



KEY CONTRACT TERMS

For Master Agreement WRESA-05-2023-2024-07-AP

<u>Contract Between:</u>	Wayne RESA and Apptegy, Inc.
<u>Contract Purpose:</u>	Master Agreement for Website Hosting and Maintenance Services for Wayne RESA authorized CoPro+ Members (“Participating Entities”)
<u>Contract Number:</u>	WRESA-05-2023-2024-07-AP
<u>RFP Number:</u>	WRESA-05-2023-2024-07
<u>Contractor Name:</u>	Apptegy, Inc.
<u>Contractor Address:</u>	2201 Brookwood Drive, Ste 115 Little Rock, AR 72202
<u>Contractor Telephone:</u>	(501) 612-4442
<u>Contract Administrator:</u>	Wayne RESA Designee/CoPro+
<u>Base Contract Years:</u>	April 17, 2024 – April 16, 2027
<u>Option Years:</u>	April 17, 2027 – April 16, 2028 (Option Year 1) April 17, 2028 – April 16, 2029 (Option Year 2)
<u>Pricing:</u>	Refer to Section 2.1, 5.23, and Attachment A
<u>Administrative Fee:</u>	2.0%
<u>Terms & Conditions:</u>	Refer to Section 3
<u>Ordering Options:</u>	billing@apptegy.com
<u>Payment Options:</u>	Purchase Order or Direct Voucher
<u>Miscellaneous Information:</u>	THIS AGREEMENT/CONTRACT IS EXTENDED TO AUTHORIZED COPRO+ MEMBERS. For clarity, the terms and conditions of this Contract shall also, to the extent provided for therein, apply to and govern any subsequent agreements for the Services between Contractor and Wayne RESA Members/Participating Entities pursuant to this Contract.



Signature of Contractor’s Duly Authorized Representative

The undersigned acknowledges, attests and certify the following individually and on behalf of the Contractor or Wayne RESA as applicable that:

(1) He/she is an Authorized Representative of his/her respective Party, has been authorized by that Party to make all representations, attestations, and certifications contained in this Contract, if any, issued, and to execute this Contract on behalf of such Party; (2) both Parties are bound by and will comply with all requirements, specifications, and terms and conditions contained in this Contract (including all listed attachments and Addenda, if any, issued; (3) Contractor will furnish the designated products and services (the “Services”) in accordance with the Contract specifications and requirements, and both Parties will comply in all respects with the terms of the resulting Contract and their resulting obligations; and (4) All affirmations contained in the RFP are true and correct.

CONTRACTOR:

WAYNE RESA:

Apptegy, Inc.

Kurt Rheaume Sr. Exec. Dir, IT Solutions

Firm Name

Name/Title

DocuSigned by: Benjamin Berley
AC4AF6C886A5420...
Authorized Representative Signature

DocuSigned by: Kurt Rheaume
E48DFCC7980433...
Authorized Signature

Benjamin Berley Director of Sales

11/7/2024

Print Name/Title

Date

11/6/2024

Date



SECTION 1.0: SCOPE OF WORK - CONTRACT REQUIREMENTS

Wayne RESA (“WRESA”) Educational Services Department, in partnership with the Michigan Association of Counties (“MAC”) CoPro+ Program, has awarded this Master Agreement for Website Hosting and Maintenance Services.

For additional requirements and scope of work detailed responses, see RFP and the awarded proposal response provided as Attachment D.

This contract establishes the terms and conditions for the provision of Website Hosting and Maintenance Services by the contractor. The following requirements shall detail the scope of work, responsibilities, and expectations between the client and the contractor, ensuring the efficient and reliable procuring of Website Hosting and Maintenance Services.

1.1 Deliverables, Requirements, and Specifications

- A. Please see Contractor’s proposal (Attachment D) for a description of the following: Program Requirements.

B. SERVICE LEVEL AGREEMENT

This service level agreement (the “**SLA**”) supplements and is in addition to your Master Services Agreement (the “**Services Agreement**”) with Apptegy, Inc. (together with its affiliates, agents, and assigns, “**Apptegy**” or “**we**”) (collectively the “**Parties**”). More specifically, this SLA explains the measures Apptegy will take to help ensure the appropriate functionality and availability of the “**Services**” pursuant to the Services Agreement, and your rights in the event of potential interruptions in or unavailability of the Services. The effective date of this SLA will be the effective date of the Services Agreement, and it will terminate on the termination or expiration of the Services Agreement.

Your use of the Services will continue to be subject to the terms and conditions of the Services Agreement, which includes and incorporates Apptegy’s Terms of Use (the “**TOU**”) and Privacy Policy (the “**Privacy Policy**”), which can be found at www.apptegy.com/terms-and-conditions/ and www.apptegy.com/privacy-policy/, respectively.

1. **Definitions.** The terms below are defined as follows:



Component: A Component is each individual feature or function of the Services that is integral to your educational or business mission (e.g., your website, mobile app, Thrillshare, Media, Rooms).

Uptime: Uptime is the amount of time that each Component of the Services is available to you and operating as intended without substantial interruption, plus any scheduled or emergency maintenance. Uptime is calculated for each individual component on a percentage basis and is measured over each calendar month to the nearest minute based on the number of minutes in the month (for instance, a 31-day month contains 44,640 minutes). The guaranteed Uptime for each component of the Services is 99.9% (roughly 44,595 minutes in a 31-day month). Uptime percentage is calculated according to the following formula:

$$\frac{[(total\ minutes\ in\ month - Downtime) / total\ minutes\ in\ month] > 99.9\%}{}$$

Downtime: Downtime is the amount of time for each Component that you are either unable to access or use it without substantial interruption (in other words, “application failure”). Downtime, however, does not include time when the Services are unavailable or not functioning properly through your own fault or other excluded causes listed below in section 3. Like Uptime, Downtime is calculated as a percentage based on the number of minutes in any given month.

Credit: A Credit is how we will compensate you for any Downtime you may experience exceeding the 99.9% Uptime threshold for a Component.

Scheduled Maintenance: Scheduled Maintenance is any regularly scheduled maintenance that we perform to help ensure the integrity and functionality of the Services. We will use commercially reasonable efforts to ensure we give you reasonable notice before conducting such maintenance, and that it is conducted during non-business hours or hours of low usage (usually after 8:00 p.m. CST).

Emergency Maintenance: Emergency Maintenance includes maintenance we conduct but could not have reasonably anticipated based on the circumstances. Like our approach to Scheduled Maintenance, we will use commercially reasonable efforts to give you as much advance



notice of Emergency Maintenance as is reasonable and practical.

2. Support Requests. When you request support from Apptegy, it should be through our online support services, support email (support@apptegy.com), or support phone number (501-613-0370). Upon receipt of your request, we will respond as soon as possible, and use commercially reasonable, appropriate measures to minimize or resolve any errors or interruptions.

Given the nature of our products and services, we cannot provide guaranteed, precise response or resolution times. Subject to that limitation, our standard support team hours are 8:00 a.m. – 5:00 p.m. CST, Mondays through Fridays. We almost always respond to requests made on weekdays between 12:00 a.m. – 4:30 p.m. CST on the same calendar day, and generally respond to *any* request no later than the beginning of the next support team shift. For purposes of example only, our average response time to requests made during standard support hours is just under two (2) minutes, and most requests for support are closed within thirty (30) minutes (irrespective of an issue’s type or cause).

Response times are measured from the moment the request is received and the moment we reply to the request, whether that is to provide a solution or to get more information.

3. Services Covered. This SLA covers only those services provided by Apptegy to you pursuant to your Services Agreement. Additionally, any unavailability or loss of functionality resulting from the following will not be included in the calculation of Downtime:

- Interruptions resulting from user error (your own fault), including if you use the Services in a manner not contemplated by, or that otherwise violates, the Services Agreement;
- Interruptions caused by “force majeure” events, or other events reasonably outside our control. This would include, but is not limited to, natural disasters (e.g., floods or pandemics); war or other governmental interruptions; interruptions in utility services such as electricity and telecommunications including internet connectivity issues; and interruptions to physical tools or equipment that we do not own or control;

Interruptions caused by or related to third parties, including third-party services, networks, or tools, such as those integrated with our Services to provide certain functions (although we will use reasonable efforts to help communicate and resolve issues with relevant third parties, such interruptions will almost always be beyond our control and thus no guarantees can be made); and



- Interruptions resulting from Scheduled Maintenance and Emergency Maintenance, which are excluded when calculating the Downtime for a Component.

4. Uptime Guarantee and Service Credits. As indicated, we guarantee a service level of 99.9% Uptime for each Component, as calculated on a monthly basis. In the event the Uptime for a given Component fails to meet the 99.9% service level threshold for any calendar month, you will be entitled to a Credit for the Downtime.

Service Levels Service Credits

- < 99.9% but greater than or equal to 99.0% = 1%
- < 99.0% but greater than or equal to 95.0% = 5%
- < 95.0% but greater than or equal to 90.0% = 15%
- < 90.0% = 25%

For each calendar month during which we fail to meet the 99.9% service level, you will be entitled to receive a Credit equal to the percentage of fees that you actually paid to us for the affected Services for that month, as identified in the service level table above. Credits, if applicable, will be applied to your renewal invoice at the end of your then-current subscription term, or added on to the end of your then-current subscription term if you decide not to renew your Services with Apptegy.

You must request any Credit within ten (10) days following the end of the calendar month in which a failure occurred. When you notify us, you must also provide us with a sufficient description of the affected Component(s), the date(s), time(s), and duration(s) of the Downtime in writing. Note, however, that if we disagree with your calculation, we will provide you with an alternate calculation using our own service monitoring tools and equipment, and our determination of the Downtime percentage and potential Credit will be final. Notwithstanding the foregoing, we will first attempt to discuss with you and reach a mutually agreeable calculation before making a final determination as to the amount of Credit.

Credits are not refunds. As such, they cannot be exchanged into a cash amount. In addition, Credits are capped at a maximum of thirty (30) days of paid service, require you to have paid any outstanding invoices, and expire upon the termination of your Services Agreement. Excluding the remedies associated with any breach of warranty under the Services Agreement, the remedies set out in this section will be Apptegy’s sole obligation and your exclusive remedy with respect to any failure by us to meet the applicable service levels for any Component.

1.2 Training

The Contractor must provide orientation, training, ongoing technical support for efficient utilization of offered services.



Please see Contractor's proposal (Attachment D) for a description of the following:

- a) Any on-demand support resources.
- b) How Contractor will provide orientation, implementation, training, and ongoing technical support for application usage.
- c) On-going customer service.
- d) Key differentiators in service offerings, account management, and value-added services proposed by Contractor.
- e) Contractor's approach to meeting the requirements and a description of any services they are proposing to provide as part of their proposal.

1.3 Service Capabilities

1.3.1 Communication Plan/Contract Management

Please see Contractor's proposal (Attachment D) for a description of the following:

Contractor has identified their company standards of communication as they relate to contract performance, issue management, and change management. An issue is an identified event that, if not addressed, may affect schedule, scope, service, delivery, quality, or budget. A change is identified as a change in corporate leadership, structure, merger or acquisition.

1.4 Customer Service

Please see Contractor's proposal (Attachment D) for a description of the following:

The Contractor must have an accessible customer service department with an individual specifically assigned to Wayne RESA. Customer inquiries should be responded to with forty-eight (48) hours or two (2) business days unless it is an emergency issue.



SECTION 2.0 – PRICING REQUIREMENTS & SCHEDULE

2.1 Pricing Schedule

2.1.1 Pricing Schedule Worksheets

See Pricing Attachment A.

2.1.2 Tax Excluded from Price

(a) Sales Tax: Wayne RESA and local units of government are exempt from sales tax for direct purchases. The contractor's prices must not include sales tax.

(b) Federal Excise Tax: Governmental entities may be exempt from Federal Excise Tax, or the taxes may be reimbursable, if articles purchased under any resulting Contract are used for the State's exclusive use. Certificates showing exclusive use for the purposes of substantiating a tax-free, or tax-reimbursable sale will be sent upon request. If a sale is tax exempt or tax reimbursable under the Internal Revenue Code, the contractor's prices must not include the Federal Excise Tax.

2.1.3 The contractor agrees to offer pricing to Wayne RESA and its Participating Entities that is not higher than its current standard pricing available, as amended from time to time, at the following link(s): <https://www.apptegy.com/tips> and <https://www.apptegy.com/tips-rooms>.

2.2 Administrative Fee

All pricing submitted to Wayne RESA and its Participating Entities shall include 2.0% remittance fee to be remitted to CoPro+ by the contractor on a quarterly basis. Administrative fees will be paid against actual sales volume for each quarter. It is the contractor's responsibility to keep all pricing up to date and on file with Wayne RESA/CoPro+. All price changes shall be presented to Wayne RESA for acceptance, using the same format as was accepted in the original contract.



SECTION 3.0 - TERMS AND CONDITIONS

1. Wayne RESA Rights & Responsibilities

Wayne RESA has the right to amend a bid by one or more written addendums. Wayne RESA is responsible only for that, which is expressly stated in the solicitation document and any authorized written addenda thereto. Each addendum shall be made available to each person or organization, which Wayne RESA records indicate has received a bid.

Should any such addendum require additional information not previously requested, failure to address the requirements of such addendum may result in the Proposal not being considered, as determined in the sole discretion of Wayne RESA. Wayne RESA is not responsible for and shall not be bound by any representations otherwise made by any individual acting or purporting to act on its behalf.

2. Conflict of Interest

No Wayne RESA employee or agent whose position in Wayne RESA enables him/her to influence the selection of a Supplier for this Solicitation, or any competing solicitation, nor any spouse of economic dependent of such employees, shall be employed in any capacity by a Proposer or have any other direct or indirect financial interest in the selection of a Supplier.

3. Gratuities

It is improper for any Wayne RESA officer, employee or agent to solicit consideration, in any form, from a Proposer with the implication, suggestion or statement that the Proposer's provision of the consideration may secure more favorable treatment for the Proposer in the award of the Master Agreement or that the Proposer's failure to provide such consideration may negatively affect Wayne RESA's consideration of the Proposer's submission.

A Proposer shall not offer or give either directly or through an intermediary, consideration, in any form, to a Wayne RESA officer, employee or agent for the purpose of securing favorable treatment with respect to the award of the Master Agreement.

4. Laws

4.1 General Authority

This Contract is governed by, and construed according to, the substantive laws of the State of Michigan without regard to any Michigan choice of law rules that



would apply the substantive law of another jurisdiction to the extent not inconsistent with or preempted by federal law.

4.2 Compliance with Laws

The Contractor must comply with all applicable federal, state, and local laws and ordinances in providing the products and services.

4.3 Jurisdiction

Any dispute arising from the Contract must be resolved in the State of Michigan. With respect to any claim between the parties, the Contractor consents to venue in the federal courts of Wayne County, Michigan, and irrevocably waives any objections to this venue that it may have, such as lack of personal jurisdiction or forum non-conveniens.

4.4 Nondiscrimination

In the performance of the Contract, the Contractor agrees not to discriminate against any employee or applicant for employment, with respect to his or her hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, or physical or mental disability. To the extent applicable and required under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, et seq., and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, et seq., Contractor shall comply with this covenant and any breach of this provision may be regarded as a material breach of the Contract.

4.5 Unfair Labor Practices

Under 1980 PA 278, MCL 423.321, et seq., Wayne RESA must not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled under MCL 423.322. This information is compiled by the United States National Labor Relations Board. A Contractor of Wayne RESA, in relation to the Contract, must not enter into a contract with a Subcontractor, manufacturer, or supplier whose name appears in this register. Under MCL 423.324, Wayne RESA may void any Contract if, after award of the Contract, the name of the Contractor as an employer or the name of the Subcontractor, manufacturer or supplier of the Contractor appears in the register.

4.6 Intentionally Deleted



4.7 Freedom of Information

This Contract and all information submitted to Wayne RESA by the Contractor is subject to the Michigan Freedom of Information Act (FOIA), 1976 PA 442, MCL 15.231, et seq.

4.8 Abusive Labor Practices

The Contractor may not furnish any deliverable(s) that were produced fully or partially by forced labor, convict labor, forced or indentured child labor, or indentured servitude.

“Forced or indentured child labor” means all work or service (1) exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or (2) performed by any person under the age of 18 under a contract the enforcement of which can be accomplished by process or penalties.

5. General Provisions

5.1 Bankruptcy and Insolvency

Wayne RESA may, without prejudice to any other right or remedy, fully or partially terminate this contract if:

- (a) the Contractor files for bankruptcy protection;
- (b) an involuntary petition is filed against the Contractor and not dismissed within 30 days;
- (c) the Contractor becomes insolvent or a receiver is appointed due to the Contractor's insolvency;
- (d) the Contractor makes a general assignment for the benefit of creditors; or
- (e) the Contractor or its affiliates are unable to provide reasonable assurances that the Contractor or its affiliates can provide the deliverable(s) under this contract.

5.2 Media Releases

News releases (including promotional literature and commercial advertisements) pertaining to the solicitation and this Contract or the project to which it relates will not be made without prior approval by Wayne RESA, and only in accordance with the instructions from Wayne RESA.

5.3 Antitrust Assignment

The Contractor assigns to Wayne RESA any claim for overcharges resulting from county or federal antitrust violations to the extent that those violations concern services supplied by third parties toward fulfillment of the Contract.



5.4 *Legal Effect*

Wayne RESA is not liable for costs incurred by the Contractor or for payment(s) under this contract until the Contractor is authorized to perform under Section 1.3, Quotes/Order/Delivery/Inspection.

5.5 *Entire Agreement*

This Contract constitutes the entire agreement between the parties with respect to the subject matter herein and supersedes all prior agreements, whether written or oral. All attachments and exhibits specifically referenced and attached to this contract are hereby incorporated by reference in their entirety and form an integral part of this contract. This Contract may not be amended or modified without the prior written consent of both Parties.

5.6 *Order of Precedence*

In the event of any inconsistency or conflict between the documents forming this contract, such inconsistency shall be resolved by giving precedence in the following descending order:

- (a) Attachment B – COVID & ARPA Federal Requirements (if WRESA funding source requires);
- (b) Mandatory sections (Contract Term, Legal Effect, Insurance, Indemnification, Termination, Governing Law, Limitation of Liability);
- (c) The most recent Statement of Work expressly made part of this Contract;
- (d) The Terms and Conditions as set forth in Section 3.0 of this Contract, excluding the sections listed in subsection (a);
- (e) Attachment A – Pricing
- (f) Any Purchase Order, Direct Voucher, or Procurement Card Order issued pursuant to this Contract;
- (g) Attachment C – Contractor’s Master Services Agreement, Terms of Use (available at www.apptegy.com/terms-of-use) and Privacy Policy (available at www.apptegy.com/privacy);
- (h) Attachment D – RFP Requirements and Proposers responses to the RFP; and
- (i) Any other document expressly incorporated by reference into this Contract.

Future amendments or additional Statements of Work, once duly executed, shall take precedence over the corresponding sections of this Contract.

5.7 *Headings*

The captions and section headings used in this Contract are for convenience only and may not be used to interpret the scope and intent of this Contract.

5.8 *Reformation and Severability*

Each provision of the Contract is severable from all other provisions of the contract. If any provision of this contract is held unenforceable, then the contract



will be modified to reflect the parties' original intent. All remaining provisions of the Contract remain in full force and effect.

5.9 Approval

Unless otherwise provided in this Contract, approval(s) must be in writing and must not be unreasonably withheld or delayed.

5.10 No Waiver of Default

Failure by a party to insist upon strict adherence to any term of the Contract does not waive that party's right to later insist upon strict adherence to that term, or any other term, of the Contract.

5.11 Survival

The provisions of this Contract that impose continuing obligations, including warranties, indemnification, and confidentiality, will survive the expiration or termination of this Contract.

5.12 Electronic Payment Requirement

The Contractor must state if they are able to receive electronic fund transfer (EFT) payments.

5.13 Cooperation with Third Parties

The Contractor and its Subcontractors must cooperate with Wayne RESA and its agents and other Contractors, including Wayne RESA's quality assurance personnel. To the extent commercially reasonable, the Contractor must provide access to its personnel, systems, and facilities related to the Contract to the extent that access will not interfere with or jeopardize the safety or operation of the systems or facilities.

5.14 Relationship of the Parties

The relationship between Wayne RESA and Contractor is that of client and independent contractor. No agent, employee, or servant of the Contractor, or any of its subcontractors, is an employee, agent or servant of Wayne RESA. The Contractor will be solely and entirely responsible for its acts and the acts of its agents, employees, servants, and subcontractors during the performance of the Contract.

5.15 Time of Performance

(a) The Contractor must immediately notify Wayne RESA upon becoming aware of any circumstances that may reasonably be expected to jeopardize the completion of any Deliverable(s) by the scheduled due dates in the latest Wayne RESA-approved delivery schedule and must inform Wayne RESA of the projected actual delivery date.



(b) If the Contractor believes that a delay in performance by Wayne RESA has caused or will cause the Contractor to be unable to perform its obligations according to specified contract time periods, the Contractor must immediately notify Wayne RESA and, to the extent practicable, continue to perform its obligations according to the contract time periods. The Contractor will not be in default for a delay in performance to the extent the delay is caused by Wayne RESA

5.16 Excusable Failure

Neither party will be liable for any default, damage or delay in the performance of its obligations that is caused by government regulations or requirements, power failure, electrical surges or current fluctuations, war, forces of nature or acts of God, delays or failures of transportation, equipment shortages, suppliers' failures, acts or omissions of common carriers, fire, riots, civil disorders, labor disputes, embargoes, injunctions (provided the injunction was not issued as a result of any fault or negligence of the party seeking to have its default or delay excused), or any other cause beyond the reasonable control of a party; provided the non-performing party and any Subcontractors are without fault in causing the default or delay, and the default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans, or other means, including disaster recovery plans.

If a party does not perform its contractual obligations for any of the reasons listed, the non-performing party will be excused from any further performance of its affected obligation(s) for as long as the circumstances prevail. The non-performing party must promptly notify the other party immediately after the excusable failure occurs, and when it abates or ends. Both parties must use commercially reasonable efforts to resume performance.

If any of the reasons listed substantially prevent, hinder, or delay the Contractor's performance of the deliverable(s) for more than 10 days, and Wayne RESA reasonably determines that performance is not likely to be resumed within a period of time that is satisfactory to Wayne RESA, Wayne RESA may terminate any portion of the Contract so affected in accordance with the other applicable termination provisions contained herein.

The Contractor will not have the right to any additional payments from Wayne RESA as a result of any Excusable Failure or to payments for deliverable(s) not provided as a result of the Excusable Failure. The Contractor will not be relieved of a default or delay caused by acts or omissions of its Subcontractors except to the extent that a Subcontractor experiences an Excusable Failure and the Contractor cannot reasonably circumvent the effect of the Subcontractor's default or delay in performance through the use of alternate sources, workaround plans, or other means, including disaster recovery plans.



5.17 Retention of Records

(a) The Contractor must retain all financial and accounting records related to this Contract for a period of seven years after the Contractor performs any work under this contract (Audit Period).

(b) If an audit, litigation, or other action involving the Contractor's records is initiated before the end of the Audit Period, the Contractor must retain the records until all issues arising out of the audit, litigation, or other action are resolved or until the end of the Audit Period, whichever is later.

5.18 Examination of Records

Wayne RESA, at its own expense and upon ten (10) days notice to the Contractor, may examine and copy any of the Contractor's records that relate to this contract. Wayne RESA does not have the right to review any information deemed confidential by the Contractor if access would require the information to become publicly available.

5.19 Audit Resolution

If necessary, the Contractor and Wayne RESA will meet to review any audit report promptly after its issuance. The Contractor must respond to each report in writing within thirty (30) days after receiving the report, unless the report specifies a shorter response time. The Contractor and Wayne RESA must develop, agree upon, and monitor an action plan to promptly address and resolve any deficiencies, concerns, or recommendations in the report.

5.20 Errors

If an audit reveals any financial errors in the records provided to Wayne RESA, the amount in error must be reflected as a credit or debit on the next invoice and subsequent invoices until the amount is paid or refunded in full. However, a credit or debit may not be carried forward for more than four invoices or beyond the termination of the contract. If a balance remains after four invoices, the remaining amount will be due as a payment or refund within forty-five (45) days of the last invoice on which the balance appeared or upon termination of the contract, whichever is earlier.

5.21 Disclosure of Litigation

(a) To the extent required under any applicable federal or state law, rule, or regulation, within thirty (30) days after receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "Proceeding") that arises during the term of this Contract, the Contractor must disclose the following to the Contract Administrator:

- (i) A criminal Proceeding involving the Contractor (or any Subcontractor) or any of its officers or directors;
- (ii) A parole or probation proceeding;



- (iii) A proceeding involving the Contractor (or any Subcontractor) or any of its officers or directors under the Sarbanes-Oxley Act; and
- (iv) A civil proceeding to which the Contractor (or, if the Contractor is aware, any Subcontractor) is a party, and which involves (A) a claim that might reasonably be expected to adversely affect the viability or financial stability of the Contractor or any Subcontractor; or (B) a claim or written allegation of fraud against the Contractor (or, if the Contractor is aware, any Subcontractor) by a governmental or public entity arising out of the Contractor's business dealings with governmental or public entities.

(b) Information provided to Wayne RESA from the Contractor's publicly filed documents will satisfy the requirements of this Section.

(c) If any proceeding that is disclosed to Wayne RESA or of which Wayne RESA otherwise becomes aware, during the term of this Contract, would cause a reasonable party to be concerned about:

- (i) the ability of the Contractor (or a Subcontractor) to continue to perform this Contract; or
- (ii) whether the Contractor (or a Subcontractor) is engaged in conduct that is similar in nature to the conduct alleged in the Proceeding and would constitute a breach of this contract or a violation of federal or state law, regulations, or public policy, then the Contractor must provide Wayne RESA all requested reasonable assurances that the Contractor and its Subcontractors will be able to continue to perform this contract.

5.22 Other Disclosures

(a) Any inquiries or communications by Wayne RESA Administrator relating to this Contract may be directed to the following email address: billing@apptegy.com.

(b) Additionally, Contractor will notify Wayne RESA Administrator of any changes to company affiliations that have a material and adverse impact on Contractor's performance of this Contract.

5.23 CoPro+ Requirements

(a) The Contractor will work with CoPro+ to ensure that all purchasers/Participating Entities are members before extending the Contract pricing.

(b) To the extent that CoPro+ Members wish to purchase Services under this contract:

- (1) Requests for Quotes and Pricing

Participating Entities shall submit to Contractor requests for quotes for the Services, including the details of any additional specific needs or deliverables



requested. Pricing shall be based on the current rates found at <https://www.apptegy.com/tips> and <https://www.apptegy.com/tips-rooms>. Contractor, however, shall have exclusive discretion to alter pricing based on any additional or different deliverables or conditions requested by Participating Entity which may alter or be outside the scope of the Services as described in Contractor's Proposal. Contractor shall also have the sole discretion to agree or decline to provide such additional or different deliverables or conditions to a Participating Entity.

(2) Payment and Invoicing

If Contractor and a Participating Entity agree on pricing and any other additional deliverables or special conditions following a request for a quote, the Contractor shall submit to the Participating Entity for signing a copy of its standard Master Services Agreement (the "Master Agreement"), which shall also reflect the agreed-to-details. Upon signing, the Master Agreement shall be binding and enforceable against Participating Entity and Contractor. For clarity, notwithstanding any provision of this Contract to the contrary, the Master Agreement and its Terms of Use and Privacy Policy shall have control and have top precedence with respect to what Services are to be provided, the pricing schedule, the payment schedule, and the term length of the contract and any potential renewals. Otherwise, in the event of a conflict between the terms and provisions of the Master Agreement and this Contract, the terms and provisions of this Contract shall control.

(3) Purchase Orders

Participating Entities may also submit to Contractor a Purchase Order ("PO") to confirm such details as pricing and payment. Notwithstanding any provision of this Contract to the contrary, any additional set of terms and conditions included in or referenced by a PO shall not become a part of the Master Agreement or this Contract and shall not be binding or enforceable. Contractor further agrees to submit invoices to and receive payment from CoPro+ Members, Participating Entities, on a direct and individual basis.

5.24 Bid Protest Process

Bid protests are filed by Vendors because they seek to remedy a wrong, actual or perceived, which could inflict or has inflicted injury or hardship to their company as a result of some action taken by Wayne RESA during the solicitation process. Common reasons for Vendors filing a bid protest include:

- The Master Agreement was awarded to Vendor with higher prices.
- The Vendor proposal was rejected for invalid reasons.
- The Vendor awarded the resultant Master Agreement did not comply with solicitation specifications.



1. General Authority

Wayne RESA Administrator maintains the exclusive authority and responsibility to purchase and rent all materials, supplies and equipment, furnishings, fixtures and all other personal property for use by Wayne RESA departments, districts or agencies which are governed by Wayne RESA’s Board.

2. Protest Procedure

Upon a determination of Vendor selection from a bid process, the Purchasing Agent will post a “Notice of Intent to Award” on Wayne RESA’s bid website, and notify all solicitation participants of the intended award via email.

- A. Non-selected Vendors will have three (3) business days from the date the notice is posted to file a formal bid protest with Wayne RESA Administrator or the designee.
- B. The bid protest, which must be received by Wayne RESA Administrator or designee within the three (3) day period, shall be in writing, and include the specific facts, circumstances, reasons and/or basis for the protest. This written notice may be in the form of a letter, fax or email.
- C. Upon execution of the Master Agreement with the selected Vendor, Wayne RESA Administrator or designee will not take action on a bid protest, but a written response will be provided to the protesting Vendor.
- D. If a Vendor’s bid protest is appropriately filed, Wayne RESA Administrator or designee may delay the award of the Master Agreement until the matter is resolved.
- E. Notwithstanding the foregoing, throughout the bid protest review process, Wayne RESA has no obligation to delay or otherwise postpone an award of a Master Agreement based on a bid protest. In all cases, Wayne RESA reserves the right to make an award when it is determined to be in the best interest of Wayne RESA to do so.
- F. Wayne RESA Administrator or designee will respond to all bid protests in a timely manner.

6. Insurance

6.1 Liability Insurance

For the purpose of this Section, "Wayne RESA" includes its departments, divisions, agencies, offices, commissions, officers, employees, and agents.

(a) The following apply to all insurance requirements:

- (i) Wayne RESA, in its sole discretion, may approve the use of a fully-funded self-insurance program in place of any specified insurance identified in this Section.
- (ii) Where specific coverage limits are listed in this Section, they represent the minimum acceptable limits. If the Contractor's policy contains higher limits, Wayne RESA is entitled to coverage to the extent of the higher limits. The



minimum limits of coverage specified are not intended, and may not be construed to limit any liability or indemnity of the Contractor to any indemnified party or other persons.

(b) The Contractor must:

(i) provide proof that it has obtained the minimum levels of insurance coverage indicated or required by law, whichever is greater. The insurance must protect Wayne RESA from claims that are alleged or may arise or result from the Contractor's or a Subcontractor's performance, including any person directly or indirectly employed by the Contractor or a Subcontractor, or any person for whose acts the Contractor or a Subcontractor may be liable.

(ii) waive all rights against Wayne RESA for the recovery of damages that are covered by the insurance policies the Contractor is required to maintain under this Section. The Contractor's failure to obtain and maintain the required insurance will not limit this waiver.

(iii) ensure that all insurance coverage provided relative to this Contract is primary and non-contributing to any comparable liability insurance (including self-insurance) carried by Wayne RESA

(iv) obtain insurance, unless Wayne RESA approves otherwise, from any insurer that has an A.M. Best rating of "A" or better and a financial size of VII or better, or if those ratings are not available, a comparable rating from an insurance rating agency approved by Wayne RESA. All policies of insurance must be issued by companies that have been approved to do business in Wayne RESA

(v) maintain all required insurance coverage throughout the term of this Contract and any extensions. However, in the case of claims-made Commercial General Liability policies, the Contractor must secure tail coverage for at least three years following the termination of this Contract.

(vi) pay all deductibles.

6.2 Subcontractor Insurance Coverage

Except where Wayne RESA has approved a subcontract with other insurance provisions, the Contractor must require any Subcontractor to purchase and maintain the insurance coverage required in Section 6.1, Liability Insurance. Alternatively, the Contractor may include a Subcontractor under the Contractor's insurance on the coverage required in that Section. The failure of a Subcontractor to comply with insurance requirements does not limit the Contractor's liability or responsibility.

6.3 Certificates of Insurance and Other Requirements

Before the Contract is signed, the Contractor must provide evidence that Wayne RESA and its agents, officers, and employees are listed as additional insured's by means of blanket additional insured clause under Contractor's commercial general



liability and commercial automobile liability policy. Upon receipt of written request, the Contractor must provide Wayne RESA Administrator with all applicable certificates of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in Section 6.1, Liability Insurance. Each certificate must be on the standard "accord" form or equivalent. Each certificate must be prepared and submitted by the insurer and must contain a provision indicating that the coverage afforded will not be cancelled, materially changed, or not renewed without thirty (30) days prior notice, except for ten (10) days for nonpayment of premium, to Wayne RESA Administrator.

7. Indemnification

7.1 *General Indemnification*

To the extent required by any applicable federal or state law, the Contractor must indemnify, defend, and hold Wayne RESA harmless from liability, including all claims and losses, and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties), accruing or resulting to any person, firm, or corporation that may be injured or damaged by the Contractor in the performance of this Contract and that are attributable to the gross negligence or intentional misconduct of the Contractor, any of its subcontractors, or by anyone else for whose acts any of them may be liable.

7.2 *Employee Indemnification*

In any claims against Wayne RESA, its departments, agencies, commissions, officers, employees, and agents, by any employee of the Contractor or any of its subcontractors, the indemnification obligation will not be limited in any way by the amount or type of damages, compensation, or benefits payable by or for the Contractor or any of its subcontractors under worker's disability compensation acts, disability benefit acts, or other employee benefit acts. This indemnification clause is intended to be comprehensive. Any overlap in provisions, or the fact that greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other provisions.

7.3 *Patent/Copyright Infringement Indemnification*

(a) To the extent permitted by law, the Contractor must indemnify and hold Wayne RESA harmless from liability, including all claims and losses, and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest, and penalties) resulting from any action threatened or brought against Wayne RESA to the extent that the action is based on a claim that any piece of equipment, software, commodity, or service supplied by the Contractor or its subcontractors, or its operation, use, or reproduction, infringes any United States patent, copyright, trademark or trade secret of any person or entity.



(b) If, in Wayne RESA's or the Contractor's opinion, any piece of equipment, software, commodity or service supplied by the Contractor or its subcontractors, or its operation, use, or reproduction, is likely to become the subject of an infringement claim, the Contractor must, at its expense: (i) procure for the State the right to continue using the equipment, software, commodity or service or, if this option is not reasonably available to the Contractor; or (ii) replace or modify to Wayne RESA's satisfaction the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing, or, if this option is not reasonably available to Contractor.

(c) Notwithstanding any provision herein to the contrary, the Contractor has no obligation to indemnify or defend Wayne RESA for, or to pay any costs, damages or attorneys' fees related to, any infringement claim based upon: (i) equipment, software, commodity or service developed based on written specifications of Wayne RESA; (ii) use of the equipment, software, or commodity in a configuration other than intended, implemented or approved by the Contractor, including any modification of the same by Wayne RESA; or (iii) the combination, operation, or use of the equipment, software, or commodity with equipment, software, or commodities not supplied by the Contractor under this Contract.

7.4 Continuing Obligation

The Contractor's duty to indemnify continues in full force and effect, notwithstanding the expiration or early cancellation of the contract, with respect to any claims based on facts or conditions that occurred before expiration or cancellation.

7.5 Limitation of Liability

Neither the Contractor nor Wayne RESA is liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages. To the extent permitted by law and notwithstanding any provision to the contrary in this Contract (including without limitation any other liability or indemnity term herein), IN NO EVENT WILL APPTEGY'S TOTAL LIABILITY RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY CLIENT FOR THE SERVICES IN THE YEAR DURING WHICH THE ACTIONS AT ISSUE OCCURRED.

8. Warranties

8.1 Warranties and Representations

The Contractor agrees that:



- (a) It is capable of fulfilling and will fulfill all of its obligations under this contract. The performance of all obligations under this contract must be provided in a timely, professional, and workmanlike manner and in accordance with the standard of care, skill, training, diligence, and judgment provided by competent providers performing services of a similar nature. In the event of the unavailability of the services, Wayne RESA/Participating Entity's remedies will be as provided for in Contractor's standard Service Level Agreement, which is listed in Section 1.1 B.
- (b) The contract appendices, attachments, and exhibits identify the equipment, software, and services necessary for the Deliverable(s) to comply with the contract's requirements.
- (c) It is the lawful owner or licensee of any Deliverable licensed or sold to Wayne RESA by Contractor or developed by the Contractor for this contract, and Contractor has all of the rights necessary to convey to Wayne RESA the rights of access or licensed use, as applicable, of any Deliverable(s). None of the Deliverable(s) provided by Contractor to Wayne RESA, nor their use by Wayne RESA, will infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party.
- (d) The contract signatory has the authority to enter into this contract on behalf of the Contractor.
- (f) It is qualified and registered to transact business in all locations where required.
- (g) Neither the Contractor nor any affiliates, nor any employee of either, has, will have, or will acquire, any interest that would conflict in any manner with the Contractor's performance of its duties and responsibilities to Wayne RESA or otherwise create an appearance of impropriety with respect to the award or performance of this contract. The Contractor must notify Wayne RESA about the nature of any conflict or appearance of impropriety as soon as commercially practicable of learning about it.
- (h) Neither the Contractor nor any affiliates, nor any employee of either, has accepted or will accept anything of value based on an understanding that the actions of the Contractor, its affiliates, or its employees on behalf of Wayne RESA would be influenced. The Contractor must not attempt to influence any Wayne RESA employee by the direct or indirect offer of anything of value.
- (i) Neither the Contractor nor any affiliates, nor any employee of either, has paid or agreed to pay any person, other than bona fide employees and consultants working solely for the Contractor or the affiliate, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.
- (j) The Contractor arrived at its proposed prices independently, without communication or agreement with any other Proposer for the purpose of restricting competition. The Contractor did not knowingly disclose its quoted prices for this contract to any other Proposer before the award of the contract. The Contractor made no attempt to induce any other person or



entity to submit or not submit a proposal for the purpose of restricting competition.

(k) All financial statements, reports, and other information furnished by the Contractor to Wayne RESA in connection with the award of this contract fairly and accurately represent the Contractor's business, properties, financial condition, and results of operations as of the respective dates covered by the financial statements, reports, or other information. There has been no material adverse change in the Contractor's business, properties, financial condition, or results of operation.

(l) All written information furnished to Wayne RESA by or for the Contractor in connection with the award of this contract is true, accurate, and complete, and contains no false statement of material fact nor omits any material fact that would make the submitted information misleading.

(m) It will immediately notify Wayne RESA Administrator if any of the material and/or applicable certifications, representations, or disclosures made in the Contractor's original bid response change after the contract is awarded.

8.2 *Intentionally Deleted*

8.3 *Intentionally Deleted*

8.4 *Intentionally Deleted*

8.5 *Consequences for Breach*

In addition to any remedies available in law, if the Contractor breaches any of the warranties contained in Section 8, Warranties, the breach may be considered a material default.

9. Contract Administration

9.1 *Issuing Office*

This Contract is issued by Wayne RESA on behalf of all counties and local units of government. Wayne RESA Administrator or designee is the only entity authorized to modify the terms and conditions of this contract, including the prices and specifications. The Contract Administrator will be designated at the time of the contract award.

9.2 *Contract Administrator*

The Contract Administrator will monitor and coordinate contract activities on a day-to-day basis.



9.3 *Contract Changes*

(a) If Wayne RESA requests or directs the Contractor to provide any Deliverable(s) that the Contractor believes are outside the scope of the Contractor's responsibilities under the contract, the Contractor must notify Wayne RESA before performing the requested activities. If the Contractor fails to notify Wayne RESA, any activities performed will be considered in-scope and not entitled to additional compensation or time. If the Contractor begins work outside the scope of the contract and then ceases performing that work, the Contractor must, at the request of Wayne RESA, retract any out-of-scope work that would adversely affect the contract.

(b) Wayne RESA or the Contractor may propose changes to the contract. If the Contractor or Wayne RESA requests a change to the Deliverable(s) or if Wayne RESA requests additional Deliverable(s), the Contractor must provide a detailed outline of all work to be done, including tasks, timeframes, listing of key personnel assigned, estimated hours for each individual per Deliverable, and a complete and detailed cost justification. If the parties agree on the proposed change, Wayne RESA Administrator will prepare and issue a notice that describes the change, its effects on the Deliverable(s), and any affected components of the contract (Contract Change Notice).

(c) No proposed change may be performed until Wayne RESA issues a duly executed Contract Change Notice for the proposed change.

9.4 *Price Changes*

Prices quoted on all bids, are the maximum for the Term of the Contract as established herein. Requested changes including increases or decreases in price may only occur upon the mutual, written, and signed agreement of the Parties.

9.5 *Covenant of Good Faith*

Each party must act reasonably and in good faith. Unless otherwise provided in this contract, the parties will not unreasonably delay, condition or withhold their consent, decision, or approval any time it is requested or reasonably required in order for the other party to perform its responsibilities under the contract.

9.6 *Assignments*

(a) Except in connection with a merger, acquisition, or sale of all or substantially all of a party's assets or voting securities, neither party may assign this contract, or assign or delegate any of its duties or obligations under the contract, to another party (whether by operation of law or otherwise), without the prior approval of the other party. Wayne RESA may, however, assign this contract to any other Wayne RESA, or local unit of government without the prior approval of the Contractor.

(b) If the Contractor intends to assign this contract or any of the Contractor's rights or duties under the contract, the Contractor must notify



Wayne RESA and provide adequate information about the assignee at least ninety (90) days before the proposed assignment or as otherwise provided by law or court order. Wayne RESA may withhold approval from proposed assignments, subcontracts, or novations if Wayne RESA determines, in its sole discretion, that the transfer of responsibility would decrease Wayne RESA's likelihood of receiving performance on the contract or Wayne RESA's ability to recover damages.

(c) If Wayne RESA permits an assignment of the Contractor's right to receive payments, the Contractor is not relieved of its responsibility to perform any of its contractual duties. All payments must continue to be made to one entity.

9.7 Criminal Background Checks

Supplier hereby certifies that any employees, subcontractors and volunteers of the Supplier who will have duties related to the contracted services; have passed a Wayne RESA criminal history background check if required.

10. Acceptance of Deliverables

10.1 Delivery Responsibilities

Unless otherwise specified by Wayne RESA, the following are applicable to all deliveries:

(a) The Contractor is responsible for delivering the deliverable(s) by the applicable delivery date agreed upon by both Parties.

10.2 Process for Acceptance of Deliverable(s)

Wayne RESA's review period for acceptance of the deliverable(s) is governed by the applicable Statement of Work, and if the Statement of Work does not specify Wayne RESA's review period, it is by default thirty (30) days for a deliverable (Wayne RESA Review Period). Wayne RESA will notify the Contractor by the end of Wayne RESA Review Period that either:

- (a) the deliverable is accepted in the form delivered by the Contractor;
- (b) the deliverable is accepted, but noted deficiencies must be corrected;
- or
- (c) the deliverable is rejected along with notation of any deficiencies that must be corrected before acceptance of the deliverable.

If Wayne RESA delivers to the Contractor a notice of deficiencies, the Contractor will correct the described deficiencies and within thirty (30) Days resubmit the deliverable(s) with an explanation that demonstrates all corrections have been made to the original deliverable(s). The Contractor's correction efforts will be made at no additional charge. Upon receipt of a corrected deliverable from the



Contractor, Wayne RESA will have a reasonable additional period of time, not to exceed 30 Days, to accept the corrected deliverable.

10.3 Acceptance of Deliverable(s)

(a) Wayne RESA's obligation to comply with any Wayne RESA Review Period is conditioned on the timely delivery of the deliverable(s). Wayne RESA Review Period will begin on the first business day following Wayne RESA's receipt of the deliverable(s).

(b) Wayne RESA may inspect the deliverable to confirm that all components have been delivered without material deficiencies. If Wayne RESA determines that the deliverable or one of its components has material deficiencies, Wayne RESA may reject the deliverable without performing any further inspection or testing.

(c) Wayne RESA will only approve a deliverable after confirming that it conforms to and performs according to its specifications without material deficiency. Wayne RESA may, in its discretion, conditionally approve a deliverable that contains material deficiencies if Wayne RESA elects to permit the Contractor to correct those deficiencies post-approval. The Contractor remains responsible for working diligently to correct within a reasonable time at the Contractor's expense, all material deficiencies in the deliverable that remain outstanding at the time of Wayne RESA approval.

(d) If, after three opportunities the Contractor is unable to correct all material deficiencies, Wayne RESA may: (i) demand that the Contractor cure the failure and give the Contractor additional time to do so at the sole expense of the Contractor; (ii) fully or partially terminate the Contract for default by giving notice to the Contractor. Notwithstanding the foregoing, Wayne RESA cannot use, as a basis for exercising its termination rights under this Section, deficiencies discovered in a repeat Wayne RESA Review Period that could reasonably have been discovered during a prior Wayne RESA Review Period.

(e) Wayne RESA, at any time and in its reasonable discretion, may reject the deliverable without notation of all deficiencies if the acceptance process reveals deficiencies in a sufficient quantity or of a sufficient severity that renders continuing the process unproductive or unworkable.

11. Termination & Transition

11.1 Intentionally Deleted

11.2 Intentionally Deleted

11.3 Intentionally Deleted



11.4 Notice and Right to Cure

If the Contractor breaches the Contract, and Wayne RESA, in its sole discretion, determines that the breach is curable, Wayne RESA will provide the Contractor notice of the breach and a period of at least thirty (30) days to cure the breach. Wayne RESA does not need to provide notice or an opportunity to cure for successive or repeated material breaches or if Wayne RESA determines, in its sole discretion, that a breach poses a serious and imminent threat to the health or safety of any person or the imminent loss, damage, or destruction of any real or tangible personal property.

11.5 Termination for Cause

(a) Wayne RESA may fully or partially terminate this Contract for cause by notifying the Contractor if the Contractor: (i) breaches any of its material duties or obligations (including a Chronic Failure to meet any SLA); or (ii) fails to cure a breach within the time period specified in a notice of breach provided by Wayne RESA

(b) If Wayne RESA partially terminates this Contract for cause, any charges payable to the Contractor will be equitably adjusted to reflect those deliverable(s) that are terminated. Wayne RESA must pay for all deliverable(s) for which final acceptance has been granted before the termination date. Any services or related provisions of this Contract that are terminated for cause must cease on the effective date of the termination.

(c) If Wayne RESA terminates this Contract for cause and it is determined, for any reason, that the Contractor was not in breach of the Contract, the termination will be deemed to have been a termination under Section 11.6, Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in that Section.

11.6 Termination for Convenience

Wayne RESA may fully or partially terminate this Contract for its convenience if Wayne RESA determines that a termination is in Wayne RESA's best interest. Reasons for the termination are within the sole discretion of Wayne RESA and may include: (a) Wayne RESA no longer needs the deliverable(s) specified in this Contract; (b) a relocation of office, program changes, or changes in laws, rules, or regulations make the Deliverable(s) no longer practical or feasible for Wayne RESA; (c) unacceptable prices for Contract changes; or (d) falsification or misrepresentation, by inclusion or non-inclusion, of information material to a response to any solicitation issued by Wayne RESA. Wayne RESA may terminate this Contract for its convenience by giving Contractor notice at least 30 days before the date of termination.



11.7 Termination for Criminal Conviction

Wayne RESA may terminate this Contract immediately and without further liability or penalty if the Contractor, an officer of the Contractor, or an owner of a 25% or greater share of the Contractor is convicted of a criminal offense related to a Wayne RESA, public, or private Contract or subcontract.

11.8 Rights and Obligations upon Termination

(a) If Wayne RESA terminates this Contract for any reason, the Contractor must:

- (i) stop all work as specified in the notice of termination;
- (ii) take any action that may be necessary, or that Wayne RESA may direct, to preserve and protect deliverable(s) or other Wayne RESA property in the Contractor's possession;
- (iii) take all appropriate action to secure and maintain Wayne RESA information confidentially.

(b) If Wayne RESA terminates this Contract under Section 11.6, Termination for Convenience, Wayne RESA must pay the Contractor all charges due for deliverable(s) provided before the date of termination. Regardless of the basis for the termination, Wayne RESA is not obligated to pay or otherwise compensate the Contractor for any lost expected future profits, costs, or expenses incurred with respect to deliverable(s) not actually completed.

(c) If Wayne RESA terminates this contract for any reason, Wayne RESA may assume, at its option, any subcontracts and agreements for deliverable(s), and may pursue completion of the deliverable(s) by replacement contract or as Wayne RESA deems expedient.

11.9 Reservation of Rights

In the event of any full or partial termination of this contract, each party reserves all rights or remedies otherwise available to the party.

11.10 Contractor Transition Responsibilities

If this Contract terminates under, Termination by Wayne RESA, the Contractor must make reasonable efforts to transition the performance of the work, to Wayne RESA or a third party designated by Wayne RESA within a reasonable period of time that does not exceed 30 days from the date of termination. For clarity, such efforts shall not include the transition or conveyance of any software, source code, or any other proprietary or confidential information of the Contractor including trade secrets or other intellectual property, of which Contractor shall retain exclusive ownership.



11.11 Termination by Contractor

If Wayne RESA breaches the contract and the Contractor, in its sole discretion, determines that the breach is curable, the Contractor will then provide Wayne RESA with notice of the breach and a time period (not less than thirty (30) days) to cure the breach.

The Contractor may terminate this Contract if Wayne RESA: (a) materially breaches its obligation to pay the Contractor undisputed amounts due; (b) breaches its other obligations to an extent that makes it impossible or commercially impractical for the Contractor to complete the deliverable(s); or (c) does not cure the breach within the time period specified in a notice of breach.

12. Additional Contract Terms

12.1 COVID and ARPA Federal Requirements

Wayne RESA has sought to obtain federal funding to augment its response to the COVID-19 pandemic. Attachment B includes regulatory provisions and clauses as required under 2 C.F.R. 200 and other federal regulations associated with the federal funding being provided under this Contract and is attached and incorporated by reference herein to the Master Agreement/Contract (the “Contract”).

12.2 Participating Entity Restrictions and Responsibilities

Participating Entity’s Thrillshare account is solely for Participating Entity’s use. Participating Entity is exclusively responsible for all activities under its Thrillshare account and for maintaining the confidentiality of its username and password. Participating Entity agrees to notify Contractor immediately of any known unauthorized use or any other breach of security involving its account, or of any such event that it reasonably should have known of. Contractor will not be liable for any loss incurred as a result of an unauthorized use of Participating Entity’s account resulting from the fault of the Participating Entity or its employees, agents, or other representatives as applicable. Participating Entity 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. Participating Entity will only post Participating Entity Content for which it owns all rights or has express permission to post from the rights holder.

12.3 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 Contract, 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. Participating Entity is solely



responsible for ensuring that its use of those tools and resources complies with the applicable terms of service or other agreements.

12.4 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 Contract. Without limiting the generality of the foregoing, Participating Entity acknowledges that non-public information about the features, functionality, and performance of the Services is Confidential Information.

Without limiting the generality of the foregoing, Participating Entity acknowledges that pursuant to the Contract, it may receive certain information that is confidential and/or proprietary to Contractor. Notwithstanding any other provision of the Contract, and subject to the Michigan Freedom of Information Act (FOIA), 1976 PA 442, MCL 15.231, et seq and any of its applicable exceptions or exemptions, such information shall remain the exclusive property of Contractor, shall not be disclosed to other third parties, and shall be returned to Contractor upon termination of the Contract.

The Parties also acknowledge and agree that, as indicated above, Contractor must share, post, disclose, and/or otherwise distribute certain data including Participating Entity Content in order to provide and perform the Services. Nonetheless, Contractor also acknowledges that other data collected during the course of performing its duties shall be protected by federal and/or state data privacy law (e.g., FERPA, 20 U.S.C. 123g). Contractor agrees that any such data shall be maintained as confidential and protected in compliance with any applicable laws, and shall not be disclosed except as necessary to provide and perform the Services.



ATTACHMENT A – PRICING

1. Pricing includes all costs, including but not limited to, any one-time or set-up charges, fees, travel, maintenance, and potential costs that the Contractor may charge (e.g., shipping and handling, per piece pricing, and palletizing).

Item	Deliverable	Price
1	Website design template and content migration	\$9,500 (one-time cost for WRESA’s website & app development) +\$20,000 (optional one-time cost added to development - custom website design as presented in the proposal for WRESA)
2	Training and end-user support	\$0 - included
3	Ongoing Maintenance (unlimited customer support)	\$0 - included
4	Hosting/License Fees	\$ 14,500/year (annual cost for hosting WRESA’s website & app)
5	Add-on Services	\$3,500/year (optional - annual cost for Engage Newsletter Management tool for WRESA) Optional Alerts mass notification system - Price for WRESA depends on number of recipients

Cooperative Contract Pricing

Catalog pricing is consistent with [apptegy.com/tips](https://www.apptegy.com/tips) and [apptegy.com/tips-rooms/](https://www.apptegy.com/tips-rooms/) - discounts possible if not all services are used. 5% discount on one-time development cost for districts purchasing through Wayne RESA.



ATTACHMENT B - COVID & ARPA FEDERAL REQUIREMENTS

I. Procurement Policy

Procurement for Wayne RESA has provided a transparent, open, and fair opportunity for all eligible Contractors to participate. This bid has been made without collusion with any other person, firm or corporation making any bid or proposal, or who otherwise makes a bid or proposal. The Contractor must have available Contract or purchase order with the required approvals to receive payment for goods or services rendered. If the Contractor performs any work without a valid Contract or purchase order, the Contractor will not be paid.

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council as authorized by 41 U.S.C. § 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

II. Bonds and Insurance Requirements

Receipt of bonds and/or insurance is part of the process of determining which Contractor may be recommended for award to the Board. If cause is found to change the recommendation that a Contractor be awarded the contract, or if the Board does not approve the recommendation, Wayne RESA shall not be liable for any costs incurred by the Contractor in the bid process, including the cost of acquiring bonds and/or insurance. This Section is applicable only to Contracts pertaining to construction or facility improvement.

III. Equal Employment Opportunity

Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 C.F.R. Part 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 C.F.R. part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor”.

- (a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take



affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- (b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (c) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.
- (d) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other Contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (e) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (f) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (g) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government Contracts or federally assisted construction Contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.



The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

- (h) Wayne RESA further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if Wayne RESA so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Contract. Wayne RESA agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of Contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance. Wayne RESA further agrees that it will refrain from entering into any Contract or Contract modification subject to Executive Order 11246 of September 24, 1965, with a Contractor debarred from, or who has not demonstrated eligibility for, Government Contracts and federally assisted construction Contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon Contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, Wayne RESA agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: cancel, terminate, or suspend in whole or in part this contract; refrain from extending any further assistance to Wayne RESA under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such Wayne RESA; and refer the case to the Department of Justice for appropriate legal proceedings.

IV. Federal Compliance

- (a) Consistent with the Davis-Bacon Act (40 U.S.C. §§ 3141-3148), the parties agree all transactions regarding this Contract shall be done in compliance with the Davis- Bacon Act (40 U.S.C. §§ 3141- 3144, and §§ 3146-3148) and the requirements of 29 C.F.R. Part 5 as may be applicable. The Contractor shall comply with 40 U.S.C. §§ 3141-3144, and §§ 3146-3148 and the requirements of 29 C.F.R. Part 5 as applicable.
- i. Davis-Bacon Act, as amended (40 U.S.C. §§3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§3141-3144, and §§ 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”).



- ii. In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.
- iii. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination.
- iv. The Act provides that the contractor must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
- v. This subsection (a) is applicable only to the extent the Contract pertains to construction work.

(b) Consistent with the Copeland Anti-Kickback Act, the parties agree as follows:

- a. The Contractor must report all suspected or reported violations to Wayne RESA and Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”).
- b. The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this Contract.
- c. The Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these Contract clauses.
- d. A breach of the Contract clauses above may be grounds for termination of the Contract, and for debarment as a Contractor and subcontractor as provided in 29 C.F.R. § 5.12.
- e. The Act provides that the contractor must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
- f. This subsection (b) is applicable only to the extent the Contract pertains to construction work,

(c) Consistent with the **Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708)**, the parties agree as follows:



1. Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5).
2. Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
3. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
 - a. No Contractor or subcontractor Contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

- b. Wayne RESA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such Contract or any other Federal Contract with the same prime Contractor, or any other federally-assisted Contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
 - c. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be



responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

- d. This subsection (c) is applicable only to the extent the Contract is for a sum greater than One Hundred Thousand and 00/100 Dollars (\$100,000.00),

(d) Consistent with the **Clean Air Act (42 U.S.C. §§ 7401-7671q.)** and the **Federal Water Pollution Control Act (33 U.S.C. §§ 1251-1387)**, the parties agree as follows:

- a. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- b. The Contractor agrees to report each violation to Wayne RESA and understands and agrees that the Contractor will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- c. The Contractor agrees to include these requirements in each subcontract in excess of \$150,000. Contract shall ensure each subcontract include provisions that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- d. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.
- e. The Contractor agrees to report each violation to Wayne RESA and understands and agrees that Wayne RESA will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- f. This subsection (d) is applicable only to the extent the Contract is for a sum greater than One Hundred Fifty Thousand and 00/100 Dollars (\$150,000.00),

(e) Consistent with the **Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352, as amended)**, the parties agree as follows:

Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

- a. Contractors who apply or bid for an award exceeding \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal



appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal Contract, grant, or any other award covered by 31 U.S.C. § 1352.

- b. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. (J) See §200.323., (K) See §200.216., (L) See §200.322. [78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014; 85 FR 49577, Aug. 13, 2020]
- c. This subsection (e) is applicable only to the extent the Contract is for a sum greater than One Hundred Thousand and 00/100 Dollars (\$100,000.00),

(f) Debarment and Suspension.

Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 C.F.R. 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. 180 that implement Executive Orders 12549 (3 C.F.R. part 1986 Comp., p. 189) and 12689 (3 C.F.R. part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

- a. This Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Contractor is required to verify that none of the Contractor’s principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- b. The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

This certification is a material representation of fact relied upon by Contractor. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to Contractor, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

- c. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any Contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

(g) Procurement and Recovered Materials.



- a. In the performance of this Contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired: (i) competitively within a timeframe providing for compliance with the Contract performance schedule; (ii) meeting Contract performance requirements; or (iii) at a reasonable price.
- b. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

(h) Prohibition of Certain Telecommunication Services and Equipment.

- a. Recipients, subrecipients or contractor are prohibited from obligating or expending loan or grant funds to (i) procure or obtain; (ii) extend or renew a contract to procure or obtain; or (iii) enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - i. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - ii. Telecommunications or video surveillance services provided by such entities or using such equipment.
 - iii. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
- b. In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.



c. See Public Law 115-232, section 889 for additional information. See also §200.471.

(i) Records Requirements.

- a. The Contractor agrees to provide Wayne RESA, the FEMA Administrator, and the Comptroller General of the United States, and any other authorized representative access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts, and transactions.
- b. The Contractor agrees to permit any of the foregoing parties to reproduce, by any means whatsoever, or to copy excerpts and transcriptions as reasonably required.
- c. The Contractor agrees to provide the FEMA Administrator, Wayne RESA and the Federal awarding agency or authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- d. In compliance with the Disaster Recovery Act of 2018, Wayne RESA and the Contractor acknowledge and agree that no language in this Contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.
- e. This subsection (i) is applicable only to Contracts pertaining to construction or facility improvement.

(j) Domestic Preferences for Procurements.

- a. As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products this award.
 - i. For purposes of this section: (i) “produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States; and (ii) “manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

(k) Federal Acquisitions Regulation Compliance.

- a. All transactions regarding this Contract and subject to the applicable law shall be done in compliance with the Federal Acquisitions Regulations guidance 6.302-2 (unusual and compelling urgency). The Contractor shall comply with 10 U.S.C. § 2304(c)(2) or 41 U.S.C. §



3304(a)(2), as well as Title 2 C.F.R. 200(e) as applicable, which are incorporated by reference into this Contract and quoted in full below:

(a) Authority.

- (1) Citations: 10 U.S.C. § 2304(c)(2) or 41 U.S.C. § 3304(a)(2).
- (2) When the agency's need for the supplies or services is of such an unusual and compelling urgency that the Government would be seriously injured unless the agency is permitted to limit the number of sources from which it solicits bids or proposals, full and open competition need not be provided for.

(b) Application. This authority applies in those situations where-

- (1) An unusual and compelling urgency precludes full and open competition; and
- (2) Delay in award of a contract would result in serious injury, financial or other, to the Government.

(c) Limitations.

- (1) Contracts awarded using this authority shall be supported by the written justifications and approvals described in 6.303 and 6.304. These justifications may be made and approved after contract award when preparation and approval prior to award would unreasonably delay the acquisition.
- (2) This statutory authority requires that agencies shall request offers from as many potential sources as is practicable under the circumstances.

(d) Period of Performance.

- (1) The total period of performance of a contract awarded or modified using this authority-
 - (i) May not exceed the time necessary:
 - (A) To meet the unusual and compelling requirements of the work to be performed under the contract; and
 - (B) For the agency to enter into another contract for the required goods and services through the use of competitive procedures; and
 - (ii) May not exceed one year, including all options, unless the head of the agency determines that exceptional circumstances apply. This determination must be documented in the contract file.
- (2) (i) Any subsequent modification using this authority, which will extend the period of performance beyond one year under this same authority, requires a separate determination. This determination is only required if the cumulative period of performance using this authority exceeds one year. This requirement does not apply to the exercise of options previously addressed in the determination required at paragraph (d)(1)(ii) of this section. (ii) The



determination shall be approved at the same level as the level to which the agency head authority in paragraph (d)(1)(ii) of this section is delegated.

- (3) The requirements in paragraphs (d)(1) and (2) of this section shall apply to any contract in an amount greater than the simplified acquisition threshold.
- (4) The determination of exceptional circumstances is in addition to the approval of the justification in 6.304.
- (5) The determination may be made after contract award when making the determination prior to award would unreasonably delay the acquisition.

b. This subsection (i) is applicable only to Contracts involving the receipt of Federal Transit Administration funding.

(l) Rights to Inventions Made Under a Contract or Agreement.

If the Federal award meets the definition of “funding agreement” under 37 C.F.R. §401.2 (a) and the recipient, subrecipient or contractor wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient must comply with the requirements of 37 C.F.R. Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.



ATTACHMENT C – CONTRACTOR’S MASTER SERVICES AGREEMENT, TERMS OF USE

Attachment C –Contractor’s Master Services Agreement, including Terms of Use and Privacy Policy (available, as each may be amended, at www.apptegy.com/terms-of-use and www.apptegy.com/privacy, respectively)



ATTACHMENT D – RFP REQUIREMENTS AND PROPOSER’S RESPONSE

Attachment D, encompasses the complete set of requirements as outlined in the Request for Proposal (RFP) **WRESA-05-2023-2024-07-AP** and the corresponding response submitted by **Apptegy, Inc.** The proposer's response, included herein, details how the proposer intends to satisfy the RFP requirements and is incorporated into the contract as a binding commitment. The contents of this attachment form an integral part of the contract and should be read in conjunction with the other contractual documents as specified in the Order of Precedence (Section 5.6 of the contract). The RFP requirements and the proposer's response are to be used as a baseline for performance expectations and deliverable standards throughout the duration of the contract. Notwithstanding the foregoing, the Parties acknowledge and agree that the services and any other obligations or performance as described in Contractor’s Master Services Agreement shall be considered to be in substantial conformance with any corresponding specifications or requirements of **WRESA-05-2023-2024-07-AP.**