

**WARREN COUNTY BOARD OF EDUCATION
CONTRACT FOR HVAC OPERATIONS AND EQUIPMENT CONTROLS SERVICES**

This contract for HVAC Operations and Equipment Controls services (the “Contract”) is made and entered into this 10 day of September, 2024, between the Warren County Board of Education (the “School System”), 109 Cousin Lucy’s Lane, Warrenton NC 27589, and Siemens Smart Infrastructure (the “Provider”), 215 Southport Drive, Suite 900, Morrisville, NC 27560.

For and in consideration of the mutual promises set forth in the Contract the parties do mutually agree as follows:

1. Obligations of Provider. Provider hereby agrees to provide services to the School System as follows:
 - 1.1. See Exhibit A: Proven Outcomes Service Agreement

Work will be completed in a timely manner acceptable to the School System in full compliance with the terms and conditions of this Contract, including any documents incorporated by reference.
 - 1.2. Qualifications of Provider. Provider warrants that all agents or employees of Provider who will provide services under this Contract will be fully qualified, possess any requisite licenses, and otherwise be legally entitled to perform the services provided, and shall exercise the skill and care customarily exercised by duly licensed and qualified providers of the same or similar services.
 - 1.3. Records Maintenance. Provider shall maintain written documentation of any service provided, including any required documentation meeting the requirements of applicable federal, state and local laws and regulations.
2. Obligations of the School System.
 - 2.1. The School System hereby agrees to compensate Provider at a rate or in the amount of \$ 35,450.00 for services rendered, with total payments not to exceed \$35,450.00.

With the School System’s written consent, payments may be made in monthly installments for work performed and accepted during the previous month.
 - 2.2. In the event of inclement weather, fire, power failure, or other similar occurrence, which may necessitate the cancellation of the delivery of the service(s), and an alternate date cannot be agreed upon, the School System will be under no obligation to compensate Provider for services not rendered.
3. Term. The services described in the Contract will be provided from July 1, 2024 through June 30, 2025 unless sooner terminated as herein provided.
4. Compensation. The School System hereby agrees to compensate Provider in the amount of \$35,450.00 once all services have been rendered in accordance with the terms of this Contract. Provider shall provide School System with invoice(s) itemized by service provided the number of hours worked and by whom, the date(s) that services were provided, and the amount owed, along with any supporting documentation that may be requested in advance by School System. The School System shall process payments to Provider within forty-five (45) days of submission of such invoice(s). In the event of inclement weather, fire, power failure, or other similar occurrence, which may necessitate the cancellation of the delivery of the service(s), and an alternate date cannot be agreed upon, the School System will be under no obligation to compensate Provider for services not rendered.
5. Termination for Convenience. The School System may terminate this Contract at any time at its complete

discretion upon twenty (20) calendar days' notice in writing from the School System to Provider prior to the date of termination. In addition, all finished or unfinished documents and other materials produced by Provider pursuant to this Contract shall, at the request of the School System be turned over to it and become its property. If the Contract is terminated by the School System in accordance with this section, the School System will pay Provider at the rate set out in Section 2.1 for all services performed as of the date of termination.

6. Termination for Default. At any time, the School System may terminate this Contract immediately and without prior notice if provider is unable to meet goals and timetables or if the School System is dissatisfied with the quality of services provided.
7. Terms and Methods of Payment. Provider shall submit to the School System monthly invoices itemized by service provided, the number of hours worked and by whom, the date(s) that services were provided, and the amount owed, along with any supporting documentation that may be requested in advance by the School System. Such invoices shall be submitted within thirty (30) days of the rendering of services. The School System shall process payments to Provider within forty-five (45) days of submission of such invoices. Invoices should be emailed to efinance@warrenk12nc.org or mailed to P.O. Box 110, 109 Cousin Lucy's Lane, Warrenton, NC 27589, for review and approval.
8. Contract Funding. It is understood and agreed between Provider and the School System that the School System's payment obligation under this Contract is contingent upon the availability of appropriated funds from which payment for Contract purposes can be made.
9. Insurance. Provider agrees to maintain Commercial General Liability in amount of \$1,000,000 each occurrence, \$1,000,000 each occurrence in Personal & Advertising Injury with \$2,000,000 General Aggregate, and \$2,000,000 Products/Completed Operations Aggregate. Provider shall maintain \$1,000,000 in automobile liability, and other appropriate insurance, as well as Workers Compensation in the required statutory amount for all employees participating in the provision of services under this Contract. Provider also agrees to maintain \$1,000,000 in professional liability insurance if the Provider is engaged in a professional service pursuant to this Contract. The Warren County Board of Education shall be named by endorsement as an additional insured on the General and Automobile Liability policies. Certificates of such insurance shall be furnished by Provider to the School System and shall contain an endorsement to provide the School System at least 10 days' written notice of any intent to cancel or terminate by either Provider or the insuring company. Failure to furnish insurance certificates or maintain such insurance shall be a default under this contract and shall be grounds for immediate termination of this Contract.
10. Taxes. Provider shall pay all federal, state, and FICA taxes for all employees participating in the provision of services under this Contract. If requested by the School System, Provider shall provide a breakdown of all sales and use taxes paid on labor, materials, parts and/or supplies.
11. Monitoring and Auditing. Provider shall cooperate with the School System, or with any other person or agency as directed by the School System, in monitoring, auditing, or investigating activities related to this Contract. Provider shall permit the School System to evaluate all activities conducted under this contract as dictated by the School System. Provider shall provide auditors retained by the School System with access to any records and files related to the provision of services under this Contract. The School System agrees that its auditors will maintain the confidentiality of any identified and actual trade secrets of Provider accessed during an audit conducted under this Contract.
12. Confidentiality of Student Information. Provider agrees that all student records or personally identifiable information contained in student records that may be obtained in the course of providing services to the School System under this contract shall be subject to the confidentiality and disclosure provisions of applicable federal and state statutes and regulations as well as the School System's policies. All student records shall be kept in a secure location preventing access by unauthorized individuals. Provider will maintain an access log delineating date, time, agency, and identity of individual accessing student records

who is not in the direct employ of Provider. Provider shall not forward to any person other than parent or the School System any student record or personally identifiable information obtained from a student record (including, but not limited to, the student's identity) without the written consent of the School System. Upon termination of this Contract, Provider shall turn over to the School System all student records or personally identifiable information about students obtained by Provider while providing services under this Contract. Nothing in this Contract gives Provider any right to access any student records or personally identifiable information.

13. Lunsford Act. Provider also acknowledges that G.S. § 14-208.18 prohibits anyone required to register as a sex offender under Article 27A of Chapter 14 of the General Statutes from knowingly being on the premises of any school. Provider shall conduct or arrange to have conducted, at its own expense, sexual offender registry checks on each of its owners, employees, agents, subcontractors and independent contractors ("Contractual Personnel") who will engage in any service on or delivery of goods to School System property or at a School System sponsored event, except checks shall not be required for individuals who are solely delivering or picking up equipment, materials, or supplies at: (1) the administrative office or loading dock of a school; (2) non-school sites; (3) schools closed for renovation; or (4) school construction sites. The checks shall include at a minimum checks of the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry ("the Registries"). For Provider's convenience only, all of the required registry checks may be completed at no cost by accessing the United States Department of Justice Sex Offender Public Website at <http://www.nsopw.gov/>. Provider shall provide certification on the Sexual Offender Registry Check Certification Form (Exhibit B) that the registry checks were conducted on each of its Contractual Personnel providing services or delivering goods under this Contract prior to the commencement of such services or the delivery of such goods. Provider shall conduct a current initial check of the registries. The sex offender registry checks shall be conducted within 30 days of Provider's execution of the Contract and prior to performing any services on School System property. In addition, Provider agrees to conduct the registry checks and provide a supplemental certification form before any additional Contractual Personnel are used to deliver goods or provide services pursuant to this Contract. Provider further agrees to conduct annual registry checks of all Contractual Personnel and provide annual certifications at each anniversary date of this Contract. Provider shall not assign any individual to deliver goods or provide services pursuant to this Contract if said individual appears on any of the listed registries. Provider agrees that it will maintain all records and documents necessary to demonstrate that it has conducted a thorough check of the registries as to each Contractual Personnel, and agrees to provide such records and documents to the School System upon request. Provider specifically acknowledges that the School System retains the right to audit these records to ensure compliance with this section at any time in the School System's sole discretion. Failure to comply with the terms of this provision shall be deemed a material breach of the Contract.
14. Criminal Background Checks. Provider shall conduct criminal record and background checks on all Contractual Personnel who will perform services pursuant to this Contract on School System property or at School System events. The criminal background checks shall be conducted within 30 days of Provider's execution of the Contract and prior to performing any services on School System property. Provider shall provide the results of said checks to School System within five (5) business days of receipt and shall not assign any Contractual Personnel to provide services under the Contract if said worker has been convicted of or pled nolo contendere to (1) any felony; (2) any crime, whether misdemeanor or felony, involving violence, illegal drugs, theft, child abuse, sexual harassment, sexual abuse, or personal impropriety of a sexual nature with regard to any other person; or (3) any other crime or conduct reasonably indicating that the Contractual Personnel poses a threat to the safety or well-being of School System's students, personnel, or property. In addition, Provider shall obtain all authorizations necessary for School System to conduct additional criminal record and background checks at its sole expense at any time during the term of this Contract. If School System chooses to exercise this right, Provider shall, within five (5) business days of School System's request, provide the full name, date of birth, and state of residency for the past ten years for all Contractual Personnel providing services under the Contract, along with any other

information reasonably requested by School System for purposes of performing criminal record and background checks. Without modifying or waiving any of Provider's obligations under this provision, School System reserves the right to prohibit any Contractual Personnel from providing services under this Contract if the School System determines, in its sole discretion, that said Contractual Personnel has not undergone a criminal record and background check in accordance with this provision or if the results of such criminal record and background check reasonably indicate that the said Contractual Personnel may pose a threat to the safety or well-being of students, school personnel, or others.

15. Indemnification. Provider shall indemnify and hold harmless the School System and its agents and employees from and against all claims, actions, demands, costs, damages, losses, and/or expenses of any kind whatsoever proximately resulting from the omission or commission of any act, lawful or unlawful, by Provider or its agents and/or employees, including but not limited to court costs and attorney's fees, incurred in connection with the defense of said matters. The parties agree that this indemnification clause is an "evidence of indebtedness" for purpose of N. C. Gen. Stat. § 6-21.2.
16. Relationship of Parties. Provider shall be an independent contractor of the School System, and nothing herein shall be construed as creating a partnership or joint venture; nor shall any employee of Provider be construed as an employee, agent, or principal of the School System.
17. Compliance with Applicable Laws. Provider shall comply with all applicable laws and regulations in providing services under this Contract. In particular, Provider shall not employ any individuals to provide services to the School System who are not authorized by federal law to work in the United States. Provider represents and warrants that it is aware of and in compliance with the Immigration Reform and Control Act and North Carolina law (Article 2 of Chapter 64 of the North Carolina General Statutes) requiring use of the E-Verify system for employers who employ twenty-five (25) or more employees and that it is and will remain in compliance with these laws at all times while providing services pursuant to this Contract. Provider shall also ensure that any of its subcontractors (of any tier) will remain in compliance with these laws at all times while providing subcontracted services in connection with this Contract. Provider is responsible for providing affordable health care coverage to all of its full-time employees providing services to the School System. The definitions of "affordable coverage" and "full-time employee" are governed by the Affordable Care Act and accompanying IRS and Treasury Department regulations.
18. Restricted Companies List. Provider represents that as of the date of this Contract, Provider is not included on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.58. Provider also represents that as of the date of this Contract, Provider is not included on the list of restricted companies determined to be engaged in a boycott of Israel created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.81.
19. Anti-Nepotism. Provider warrants that, to the best of its knowledge and in the exercise of due diligence, none of its corporate officers, directors, or trustees and none of its employees who will directly provide services under this Contract are immediate family members of any member of the Warren County Board of Education or of any principal or central office staff administrator employed by the School System. For purposes of this provision, "immediate family" means spouse, parent, child, brother, sister, grandparent, or grandchild, and includes step, half, and in-law relationships. Should Provider become aware of any family relationship covered by this provision or should such a family relationship arise at any time during the term of this Contract, Provider shall immediately disclose the family relationship in writing to the Superintendent of Schools. Unless formally waived by the School System, the existence of a family relationship covered by this Contract is grounds for immediate termination by School System without further financial liability to Provider.
20. Applicable School Board of Education Policies. Provider acknowledges that the Warren County Board of Education has adopted policies governing conduct on School System property and agrees to abide by any and all relevant Board policies while on School System property. The Provider acknowledges that Board's policies are available on the School System's website.
21. Assignment. Provider shall not assign, subcontract, or otherwise transfer any interest in this contract

without the prior written approval of the School System.

- 22. Contract Modifications. This contract may be amended only by written amendments duly executed by and between the School System and Provider.
- 23. North Carolina Law. North Carolina law will govern the interpretation and construction of the Contract.
- 24. Order of Precedence. The Parties do hereby agree that in the event of conflict between the terms and conditions of this Contract and the terms and conditions in an agreement entered into between the parties at the same time as or prior to this Contract, the terms and conditions of this Contract shall prevail.
- 25. Entire Agreement. This Contract, including the purchase order, if any, used in connection herewith and any other document(s) expressly incorporated by reference as a part of this Contract, constitutes and expresses the entire agreement and understanding between the parties concerning its subject matter. This Contract supersedes all prior and contemporaneous discussions, promises, representations, agreements and understandings relative to the subject matter of this contract. To the extent there may be any conflict between the four corners of this Contract and other documents incorporated by reference herein, the terms of this Contract will control.
- 26. Attached Exhibits: The following documents, if any, are attached as Exhibits to this Contract and incorporated by reference herein:
 Exhibit A: Proven Outcomes Service Agreement
 Exhibit B: Sexual Registry Check Certification Form
- 27. Severability. If any provision of this Contract shall be declared invalid or unenforceable, the remainder of the Contract shall continue in full force and effect.
- 28. Counterparts and Execution. This Contract may be executed in any number of counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument. The Parties agree that computer scanned and/or faxed signatures or copies of this Contract will have the same validity and force as an "original."
- 29. Authority to Enter Contract. The person(s) executing this Contract on behalf of Provider have authority to do so as an official, binding act of Provider.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first indicated above.

WARREN COUNTY BOARD OF EDUCATION

PROVIDER

Board Chair

Authorized Signature

ATTEST:

Printed Name

Superintendent

Federal Tax Identification Number / EIN

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

School System Finance Officer

Date

Exhibit A

Scope of Service/Measurable Outcomes

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Exhibit B

Sexual Offender Registry Check Certification Form

PLEASE SUBMIT THIS FORM TO YOUR SCHOOL SYSTEM'S REPRESENTATIVE

Project Name: _____ Contract: _____

Check the appropriate box to indicate the type of check:

Initial Supplemental Annual

I, _____ (insert name), _____ (insert title) of _____ (insert company name) hereby certify that I have performed all of the required sexual offender registry checks required under this Contract for all Contractual Personnel (employees, agents, ownership personnel, or contractors) who may be used to deliver goods or provide services under this Contract, including the North Carolina Sex Offender and Public Protection Registration Program, the North Carolina Sexually Violent Predator Registration Program, and the National Sex Offender Registry (**Note: all of the required registry checks may be completed at no cost by accessing the United States Department of Justice Sex Offender Public Website at <http://www.nsopw.gov/>**). I further certify that none of the individuals listed below appears on any of the above-named registries and that I will not assign any individual to deliver goods or perform services under this Contract if said individual appears on any of the sex offender registries. I agree to maintain all records and documents associated with these registry checks, and that I will provide such records and documents to the school system upon request. I specifically acknowledge that the school system retains the right to audit these records to ensure compliance with this section at any time in the school system's sole discretion. I acknowledge that I am required to perform these checks and provide this certification form before any work is performed under the Contract (initial check), any time additional Contractual Personnel may perform work under the Contract (supplemental check), and at each anniversary date of the Contract (annual check).

Contractual Personnel Names

Job Title

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|----|--|--|
| 1. | | |
| 2. | | |
| 3. | | |
| 4. | | |
| 5. | | |
| 6. | | |

I attest that the forgoing information is true and accurate to the best of my knowledge.

_____ (print name)

_____ (signature / date)