Apptegy immediately of any unauthorized use or any other breach of security involving its account. Apptegy will not be liable for any loss incurred as a result of unauthorized use of Client's account. Client will not, directly or indirectly, use the Services in a manner that violates any laws; infringes on anyone's rights; is offensive; interferes with the Services; or reverse engineers, decompiles, disassembles, or otherwise attempts to discover the source code, object code, or underlying structure, know-how, or algorithms of the Services. Client will only post Client Content for which it owns all rights or has express permission to post from the rights holder.

### **5. Third Party Functions**

The Services include features that operate in conjunction with third party tools and resources (ex: Facebook, and Twitter). In addition to this Agreement, access and use of third party tools and resources through the Services is also subject to the terms of service and other agreements of those third parties. Client is solely responsible for ensuring that your use of those tools and resources complies with the applicable terms of service or other agreements.

### **6. Warranties; Disclaimers; Limited Liability**

Apptegy will provide the Services according to prevailing industry standards and will use reasonable efforts to minimize errors and interruptions in the Services; however, Apptegy does not warrant that the Services will be error-free or uninterrupted. Services may temporarily be unavailable for scheduled and unscheduled maintenance, either by Apptegy or third parties, or because of other causes beyond Apptegy's reasonable control. EXCEPT AS EXPRESSLY SET OUT IN THIS AGREEMENT, APPTEGY EXPRESSLY DISCLAIMS ALL WARRANTIES CONCERNING THE SERVICES, INCLUDING WITHOUT LIMITATION, WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ALL IMPLIED WARRANTIES. THE SERVICES ARE PROVIDED "AS IS." EXCEPT WHERE PROHIBITED, APPTEGY WILL NOT BE LIABLE FOR INDIRECT, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES ARISING FROM THE SERVICES UNLESS SAID DAMAGES WERE PREVENTABLE, KNOWN, OR FORESEEN BY APPTEGY. IN NO EVENT WILL APPTEGY'S TOTAL LIABILITY RELATED TO THIS AGREEMENT EXCEED ONE MILLION DOLLARS.

### **7. Confidentiality**

Each party (the "Disclosing Party") may disclose to the other party (the "Receiving Party") proprietary or non-public business, technical, financial, or personal information (collectively, "Confidential Information"). The Receiving Party will protect and keep confidential all Confidential Information, and will not use Confidential Information for any reason except for performing this Agreement. Without limiting the generality of the foregoing, Client acknowledges that non-public information about the features, functionality, and performance of the Services is Confidential Information.

### **8. Miscellaneous**

This Agreement is governed by the laws of Wisconsin, without regard to conflict of law principles. The parties irrevocably submit to the exclusive jurisdiction and venue of the federal courts of Milwaukee County, Wisconsin for any dispute that relates to the Services or this Agreement. This Agreement may not be amended or modified without the prior written consent of both parties. If any provision(s) of this Agreement are held invalid or unenforceable, such

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invalidity or unenforceability will not invalidate or render the Agreement unenforceable, but rather the Agreement will be construed as if not containing the unenforceable provision(s), and the rights and obligations of the parties will be construed and enforced to honor the parties' original intent to the maximum extent permitted under applicable law. This Agreement will inure to the benefit of the valid successors and assigns of the parties as provided for in the Professional Services Contract above. The Agreement may be executed in multiple counterparts and executed by original, facsimile, or electronic signature (including PDF, HelloSign, and similar methods), each of which when delivered will be deemed an original, and all of which together will constitute one agreement.





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Exhibit B

Appendix A and Schedules H1-B and H1-C

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APPENDIX A

HUB Utilization Plan

The prime vendor should use this form when there is a HUB participation requirement. The form documents how the HUB requirement will be met and will become a binding part of the contract. If you are a prime vendor who is also a HUB vendor and will be providing services to meet a HUB participation requirement, you must fill this section out. Prime HUBs must identify the actual percentage of service/product they will provide. Only the percentage of service/product actually provided by the HUB prime will count toward HUB participation.

If you are a prime vendor who is not a HUB, list any contractors or vendors you will employ or partner with to fulfill the HUB requirement.

THIS SECTION MUST BE FILLED IN COMPLETELY. FAILURE TO LIST ALL HUB CONTRACTORS OR VENDORS MAY RESULT IN YOUR RESPONSE BEING DECLARED INVALID AND REMOVED FROM CONSIDERATION. IDENTIFICATION OF A HUB FIRM HERE INFERS PRIME HAS SPOKEN WITH HUB VENDOR AND BOTH ARE IN AGREEMENT WITH CONTINGENT COSTS AND SERVICES LISTED BELOW:

PROVIDE THE FOLLOWING INFORMATION FOR EACH HUB VENDOR. ATTACH ADDITIONAL SHEETS IF REQUIRED.

COMPANY NAME: Gina's Catering Plus, LLC

ADDRESS: 5550 Village Dr., Benton, AR 72019

PHONE #: 501-529-0033 EMAIL: gina@ginacaters.com

CONTACT PERSON: Gina Simpson

PLEASE LIST TYPE OF WORK TO BE PERFORMED, WHICH MUST BE COMMERCIALY USEFUL TO THE SCOPE OF SERVICES OF THE RFP. Gina's service caters lunch at Applegy's Little Rock HQ approximately four days a week. The catering company is wholly owned

and controlled by incorporator/organizer, Gina Simpson. Although Gina's does not currently possess a HUB certification, Ms. Simpson is pursuing a WBE status through the Arkansas Economic Development Commission's certification program (link here).

IS THIS A CERTIFIED FIRM? Yes x No (You must include a copy of the current certification)

CHECK WHICH TYPE OF FIRM: [ ] MBE, [x] WBE, [x] SBE, [ ] DBE, [ ] SBA-8A or OTHER (PLEASE SPECIFY CERTIFICATION TYPE)

DOLLAR AMOUNT OF HUB PARTICIPATION: \$ TBD

PERCENT OF BID: 10 % Total HUB participation must be equal or greater than 10 %

- 1. List the name, address, telephone number for the contact person of all HUB firms contacted to meet the HUB goals, excluding those listed above. (Attach additional documentation if necessary.)

Gina Simpson; 5550 Village Dr., Benton, AR 72019; 501-529-0033

- 2. Please indicate any problems you had in meeting the HUB requirement for this RFP. Did you contact CCS during preparation of this RFP? Given the unique nature of our services (software), there will not be HUB entities that provide commercially useful functions within the scope of the RFP.

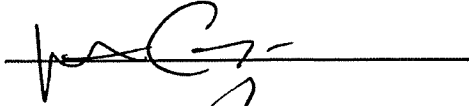

However, we have already discussed this fact with CCS, and confirmed that working with Gina's meets the contract HUB requirement. Overall, Applegy is committed to working with diverse firms to the fullest extent possible to help meet any requirements.



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**CERTIFICATE OF INCUMBENCY**


The undersigned, Secretary of Apptegy, Inc., hereby certifies that the following named officers are duly appointed, qualified, and acting in the capacity set out opposite his or her name, and the following signature is the true and genuine signature of the officer.

<u>Name</u>	<u>Title</u>	<u>Signature</u>
Jeston George	Chief Executive Officer and President	
Casey Mikula	Chief Sales Officer	

In accordance with the powers of the officer roles specified in the Company's Bylaws, the foregoing officers are authorized to execute and deliver any agreement in the name of the Company and to otherwise obligate the Company with respect to the business of the Company.

**IN WITNESS OF AGREEMENT**, I have executed this certificate of incumbency as of March 8, 2022.

**APPTEGY, INC.**

By:   
\_\_\_\_\_  
Jamie Fugitt  
Secretary & Chief Legal Officer

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MILWAUKEE PUBLIC SCHOOLS

SCHEDULE H1-B

Student Career Awareness/Education Plan/Commitment

Project/Contractor Information

Apptegy, Inc. RFP 1061 for the District Website 10
CONTRACTOR COMPANY NAME MPS SITE/PROJECT NAME NUMBER OF REQUIRED HOURS

Name of Education Liaison Contact

TBD TBD TBD
CONTACT PERSON PHONE FAX E-MAIL

Place an "X" below to indicate how you plan to fulfill your career awareness/education requirement. This is a ten (10) hr. requirement unless otherwise listed in the project specifications. Career awareness/education hours may be counted by the number of company representatives involved in the career awareness engagement. Interviews with students for fulfillment of student employment requirements and conversations with CCS personnel are not counted toward education activities.

- Career fair Career coaching and mentoring Industry presentation/demonstration
Student group tours/fieldtrip Job-readiness training session Contractor provided option
YouTube industry videos Mock interviewing \$1,500 donation

Provide a description of your career awareness/education plans for this project, and specify if the activity will be in-person or virtual.

contract services. This is only because of a lack of applicable HUB entities in our industry. However, if awarded the contract, we certainly commit to working with MPS to find alternate diverse firms that we may already work with, or can work with, to meet any requirements, and in general, we appreciate MPS's emphasis on minority inclusion.

I hereby declare and affirm that I, Casey Mikula Chief Sales Officer
am a duly authorized representative of TBD. Please see note below.
located in Arkansas Pulaski Little Rock
STATE COUNTY CITY

and that I have personally reviewed the material and facts describing our proposal regarding student career awareness/education. I agree to provide the experience(s) contained herein. If a contractor is non-compliant, MPS may impose one or more identified sanctions, and require proof of corrective action by the contractor.

Casey Mikula Chief Sales Officer Oct. 25, 2021
SIGNATURE OF AUTHORIZED COMPANY OFFICER TITLE DATE

For Office Use Only

SIGNATURE OF CCS REPRESENTATIVE TITLE DATE

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Schedule H1-C
Alternative Placement Request
Student Employment

Please submit the following form identifying your election for Alternative Placement. The Office of Contract Compliance Services is the sole approver for alternative placement and will assist with referrals of available sites.

Alternative Placement is available to MPS Contractors/Vendors with justified limitations which prevent actual student employment participation within their place of employment. Additionally, a company representative will be required to perform 2 alternative placement site visits for the duration of the project or per 12 month contract period (where applicable). "Alternative Placement" is defined as a work site other than that of the MPS Contractor/Vendor's worksite, identified as appropriate for work experience with MPS students in order to meet MPS Contractor/Vendor's Student Employment obligations under the DFMS Participation Plan for Contractors or MPS Professional Services Contract. Justifications for Alternative Placement include the following: company age restrictions, work-site capacity limitations and location limitations.

In limited circumstances, when the Contractor's place of employment is beyond the transportation resources available to students or when certain project circumstances exist that prevent student employment at the job site, the Contractor may subcontract with a third party who is currently providing services that were originally agreed upon between MPS and the Contractor for an "alternative placement" of students. In such cases, the contractor maintains responsibility for the student's work site and wages as well as ensuring a reasonably safe and meaningful work experience. Under this arrangement the contractor will be the "statutory employer" for all insurance purposes, including, but not limited to worker's compensation purposes, and is hereinafter referred to as "Contractor/Statutory Employer." The placement is hereinafter referred to as "Alternative Placement" or "Alternative Placement Site." The Contractor/Statutory Employer understands and agrees that financial responsibility for claims or damages to students/employees, shall rest with Contractor/ Statutory Employer. Contractor/ Statutory Employer shall effect and maintain any insurance coverage, including but not limited to, Workers' Compensation, Employers' Liability and Commercial General Liability.

A company representative will be required to perform 2 alternative placement site visits for the duration of the project or per 12 month contract period (where applicable). Each company must provide MPS with documentation of the alternative placement site visit and verification of site safety.

Project/Contractor Information

Form with fields for Contractor Company Name, MPS Project Name, RFP #, Contact Person, Primary Phone, and E-Mail.

Number of required project hours: 300

ALTERNATIVE PLACEMENT SITE ELECTION

Place an "X" below to indicate if you plan to fulfill your student employment requirement through an alternative placement site.

- Yes, I am requesting alternative placement.
No, I plan to employ the student employee within my organization.

Please list below justification for student employment request.

Given we are headquartered in Arkansas with no physical presence in Wisconsin, and that there are a lack of comparable/alternate third parties to employ students in the MPS area, Aptegy elects Option C for student intership sponsorship to meet the 300 hour student engagement/employment CCS requirement.

Horizontal lines for providing additional justification text.

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**TO BE COMPLETED BY CONTRACTOR/VENDOR:**

I hereby declare and affirm that [Apptegy, Inc.] is in agreement with the conditions for utilizing an  
INSERT COMPANY NAME

Alternative Placement Site and that our company meets the standards for which an accommodation is granted. I also understand that it will be the responsibility of our company representative to complete the required site visits and report to MPS CCS a student status report which will contain signatures from the identified MPS alternative placement site liaison. I also agree to pay the student worker, at minimum, the City of Milwaukee's Living Wage Rate

Casey Mikula

SIGNATURE OF AUTHORIZED COMPANY OFFICER

Chief Sales Officer

TITLE

Oct. 25, 2021

DATE

Chief Sales Officer

TITLE

DATE

SIGNATURE OF CCS REPRESENTATIVE