

# **Wynantkill Union Free School District**

## **2024 Capital Improvement Project**

### ***Recommendation to Award State Contracts***

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|                        |                                 |
|------------------------|---------------------------------|
| <b>SED APN#:</b>       | <b>49-08-04-02-0-004-012</b>    |
| <b>Report Date:</b>    | <b>November 16, 2023</b>        |
| <b>Renovations To:</b> | <b>Gardner-Dickinson School</b> |

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#### **BID REPORT**

##### **I. GENERAL**

In accordance with New York State bidding requirements Schoolhouse Construction Services and Phinney Design Group requested state contract pricing from A.W. Farrell, Trane U.S. Inc., and Technical Building Systems, A Stark Tech Business for portions of the renovations work at Gardner-Dickinson School.

##### **II. STATE EDUCATION DEPARTMENT**

Approval for this project has not been received from the State Education Department (SED) but is expected to be received in the next two weeks.

##### **III. FUNDING**

The bids received for this project are within the overall funds authorized.

##### **IV. SCOPE OF THE WORK**

The scope of the work for this project consists of the following:

1. Removal and replacement of roofing membrane and insulation on all roof areas except the most recent building additions.
2. Installation of HVAC equipment, accessories, and controls to provide air conditioning to 31 rooms indicated on the drawings throughout the building.
3. Removal and replacement of selected exterior & interior doors, frames, and hardware.
4. Selective exterior sidewalk replacements.

5. Removal and replacement of four exterior concrete stairs.

**V. BASE BIDS AND ALTERNATES**

Following SED approval, the remainder of the work will be bid publicly. We anticipate having contracts for General Construction and Electrical Construction. It is anticipated that this work will be bid in the coming month for planned award in the beginning of 2024.

No alternates or unit prices were requested from the State Contract Vendors

**VI. DISCUSSION**

The State Contract vendors have been contacted and acknowledged that their bid is complete, includes the allowance(s), recognition of addenda(s), and will be completed as scheduled and outlined in the project documents.

These contractors have successfully completed other public projects with similar Scopes of Work and will be providing Payment & Performance Bonds: therefore, we recommend awarding them for this project.

**VII. RECOMMENDATION**

We recommend award of contract to the following State Contract Vendors:

**1. ROOFING CONSTRUCTION**

AW Farrell Roofing  
94 Industrial Blvd.  
Plattsburgh, NY 12901  
(518) 380-4598

Base Bid: \$ 1,868,207.00

**Total Contract Amount: \$ 1,868,207.00**

**2. MECHANICAL CONSTRUCTION**

Trane U.S. Inc  
301 Old Niskayuna Road, Suite 1  
Latham, NY 12110  
(844) 802-1657

Base Bid: \$ 1,871,342.00

**Total Contract Amount: \$ 1,871,342.00**

**3. CONTROLS CONSTRUCTION**

Technical Building Services, a Stark Tech Business  
12E Commerce Dr.  
Ballston Spa, NY 12020  
(518) 885-4444

Base Bid: \$ 78,500.00

**Total Contract Amount: \$ 78,500.00**

**4. All OTHER CONTRACTS**

We anticipate the total of the General Construction and Electrical Construction work to be approximately \$300,000.00.

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**TOTAL OF ALL STATE CONTRACTS: \$ 3,818,049.00**

**Attachments:**  
**Financial Evaluation**



| BID RESULTS                        |                             |             |
|------------------------------------|-----------------------------|-------------|
|                                    | Estimated Construction Cost | BID RESULTS |
| General Contractor (GC)            | \$200,000                   | TBD         |
| Roofing Contractor (RC)            | \$1,900,000                 | \$1,868,207 |
| Mechanical Contractor (MC)         | \$1,900,000                 | \$1,871,342 |
| Controls Contractor (CC)           | \$80,000                    | \$78,500    |
| Electrical Contractor (EC)         | \$100,000                   | TBD         |
| Total                              | \$4,180,000                 | \$3,818,049 |
| Incidental Budget                  |                             | \$918,100   |
| Funds Available (Total Referendum) |                             | \$5,051,207 |
| Remaining Balance                  |                             | \$315,058   |
| Estimated GC & EC Contracts        |                             | \$300,000   |
| Remaining Balance                  |                             | \$15,058    |



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October 7, 2023

To: Eric Robert – Schoolhouse Construction Services, LLC  
From: Sean Monahan - Farrell Roofing

THIS PROPOSAL IS VALID for **30 days only** and shall be null and void BEYOND that period.

PROJECT NAME: Wynantskill UFSD – Gardner-Dickinson – Re-roof Area - approx. 46,000 sf.  
PROJECT ADDRESS: 25 East Ave, Troy, NY 12180

ADDENDAS Covered: N/A

A.W. Farrell & Son Roofing proposes to provide labor and material to perform the following scope of work. The work proposed is described generally as follows:

**Scope of Work:**

**Setup all AW Farrell & Son roofing safety required to perform scope of work per OSHA standards**

- a. Provide a JSSP (Job Specific Safety Plan) for project**
- b. Provide any requested documentation of safety records or certifications**
- c. Pre-Job meeting determine logistics and safety requirements**

**Wynantskill UFSD**

**General Specifications Covered**

- 075423 - THERMOPLASTIC-POLYOLEFIN ROOFING (TPO) - FIRESTONE (20-year warranty)
- 077100 - ROOF SPECIALTIES (fascia and flashings)
- 079200 - JOINT SEALANTS (as pertains to roofing only)
- 086200 - UNIT SKYLIGHTS

**Proposed Field of Roof at Gardner Dickinson – approx. 46,000 sq ft total**

- Remove and dispose of the existing roof system down to the existing sloped metal roof deck to remain.
- Furnish and install new (standard 20 psi) 2.5” polyisocyanurate roof insulation mechanically fastened to the existing roof deck according to the Manufacturer’s recommendation.
- Furnish and install adhered tapered cricket insulation to direct water to the drains.
- Furnish and install new 3” HD IsoGard composite roof insulation/coverboard adhered according to the Manufacturer’s recommendation, for an overall average R-30 combined value.
- Furnish and install .060 self-adhered white SA TPO per Manufacturer’s recommendations for a 20-year NDL warranty.
- New wood blocking will be installed on existing to remain, as required for height of new insulation.
- All penetration flashings will be performed per Specs and Roof Manufacturer’s recommendations.

**Bid price for Wynantskill UFSD Gardner-Dickinson – 2024 Summer work:**

- **Gardner-Dickinson approx. 46,000 sf** = **\$1,818,207.00**
  - **Allowance** = **\$50,000.00**
  - **Total contract value** = **\$1,868,207.00**

**NOTES:**

\*All prices are tax exempt

\*Proposal based on SED Submission Documents (dated 7/31/23) - Plans & Specifications.

\*AWF agrees to take on the risk of material availability and price volatility without additional price escalators.

\*This price can only be honored for (30) days. Schedule commitments are subject to change depending on weather and the acceptance of other offers.

\*Subject to AIA contract agreement terms and conditions, as drafted by District Design Team.

By signing and accepting or verbal/electronic authorization to commence work pursuant to this proposal the customer hereby acknowledges that those terms and conditions have been read, shall be binding on the parties, and shall be incorporated into any formal contract or subcontract entered between the parties.

Thank you for the opportunity to provide this proposal to you. Please feel free to contact me if you should have any questions.

Sincerely,

*Sean Monahan*

Branch Manager

**A.W. Farrell & Son, Inc.**

94 Industrial Blvd.

Plattsburgh, NY 12901

Cell: 518-796-4486

[www.awfarrell.com](http://www.awfarrell.com)

[Sean.Monahan@AWFarrell.com](mailto:Sean.Monahan@AWFarrell.com)

Accepted By:

\_\_\_\_\_  
(Customer Name)

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

Title: \_\_\_\_\_

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



# Budgetary Proposal

**Prepared For:**  
Wynantskill UFSD

**Date:**  
November 15, 2023

**Job Name:**  
Wynantskill UFSD 2024 Capital Improvement Project

**Proposal Number:**  
7450166

**Delivery Terms:**  
Freight Allowed and Prepaid – F.O.B Factory

**Payment Terms:**  
Net 30

**Omnia Partners Cooperative Contract:**  
**Contract #:** OMNIA Racine #3341  
**COOP Quote #:** C1-LvvAAG-23-001

**Proposal Expiration Date:**  
**30 Days**

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## Scope of Work

“Scope of Work” and notations within are based on mechanical plans dated 11/21/2022.

### HVAC Equipment

- Provide Trane Mitsubishi Equipment as listed on Equipment Schedule on M002
- Provide condensate pumps as indicated on Equipment Schedule on M002
- Provide OEM Factory inspection of installation of equipment provided
- Provide OEM startup of equipment provided
- Provide up to 116 lbs of R410A to trim charge on Trane Mitsubishi systems

### Mechanical Installation

- One (1) new OA Supply feed to one (1) indoor unit; roofing scope included.
- All necessary ACR Rigid Pipe and Fittings for a complete refrigeration distribution system as shown; all guides, anchors, and expansion loops included.
- All necessary Type L Copper Pipe and Pro-Press Fittings for a complete condensate drain system as shown
- All testing and charging of new refrigeration systems.
- All receiving, handling, and installation of Trane provided equipment as shown on the drawings and the schedule
- Insulation of both refrigeration and condensate drain systems per specs.
- Crane & Rigging included
- All ceiling tile and grid removals and re-install as needed to install piping systems included (hard ceilings excluded)
- All necessary cutting & patching of penetrations needed for our new piping systems as shown on the Mechanical Drawings.
- Payment & Performance Bonds included

### Electrical Installation

- Trane will furnish disconnects for (5) outdoor Units and (31) Indoor Units for installation by DIV 26

- Trane will furnish all low voltage interconnect wiring for Trane/Mitsubishi System including communications M-net wiring and indoor unit thermostat wiring
- Provide and install supervisory controller for VRF system to be integrated into existing BMS System

### General Scope items included

- Payment and performance Bond
- Site supervisor
- Project management
- Energy engineering to secure incentives associated with the clean heat program through National Grid

### Exclusions

- Condensate Pump Wiring excluded based on drawings E-101 and E-102, Note 1 states: Electrical Contractor is to provide condensate pump pipe and wire to associated indoor unit. This is not applicable to the (8) ceiling mounted units with integral condensate pump.
- District is to provide temperature control contractor and integration scope of work
- District is to provide all roof work and flashing associated with Trane's pipe and curb penetrations associated with new equipment.
- Any structural evaluation of any type required for roof mounted equipment
- Work outside normal business hours aside from shift work included for equipment/piping rough in as needed
- Any work with hazardous materials.
- Any work with existing BMS System
- This proposal does not include shop drawings, CAD drawings, BIM Drawings, etc.
- Allowances are not included in this proposal, allowances are added in addition this proposal amount by Construction Manager
- District is to provide office space during the construction period
- Dumpsters by others
- Restroom facilities by others
- Final thorough cleaning of work space by others.
- Construction permits and certificate of occupancy by the school district
- Concrete work, painting, structural steel, engineering, controls, liquidated damages, permits, premium time, gas piping, electrical power wiring, pre-construction testing and balancing of existing systems, service or maintenance of existing systems,
- Market adjustments for inflation and market volatility not included



# Budgetary Pricing and Acceptance

Wynantskill UFSD, Attn: Dr. Mary Yodis

## Price

Total Net Price (excluding applicable taxes).....\$1,796,342.00 USD

Note: Trane anticipates that \$60,000.00 in incentives can be secured via NYS clean heat program

## Financial items not included

- Bid Bond
- Guarantee of any energy, operational, or other savings

Respectfully submitted,

Jeff Rickard  
Trane U.S. Inc.  
Office Phone: (518) 785-1315

\$1,796,342.00 Base Price  
\$75,000.00 Allowance

**\$1,871,342.00 Total Contract**

## ACCEPTANCE

**This proposal is subject to Customer's acceptance of the attached Trane Terms and Conditions (Installation).**

**We value the confidence you have placed in Trane and look forward to working with you.**

|   |  |
|---|--|
| Submitted By: Jeff Rickard                            | Cell:  |
|   | Office: (518) 785-1315<br>Proposal Date: November 15, 2023 |
| <b>CUSTOMER ACCEPTANCE</b><br>CENTRAL NEW YORK CLAIMS | <b>TRANE ACCEPTANCE</b><br>Trane U.S. Inc.                 |
| Authorized Representative                             | Authorized Representative                                  |
| Printed Name  | Printed Name   |
| Title   | Title  |
| Purchase Order  | Signature Date   |
| Acceptance Date:                                      | License Number:  |

**TERMS AND CONDITIONS – COMMERCIAL INSTALLATION**

“Company” shall mean Trane U.S. Inc. for Work performed in the United States or Trane Canada ULC for Work performed in Canada.

**1. Acceptance; Agreement.** These terms and conditions are an integral part of Company's offer and form the basis of any agreement (the “Agreement”) resulting from Company's proposal (the “Proposal”) for the commercial goods and/or services described (the “Work”). **COMPANY'S TERMS AND CONDITIONS AND EQUIPMENT PRICES ARE SUBJECT TO PERIODIC CHANGE OR AMENDMENT.** The Proposal is subject to acceptance in writing by the party to whom this offer is made or an authorized agent (“Customer”) delivered to Company within 30 days from the date of the Proposal. Prices in the Proposal are subject to change at any time upon notice to Customer. If Customer accepts the Proposal by placing an order, without the addition of any other terms and conditions of sale or any other modification, Customer's order shall be deemed acceptance of the Proposal subject to Company's terms and conditions. If Customer's order is expressly conditioned upon Company's acceptance or assent to terms and/or conditions other than those expressed herein, return of such order by Company with Company's terms and conditions attached or referenced serves as Company's notice of objection to Customer's terms and as Company's counteroffer to provide Work in accordance with the Proposal and the Company terms and conditions. If Customer does not reject or object in writing to Company within 10 days, Company's counteroffer will be deemed accepted. Notwithstanding anything to the contrary herein, Customer's acceptance of the Work by Company will in any event constitute an acceptance by Customer of Company's terms and conditions. This Agreement is subject to credit approval by Company. Upon disapproval of credit, Company may delay or suspend performance or, at its option, renegotiate prices and/or terms and conditions with Customer. If Company and Customer are unable to agree on such revisions, this Agreement shall be cancelled without any liability, other than Customer's obligation to pay for Work rendered by Company to the date of cancellation.

**2. Connected Services.** In addition to these terms and conditions, the Connected Services Terms of Service (“Connected Services Terms”), available at <https://www.trane.com/TraneConnectedServicesTerms>, as updated from time to time, are incorporated herein by reference and shall apply to the extent that Company provides Customer with Connected Services, as defined in the Connected Services Terms.

**3. Title and Risk of Loss.** All Equipment sales with destinations to Canada or the U.S. shall be made as follows: FOB Company's U.S. manufacturing facility or warehouse (full freight allowed). Title and risk of loss or damage to Equipment will pass to Customer upon tender of delivery of such to carrier at Company's U.S. manufacturing facility or warehouse.

**4. Pricing and Taxes.** Unless otherwise noted, the price in the Proposal includes standard ground transportation and, if required by law, all sales, consumer, use and similar taxes legally enacted as of the date hereof for equipment and material installed by Company. Tax exemption is contingent upon Customer furnishing appropriate certificates evidencing Customer's tax-exempt status. Company shall charge Customer additional costs for bonds agreed to be provided. Equipment sold on an uninstalled basis and any taxable labor/labour do not include sales tax and taxes will be added. Within thirty (30) days following Customer acceptance of the Proposal without addition of any other terms and conditions of sale or any modification, Customer shall provide notification of release for immediate production at Company's factory. Prices for Work are subject to change at any time prior to shipment to reflect any cost increases related to the manufacture, supply, and shipping of goods. This includes, but is not limited to, cost increases in raw materials, supplier components, labor, utilities, freight, logistics, wages and benefits, regulatory compliance, or any other event beyond Company's control. If such release is not received within 6 months after date of order receipt, Company reserves the right to cancel any order. If shipment is delayed due to Customer's actions, Company may also charge Customer storage fees. Company shall be entitled to equitable adjustments in the contract price to reflect any cost increases as set forth above and will provide notice to Customer prior to the date for which the increased price is to be in effect for the applicable customer contract. In no event will prices be decreased.

**5. Exclusions from Work.** Company's obligation is limited to the Work as defined and does not include any modifications to the Work site under the Americans With Disabilities Act or any other law or building code(s). In no event shall Company be required to perform work Company reasonably believes is outside of the defined Work without a written change order signed by Customer and Company.

**6. Performance.** Company shall perform the Work in accordance with industry standards generally applicable in the area under similar circumstances as of the time Company performs the Work. Company may refuse to perform any Work where working conditions could endanger property or put at risk the safety of persons. Unless otherwise agreed to by Customer and Company, at Customer's expense and before the Work begins, Customer will provide any necessary access platforms, catwalks to safely perform the Work in compliance with OSHA or state industrial safety regulations.

**7. Payment.** Customer shall pay Company's invoices within net 30 days of invoice date. Company may invoice Customer for all equipment or material furnished, whether delivered to the installation site or to an off-site storage facility and for all Work performed on-site or off-site. No retention shall be withheld from any payments except as expressly agreed in writing by Company, in which case retention shall be reduced per the contract documents and released no later than the date of substantial completion. Under no circumstances shall any retention be withheld for the equipment portion of the order. If payment is not received as required, Company may suspend performance and the time for completion shall be extended for a reasonable period of time not less than the period of suspension. Customer shall be liable to Company for all reasonable shutdown, standby and start-up costs as a result of the suspension. Company reserves the right to add to any account outstanding for more than 30 days a service charge equal to 1.5% of the principal amount due at the end of each month. Customer shall pay all costs (including attorneys' fees) incurred by Company in attempting to collect amounts due and otherwise enforcing these terms and conditions. If requested, Company will provide appropriate lien waivers upon receipt of payment. Customer agrees that, unless Customer makes payment in advance, Company will have a purchase money security interest in all equipment from Company to secure payment in full of all amounts due Company and its order for the equipment, together with these terms and conditions, form a security agreement. Customer shall keep the equipment free of all taxes and encumbrances, shall not remove the equipment from its original installation point and shall not assign or transfer any interest in the equipment until all payments due Company have been made.

**8. Time for Completion.** Except to the extent otherwise expressly agreed in writing signed by an authorized representative of Company, all dates provided by Company or its representatives for commencement, progress or completion are estimates only. While Company shall use commercially reasonable efforts to meet such estimated dates, Company shall not be responsible for any damages for its failure to do so. Delivery dates are approximate and not guaranteed. Company will use commercially reasonable efforts to deliver the Equipment on or before the estimated delivery date, will notify Customer if the estimated delivery dates cannot be honored, and will deliver the Equipment and services as soon as practicable thereafter. In no event will Company be liable for any damages or expenses caused by delays in delivery.

**9. Access.** Company and its subcontractors shall be provided access to the Work site during regular business hours, or such other hours as may be requested by Company and acceptable to the Work site' owner or tenant for the performance of the Work, including sufficient areas for staging, mobilization, and storage. Company's access to correct any emergency condition shall not be restricted. Customer grants to Company the right to remotely connect (via phone modem, internet or other agreed upon means) to Customer's building automation system (BAS) and/or HVAC equipment to view, extract, or otherwise collect and retain data from the BAS, HVAC equipment, or other building systems, and to diagnose and remotely make repairs at Customer's request.

**10. Completion.** Notwithstanding any other term or condition herein, when Company informs Customer that the Work has been completed, Customer shall inspect the Work in the presence of Company's representative, and Customer shall either (a) accept the Work in its entirety in writing, or (b) accept the Work in part and specifically identify, in writing, any exception items. Customer agrees to re-inspect any and all excepted items as soon as Company informs Customer that all such excepted items have been completed. The initial acceptance inspection shall take place within ten (10) days from the date when Company informs Customer that the Work has been completed. Any subsequent re-inspection of excepted items shall take place within five (5) days from the date when Company informs Customer that the excepted items have been completed. Customer's failure to cooperate and complete any of said inspections within the required time limits shall constitute complete acceptance of the Work as of ten (10) days from date when Company informs Customer that the Work, or the excepted items, if applicable, has/have been completed.

**11. Permits and Governmental Fees.** Company shall secure (with Customer's assistance) and pay for building and other permits and governmental fees, licenses, and inspections necessary for proper performance and completion of the Work which are legally required when bids from Company's subcontractors are received, negotiations thereon concluded, or the effective date of a relevant Change Order, whichever is later. Customer is responsible for necessary approvals, easements, assessments and charges for construction, use or occupancy of permanent structures or for permanent changes to existing facilities. If the cost of such permits, fees, licenses and inspections are not included in the Proposal, Company will invoice Customer for such costs.

**12. Utilities During Construction.** Customer shall provide without charge to Company all water, heat, and utilities required for performance of the Work.

**13. Concealed or Unknown Conditions.** In the performance of the Work, if Company encounters conditions at the Work site that are (i) subsurface or otherwise concealed physical conditions that differ materially from those indicated on drawings expressly incorporated herein or (ii) unknown physical conditions of an unusual nature that differ materially from those conditions ordinarily found to exist and generally recognized as inherent in construction activities of the type and character as the Work, Company shall notify Customer of such conditions promptly, prior to significantly disturbing same. If such conditions differ materially and cause an increase in Company's cost of, or time required for, performance of any part of the Work, Company shall be entitled to, and Customer shall consent by Change Order to, an equitable adjustment in the Contract Price, contract time, or both.

**14. Pre-Existing Conditions.** Company is not liable for any claims, damages, losses, or expenses, arising from or related to conditions that existed in, on, or upon the Work site before the Commencement Date of this Agreement (“Pre-Existing Conditions”), including, without limitation, damages, losses, or expenses involving Pre-Existing Conditions of building envelope issues, mechanical issues, plumbing issues, and/or indoor air quality issues involving mold/mould and/or

fungi. Company also is not liable for any claims, damages, losses, or expenses, arising from or related to work done by or services provided by individuals or entities that are not employed by or hired by Company.

**15. Asbestos and Hazardous Materials.** Company's Work and other services in connection with this Agreement expressly excludes any identification, abatement, cleanup, control, disposal, removal or other work connected with asbestos, polychlorinated biphenyl ("PCB"), or other hazardous materials (hereinafter, collectively, "Hazardous Materials"). Customer warrants and represents that, except as set forth in a writing signed by Company, there are no Hazardous Materials on the Work site that will in any way affect Company's Work and Customer has disclosed to Company the existence and location of any Hazardous Materials in all areas within which Company will be performing the Work. Should Company become aware of or suspect the presence of Hazardous Materials, Company may immediately stop work in the affected area and shall notify Customer. Customer will be exclusively responsible for taking any and all action necessary to correct the condition in accordance with all applicable laws and regulations. Customer shall be exclusively responsible for and, to the fullest extent permitted by law, shall indemnify and hold harmless Company (including its employees, agents and subcontractors) from and against any loss, claim, liability, fees, penalties, injury (including death) or liability of any nature, and the payment thereof arising out of or relating to any Hazardous Materials on or about the Work site, not brought onto the Work site by Company. Company shall be required to resume performance of the Work in the affected area only in the absence of Hazardous Materials or when the affected area has been rendered harmless. In no event shall Company be obligated to transport or handle Hazardous Materials, provide any notices to any governmental agency, or examine the Work site for the presence of Hazardous Materials.

**16. Force Majeure.** Company's duty to perform under this Agreement is contingent upon the non-occurrence of an Event of Force Majeure. If Company shall be unable to carry out any material obligation under this Agreement due to an Event of Force Majeure, this Agreement shall at Company's election (i) remain in effect but Company's obligations shall be suspended until the uncontrollable event terminates or (ii) be terminated upon 10 days' notice to Customer, in which event Customer shall pay Company for all parts of the Work furnished to the date of termination. An "Event of Force Majeure" shall mean any cause or event beyond the control of Company. Without limiting the foregoing, "Event of Force Majeure" includes: acts of God; acts of terrorism, war or the public enemy; flood; earthquake; tornado; storm; fire; civil disobedience; pandemic insurrections; riots; labor/labour disputes; labor/labour or material shortages; sabotage; restraint by court order or public authority (whether valid or invalid), and action or non-action by or inability to obtain or keep in force the necessary governmental authorizations, permits, licenses, certificates or approvals if not caused by Company; and the requirements of any applicable government in any manner that diverts either the material or the finished product to the direct or indirect benefit of the government.

**17. Customer's Breach.** Each of the following events or conditions shall constitute a breach by Customer and shall give Company the right, without an election of remedies, to terminate this Agreement or suspend performance by delivery of written notice: (1) Any failure by Customer to pay amounts when due; or (2) any general assignment by Customer for the benefit of its creditors, or if Customer becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors, or makes or proposes to make any proposal or arrangement with creditors, or if any steps are taken for the winding up or other termination of Customer or the liquidation of its assets, or if a trustee, receiver, or similar person is appointed over any of the assets or interests of Customer; (3) Any representation or warranty furnished by Customer in this Agreement is false or misleading in any material respect when made; or (4) Any failure by Customer to perform or comply with any material provision of this Agreement. Customer shall be liable to Company for all Work furnished to date and all damages sustained by Company (including lost profit and overhead)

**18. Indemnity.** To the fullest extent permitted by law, Company and Customer shall indemnify, defend and hold harmless each other from any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, resulting from death or bodily injury or damage to real or tangible personal property, to the extent caused by the negligence or misconduct of their respective employees or other authorized agents in connection with their activities within the scope of this Agreement. Neither party shall indemnify the other against claims, damages, expenses or liabilities to the extent attributable to the acts or omissions of the other party. If the parties are both at fault, the obligation to indemnify shall be proportional to their relative fault. The duty to indemnify will continue in full force and effect, notwithstanding the expiration or early termination hereof, with respect to any claims based on facts or conditions that occurred prior to expiration or termination.

**19. Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT CONSEQUENTIAL, OR PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING WITHOUT LIMITATION BUSINESS INTERRUPTION, LOST DATA, LOST REVENUE, LOST PROFITS, LOST DOLLAR SAVINGS, OR LOST ENERGY USE SAVINGS, INCLUDING CONTAMINANTS LIABILITIES, EVEN IF A PARTY HAS BEEN ADVISED OF SUCH POSSIBLE DAMAGES OR IF SAME WERE REASONABLY FORESEEABLE AND REGARDLESS OF WHETHER THE CAUSE OF ACTION IS FRAMED IN CONTRACT, NEGLIGENCE, ANY OTHER TORT, WARRANTY, STRICT LIABILITY, OR PRODUCT LIABILITY). In no event will Company's liability in connection with the provision of products or services or otherwise under this Agreement exceed the entire amount paid to Company by Customer under this Agreement.

## 20. CONTAMINANTS LIABILITY

The transmission of COVID-19 may occur in a variety of ways and circumstances, many of the aspects of which are currently not known. HVAC systems, products, services and other offerings have not been tested for their effectiveness in reducing the spread of COVID-19, including through the air in closed environments. **IN NO EVENT WILL COMPANY BE LIABLE UNDER THIS AGREEMENT OR OTHERWISE FOR ANY INDEMNIFICATION, ACTION OR CLAIM, WHETHER BASED ON WARRANTY, CONTRACT, TORT OR OTHERWISE, FOR ANY BODILY INJURY (INCLUDING DEATH), DAMAGE TO PROPERTY, OR ANY OTHER LIABILITIES, DAMAGES OR COSTS RELATED TO CONTAMINANTS (INCLUDING THE SPREAD, TRANSMISSION, MITIGATION, ELIMINATION, OR CONTAMINATION THEREOF) (COLLECTIVELY, "CONTAMINANT LIABILITIES") AND CUSTOMER HEREBY EXPRESSLY RELEASES COMPANY FROM ANY SUCH CONTAMINANTS LIABILITIES.**

**21. Patent Indemnity.** Company shall protect and indemnify Customer from and against all claims, damages, judgments and loss arising from infringement or alleged infringement of any United States patent by any of the goods manufactured by Company and delivered hereunder, provided that in the event of suit or threat of suit for patent infringement, Company shall promptly be notified and given full opportunity to negotiate a settlement. Company does not warrant against infringement by reason of Customer's design of the articles or the use thereof in combination with other materials or in the operation of any process. In the event of litigation, Customer agrees to reasonably cooperate with Company. In connection with any proceeding under the provisions of this Section, all parties concerned shall be entitled to be represented by counsel at their own expense.

**22. Limited Warranty.** Company warrants for a period of 12 months from the date of substantial completion ("Warranty Period") commercial equipment manufactured and installed by Company against failure due to defects in material and manufacture and that the labor/labour furnished is warranted to have been properly performed (the "Limited Warranty"). Trane equipment sold on an uninstalled basis is warranted in accordance with Company's standard warranty for supplied equipment. **Product manufactured by Company that includes required startup and is sold in North America will not be warranted by Company unless Company performs the product start-up.** Substantial completion shall be the earlier of the date that the Work is sufficiently complete so that the Work can be utilized for its intended use or the date that Customer receives beneficial use of the Work. If such defect is discovered within the Warranty Period, Company will correct the defect or furnish replacement equipment (or, at its option, parts therefor) and, if said equipment was installed pursuant hereto, labor/labour associated with the replacement of parts or equipment not conforming to this Limited Warranty. Defects must be reported to Company within the Warranty Period. Exclusions from this Limited Warranty include damage or failure arising from: wear and tear; corrosion, erosion, deterioration; Customer's failure to follow the Company-provided maintenance plan; refrigerant not supplied by Company; and modifications made by others to Company's equipment. Company shall not be obligated to pay for the cost of lost refrigerant. Notwithstanding the foregoing, all warranties provided herein terminate upon termination or cancellation of this Agreement. No warranty liability whatsoever shall attach to Company until the Work has been paid for in full and then said liability shall be limited to the lesser of Company's cost to correct the defective Work and/or the purchase price of the equipment shown to be defective. Equipment, material and/or parts that are not manufactured by Company ("Third-Party Product(s)") are not warranted by Company and have such warranties as may be extended by the respective manufacturer. **CUSTOMER UNDERSTANDS THAT COMPANY IS NOT THE MANUFACTURER OF ANY THIRD-PARTY PRODUCT(S) AND ANY WARRANTIES, CLAIMS, STATEMENTS, REPRESENTATIONS, OR SPECIFICATIONS ARE THOSE OF THE THIRD-PARTY MANUFACTURER, NOT COMPANY AND CUSTOMER IS NOT RELYING ON ANY WARRANTIES, CLAIMS, STATEMENTS, REPRESENTATIONS, OR SPECIFICATIONS REGARDING THE THIRD-PARTY PRODUCT THAT MAY BE PROVIDED BY COMPANY OR ITS AFFILIATES, WHETHER ORAL OR WRITTEN. THE WARRANTY AND LIABILITY SET FORTH IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES AND LIABILITIES, WHETHER IN CONTRACT OR IN NEGLIGENCE, EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND/OR OTHERS ARISING FROM COURSE OF DEALING OR TRADE. COMPANY MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, INCLUDING WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. ADDITIONALLY, COMPANY MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND REGARDING PREVENTING, ELIMINATING, REDUCING OR INHIBITING ANY MOLD, FUNGUS, BACTERIA, VIRUS, MICROBIAL GROWTH, OR ANY OTHER CONTAMINANTS (INCLUDING COVID-19 OR ANY SIMILAR VIRUS) (COLLECTIVELY, "CONTAMINANTS"), WHETHER INVOLVING OR IN CONNECTION WITH EQUIPMENT, ANY COMPONENT THEREOF, SERVICES OR OTHERWISE. IN NO EVENT SHALL COMPANY HAVE ANY LIABILITY FOR THE PREVENTION, ELIMINATION, REDUCTION OR INHIBITION OF THE GROWTH OR SPREAD OF SUCH CONTAMINANTS INVOLVING OR IN CONNECTION WITH ANY EQUIPMENT, THIRD-PARTY PRODUCT, OR ANY COMPONENT THEREOF, SERVICES OR OTHERWISE AND CUSTOMER HEREBY SPECIFICALLY ACKNOWLEDGES AND AGREES THERETO.**

**23. Insurance.** Company agrees to maintain the following insurance while the Work is being performed with limits not less than shown below and will, upon request from Customer, provide a Certificate of evidencing the following coverage:

|                              |                            |
|------------------------------|----------------------------|
| Commercial General Liability | \$2,000,000 per occurrence |
| Automobile Liability         | \$2,000,000 CSL            |
| Workers Compensation         | Statutory Limits           |

If Customer has requested to be named as an additional insured under Company's insurance policy, Company will do so but only subject to Company's manuscript additional insured endorsement under its primary Commercial General Liability policies. In no event does Company waive its right of subrogation.

**24. Commencement of Statutory Limitation Period.** Except as to warranty claims, as may be applicable, any applicable statutes of limitation for acts or failures to act shall commence to run, and any alleged cause of action stemming therefrom shall be deemed to have accrued, in any and all events not later than the last date that Company or its subcontractors physically performed work on the project site.

**25. General.** Except as provided below, to the maximum extent provided by law, this Agreement is made and shall be interpreted and enforced in accordance with the laws of the state or province in which the Work is performed, without regard to choice of law principles which might otherwise call for the application of a different state's or province's law. Any dispute arising under or relating to this Agreement that is not disposed of by agreement shall be decided by litigation in a court of competent jurisdiction located in the state or province in which the Work is performed. Any action or suit arising out of or related to this Agreement must be commenced within one year after the cause of action has accrued. To the extent the Work site is owned and/or operated by any agency of the Federal Government, determination of any substantive issue of law shall be according to the Federal common law of Government contracts as enunciated and applied by Federal judicial bodies and boards of contract appeals of the Federal Government. This Agreement contains all of the agreements, representations and understandings of the parties and supersedes all previous understandings, commitments or agreements, oral or written, related to the subject matter hereof. This Agreement may not be amended, modified or terminated except by a writing signed by the parties hereto. No documents shall be incorporated herein by reference except to the extent Company is a signatory thereon. If any term or condition of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, all other terms and conditions of this Agreement will nevertheless remain in full force and effect as long as the economic or legal substance of the transaction contemplated hereby is not affected in a manner adverse to any party hereto. Customer may not assign, transfer, or convey this Agreement, or any part hereof, or its right, title or interest herein, without the written consent of the Company. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of Customer's permitted successors and assigns. This Agreement may be executed in several counterparts, each of which when executed shall be deemed to be an original, but all together shall constitute but one and the same Agreement. A fully executed facsimile copy hereof or the several counterparts shall suffice as an original.

**26. Equal Employment Opportunity/Affirmative Action Clause.** Company is a federal contractor that complies fully with Executive Order 11246, as amended, and the applicable regulations contained in 41 C.F.R. Parts 60-1 through 60-60, 29 U.S.C. Section 793 and the applicable regulations contained in 41 C.F.R. Part 60-741; and 38 U.S.C. Section 4212 and the applicable regulations contained in 41 C.F.R. Part 60-250 Executive Order 13496 and Section 29 CFR 471, appendix A to subpart A, regarding the notice of employee rights in the United States and with Canadian Charter of Rights and Freedoms Schedule B to the Canada Act 1982 (U.K.) 1982, c. 11 and applicable Provincial Human Rights Codes and employment law in Canada.

**27. U.S. Government Work.**

**The following provision applies only to direct sales by Company to the US Government.** The Parties acknowledge that all items or services ordered and delivered under this Agreement are Commercial Items as defined under Part 12 of the Federal Acquisition Regulation (FAR). In particular, Company agrees to be bound only by those Federal contracting clauses that apply to "commercial" suppliers and that are contained in FAR 52.212-5(e)(1). Company complies with 52.219-8 or 52.219-9 in its service and installation contracting business.

**The following provision applies only to indirect sales by Company to the US Government.** As a Commercial Item Subcontractor, Company accepts only the following mandatory flow down provisions in effect as of the date of this subcontract: 52.203-19; 52.204-21; 52.204-23; 52.219-8; 52.222-21; 52.222-26; 52.222-35; 52.222-36; 52.222-50; 52.225-26; 52.247-64. If the Work is in connection with a U.S. Government contract, Customer certifies that it has provided and will provide current, accurate, and complete information, representations and certifications to all government officials, including but not limited to the contracting officer and officials of the Small Business Administration, on all matters related to the prime contract, including but not limited to all aspects of its ownership, eligibility, and performance. Anything herein notwithstanding, Company will have no obligations to Customer unless and until Customer provides Company with a true, correct and complete executed copy of the prime contract. Upon request, Customer will provide copies to Company of all requested written communications with any government official related to the prime contract prior to or concurrent with the execution thereof, including but not limited to any communications related to Customer's ownership, eligibility or performance of the prime contract. Customer will obtain written authorization and approval from Company prior to providing any government official any information about Company's performance of the work that is the subject of the Proposal or this Agreement, other than the Proposal or this Agreement.

**28. Limited Waiver of Sovereign Immunity.** If Customer is an Indian tribe (in the U.S.) or a First Nation or Band Council (in Canada), Customer, whether acting in its capacity as a government, governmental entity, a duly organized corporate entity or otherwise, for itself and for its agents, successors, and assigns: (1) hereby provides this limited waiver of its sovereign immunity as to any damages, claims, lawsuit, or cause of action (herein "Action") brought against Customer by Company and arising or alleged to arise out of the furnishing by Company of any product or service under this Agreement, whether such Action is based in contract, tort, strict liability, civil liability or any other legal theory; (2) agrees that jurisdiction and venue for any such Action shall be proper and valid (a) if Customer is in the U.S., in any state or United States court located in the state in which Company is performing this Agreement or (b) if Customer is in Canada, in the superior court of the province or territory in which the work was performed; (3) expressly consents to such Action, and waives any objection to jurisdiction or venue; (4) waives any requirement of exhaustion of tribal court or administrative remedies for any Action arising out of or related to this Agreement; and (5) expressly acknowledges and agrees that Company is not subject to the jurisdiction of Customer's tribal court or any similar tribal forum, that Customer will not bring any action against Company in tribal court, and that Customer will not avail itself of any ruling or direction of the tribal court permitting or directing it to suspend its payment or other obligations under this Agreement. The individual signing on behalf of Customer warrants and represents that such individual is duly authorized to provide this waiver and enter into this Agreement and that this Agreement constitutes the valid and legally binding obligation of Customer, enforceable in accordance with its terms.

**29. Building Automation Systems and Network Security.** Customer and Trane acknowledge that Building Automation System (BAS) and connected networks security requires Customer and Trane to maintain certain cybersecurity obligations. Customer acknowledges that upon completion of installation and configuration of the BAS, the Customer maintains ownership of the BAS and the connected network equipment. Except for any applicable warranty obligations, Customer is solely responsible for the maintenance and security of the BAS and related networks and systems. In the event there is a service agreement between Trane and Customer, Trane will provide the services as set forth in the service agreement.

In order to maintain a minimum level of security for the BAS, associated networks, network equipment and systems, Customer's cybersecurity responsibilities include without limitation:

1. Ensure that the BAS, networks, and network equipment are physically secure and not accessible to unauthorized personnel.
2. Ensure the BAS remains behind a secure firewall and properly segmented from all other customer networks and systems, especially those with sensitive information.
3. Keep all Inbound ports closed to any IP Addresses in the BAS.
4. Remove all forwarded inbound ports and IP Addresses to the BAS.
5. Maintain user login credentials and unique passwords, including the use of strong passwords and the removal of access for users who no longer require access.
6. Where remote access is desired, utilize a secure method such as Trane Connect Secure Remote Access or your own VPN.
7. For any Trane services requiring remote data transfer and/or remote user access, configure the BAS and related firewall(s) per instructions provided by Trane. This typically includes configuring Port 443 and associated firewall(s) for Outbound only.
8. Perform regular system maintenance to ensure that your BAS is properly secured, including regular software updates to your BAS and related network equipment (i.e., firewalls).

Any and all claims, actions, losses, expenses, costs, damages, or liabilities of any nature due to Customer's failure to maintain BAS security responsibilities and/or industry standards for cybersecurity are the sole responsibility of the Customer.

1-26.251-10(0123)  
Supersedes 1-26.251-10(1221)



Shane Chura, Sales Engineer  
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#### Project Scope of Work

**Project:** Wyantskill UFSD  
VRF Control Budget  
**Location:** Troy, NY 12180

**Date:** 10/16/23

**Proposal Number.:** 23SMC104

**Revision Number:** 1

#### Included by Technical Building Services:

Technical Building Services bid is to provide, install and program an extension of the existing Schneider Electric I/A series building management system (BMS) at the Wyantskill UFSD per specification section 230923 and "M" drawings dated 07/31/23 as follows:

1. Our proposal/scope of work becomes a part of the contract documents.
2. All wiring installed in mechanical rooms shall be in EMT Conduit. All wiring installed outdoors shall be in water-tight conduit.
3. All other wiring installed shall be without conduit and plenum rated.
4. BMS training on-site.
5. Checkout and start-up of Technical Building Services installed controls.
6. Budget is for work completed in 2024.

#### Variable Refrigerant Flow Unit Control:

- Control of 5 Outdoor Variable Refrigerant Flow Units (HP-1 through HP-5)
  - Interlock wiring from outdoor unit to indoor units.
  - Interlock wiring to BMS.
  - Control and graphical representation on BMS to complement existing control.
- Control of 31 Indoor Variable Refrigerant Flow Units (FCU-1-2, FCU-1-3, FCU-2-1 through FCU-2-7, FCU-3-1 through FCU-3-10, FCU-4-1 through FCU-4-6, & FCU-5-1 through FCU-5-6)
  - Interlock wiring to BMS.
  - Control and graphical representation on BMS to complement existing control.
  - Mount provided VRF sensor on the wall.

**Budget Price: \$78,500.00**

#### Not Included by Technical Building Services:

1. Asbestos abatement, demolition, removals, cut, patch and painting.
2. Power wiring, motor starter, disconnect and VFD's.
3. The setting of dampers, valves, pressure taps, air flow stations, water flow meters and sensor wells furnished by TBS.
4. Water and air balancing.
5. Fire alarm control system work, wiring and installation.
6. Smoke dampers, fire & smoke dampers, and actuators.
7. Static IP addresses or network drops.
8. Allowances or liquidated damages.
9. Applicable sales tax, use tax or bonds.

#### **PLEASE ADDRESS PURCHASE ORDERS TO:**

Technical Building Services, Inc.  
12E Commerce Drive  
Ballston Spa, NY 12020

#### **PLEASE EMAIL YOUR PURCHASE ORDER TO THE CONTACT BELOW.**

We appreciate the opportunity to work with you on this project. If you have any questions, please reach out to our office referencing the below contact information.

Respectfully submitted by:

Shane Chura - Sales Engineer  
Stark Tech | [Integration](mailto:churas@starktech.com)  
Office: 518.602.2385 | Cell 518.429.9500  
[churas@starktech.com](mailto:churas@starktech.com)