ATTACHMENT "A"

ARCHITECT/ENGINEER CONTRACT
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THIS CONTRACT is entered into to establish the terms, conditions and payment for ARCHITECT/ENGINEERING services.

I. PARTIES

1.1 The parties to this contract are [Name] whose address is [address] ("ARCHITECT/ENGINEER"); and Rowan University, 201 Mullica Hill Road, Glassboro, New Jersey 08028-1705 ("UNIVERSITY").

II. DATE

2.1 The date of this contract is [DATE].

III. PROJECT

3.1 The Project shall be designated [insert name and brief description of project, project number and contract number] ("Project")

IV. SCOPE OF SERVICES

4.1 The University employs the Architect/Engineer and the Architect/Engineer agrees to perform the professional services provided in this Contract in connection with the design and administration of the construction of the following project at the following location:

The project shall be deemed to include, but not necessarily limited to, the construction of any appropriate accessory building(s) and the installation of utilities, site improvements, landscaping work and items of fixed or moveable equipment as directed.

4.2 The ARCHITECT/ENGINEER shall perform all services as detailed in the Scope of Work attached hereto as Exhibit "A" and Request for Proposals attached hereto as Exhibit "B". In the event of a conflict between the terms of this Contract, the terms of Exhibit "A" and the terms of Exhibit "B", the terms of Exhibit "A" shall be controlling over the terms of Exhibit "B" and the terms of this Contract shall be controlling over the terms of Exhibit "A".

4.3 The ARCHITECT/ENGINEER shall be responsible for all design work set forth on Exhibit "A" (if included herein) and/or Exhibit "B" (if included herein) or related
thereto in order to provide complete plans and specifications for the completion of construction. No design work shall be deferred to be performed by the contractor.

V. OBLIGATIONS OF ARCHITECT/ENGINEER

5.1 The ARCHITECT/ENGINEER shall use reasonable care to successfully complete the Project held to reasonable standards of professional performance in accordance with the Scope of Work attached hereto as Exhibit "A" (if included herein) and Request For Proposal attached hereto as Exhibit "B" (if included herein).

5.2 Without limiting the foregoing, the Architect/Engineer shall professional, skillful and prompt manner all architectural, site planning, engineering and other professional services relating to the design of the project and the administration of the construction contracts for the project to the satisfaction of the Contracting Officer of the University, including all of the services provided for in this contract. To perform these services, the Architect/Engineer shall employ or engage at his own expense the professional services of a qualified electrical, mechanical and structural engineer or engineers. Other consultants who may be necessary for the Project shall be engaged by the Architect/Engineer at the sole cost and expense of the Architect/Engineer. All such professionals shall be qualified and competent, and shall be approved by the Contracting Officer of the University. Requests for the approval of consultants shall fully describe the scope of the work for which the consultants are being engaged. In addition to the services specified elsewhere in this contract, the Architect/Engineer and its consultants shall attend or be represented, without limitation, by the project manager at conferences with the University which may be required in connection with the services to be rendered for each phase of work.

5.3 Nothing contained in this contract is intended to relieve the Architect/Engineer of responsibility for endeavoring to guard the University against defects and deficiencies in the work or any failure of the contractor(s) to comply with the contract plans and specifications, and all applicable codes and standards. Notwithstanding any provisions in this contract, the Architect/Engineer shall not be relieved of liability to the University as a result of any breach of this contract by the Architect/Engineer, and the University may withhold any payments due to the Architect/Engineer to satisfy any damages incurred because of the Architect/Engineer, including damages not fully determined or liability for claims asserted against the University. The acceptance, approval or payment of any of the plans, drawings, specifications or other work or services performed by the Architect/Engineer under this contract shall not constitute a release or waiver of any claim the University has or may have for latent defects or errors or other breaches of this agreement on the part of the Architect/Engineer, or of any claims for breach of warranty or negligence.

5.4 The ARCHITECT/ENGINEER shall designate a representative authorized to act
on the behalf of and to bind the ARCHITECT/ENGINEER with respect to the Project. The Architect/Engineer will inform the University of the name of its designated representative within seven (7) days of the signing of this Contract.

5.5 The ARCHITECT/ENGINEER shall designate all agents, servants or employees of the ARCHITECT/ENGINEER who shall materially participate in the services to be performed pursuant to this Contract.

5.6 If the ARCHITECT/ENGINEER becomes aware of any non-conformance with this contract by the University, the ARCHITECT/ENGINEER shall give prompt written notice thereof to the University.

5.7 The acceptance or approval of or payment for any of the plans, drawings, specifications or other work or services performed by the Architect/Engineer under this contract shall not constitute a release or waiver of any claim the University has or may have for latent defects or errors or other breaches of this agreement on the part of the Architect/Engineer, or of any claims for breach of warranty or negligence.

VI. OBLIGATIONS OF UNIVERSITY

6.1 The University shall provide all information available to it regarding requirements for the Project. The University shall furnish required information as expeditiously as necessary for the orderly progress of the work. The information so provided by the University is the best information available to the University. The University does not warrant the accuracy or completeness of the information. The Architect/Engineer shall perform such tests as it deems necessary to ascertain the actual conditions relating to the Project.

6.2 The University shall designate a representative authorized to act on the University's behalf with respect to the Project.

6.3 The University or such authorized representative shall render decisions in a timely manner pertaining to documents submitted by the ARCHITECT/ENGINEER in order to avoid unreasonable delay in the orderly and sequential progress of the ARCHITECT'S/ENGINEER'S services.

6.4 If the University becomes aware of any fault or defect in the ARCHITECT'S/ENGINEER'S services or non-conformance with this contract, the University shall give prompt written notice thereof to the ARCHITECT/ENGINEER.

VII. DESIGN PHASE REQUIREMENTS

7.1 The Architect/Engineer shall prepare and submit the following documents to the University:
A. **Program Services:** When program documents are required by the University, these shall be prepared in sufficient detail to outline the scope of the project and shall include, but shall not be limited to, the following unless inapplicable:

1. 
2. 
3. 
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5. 
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7. 
8.

B. **Schematic Design Services:** Schematic design documents shall be prepared based upon the program documents when approved and shall illustrate the scope of the project and the scale and relationship to the project components. The schematic design documents shall include, but not be limited to, the following unless inapplicable:

1. 
2. 
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9.

C. **Design Development Services:** preliminary plans and specifications and related documents to fix and describe the size, character and details of the entire project including the structural, mechanical and electrical systems, materials, and other essentials as may be appropriate shall be prepared by the Architect/Engineer based upon the approved schematic design documents. The preliminary plans and specifications shall include the following for each building, facility or feature of the work:

1. 
2. 
3. 
4. 
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6. 
7. 
8.
D. **Final Construction Document Services:**

1. 
2. 
3. 
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5. 
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9. 

E. **Documents Required for Project Funding:** The Architect/Engineer shall prepare and submit any documents required for project funding, whether from State, Federal or other sources.

F. **Estimates and Certifications:** Estimates of the probable cost of construction which are required to be submitted with the program documents, the schematic documents, the preliminary plans and specifications and the final construction contract documents shall identify the specific features of the design and the cost of each feature in detail, shall include the cost of necessary utilities, appurtenances, site improvements and recommended contingencies, and shall be in sufficient detail to identify the estimated costs of the different phases and aspects of the work, and set forth the basis and manner of the estimate.

G. **Schedule of Architect/Engineer's Design Service:** Following the execution of this contract, the Architect/Engineer shall submit to the University for approval a schedule showing proposed dates for submissions by the Architect/Engineer, and the approval of the University, of the program documents, the schematic design Documents, the Preliminary Plans and Specifications and the Final construction contract documents. The Architect/Engineer shall expeditiously perform the services required in the design phase. Any delays in approval of the Architect/Engineer's submissions shall not, however, delay the compensation payable to the Architect/Engineer for the services rendered under this contract.

H. **Approvals by the University:** All documents, including plans and specifications, and any changes or revisions and all other submittals, including estimates of the probable cost of construction, shall be subject to the written approval of the Contracting Officer of the University as a condition of their acceptance. Unless otherwise directed in writing by the Contracting Officer of the University, the Architect/Engineer shall not proceed with any phase of the design work until the documents for the prior phase have been approved by the University and the Architect/Engineer has been authorized to proceed.
I. **Changes:** The Contracting Officer of the University may, at any time by written order, issue additional instructions and require additional work or services not covered by this contract. If design changes are made in the project after the schematic design documents have been approved by the University, or if changes are made in the scope of the work after approval by the University of preliminary plans and specifications and/or the final plans and specifications, which changes require substantial reworking of such plans and specifications so as to cause the Architect/Engineer to incur extra drafting or similar expenses, the Architect/Engineer shall be entitled to compensation for the cost of the additional work and expenses in an amount agreed to by the University in writing, prior to the commencement of such additional work. The Architect/Engineer will not be reimbursed for any clarifications or revisions of any plans or specifications or other documents submitted which are attributed to his own errors or omissions.

In no event will Architect/Engineer be entitled any additional compensation for work performed as a result of any alleged oral direction from the University for additional work.

VIII. **BIDDING OR NEGOTIATION PHASE REQUIREMENTS**

8.1 The Architect/Engineer shall perform the following professional services in connection with the bidding or negotiation of the construction contract:

A. **Bidding Services:**

1. 
2. 

8.3 The Architect/Engineer shall submit a revision of its estimate of the cost to construct the project, which takes into account the amounts of the construction contracts awarded for the construction of the project and any other factors as of the time of award of the construction contracts.

IX. **CONSTRUCTION PHASE REQUIREMENTS**

9.1 The construction phase will commence with the award of the first construction contracts and will terminate when certificates of final acceptance are issued to the contractors or when final payment is made to the contractors, whichever occurs later. The Architect/Engineer shall assist the University in administering the execution of the construction contracts. In carrying out this responsibility it shall:

A. **Construction Phase Services:**

1. 
2.
X. **WRAP-UP PHASE**

10.1 The wrap-up phase will commence with the issuance of certificate of substantial completion or temporary certificates of occupancy and will terminate upon the issuance of certificates of final acceptance are issued to the contractors or when final payment is made to the contractors, whichever occurs later. During the Wrap-Up Phase, the Architect/Engineer shall perform the following functions:

A. **Wrap-Up (Close Out) Phase Services:**

1. 
2. 
3. 

XI. **COMPENSATION**

11.1 The University shall pay the Architect/Engineer as full compensation for all the services required under, or in connection with this contract, a fee in accordance with the following:

A. **Basic Contract Fee:** The University shall pay the Architect/Engineer for all of the work required by this contract a fee not to exceed, __________________________________dollars $_______________________), as submitted by the Architect/Engineer with a detailed scope of work including construction cost estimates and the work of Architect/Engineers consultants, and approved by the University. This fee is subject to adjustments, only as outlined by this provision.

11.2 The basic contract fee shall be paid to the Architect/Engineer in increments as follows:

1. **Payments during Design Phase**

2. **Payments During Bidding and Negotiating Phase**

3. **Payments During Construction Phase**

4. **Payments During Wrap-Up Phase**

11.3 The University reserves the right to require that it can secure contracts for the completion of the project, which together with other costs, enable it to complete the project within the approved program cost. If the final estimate of construction costs exceeds this amount, or if the amounts of the lowest acceptable bids exceed this amount, the Architect/Engineer shall do any necessary redesign work and make all appropriate
changes in the plans required to construct the project within the program costs or approved final cost estimate, or to establish approved alternates to aid in securing bids compatible with the program estimate. The University shall identify the areas to be redesigned and/or deleted. Any such redesign work and changes shall be undertaken by the Architect/Engineer at no cost to the University. The University shall have the right to reject the design documents if the lowest bids thereon exceed the final construction cost statement by five percent (5%), and, in that event, the Architect/Engineer shall be entitled to no further compensation under this contract.

11.4 The Architect/Engineer shall submit with each invoice a certification that all associated architects, engineers, consultants, etc. have been paid a proportionate share of any previous payments made under this contract, to the extent that they are entitled.

11.5 The final balance of the fee due under this contract shall be paid not later than thirty (30) days from the date of completion of the Wrap-Up Phase hereunder.

11.6 If the Architect/Engineer is required to provide consultation concerning the replacement of any work damaged by fire or other cause beyond his control during construction or to furnish professional services in connection with the replacement of such work, or if he is required to provide professional services made necessary by the default of a contractor in the performance of a construction contract, he shall be compensated for his actual costs, but only in accordance with a written supplemental agreement entered into in advance of the work.

11.7 All payments to be made by the University to the Architect/Engineer under this contract shall be subject to the availability of appropriations.

XII. OWNERSHIP OF DOCUMENTS

12.1 All information and documentation gathered, generated and/or utilized by the ARCHITECT/ENGINEER including but not limited to engineering assumptions and calculations, drawings and specifications (both preliminary and final) pursuant to this agreement (“Contract Documents”) shall be transmitted to the University and become the property of the University. The ARCHITECT/ENGINEER, for record keeping purposes, may, at its own cost, reproduce and retain a set of the Contract Documents prior to transmittal to the University.

12.2 It is understood and agreed between the parties to this contract that the Contract Documents prepared or furnished by the ARCHITECT/ENGINEER pursuant to this agreement, are instruments or services in respect to the Project only. They are not intended or represented to be suitable for reuse by the University for any other purpose. Any reuse without specific written approval or adaptation by the ARCHITECT/ENGINEER will be at the University’s sole risk and without liability or legal exposure to the ARCHITECT/ENGINEER, or the ARCHITECT’S/ENGINEER’S agents, servants and employees for any claims, suits, damages, losses or expenses arising out of or resulting from any use of said documents not in accordance with this paragraph.

XIII. TERMINATION OF ARCHITECT/ENGINEER
13.1 WITHOUT CAUSE. The University may terminate the Architect/Engineer at any time, without cause, upon seven (7) calendar day's written notice to the ARCHITECT/ENGINEER. Upon receipt of such notice, the ARCHITECT/ENGINEER shall immediately discontinue all work hereunder at that point unless otherwise directed. The University shall have the right to audit all of the ARCHITECT'S/ENGINEER'S records pertaining to this Project. Upon such termination, the ARCHITECT/ENGINEER shall be paid in accordance with the following:

13.1.1 Where compensation is based upon a fixed sum, that proportion of the fee which the services actually and satisfactorily performed shall bear to the total services contemplated under this contract, less payments previously made.

13.1.2 Where compensation is based upon time and material expended on the Project, the actual cost incurred by the ARCHITECT/ENGINEER for services actually and satisfactorily performed and incorporated into the project as of the termination date, less payments previously made.

13.1.3 The Architect/Engineer shall submit a schedule of values at the commencement of the Project to be used by the University in connection with this Article X.

13.2 WITH CAUSE. In the event that the ARCHITECT/ENGINEER shall fail to perform its duties or responsibilities under this contract the University may terminate this contract upon seven (7) calendar days written notice to the ARCHITECT/ENGINEER. In addition to any other remedy as provided by law or otherwise provided in this agreement, the University shall withhold payment of any sums which may be due under this agreement.

XIV. SUSPENSION/TERMINATION OF PROJECT

14.1 The University may suspend or terminate the Project at any time, without cause, upon seven (7) calendar day's written notice to the ARCHITECT/ENGINEER. Upon receipt of such notice, the ARCHITECT/ENGINEER shall immediately discontinue all work hereunder at that point unless otherwise directed. The University shall have the right to audit all of the ARCHITECT'S/ENGINEER'S records pertaining to this Project. Upon such termination, the ARCHITECT/ENGINEER shall be paid in accordance with the following:

14.1.1 Where compensation is based upon a fixed sum, that proportion of the fee which the services actually and satisfactorily performed shall bear to the total services contemplated under this contract, less payments previously made.

14.1.2 Where compensation is based upon time and material expended on the Project, the actual cost incurred by ARCHITECT/ENGINEER for services satisfactorily performed and incorporated into the project as of the
14.1.3 The Architect/Engineer shall submit a schedule of values at the commencement of the Project to be used by the University in connection with this Article XIV.

14.2 If the University directs that the work on the Project resume within twelve (12) months, the Architect/Engineer shall be obligated to complete the project for the basic fee provided for in the contract, plus compensation for any additional work necessitated by the stop order. Any such additional work shall be contained in a written change order signed by the University and Architect/Engineer prior to the commencement of the additional work.

XV. DISPUTES

15.1 In the event of a dispute between the ARCHITECT/ENGINEER and the University, the ARCHITECT/ENGINEER may request, in writing, a hearing of any claim, dispute or matter in question arising out of or relating to this contract. The University shall then designate a Hearing Officer, who may be the University's designee under this contract. The Hearing Officer shall not side with the University or the ARCHITECT/ENGINEER but shall use his/her powers to enforce faithful performance by all.

15.1.1 The Hearing Officer shall permit both the ARCHITECT/ENGINEER and the University to provide such relevant information to the Hearing Officer and each other as the Hearing Officer needs to render a decision. Upon rendering a decision, the Hearing Officer will memorialize that decision in writing.

15.1.2 In the event that both the ARCHITECT/ENGINEER and the University agree with the Hearing Officer's decision, each will acknowledge its acceptance in writing.

15.1.3 In the event that the dispute is not resolved as set forth in Paragraph 15.1.2 hereof, then the University shall review all information provided to the Hearing Officer pursuant to Paragraph 15.1.1 hereof and the finding of the Hearing Officer and shall issue a final decision which shall be reduced to writing and a copy provided to the University's designee and the ARCHITECT/ENGINEER.

15.1.4 Pending such final decision, the ARCHITECT/ENGINEER shall have no recourse to court actions, assuming that the aforesaid administrative procedures take place within a reasonable amount of time. Upon receipt of the final decision, either party may then commence appropriate legal proceedings.

15.1.5 Pending final decision of such claim or dispute, the ARCHITECT/ENGINEER shall proceed diligently with the performance of its contract responsibilities.
XVI. INSURANCE and INDEMNIFICATION

16.1 At its own expense until at least two (2) years after the completion and acceptance of all work performed under this agreement and any modification hereto, the Architect/Engineer shall procure and maintain liability insurance for damages imposed by law and assumed under this agreement of the kinds and in the amounts hereinafter provided from the insurance companies admitted or approved to do business in the State of New Jersey. The Architect/Engineer expressly understands and agrees that any insurance protection required by this agreement shall in no way limit the Architect's/Engineer's obligations assumed in this agreement and shall not be construed to relieve the Architect/Engineer from liability in excess of such actions as are available to it under any other provisions of this agreement or otherwise in law.

A. The types and minimum amounts of insurance are as follows:

• Commercial General Liability Insurance: The minimum limits of liability for this insurance shall be as follows:
  
  **Combined Single Limit Per Occurrence**
  
  $

  The above required commercial general liability insurance shall name the University, the State of New Jersey, the New Jersey Educational Facilities Authority (if applicable), its officers and employees as additional insured. The coverage to be provided under this policy shall be at least as broad as the standard, basic, unamended and unendorsed commercial general liability policy and shall include contractual liability coverage. The required aggregate limits may be increased by the University in its sole discretion in order to provide adequate protection to the University. Any deductible shall not exceed $50,000.

• Comprehensive Automobile Liability Insurance: The comprehensive automobile liability insurance policy shall cover owned, non-owned and hired vehicles with minimum limits as follows:
  
  **Combined Single Limit Per Occurrence**
  
  $

• Workers Compensation and Employees Liability: Workers compensation insurance shall be provided in accordance with the requirements of the laws of this State and shall include an endorsement to extend coverage to any State which may be interpreted to have legal jurisdiction. Employer's liability insurance shall be provided with a limit of liability of not less than $100,000 for each accident.

• Professional Liability Insurance: The Architect/Engineer shall carry errors and omissions, professional liability insurance and/or professional liability malpractice insurance sufficient to protect the Architect/Engineer from any liability arising out of professional obligations performed pursuant to the requirements of this agreement. Insurance shall be in the amount not less than schedule shown below and in such policy form as shall be approved by the University. Should the Architect/Engineer change carriers during the term of this agreement, it shall obtain professional liability insurance and/or professional malpractice insurance an endorsement for retroactive coverage from its new errors and omissions.
Any deductible shall not exceed $10,000.00.

For projects with estimated construction cost, the following insurance requirements are:

<table>
<thead>
<tr>
<th>Estimated Construction Cost</th>
<th>Minimum Insurance Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1 - $1,000,000</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>$1,000,001 - $10,000,000</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>$10,000,001 and above</td>
<td>$5,000,000</td>
</tr>
</tbody>
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B. Prior to commencement of the work required under this agreement, the Architect/Engineer shall provide the University with valid certificates of insurance as evidence of the Architect's Engineer's insurance coverage in accordance with the foregoing provisions. Such certificates of insurance shall specify that the insurance provided is of the types and is in the amounts required in paragraph A.

The certificates shall provide for thirty (30) days notice in writing to the University prior to any cancellation, expiration or non-renewal during the term the insurance is required in accordance with this agreement. The Architect/Engineer shall further be required to provide the University with valid certificates of renewal of the insurance upon the expiration of the policies. The Architect/Engineer shall also provide the University with copies of each policy required under this agreement upon request, certified by the agent or underwriter to be true copies of the policies provided to the Architect/Engineer. All certificates and copies of insurance policies shall be forwarded to the University’s address as listed herein.

In the event that the Architect/Engineer provides evidence of insurance in the form of certificates of insurance valid for a period of time less than the period during which the Architect/Engineer is required by the terms of this agreement to maintain insurance, said certificates shall be acceptable but the Architect/Engineer shall be obligated to renew its insurance policies as necessary and to provide new certificates of insurance from time to time so that the University is continuously in possession of evidence of the Architect's Engineer’s insurance in accordance with the foregoing provisions.

In the event that the Architect/Engineer fails or refuses to renew any of its insurance policies as necessary or any policy in canceled, terminated or modified so that the insurance does not meet the requirements of this agreement, the University may refuse to make payment of any further monies due under this agreement or refuse to make payment of monies due or coming due under other agreements between the Architect/Engineer and the University. At its sole discretion, the University may use monies retained under this paragraph to renew the Architect's/Engineer's insurance for the periods and amounts referred to above. During any period when the required insurance is not in effect, the University may either suspend the work under this agreement or proceed to default the Architect/Engineer and thereby terminate this agreement at its option.

16.2 The University shall, as soon as practicable after a claim has been made against it, given written notice thereof to the ARCHITECT/ENGINEER along with full and complete particulars of the claim if suit is brought against the University. The University shall promptly forward to the ARCHITECT/ENGINEER copies of every demand, complaint, notice, summons, pleadings or other process served on it or its representatives.
16.3 The ARCHITECT/ENGINEER agrees to defend, indemnify, protect and save harmless the University and its agents, servants and employees from and against any and all suits, claims, demands or damages of whatsoever kind or nature arising out of any negligent act, error or omission of the ARCHITECT/ENGINEER, its agents, servants and employees in the performance of professional services under this contract including, but not limited to, reasonable expenditures for and costs of investigations, hiring of expert witnesses, court costs, counsel fees, settlements, judgment or awards.

16.4 The ARCHITECT/ENGINEER shall also be liable to the University for the actual costs incurred by the University to correct, modify or redesign any drawings or plans submitted by the ARCHITECT/ENGINEER that are found to be defective or not in accordance with the provisions of this agreement as a result of negligent acts, errors or omissions on the part of the ARCHITECT/ENGINEER, its agents, servants or employees. The ARCHITECT/ENGINEER shall be given reasonable opportunity to correct any deficiencies.

16.5 Notwithstanding any other provisions contained herein, the ARCHITECT/ENGINEER shall not be relieved of liability to the University for actual damages sustained by the University resulting from error, omission or any breach of this contract by the ARCHITECT/ENGINEER. The University, immediately upon the discovery of any error, omission or breach, shall give written notification thereof to the ARCHITECT/ENGINEER and to the ARCHITECT’S/ENGINEER’S professional and/or general business liability insurance carriers. The University may withhold a reasonable portion of payment due not to exceed the amount of the deductible identified in the applicable liability policy for the purpose of establishing a reserve until such time as the exact amount of such actual damages is determined. The University shall expeditiously initiate such proceedings as may be necessary to fairly determine the exact amount, if any, of the actual damages. Such monies withheld by the University shall be retained until the negotiated value of said damages are paid by the ARCHITECT/ENGINEER and/or the ARCHITECT’S/ENGINEER’S insurance carrier or any other party. However, in no case, shall the monies withheld by the University exceed the amount claimed as actual damages or a reasonable estimate thereof. The acceptance, approval or payment for any of the drawings, specifications or other work and services performed by the ARCHITECT/ENGINEER hereunder shall not constitute a release or waiver of any claim the University has or may have for latent defects, errors, omissions or other breach of this agreement on the part of the Architect/Engineer, or of any claims for breach of warranty or negligence.

16.6 The acceptance, approval or payment of any of the plans, drawings, specifications or other work or services performed by the Architect/Engineer under this contract shall not constitute a release or waiver of any claim the University has or may have for latent defects or errors or other breaches of this agreement on the part of the Architect/Engineer, or of any claims for breach of warranty or negligence.

XVII. GOVERNING LAW

17.1 This contract shall be governed by the laws of the State of New Jersey. The ARCHITECT/ENGINEER and the University agree that any legal proceedings shall be venued in the Superior Court of New Jersey, Gloucester County.
17.2 The ARCHITECT/ENGINEER warrants and represents that this contract has not been solicited or secured, directly or indirectly, in a manner contrary to the laws of the State of New Jersey, and in particular, the provisions of N.J.S.A. 52:34-15, N.J.S.A. 52:34-19 and N.J.S.A. 18A:64-52 et. seq., and that the Architect/Engineer has not and shall not violate the laws of New Jersey relating to the procurement of or the performance of this contract by any conduct, including the paying of any gratuity of any kind, directly or indirectly, to any University employee or officer. Any violation of this provision shall be cause for the University to terminate this contract, to retain all unpaid and/or unearned fees, and to recover all fees paid. The Architect/Engineer shall make known to the Contracting Officer any interest in, or association with, any contractor, subcontractor, material supplier, consultant, or manufacturers, or other party which has any interest in this project.

17.3 During the performance of this contract, the contractor agrees as follows:

The architect/engineer, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. The contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. 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 by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The architect/engineer, where applicable 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 age, race creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. The architect/engineer, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The architect/engineer, where applicable agrees to comply with the regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time and the Americans with Disabilities Act. The architect/engineer agrees to attempt in good faith to employ minority and female workers consistent with the applicable county employment goals prescribed by N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c.127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action Office pursuant to N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time.

The architect/engineer agrees to inform in writing appropriate recruitment agencies in the
area, including employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices. The architect/engineer agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey as established by applicable Federal law and applicable Federal court decisions. The architect/engineer agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions. The contractor and its subcontractors shall furnish such reports or other documents to the Affirmative Action Office as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Affirmative Action Office for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code (NJAC 17:27).

XVIII. EXTENT OF AGREEMENT

18.1 This contract represents the entire and integrated agreement between the University and the ARCHITECT/ENGINEER. It supersedes all prior negotiations, representations or agreements, either written or oral. The terms, conditions and provisions of the contract cannot be modified or varied except by a written agreement signed by both the ARCHITECT/ENGINEER and the University.

18.2 The failure of the University to require the performance or satisfaction of any term or obligation of this contract, or the waiver by the University of any breach of this contract, shall not prevent subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach. A waiver of any part of this contract shall not be deemed a waiver of any other part.

XIX. SUCCESSORS AND ASSIGNS

19.1 The University and the ARCHITECT/ENGINEER bind themselves, their partners, successors, assigns and legal representatives to the other party to this agreement and the partners, successors, assigns and legal representatives of such other party with respect to all covenants to this agreement. Neither the University nor the ARCHITECT/ENGINEER shall assign, sublet or transfer their interest in this agreement without the written consent of the other.

19.2 In the event of the death, disability, termination of employment or permanent reassignment of the representative of the ARCHITECT/ENGINEER who is responsible for the day to day performance of this contract for the ARCHITECT/ENGINEER, the ARCHITECT/ENGINEER shall notify the University in writing of such death, disability, termination or reassignment.
XX. MISCELLANEOUS

20.1 Any written notice intended or required to be given hereunder to the ARCHITECT/ENGINEER shall be deemed validly and sufficiently served if addressed and mailed, with sufficient postage, by certified mail to said ARCHITECT/ENGINEER at the following address, or to such other address as ARCHITECT/ENGINEER shall provide to the University in writing:

[Insert name and address]

Any written notice intended or required to be given hereunder to the University shall be deemed validly and sufficiently served if addressed and mailed, with sufficient postage, by certified mail to the University at the following address, or to such other address as University shall provide to the ARCHITECT/ENGINEER in writing:

Joseph Scully  
CFO and Vice President Finance  
Rowan University  
201 Mullica Hill Road  
Glassboro, New Jersey 08028-1705

20.2 Publicity: Publicity and/or public announcement pertaining to this contract shall be approved by the University in writing prior to release.

20.3 Other Consultants: Should the University and the ARCHITECT/ENGINEER determine that the services of other consultants are needed, such consultants may be engaged by the ARCHITECT/ENGINEER at a fee to be paid by the ARCHITECT/ENGINEER, as part of its Contract Price. All such consultants shall be qualified and competent and shall be selected by the ARCHITECT/ENGINEER and be subject to the written approval of the University. Written requests for approval of the consultants shall fully describe the scope of the work for which consultants are being engaged.

20.4 Responsibility to the University: The ARCHITECT/ENGINEER shall take no action at the direction of any representative of the University except as authorized in writing by the University's designee.

20.5 Conflict of Interest: The ARCHITECT/ENGINEER shall make known to the University any interest and/or association with any contractor, material supplier or manufacturer on this contract as soon as such interest is identifiable.

20.6 Cost Records: The Architect/Engineer agrees to maintain and retain weekly payroll, overhead, cost and accounting records for all services performed on the project, including expenses pertaining to additional services required by the University on the project. Such records shall be maintained and available for all aspects of work, whether performed by the Architect/Engineer or any independent firms. These records shall be kept in accordance with general accepted accounting principles and practices, and all such records shall be made available to the University for the inspection for a period of three (3) years after final payment is received by the Architect/Engineer under this contract.
Any failure to maintain or produce such records shall preclude the recovery of any claim for such costs.

IN WITNESS WHEREOF, the University and the ARCHITECT/ENGINEER have executed this agreement the day and year first above written.

Witness ___________________________ Architect/Engineer ________________

Witness ___________________________ Rowan University ________________

Contract #
Project #