



Number: AB210025
 Date Issued: May 24, 2021
 Purchasing Contact: Anup Kapur
 Phone: (609) 771-2859
 Email: kapura@tcnj.edu
 Requesting Department: Campus Planning & Construction
 Fiscal Year: 2021

Proposals will be due on **June 17, 2021 at 2 p.m.**

Important: This proposal must be received at or before the opening time and date stated above. Late proposals will not be accepted. Return proposal to:

**The College of New Jersey
 Office of Finance & Business Services, Purchasing Dept.
 Administrative Services Building, Room 201
 2000 Pennington Road
 P.O. Box 7718
 Ewing, New Jersey 08628-0718
 609-771-2495**

PURPOSE AND INTENT OF REQUEST FOR PROPOSAL:

Solicit proposals for a vendor to provide On-Call Consulting service to The College of New Jersey.

INSTRUCTIONS TO VENDOR'S FOR COMPLETING THIS PROPOSAL

1. Read the entire proposal, including all terms and conditions and specifications.
2. All prices must be typed or written in ink. Any corrections, erasures or other forms of alteration to unit and/or total prices must be initialed by the vendor.
3. **THIS PROPOSAL IS TO BE SIGNED BELOW (LINE 18).**
4. Proposal prices shall include delivery of all items F.O.B. destination or as otherwise provided.
5. Address all inquiries and correspondence to the buyer at the email, phone or address shown above.
6. All communication during the bidding process shall be directed to the Purchasing department only.
7. All instructions must be followed and signatures must be provided for proposal to be accepted.

MANDATORY TO BE COMPLETED BY THE VENDOR

8. Payment discount terms: _____
9. Prices quoted are firm through the following date: _____
10. Your Federal I.D. Number (FEIN): _____
11. Company Name: _____
12. Vendor telephone number: _____
13. Vendor fax number: _____
14. Print Name: _____
15. Email Address: _____
16. Title: _____
17. Date: _____

18. ORIGINAL SIGNATURE OF VENDOR (MUST BE SIGNED)

Signature of the vendor attests that the vendor has read, understands, and agrees to all terms, conditions, and specifications set forth in the request for proposal unless otherwise stated in writing and submitted with the proposal.

PRE-BID CONFERENCE / ON-SITE INSPECTION IS NOT REQUIRED



AB210025

May 17, 2021

Please place the following advertisement in the Legal Section of Classified Advertising. Please ensure that the invoice and Affidavit for this advertisement is prepared and forwarded to The College of New Jersey, Office of Purchasing, Administrative Services Building, Room 201, P.O. Box 7718, Ewing, NJ 08628-0718.

To be published on **May 24, 2021**. Contact person regarding placement of adv is Anup Kapur (609) 771-2859.

ADVERTISEMENT FOR BIDS

Under the provisions of the State College Contracts Law, Chapter 64 of Title 18-A, The College of New Jersey is soliciting proposals for a firm to provide On-Call Consulting services (**AB210025**).

The College will accept sealed bids until **2:00 p.m., June 17, 2021** at the Office of Finance & Business Services, The College of New Jersey, 2000 Pennington Road, Administrative Services Building, Room 201, Ewing, NJ 08628-0718, at which time the proposals will be publicly opened and read. Copies of the bid documents may be obtained via our website (<https://bids.tcnj.edu/home/goods-and-services/>)

The College seeks to limit exposure/spread of the Coronavirus (COVID19) by limiting external visitors to campus. Participants planning to attend the bid opening should follow the safety guidelines recommended by the CDC and abide by any and all Executive Order(s) pertaining to safety precautions required as a result of COVID-19.

BIDDERS REQUIRED TO COMPLY WITH THE REQUIREMENTS OF P.L. 1975 (N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27)

**The College of New Jersey
The Office of Finance & Business Services, Department of Purchasing
Administrative Services Building, Room 201
2000 Pennington Road
P.O. Box 7718
Ewing, New Jersey 08628-0718**

1) **PURPOSE AND INTENT:**

- a) The purpose of this Request for Proposal (RFP) is to secure a vendor to provide On-Call Consulting services.
- b) The College will award the contract within sixty (60) days from the date of the proposal opening. The College, pursuant to State College Contract Law, reserves the right to reject all proposals. In the event that proposals are rejected, the College may elect to re-bid this contract.
- c) The College retains the right to award contracts to two or more vendor's in the event it is determined to be most advantageous to the College.
- d) The College retains the rights to waive minor informalities or non-material exceptions in a bid in accordance with applicable laws.

2) **DEFINITIONS:**

- a) **Addendum** – Written clarification or revision to this RFP issued by The College of New Jersey Purchasing Department.
- b) **Vendor** – An individual or business entity submitting a bid proposal in response to this RFP.
- c) **The College or College or TCNJ** – The College of New Jersey
- d) **Contract** – This RFP, any addendum to this RFP, and the vendor's proposal submitted in response to this RFP, as accepted by the institution.
- e) **Contractor** – The vendor's awarded a contract resulting from this RFP.
- f) **The Institution(s)** – Any of higher education institution within the State of New Jersey.
- g) **May** – Denotes that which is permissible but not mandatory.
- h) **Shall or Must** – Denotes that which is a mandatory requirement. Failure to meet a mandatory requirement may result in the rejection of a bid proposal as materially non-responsive.
- i) **Should** – Denotes that which is recommended but not mandatory.
- j) **State** – State of New Jersey
- k) **Bid** – Response submitted by vendor's in response to a publicly issued solicitation.
- l) **RFP or Request for Proposal** – Document outlining a scope of work, specifications, etc. inviting potential vendor's to submit a proposal to provide such products and/or services.

3) **PROPOSAL/BID PREPARATION AND SUBMISSION**

Questions:

All questions must be submitted in writing via email (kapura@tcnj.edu) or fax (609-637-5140) to Anup Kapur, Finance & Business Services, The College of New Jersey, no later than **May 31, 2021 by 4 p.m.**

Should any questions be received, an addendum will be placed in the newspaper and the addendum will be posted on the Office of Finance & Business Services website (www.tcnj.edu/~budfin/) no later than **June 7, 2021**. **Any and all such addenda MUST be attached to each vendor's proposal submission.**

~~**Pre-bid meeting and site inspection:** The College may require that interested bidders attend a pre-bid meeting and/or a site inspection. The purpose of this meeting or inspection is to provide the interested bidder the opportunity to present questions and see the institution's facilities where the services are to be performed. The institutions may require mandatory attendance at the meeting or inspection as a pre-requisite for submitting a proposal. The institutions may not accept a proposal from a bidder that failed to attend a mandatory pre-bid meeting or a mandatory site inspection.~~

Oral presentation: Prior to award of contract, vendor's who submit a proposal in response to this RFP may be required to give an oral presentation of their proposal if the College so desires. This may provide an opportunity for the vendor to clarify or elaborate on the proposal. The College will schedule the time and location of these presentations.

Submission:

Each vendor submitting a proposal will deliver or cause to be delivered the required elements of the proposal package, sealed in an envelope and clearly marked as a proposal with its bid number affixed thereto, to:

THE COLLEGE OF NEW JERSEY
The Office of Finance & Business Services, Department of Purchasing
Administrative Services Building, Room 201
2000 Pennington Road
P.O. Box 7718
Ewing, New Jersey 08628-0718

Bid Opening: Thursday, June 17, 2021 at 2:00 p.m.

Signature:

The cover page of the RFP, with lines 8 through 18 completed, **and must be signed by an authorized officer** of the bidding vendor and returned with the proposal. Failure to comply with this requirement or failure to provide all requested data, price schedules, signatures, etc. will result in rejection of the proposal.

Vendor's should submit one (1) hard copy of their proposal and one (1) digital copy (flash drive) of their proposal.

Addenda:

All addenda to this RFP will become part of the RFP and part of any contract awarded as a result of this RFP.

Cost Liability:

The College assumes no responsibility and bears no liability for costs incurred by a vendor in the preparation and submittal of a bid proposal in response to this RFP.

Contents of Bid Proposal:

Subsequent to bid opening, all information submitted by vendor's is response to the RFP is considered public information, except as may be exempted from public disclosure by the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., and common law.

A vendor may designate specific information as not subject to disclosure when the vendor has a good faith legal/factual basis for such assertion. The institutions reserve the right to make the determination and will advise the vendor's accordingly. The location in the bid proposal of any such designation should be clearly stated in a cover letter. The institutions will not honor any

attempt by a vendor either to designate its entire bid proposal as proprietary and/or to claim copyright protection for its entire proposal.

By signing this RFP response, the vendor waives any claims of copyright protection set forth within the manufacturer's price list and/or catalogs. The price lists and/or catalogs must be accessible to the institutions and cooperative purchasing partners and thus have to be made public to allow eligible purchasing entities access to the pricing information.

All bid proposals, with the exception of information determined by the institutions or the Court to be proprietary, are available for public inspection after the Letter of Intent to Award is issued. At such time, interested parties can contact The College of New Jersey Purchasing Department to inspect bid proposals received in response to this RFP.

Pricing:

All pricing should be provided per the scope of work/attached cost sheet.

Energy Star energy efficient products: On April 22, 2006, Governor Jon Corzine signed Executive Order #11 stating that The New Jersey State government should assume a leadership role in promoting the efficient use of energy and natural resources in the interest of long-term protection and enhancement of our State's natural beauty. To meet this requirement, vendor's, including designs by architects and engineers, shall provide pricing for Energy Star energy efficient products when applicable. For products that do not have ENERGY STAR labels, vendor's shall follow guidelines established by the New Jersey Clean Energy Program and/or requirements set forth in Executive Order #11.

Substitutions

The vendor's may include in their bid substitute materials or equipment or methods in lieu of those specified in the bidding documents. Any substitution must be equal in type, function and quality to the item required in the specifications.

No vendor is allowed to offer more than one price on each item even though he/she may feel that he/she has two or more types or styles that will meet specifications. Vendor's must determine for themselves which to offer. This may be cause for automatic rejection of bid.

Multiple Proposals are Not Allowed

No vendor's is allowed to submit more than one bid from an individual, vendor, partnership, corporation or association under the same or different name. This may be cause for automatic rejection of each bid.

Bid Withdrawal:

A vendor may request that its bid be withdrawn prior to bid opening. Such request must be made in writing to The College Executive Director of Procurement Services. If the request is granted, the vendor's may submit a revised bid as long as the bid is received prior to the announced date and time for bid opening and at the place designated. Once bids have been opened, the vendor's runs the risk of forfeiting their bid bond.

Submitted proposals shall be valid for at least a period of (60) days to allow for sufficient time for bid evaluation and contract award.

Mandatory Submittals:

Documents/submissions that must be provided **WITH** the bid submission:

- Any addenda if issued
- Non-Collusion Statement
- Statement of Ownership Disclosure
- Source Disclosure Certification: For all procurements that are "primarily" for services, the vendor's must comply with N.J.S.A 52:34-13.2 (also known as Executive Order 129) and file a source disclosure certification with the agency. It is the agency's responsibility to determine if the vendor complies with N.J.S.A. 52:34-13.2. In order to be in compliance, all services provided to the College, must be performed within the United States.
- ~~BID SECURITY AND STATEMENT OF SURETY: If requested in the RFP, the vendor's must provide a bid bond and a statement of surety with the bid proposal.~~
- ~~THE PUBLIC WORKS CONTRACTOR REGISTRATION ACT CERTIFICATE If the RFP is for a public works project, the Vendor's shall submit with the proposal the vendor's Public Work Contractor Registration Act Certificate. Failure to submit a copy of the certificate may be cause for rejection of the proposal.~~
- Vendor Qualifications Sheet
- The College of New Jersey strives to create a diverse environment through a variety of initiatives to make the campus more welcoming to people of all backgrounds. Submit a summary of your organization's policies, procedures and practices aimed at increasing diversity in the workforce. Specify the types of diversity that are

important to your organization and the diversity of your workforce. Specify the diversity in the team you select for the College commitment and how that will affect the quality of services provided to the College.

Documents/Submissions that must be provided before contract award:

- **BUSINESS REGISTRATION**

Pursuant to N.J.S.A. 52:32-44, The College of New Jersey (“Contracting Agency”) is prohibited from entering into a contract with an entity unless the vendor/proposer/contractor, and each subcontractor that is required by law to be named in a bid/proposal/contract has a valid Business Registration Certificate on file with the Division of Revenue and Enterprise Services within the Department of the Treasury.

Prior to contract award or authorization, the contractor shall provide the Contracting Agency with its proof of business registration and that of any named subcontractor(s).

Subcontractors named in a bid or other proposal shall provide proof of business registration to the vendor’s, who in turn, shall provide it to the Contracting Agency prior to the time a contract, purchase order, or other contracting document is awarded or authorized.

During the course of contract performance:

- (1) the contractor shall not enter into a contract with a subcontractor unless the subcontractor first provides the contractor with a valid proof of business registration.
- (2) the contractor shall maintain and submit to the Contracting Agency a list of subcontractors and their addresses that may be updated from time to time.
- (3) the contractor and any subcontractor providing goods or performing services under the contract, and each of their affiliates, shall collect and remit to the Director of the Division of Taxation in the Department of the Treasury, the use tax due pursuant to the Sales and Use Tax Act, (N.J.S.A. 54:32B-1 et seq.) on all sales of tangible personal property delivered into the State. Any questions in this regard can be directed to the Division of Taxation at (609)292-6400. Form NJ-REG can be filed online at <http://www.state.nj.us/treasury/revenue/busregcert.shtml>.

Before final payment is made under the contract, the contractor shall submit to the Contracting Agency a complete and accurate list of all subcontractors used and their addresses.

Pursuant to N.J.S.A. 54:49-4.1, a business organization that fails to provide a copy of a business registration as required, or that provides false business registration information, shall be liable for a penalty of \$25 for each day of violation, not to exceed \$50,000, for each proof of business registration not properly provided under a contract with a contracting agency.

- **AFFIRMATIVE ACTION:** The vendor is required to submit a copy of Certificate of Employee Information Report or a copy of Federal Letter of Approval verifying that the vendor is operating under a federally approved or sanctioned Affirmative Action program. If the vendor has neither document of Affirmative Action evidence, then the vendor must complete the attached Affirmative Action Employee Information Report (AA-302) and send it along with a check for \$150 to the NJ Department of Treasury, Division of Purchase and Property, Contract Compliance Unit. Send a copy of the completed form and check to the College.

- Disclosure of Investment in Iran

- Vendor W-9.

- **CERTIFICATE OF INSURANCE:** The vendor is required to submit proof of liability insurance in accordance with The College’s Terms and Conditions. See attachment titled Terms and Conditions.

- P.L. 2005, Chapter 51 / Executive Order 117 - Vendor Certification and Disclosure of Political Contributions:

- In order for your proposal to be accepted and deemed valid, your company/vendor will be required to comply with the requirements of Chapter 51 and Executive Order 117. Enclosed are the requirements of Ch. 51 and EO 117, the forms for Certification and Disclosure. The contract that will be generated based on this RFP cannot be awarded without approval of the Certification and Disclosure forms by the State of New Jersey, Department of Treasury.

- All applicable licenses, certificates, and requirements specified in the scope of work, contract documents and specifications.

4) **CONTRACTUAL TERMS**

- a) Contract administration: The vendor will coordinate all work schedules with the Campus Planning & Construction department once the contract is awarded.
- b) Term of contract as specified in the scope of work shall commence with the formal date of award.
- c) Proposals will include shipping F.O.B. Destination.
- d) The College obligation hereunder is contingent upon the availability of appropriated funds from which payment for contract purposes can be made.
- e) The vendor must comply with the delivery date as specified in the contract. Failure to comply may result in the termination of the contract.
- f) All deliveries will be made during regular working hours, 8:30 a.m. to 4:30 p.m. Monday through Friday. Changes thereto must be granted with written approval by the College.
- g) The vendor will be responsible for the delivery of products in first-class condition at the point of delivery and in accordance with good commercial practices.
- h) Order of Precedence: The contract awarded as a result of this RFP shall consist of this RFP, addend to this RFP, the vendors bid proposal and the Notice of Award. Unless specifically stated in this RFP, the Special Contractual Terms and Conditions of the RFP and addenda take precedence over the College's Standard Terms and Conditions.
- i) CONTRACT TRANSITION: In the event that a new contract has not been awarded prior to the contract expiration date, as may be extended herein, it shall be incumbent upon the vendor to continue the contract under the same terms and conditions until a new contract can be completely operational. At no time shall this transition period extend more than ninety (90) days beyond the expiration of the contract.
- j) If awarded a contract your company/vendor will be required to comply with the requirements of P.L. 1975 c.127. (NJAC 17:27).
- k) Record Retention: Pursuant to N.J.A.C. 17:44-2.2, the vendor shall maintain all documentation related to products, transactions or services under this contract for a period of five years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller upon request.

5) **PROPOSAL EVALUATION:**

Evaluation committee - Bid proposals may be evaluated by a committee composed of members of the institution Unit/Department responsible for managing the service, the institution's Purchasing Department and other institution employees.

Proposals will be judged by the following criteria:

- a) Experience of the vendor in the commodity being bid.
- b) The ability of the vendor to efficiently, accurately, and successfully perform the required services essential to this contract. The vendor's performance history with regards to these services will be used in the evaluating whether or not to award the contract to that vendor.
- c) A vendor's response to all specification requirements in sufficient detail for the evaluator(s) to analyze the proposal and make sound judgments about it.
- d) Price. The College of New Jersey reserves the right to evaluate price(s) and award contracts, based on the present worth analysis when it is determined to be most advantageous to the College. Vendor's should submit prices exactly as instructed. The College reserves the right to request all vendor's to explain the method used to arrive at any or all prices. The College reserves the right to

require vendor's to provide a schedule of values of their bid price upon request. If it is discovered that there is an arithmetic disparity between the unit price and the total extended price, the unit price shall prevail. If there is any other ambiguity in the pricing other than a disparity between unit price and extended price and the vendor's intention is not readily discernible from other parts of the bid proposal, the Executive Director of Procurement Services may seek clarification from the vendor's to ascertain the true intent of the bid.

6) BEST AND FINAL OFFER (BAFO):

The College of New Jersey reserves the right, at any time prior to the award of a Contract and for any reason, to request and consider "best and final" proposals from one or more of the vendor's who have submitted a proposal. The number of vendor's allowed to submit "best and finals" and the scope of the "best and finals" shall be determined solely by The College of New Jersey. No vendor's has a right to submit a "best and final."



On-Call Consulting Services

Request for Proposal for Professional Design Services

Date Issued: May 24, 2021

Due Date: June 17, 2021

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INTRODUCTION

The College of New Jersey is located on 289 tree-lined acres in suburban, Ewing, New Jersey. Ewing is approximately 5 miles from Trenton, the State Capital, and 60 minutes from Philadelphia and New York. The College is primarily an undergraduate and residential college with targeted graduate programs. Its diverse community of learners is dedicated to free inquiry and open exchange, to excellence in teaching, creativity, scholarship, and citizenship, and to the transformative power of education in a highly competitive institution.

GENERAL SCOPE OF WORK

The purpose of this Request for Proposal (RFP) is to prequalify on-call consultants for asset renewal projects, small renovations, reconfigurations, and other projects as may be required to support the ongoing and changing needs of the campus community. The college is soliciting for firms to respond with pricing for any one or any combination of the services described below in the Required Services.

The College believes that a collaborative approach is essential to any successful project. The Consultant will have one main point of contact at The College for an individual project, and will also interact with several representatives from the campus community. These representatives may include staff or faculty from User groups, Planning & Project Delivery, Design & Construction, Facilities, Occupational Safety & Environmental Services, Information Technology, and others as needed.

New Jersey Uniform Construction Code (NJUCC) review, permitting, and construction inspections are through New Jersey's Department of Community Affairs (DCA). Depending on the scope of the projects, the project may require approval from DCA, Delaware Raritan Canal Commission (DRCC), Mercer County Soil Conservation District (MCSCD) and other governing agencies.

Construction will be typically be publicly advertised and awarded to the lowest responsible bidder with a lump sum single prime contract for projects with an estimated construction cost above \$34,400. Construction bids will be solicited from selected contractors for projects with an estimated construction cost below \$34,400. The college may solicit construction bids through a State contract or Cooperative, or the construction may be completed by the college's in-house construction shop, regardless of the construction cost estimate.

The College is insured through Factory Mutual (FM) and the design shall meet FM requirements. Design documents shall be submitted to FM. FM review requirements and/or comments that require changes to the design and/or increase the budget should be identified and discussed with the College.

For projects that require entering an occupied residence hall, the consultants will be required to complete a background check.

REQUIRED SERVICES

The scope of services typically includes the design and administration of the construction of a project, but may also include feasibility studies or cost estimating. Disciplines may include, but not be limited to architecture, interior design, electrical, mechanical, plumbing, fire protection, structural, civil,

information technology, media services, cost estimating, commissioning, and security. Projects may include interior alterations and renovations, underground utility replacement, building envelope, central plant equipment replacements, mechanical and electrical equipment replacements, and others. Requirements for the Tel/Data and Media Services team members are in Appendices A and B. A contract template for a full design / construction administrative services project is included in Appendix C for review. The contract is included for your information, and is not to be filled out with the proposal submission.

Firms will be prequalified for a term of three (3) years. There is no guarantee that a prequalified firm will be awarded a project. Projects will be awarded in the best interest of the college. The process for awarding a contract to an on-call consultant is as follows:

- The college will issue an RFP to three or more firms selected from the pre-qualified list to submit a proposal for a project. Firms will be selected to receive the RFP based on area of expertise, disciplines needed for the project, and hourly rates.
- The RFP will include the scope of work, contract, milestone schedule, evaluation criteria, and other information relevant to the project
- Proposals will be received and evaluated by the college
- A contract and PO will be issued to the selected firm

PROPOSAL REQUIREMENTS

Team, Organization and Consultants. Provide basic data relative to firm’s size, history, personnel, special expertise, and general credits. Provide qualifications of all consultants.

Hourly Rates: The fee sheet in Appendix D must be completed.

Areas of Expertise. The areas of expertise provided by your firm and your consultants in Appendix E must be completed. Areas of expertise is not the disciplines you and your consultants provide, but the types of projects you have experience with.

Other Pertinent Information: Provide other pertinent information as deemed necessary.

MILESTONE SCHEDULE

<u>Start Date</u>	<u>Finish Date</u>	<u>Task</u>
	5/24/21	Request for Proposal is issued
	5/31/21	Last day for questions
	6/7/21	Addendum issued, if needed
	6/17/21	Proposals due to TCNJ at 2:00 PM

You are welcome to visit the campus on your own, but will not be able to enter any buildings. If you visit campus, please stop at Campus Police on the first floor of the Administrative Services Building for a parking permit. FACE COVERING AND SIX FOOT DISTANCING IS REQUIRED ON CAMPUS.

APPENDIX A

REQUIREMENTS FOR TEL/DATA TEAM MEMBER

The communications scope of work includes all indoor and outdoor distribution pathways and cabling for Voice, CATV and Data (including wireless) applications, spaces for communications equipment and site-wide communications outlets. The scope also includes coordination with A/E team for all additional systems required to support this infrastructure, including but not limited to cooling and ventilation, and primary and backup electrical distribution systems.

The College handles the configuration, distribution, procurement and installation of active electronics and passive support components, as well as the configuration, distribution and installation of these components. Active and passive network components include network switches, wireless access points and antennae, fiber and copper patch cords, power strips and UPS, station patch cords, telephone sets, desktop workstations and printers.

TCNJ will provide the team with preferred component lists, base technical requirements, and construction specifications in the CSI Division 27 format. The selected tel/data design team members are expected to work closely with the TCNJ IT Department and TCNJ's IT Project Manager on all aspects of the design.

The team member providing the IT design services must have the following qualifications:

- Experience in design of communications infrastructure in campus environment.
- Experience in design of communications infrastructure in a higher education environment.
- Experience in designing in accordance with EIA/TIA and BICSI requirements. (BICSI RCDD as part of project team strongly preferred.)

APPENDIX B

REQUIREMENTS FOR AUDIO/VISUAL EQUIPMENT TEAM MEMBER

The audio/visual scope of work includes all selection of all audio / visual equipment following ICIA standards, indoor and outdoor distribution pathways and compliance with ADA codes. The scope also includes coordination with the A/E team for all additional systems required to support the audio/visual infrastructure and systems installed, including but not limited to cooling and ventilation, and primary electrical systems. The College will issue the audio/visual package separately from the General Contractor's construction package.

The team member providing the A/V design services must have the following qualifications

- Experience in A/V design in a higher education environment
- Experience in design following ICIA standards (ICIA CTS-D as part of the project team is strongly preferred)
- Proven track record of successfully working as part of a multi-disciplinary design team. Please provide 3 references (including name, title, role, telephone number and email address)
- TCNJ will provide the team with preferred component list, base technical requirements. The selected audio/visual team members are expected to work closely with the TCNJ Media & Technology Support Services department and TCNJ's AV Project Manager on all aspects of the design

APPENDIX C

CONTRACT TEMPLATE



ARCHITECT PROFESSIONAL SERVICE CONTRACT

This AGREEMENT is entered into as of the [redacted] day of [redacted], [redacted], between

the College: The College of New Jersey
PO Box 7718
2000 Pennington Road
Ewing, New Jersey 08628-0718

and

the Architect: [redacted]

in connection with

the Project: [Insert Project Title]

The Scope of Work includes: [Insert detailed description of the Scope of Work]. Refer to the Request for Proposal, Proposal, and Addendum for full scope of work.]

ARTICLE 1
ARCHITECT'S RESPONSIBILITIES

1.1 ARCHITECT'S SERVICES. The College contracts with the Architect and the Architect agrees to perform the professional services specified in this Contract as well as the professional services specified in the request for proposal's scope of work ("RFP"), Architect's proposal in response to the request for proposal that has been accepted by the College exclusive of qualifications and restrictions that have not been explicitly accepted by the College ("Proposal"), and Addendum and in the construction contract between the College and the contractor awarded the Project by the College ("Construction Contract") (the Construction Contract and all of its exhibits and the documents incorporated therein shall be referred to herein as the "Contract Documents") in connection with the design and administration of the construction of the Project identified above. The services include professional architectural and engineering services in connection with the Design Phase and the Bidding Phase, the Construction Phase, and the Post Construction Phase as set forth herein.

1.2 STANDARD OF CARE. The Architect shall perform its services under this Contract in a good, skillful and prompt manner and in accordance with the standard of professional care and skill expected of architects practicing in the geographic region in which the Project is located and experienced in the design and construction of projects similar in scope and size to the Project, and also in accordance with this Contract. The Architect shall cause its subconsultants to perform their services in accordance with the standards of professional skill and care expected of consultants practicing in the geographic region in which the Project is located and experienced in the performance of such professional services. The acceptance or approval of, or payment for any of the documents or services provided by the Architect under this Contract shall not release or waive any claim for latent defects or errors, or breaches of this Contract, negligence, indemnity or other obligations under this Contract.

1.3 DESIGN TO BE CODE COMPLIANT. The Architect shall review laws, codes and regulations applicable to the Architect's services on the Project. The Architect's design and the plans and specifications (the "Construction Documents") for the Project shall be in compliance with the requirements imposed by governmental authorities having jurisdiction over the Project, including but not limited to applicable laws, regulations, building codes, and the Americans with Disabilities Act. The Architect acknowledges that the College and any contractors and/or consultants engaged by the College will rely upon the accuracy and integrity of the Construction Documents in the construction of the Project.

1.4 ARCHITECT'S REPRESENTATIONS AND WARRANTIES. By executing this Contract, the Architect makes the following express representations and warranties to the College:

1.4.1 The Architect is professionally qualified to act as the Architect for the Project, is authorized to do business in the State of New Jersey, and is licensed to provide design/engineering services by all public entities having jurisdiction over the Architect and the Project;

1.4.2 The Architect shall maintain all necessary licenses, permits or other authorizations necessary to act as Architect for the Project until the Architect's duties have been fully satisfied;

1.4.3 The Architect has visited and become familiar with the Project site and the local conditions under which the Project is to be designed, constructed and operated;

1.4.4 The Architect shall prepare all Construction Documents, Instruments of Service and other things reasonably required by this Agreement, in such a manner that they shall be accurate, coordinated and adequate for construction all in accordance with the applicable standard of care and shall be in conformity and shall comply with reasonable interpretations of applicable law, building codes, and regulations, including the American with Disabilities Act;

1.4.5 The Architect assumes responsibility to the College for the acts, errors and omissions of its subconsultants or others employed or retained by the Architect in connection with the Project;

1.4.6 The Architect is financially solvent, able to pay its debts as they mature and possessed of sufficient working capital to complete the services required and perform its obligations hereunder;

1.4.7 The Architect is able to furnish the workplace, tools, materials, supplies, equipment and labor required to complete the services required hereunder and perform all of its obligations hereunder and has sufficient experience and competence to do so; and

1.4.8 The Architect's execution of this Agreement and its performance is within its duly authorized power.

1.5 SUBCONSULTANTS. The Architect shall employ or engage at its own expense the professional services of subconsultants as may be required for the performance of the services required by this Contract. All such professionals shall be qualified, competent, and licensed as required by the State of New Jersey, and shall be approved in advance in writing by the College. The Architect shall not contract with any subconsultant to whom the College has made a reasonable written objection. Failure to object shall not relieve the Architect of its duties, and it is the Architect's obligation to choose appropriate subconsultants. The Architect shall not substitute a subconsultant previously selected if the College makes a reasonable objection to such substitution. The Architect shall be responsible to the College for all services performed by the Architect's subconsultants. Nothing in this Contract is intended to create any legal or contractual relationship between the College and any subconsultants or independent professionals utilized by the Architect.

1.5.1 Subconsultant Agreements. The Architect shall enter into an agreement with each subconsultant pursuant to which the subconsultant assumes toward the Architect all of the obligations that the Architect assumes toward the College under this Contract. The Architect shall, upon request, provide to the College copies of the Architect's agreement with each subconsultant, including amendments thereto, for the College's information but not for approval. The College makes no representation that it is reviewing the agreement's substance or approving the agreement in any way.

1.5.2 Intended Third Party Beneficiary/Assignment of Subconsultant Agreements. The College is an intended third party beneficiary under any agreement entered into by the Architect with a subconsultant in connection with this Project. The College shall have the right to enforce the terms of any agreement between the Architect and its subconsultant directly against the subconsultant, without accepting any assignment of the subconsultant agreement, and that in such event the College shall be entitled to full and direct performance of the subconsultant agreement from subconsultant. The College's status as intended third party beneficiary does not constitute or create a contractual relationship between the College and any subconsultant and does not allow any subconsultant to enforce its agreement with the Architect directly against the College. The Architect agrees that the College can require or effect an assignment of the Architect's rights under any subconsultant agreement upon termination of the Architect for cause or for the College's convenience and the Architect agrees to execute any and all documents required to effectuate such assignment. The Architect shall cause a provision to such effect to be included in each agreement between the Architect and its subconsultants.

1.5.3 Termination of Subconsultant Agreements. The College reserves the right to require the Architect to terminate contracts or agreements with any subconsultants retained by the Architect for performance of services under this Contract. Any compensation for which the College may be liable as a result of such termination shall be limited to amounts as described in Article 8.

1.6 COORDINATED SERVICES. The Architect acknowledges that it is essential that all services in connection with the Project be coordinated, including services provided by the College. The Architect shall coordinate the services of all its architects, engineers and subconsultants for the Project, shall review and check all drawings and specifications and shall make modifications as necessary, to assure that they are integrated into a well-coordinated and complete set of documents prior to each submission. In addition, the Architect shall coordinate its services with services provided by the College and the College's consultants and in-house personnel.

ARTICLE 2 SCOPE OF ARCHITECT'S BASIC SERVICES

2.1 The Architect's Basic Services consist of those described in this Article 2, and include normal structural, mechanical, plumbing, fire protection, electrical, landscape architecture, interior, and any other engineering services necessary to produce a complete and accurate set of Construction Documents for the Project, which convey the Project in a clear and buildable fashion for the contractor awarded the Construction Contract and result in a buildable Project.

2.1.1 The Architect shall manage the Architect's services, consult with the College, research applicable design criteria, attend project meetings, communicate with members of the Project team and report progress to the College.

2.1.2 The Architect shall, at appropriate times, contact governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

2.1.3 The Architect shall assist the College in connection with the College's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

2.1.4 The Architect shall provide all other services set forth in the RFP and/or Proposal.

2.2 DESIGN PHASE AND BIDDING PHASE SERVICES. The Architect shall perform the services included in the following "Design Phases" (Program Document Phase, Schematic Design Phase, Design Development Phase, Final Construction Documents Phase, and Government Agency Review Phase) and Bidding Phase (any of the Design Phases and Bidding Phase maybe referred to as a "Design and Bidding Phase" and collectively they may be referred to as the "Design and Bidding Phases"):

2.2.1 Program Document Phase. The Architect shall consult with the College and prepare program documents, which describe the College's Project goals, objectives and criteria. The program documents shall include:

- (a) Project objectives, goals and needs;
- (b) Project description, including narrative, and including site, location, size, capacity, access, and parking;
- (c) Conceptual drawings;
- (d) Outline and initial specifications;
- (e) Design criteria (including standards, College architectural considerations, design and construction restraints, and expandability requirements);
- (f) Limitations affecting design and construction work;
- (g) Environmental and energy use analysis;
- (h) Systems descriptions including, but not limited to, site utilities, telecommunications, CATV, security (cameras, emergency phones, access control, etc.), audio visual equipment, computers, acoustical systems, and interface with existing College utilities, systems, and facilities;
- (i) Schedule for design and construction (milestones);
- (j) Laws, regulations, requirements, and approvals needed;
- (k) Insurance requirements for the Project;
- (l) Alternate approaches;
- (m) Information and documents needed from the College and other parties (e.g. borings, site description, surveys, and utility surveys);
- (n) Project budget (and budget criteria); and
- (o) All other items/services set forth in the RFP and/or Proposal.

At the completion of the Program Document Phase, the College will have a review period, which will be concluded with a review meeting attended by, at a minimum, a representative of the following disciplines: Architect, mechanical engineer, electrical engineer, information technology, audio/visual, and acoustician. The Architect will prepare meeting minutes.

The Architect shall provide all other Program Document Phase services set forth in the RFP and/or Proposal.

2.2.2 Schematic Design Phase. This phase shall begin after the College approves in writing the documents prepared in the Program Document Phase and authorizes this phase to begin. The Architect shall prepare schematic design documents which illustrate the Project and the scale and relationship of the Project components. The schematic design documents shall include:

- (a) Site evaluation and study;
- (b) Site utility layouts, including but not limited to domestic water, sanitary, storm, electric, steam, fire water, condensate, data and CATV;
- (c) Schematics of each building or facility. (Minimum 1/16" scale if possible);
- (d) Space analysis;
- (e) Plans, elevations, sections;
- (f) Outline specifications for all disciplines, including information technology and audio/visual equipment;
- (g) Building systems including, but not limited to, utilities, telecommunications, CATV, security, access control, computers and interface with existing College utilities, systems, and facilities;
- (h) Energy consumption analysis;
- (i) Interior room signage, building directory signage, and exterior wayfinding signage;
- (j) Estimate of cost of construction;
- (k) Code review;
- (l) List of reviewing agencies requiring submissions and approvals;
- (m) Floor plans and elevations rendered for presentation;
- (n) Electronic 3D massing model;
- (o) Geotechnical Services for soils conditions for foundations and storm water management;
- (p) Underground Utility Mapping within the area of work to horizontally locate existing utilities and to perform test pits to identify utility depths;
- (q) Topographic Survey within area of work;

(r) Environmental Survey, including a lead based paint survey, a comprehensive asbestos containing materials survey, a mold/moisture evaluation, a general space environmental assessment, and identification of all hazardous waste visible and uncovered in the investigation. Asbestos survey shall include under carpets, all layers of flooring materials, all ceilings, exposed mechanical pipe insulation and elbows, and any other suspect materials. The report shall include recommendations for remedial options, and a cost estimate broken down by survey location or material;

(s) List of submissions for New Jersey Clean Energy Program and other energy rebate programs;

(t) LEED checklist; and

(u) All other items/services set forth in the RFP and/or Proposal.

The Construction Cost estimate prepared by the Architect's cost estimator will be reconciled with the College's cost estimator's Construction Cost estimate. The Architect and its cost estimator shall attend a reconciliation meeting.

At the completion of the Schematic Design Phase, the College will have a review period, which will be concluded with a review meeting attended by, at a minimum, a representative of the following disciplines: Architect, mechanical engineer, electrical engineer, information technology, audio/visual, and acoustician. The Architect will prepare meeting minutes. Separate coordination meetings will be held with the College's cost estimator, commissioning agent and appropriate representation from the Architect. The Architect will prepare meeting minutes.

The Architect shall provide all other Schematic Design Phase services set forth in the RFP and/or Proposal.

2.2.3 Design Development Phase. This phase shall begin after the College approves in writing the documents prepared in the Schematic Design Phase and authorizes this phase to begin. The Architect shall prepare preliminary plans and specifications and related documents which describe the size, character and details of the Project including the structural, mechanical, electrical and other systems, materials, and other essentials as may be appropriate, and shall be based upon the approved program documents and approved schematic design documents. The documents shall show all work and materials required to construct the Project. The design development documents shall include for each building, facility or feature of the work:

(a) Plans, elevations, sections and other details pertinent to the features of the design;

(b) Specifications for all disciplines;

(c) Site plans;

(d) Utility distribution systems for all utilities from building(s) to the connection point of the main campus systems;

- (e) Structural analysis;
- (f) Mechanical analysis with single line diagrams and utility room sections;
- (g) Electrical analysis with single line diagrams, load analysis and short circuit calculations;
- (h) Information Technology analysis with single line diagram;
- (i) Special features;
- (j) Building systems, including information technology, audio visual equipment, access control, and acoustical systems;
- (k) Proposed supplementary general conditions recommended by the Architect and approved by the College to supplement the College's current general conditions;
- (l) Revised estimate of the cost of construction;
- (m) Landscape plans;
- (n) Interior room signage, building directory signage, and exterior wayfinding signage;
- (o) Civil plans;
- (p) Furniture plans;
- (q) Finish selections;
- (r) Updated code analysis report;
- (s) Updated list of reviewing agencies requiring submissions and approvals, with estimated cost of review fees;
- (t) Floor plans and elevations rendered for presentation;
- (u) Detailed model in electronic 3D;
- (v) Updates to geotechnical services, underground utility mapping and topographic surveys as required;
- (w) Environmental remediation documentation;
- (x) Submissions to New Jersey Clean Energy Program and other energy rebate programs;
- (y) Updated LEED Checklist;

(z) Written response to issues identified during the review of the schematic design documents; and

(aa) All other items/services set forth in the RFP and/or Proposal.

The Construction Cost estimate prepared by the Architect's cost estimator will be reconciled with the College's cost estimator's Construction Cost estimate. The Architect and its cost estimator shall attend a reconciliation meeting.

Design development documents will be submitted to the College's property insurer by the College. The Architect shall review the College's property insurer's comments and incorporate them into the Construction Documents at no cost to the College. If any of the College's property insurer's comments require changes to the design and/or increase the expected Construction Cost, the Architect shall notify the College and shall make all required changes to the design at no cost to the College.

At the completion of the Design Development Phase, the College will have a review period, which will be concluded with a review meeting attended by, at a minimum, a representative of the following disciplines: Architect, mechanical engineer, electrical engineer, plumbing engineer, information technology, audio/visual, acoustician, civil engineer, landscape architect, and interior designer. The Architect will prepare meeting minutes. Separate coordination meetings will be held with the College's cost estimator, commissioning agent and appropriate representation from the design consultant. The Architect will prepare meeting minutes.

The Architect shall provide all other Design Development Phase services set forth in the RFP and/or Proposal.

2.2.4 Final Construction Documents Phase.

(a) **Document Preparation.** After documents in the Design Development Phase are completed and approved in writing by the College, the Architect shall prepare final Construction Documents, including working plans and specifications for use in the actual performance of the construction work and permit procurement. They shall set forth in detail the work and materials and systems and other requirements needed to complete the construction of the entire Project. Documents shall include all applications, submissions, and responses required for the submission, review, and approval of all governing agencies. These documents shall be based upon and be consistent with the program documents, the schematic design documents, the design development documents, any other written instructions of the College, and all applicable laws, regulations, and building code and requirements. In preparing the final Construction Documents, the Architect shall affect savings not inconsistent with the program and design development documents wherever possible, perform a constructability review, and reduce errors and omissions in the final working or construction plans and specifications. Within five (5) days of the completion of the constructability review, the Architect shall submit to the College a letter stating that the constructability review has been completed and reporting the results of the constructability review.

(b) **Completeness of Documents.** The final plans and specifications shall set forth clearly all the work and materials and other requirements necessary to complete

the construction of the Project, and shall include site development, utility plans, information technology infrastructure and components, audio/visual equipment, and furniture. The submission shall include a written response to issues identified during the review of the design development documents. At the completion of the Final Construction Documents Phase, the College will have a review period, which will be concluded with a review meeting attended by, at a minimum, a representative of the following disciplines: Architect, mechanical engineer, electrical engineer, plumbing engineer, access control, information technology, audio/visual, acoustician, civil engineer, landscape architect, and interior designer. The Architect will prepare meeting minutes. Separate coordination meetings will be held with the College's cost estimator, commissioning agent and appropriate representation from the design consultant. The Architect will prepare meeting minutes.

(c) **Specifications/Submittals.** The construction specifications shall include for each branch of work, such as general construction, HVAC, electrical, plumbing, fire protection, information technology, audio visual equipment, access control, and structural, a schedule or list identifying each paragraph of the specifications and item for which shop drawings and/or samples and/or permits and approvals and/or other submittals are to be submitted by the contractor before or during the construction work. They shall also include a separate list of all items required to be submitted by the contractor upon completion of the Project, such as certifications, warranties, guarantees, bonds, maintenance and operating manuals, replacement parts, record drawings, permits and approvals.

(d) **Plan Format.** All final plans shall be plotted from AutoCAD, prepared in accordance with sound drafting and CADD practice, and shall be suitable for legible reproduction. Except as otherwise specified, sheets shall have overall dimensions of 30 inches by 42 inches maximum. All lettering shall be legible and suitable for reproduction. Final plans shall make reference to the College by incorporating the College title logo as it appears on College letterhead in a separate block of the title strip. The College's identification may be inserted below the identification of the Architect-of-Record.

(e) **Bound Documents.** The final specifications shall be prepared so that when they are printed they can be bound in volume form and include an approved cover, a table of contents, the general conditions, the approved supplemental general conditions, the period of time specified for the construction of the Project as approved by the College, the College's forms to be utilized during construction administration, and any supplementary information recommended by the Architect and approved by the College. The Architect shall provide to the College disks with all program documents in Microsoft Word, Excel, or other College approved program.

(f) **Final Construction Documents Phase Submissions.** The Architect shall make a drawing and specification progress submission at 50%, and 100% completion of the Construction Documents (DCA submission documents). The College will conduct an internal review of each submission and provide written comments. The Architect shall revise the documents accordingly and provide a written response to the College's comments.

(g) **Cost Estimate.** The Architect shall prepare a revised estimate of the Construction Cost based on the 50% and final Construction Documents, and report any changes from earlier estimates. The Construction Cost estimate prepared by the Architect's cost estimator will be reconciled with the College's cost estimator's Construction Cost estimate. The Architect and its cost estimator shall attend a reconciliation meeting with the College's cost estimator, commissioning agent and appropriate representation from the design consultant.

(h) **Detailed Model.** The Architect shall update the electronic 3D model.

(i) **Review by the College's Property Insurer.** Construction Documents will be submitted to the College's property insurer by the College. The Architect shall review the College's property insurer's comments and incorporate them into the final Construction Documents at no cost to the College. If any the College's property insurer's comments require changes to the design and/or increase the expected Construction Cost, the Architect shall notify the College and shall make all required changes to the design at no cost to the College.

(j) **Environmental Remediation.** Update environmental remediation documentation.

(k) **Underground Utility Mapping.** Underground Utility Mapping within the area of work to horizontally locate existing utilities and to perform test pits to identify utility depths.

(l) **Topographic Survey.** Topographic Survey within area of work.

(m) **Environmental Survey.** Environmental Survey, including a lead based paint survey, a comprehensive asbestos containing materials survey, a mold/moisture evaluation, a general space environmental assessment, and identification of all hazardous waste visible and uncovered in the investigation. Asbestos survey shall include under carpets, all layers of flooring materials, all ceilings, exposed mechanical pipe insulation and elbows, and any other suspect materials. The report shall include recommendations for remedial options, and a cost estimate broken down by survey location or material.

(n) **LEED.** Provide an updated LEED checklist.

(o) **Energy Rebate Programs.** Provide an update on the status of applications to the New Jersey Clean Energy Program and other energy rebate programs. Submit paperwork as required.

(p) The Architect shall provide all other Final Construction Documents Phase services set forth in the RFP and/or Proposal.

2.2.5 Government Agency Review Phase: After the Final Construction Phase Documents are completed and approved in writing by the College, the Architect will assist the College with the reviewing agencies submissions. The Architect will provide applications to the College with signed and sealed drawings as required by the reviewing agencies. The Architect

will provide responses to the review comments by the reviewing agencies to the College. Plan review through the Department of Community Affairs (DCA) is completed electronically and the Architect shall make the electronic submissions.

The Architect shall provide all other Government Agency Review Phase services set forth in the RFP and/or Proposal.

2.2.6 Bidding Phase. After the Final Construction Phase documents are completed and approved in writing by the College, and after government agency review comments have been incorporated into the final Construction Documents, the College will solicit bids from single-prime contractors for the construction of the Project to submit fixed price bids for the work. The Architect shall assist the College in the preparation of the invitation to bid documents based on the approved program documents and the final Construction Documents, and the bid documents shall be sufficient to enable bidders to submit fixed price bids. The bid documents shall include instructions to bidders, the final Construction Documents approved by the College including plans and specifications, the bid form, the form Construction Contract to be signed by the contractor, the College's general conditions, any supplementary general conditions approved by the College, and surety bond forms. The Architect will attend the pre-bid meeting, prepare meeting minutes, and will answer bidder questions through addenda issued by the College. After bids are received, the Architect shall evaluate the bids and make written recommendations to the College regarding the bids and the bidders, including whether the bids conform to the bid documents and requirements, the responsibilities and qualifications of the bidders, and any other matters pertinent to the decision to award the Construction Contract. The Architect shall also assist the College in the preparation, review and negotiation of the Construction Contract to be signed by the contractor awarded the Project by the College.

The College will bid the audio/visual equipment in a separate bid package. Any furniture not available on State contract will be bid as a separate package. The Architect and its appropriate subconsultants shall participate in the bid and award of the audio/visual equipment and the furniture, by preparing bid packages, attending pre-bid conferences, answering bidder questions through addenda, reviewing bids, and making written recommendations to the College regarding the bids and the bidders including whether the bids conform to the bid documents and requirements, the responsibilities and qualifications of the bidders, and any other matters pertinent to the decision to award such contract.

The Architect shall provide all other Bidding Phase services set forth in the RFP and/or Proposal.

2.2.7 Other Items Applicable to Design and Bidding Phase Services

(a) **Copies and Electronic Versions of Design and Bidding Documents.** The Architect shall provide electronic versions of all documents, as well as three (3) full size and five (5) half size sets of all documents at each submission throughout the Design and Bidding Phases.

(b) **Design Schedule.** Prior to the execution of this Contract, the Architect shall submit to the College for approval, a comprehensive Design Schedule showing proposed tasks and dates for submission by the Architect. The Architect's Design Schedule shall

be coordinated with the Milestone Design Schedule included in the RFP documents and set forth in Section 5.2.1. The Design Schedule initially shall include anticipated dates for commencement of construction and for substantial completion of the work. The Design Schedule must allow one (1) month review by the College between each phase. The Design Schedule shall also include allowances for the performance of the College's consultants and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the College, time limits established by the Design Schedule shall not, except with reasonable cause, be exceeded by the Architect. With the College's written approval, the Architect shall adjust the Design Schedule, if necessary, as the project proceeds until the commencement of construction. The Architect shall perform the services required in accordance with the approved schedule and time shall be of the essence for the Architect's performance of such services.

(c) **Approvals by the College.** All documents prepared and submitted by the Architect in each of the Design and Bidding Phases including all changes shall be subject to the written approval of the College as a condition of their use. Unless otherwise directed in writing by the College, the Architect shall not proceed with any phase of the design work until the documents from the prior phase have been approved in writing by the College and the Architect has been authorized to proceed.

(d) **Changes During Design.** The College may issue additional instructions and require additional work, services or changes not covered by this Contract at any time by written order. If design changes are made after the schematic design documents have been approved by the College, or if changes are made in the scope of the work after approval by the College of the design development documents and/or the final Construction Documents, and the changes require substantial reworking of the plans and specifications so as to cause the Architect to incur extra drafting or similar expenses, the Architect shall be entitled to compensation for the cost of the additional work and expenses. All changes to scope and compensation shall be documented, prior to the commencement of the work, with a proposal from the Architect and a Supplemental Service form from the College. In the event that the schedule does not allow for a proposal and Supplemental Service form, or a fee cannot be agreed upon, the additional fee shall be determined in accordance with Section 4.2.1. The Architect will not be reimbursed for any clarifications or revisions of any plans or specifications or other documents submitted which are attributed to its own errors or omissions, deviations from the program documents, or earlier Design and Bidding Phase Documents which were approved.

(e) **Services, Information and Documents Required From Others for Design of Project.** The Architect shall advise the College in writing of all services, information and documentation required from third-parties which are not included in this Contract, such as surveys of the building site, grades and lines of streets, pavements and adjoining properties; rights, restrictions, easements, boundaries and contours of the building site information as to existing sewer, water, gas and electrical services, borings, test pits and chemical, mechanical or other tests. The College shall, if it agrees, procure the services required from third-parties under separate contracts. The Architect shall not be held responsible for the accuracy of information and documents provided by third-parties; however, the Architect is not relieved of the responsibility for verifying such information to the extent that customary standards of the profession require doing so, and identifying apparent or obvious errors, omissions, discrepancies and/or inconsistencies. The Architect shall visually inspect the site in

connection with its review of information furnished by third-parties before using the information in performing this Contract. The Architect shall coordinate its services with those services provided by the College and any consultants or third-parties retained by the College.

(f) **Conformed Documents.** The Architect shall, concurrent with the award of the Construction Contract, issue four (4) consolidated/conformed sets of drawings and specifications after incorporating (a) addenda information issued during the bidding period, (b) accepted alternates, and (c) any other changes to be incorporated into the contract documents. These documents shall be identified in the revision box as “For Construction.” They shall be submitted to the College, and with the College’s approval, shall be issued for construction use within ten (10) working days after the Construction Contract award.

2.2.8 Construction Estimate and Budget Cap. The amount presently estimated and budgeted for the construction of the Project (exclusive of the cost of land, professional fees and furniture) is \$ _____. [OR The cost estimate developed by the Architect at the schematic design phase, and as approved by the College, will become the budget cap.] The Architect agrees to develop a design and design documents, which result in a project Construction Cost, which does not exceed that amount. If the design at any state results in an estimate, which exceeds that amount, or if the lowest acceptable bid exceeds that amount when the project is bid, the Architect shall provide alternative designs, materials and systems consistent with the program documents to reduce the Construction Cost to the foregoing budget amount at no cost to the College. If the College issues scope changes at any stage which increase the Construction Cost, the amount of the foregoing budget amount shall be increased accordingly.

2.2.9 Construction Cost. The Construction Cost shall be the total cost to the College to construct all elements of the Project designed or specified by the Architect. The Construction Cost does not include the compensation to the Architect and the Architect’s subconsultants, the costs of the land, rights-of-way, financing, contingencies for changes in the work or other costs that are the responsibility of the College. The Construction Cost shall not include fees paid to professionals, attorneys, accountants, surveyors or other professional service providers. The Construction Cost shall include the cost at current market rates of labor and materials furnished by the contractor and equipment designed, specified, selected, or specially provided for by the Architect, plus a reasonable allowance for the contractor’s general conditions costs, overhead and profit. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the work during construction.

2.3 CONSTRUCTION PHASE. The Architect shall provide administration of the Construction Contract between the College and the contractor awarded the Construction Contract as set forth below. The Construction Phase will begin on the date specified in a notice to start construction, which will be issued by the College after it awards the Construction Contract and issues a notice to the contractor to proceed. The Construction Phase will end when the certificate of substantial completion is issued. The Architect’s Construction Phase services shall include:

2.3.1 Representation of College. The Architect shall advise and consult with the College during the Construction Phase. The Architect shall represent the College on the site,

and advise the contractor of the Architect's and the College's instructions and interpretations of the contract documents. The Architect shall respond to Requests for Information (RFIs) from the Contractor within five (5) working days of receipt. The Architect shall have authority to act on behalf of the College to the extent provided in this Contract and in the Construction Contract. However, the Architect shall not issue change orders or directions involving changes in scope or cost without prior written authorization from the College.

2.3.2 Project Management Software. The Architect shall utilize project management software, which is acceptable to the College, for managing the Project and shall provide the College with access to such software.

2.3.3 Observation/Evaluation of the Work. The Architect and its subconsultants shall have access to the work at all times when it is in progress and shall make frequent visits to the site to maintain familiarity with the conditions, progress and quality of the work, and shall determine if the work is proceeding in accordance with the contract documents. On the basis of its on-site observations/evaluations, the Architect shall endeavor to guard the College against defects and deficiencies in the contractor's work, or any failure of the contractor to comply with the contract documents and all applicable laws, codes and standards. In determining if technical aspects of the Project are completed properly, the Architect shall have all disciplines, including its subconsultants, visit the site periodically, as is deemed necessary by the nature of the work or as required by the College, to observe their respective aspects of the work. The Architect shall assist the College in documenting any non-performance by the contractor or its subcontractors, and shall assist the College by reporting construction defects and the effect of delays to the Project. The Architect shall provide a report summarizing the conditions found during each site visit within five (5) working days after each visit. At a minimum, the Architect's site visits and reports shall be performed prior to or after each job meeting.

2.3.4 Identification of Non-Conforming Work. The Architect shall reject work which does not conform to the Contract Documents. The Architect shall advise the College when it deems inspection or testing of the work is necessary or advisable and shall have the authority, with the College's consent, to require such inspection or testing whether or not such work is fabricated, installed or completed. The Architect shall recommend to the College in writing that the work be stopped wherever, in its reasonable opinion, such action is necessary for the proper performance of the Construction Contract.

2.3.5 Review of Contractor Payment Requests. The Architect shall review contractor payment requests and the amounts requested, determine the amounts due under the Construction Contract, and certify the amount to be paid on each payment request within two (2) working days of receiving the requisition. The Architect's certifications of contractor payment requests shall constitute a representation by the Architect to the College based upon the Architect's observations at the site and evaluation of the work, and upon its verification of the information in the requests, that the work has progressed to the point represented, that to the best of the Architect's knowledge, information and belief, the quality of the work conforms to the Contract Documents, and that the contractor is entitled to payment in the amount certified. The Architect's certification shall be subject to an evaluation of the work as a functioning whole upon completion, to the results of any subsequent tests required by the Contract Documents, to

minor deviations from the Contract Documents to be corrected prior to completion, and to any specific qualifications stated by the Architect in the certifications for payment. By issuing a certification for payment, the Architect shall not be deemed to represent that it has made any examination to determine how and for what purpose the contractor has used monies paid to it under the Construction Contract. The Architect shall maintain a record of the applications and certifications for payment, copies of which shall be sent to the College.

2.3.6 Interpretation of Contract. The Architect shall be the interpreter of the requirements of the Contract Documents and the impartial judge of the performance thereunder in the first instance. The College can either act in accordance with the interpretation of the Architect or take appropriate action as provided in this Contract and/or the Construction Contract.

2.3.7 Contractor Claim Review. The Architect shall evaluate and make written recommendations to the College concerning claims submitted by the contractor and the execution and progress of the contractor's work.

2.3.8 Job Meetings. The Architect shall attend regular job site meetings with the contractor and interested parties and report on and make written recommendations relative to the progress of the work. Job meetings shall be held at least every two weeks. Representatives of each discipline shall attend job meetings as requested by the College. The College shall prepare meeting minutes and the Architect shall review and sign off on the meeting minutes.

2.3.9 Changes.

(a) The Architect may authorize minor changes in the work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the contract sum or an extension of the contract time. The Architect shall provide notice to the College of all such minor changes in the work. The College shall prepare change orders and construction change directives in accordance with the Contract Documents.

(b) **Records of Changes.** The Architect shall maintain records relative to changes in the Work (including but not limited to all Change Orders and change directives), which shall be made available or provided to the College upon request. The Architect shall independently provide to the College copies of records relating to material issues that in scope or collective substance affect the quality of materials on the Project, the cost of the work or the schedule, or that otherwise impact the College's established program.

(c) **Architect's Review of Contractor Change Requests.** The Architect shall review, and report in writing to the College, claims and change proposals submitted by the Contractor. The Architect shall review the change request to determine that it clearly documents the scope and nature of the proposed change and that the costs or cost savings the contractor has identified appear complete and appropriate and are properly documented by receipts, invoices and time sheets. Within five (5) calendar days of receipt of a change order request, the Architect shall provide the College with an analysis detailing (i) whether the change request is properly documented; (ii) any impact the change request will have upon the design, (iii) any effect the change request will have on compliance with laws or industry standards, (iv)

the appropriate cost, if any, for the proposed change, (v) any impact the change request will have on the construction schedule, (vi) whether the claim is within the original scope of work and/or is shown on the plans and specifications; (vii) whether the change is the result of the Architect's error or omission, scope change, field condition, etc., (viii) any effect the change request will have on property insurance rates or operating or maintenance costs, and (ix) whether in the Architect's professional opinion the change request should or should not be approved by the College (with justification, citations to Drawings and Specifications, and reference to applicable communications with the contractor). If after such review and written recommendation, the College approves the proposed change, then the College shall prepare a change order in accordance with the Contract Documents. The College shall make the ultimate determination on all change requests.

(d) Additional Architect Services and Costs Attributable to Change Order.

(i) If the Architect determines that implementation of the requested changes would result in a material change to the Construction Contract that may cause an adjustment in the contract time or contract sum, the Architect shall make a written recommendation in writing to the College, who may authorize in writing further investigation of such changes. Upon such authorization, and based upon information furnished by the contractor, if any, the Architect shall estimate the additional costs attributable to a change in services of the Architect. With the College's written approval, the Architect shall provide those estimates for a Change Order or other appropriate documentation for the College's execution or negotiation with the contractor.

(ii) The Architect shall revise the Construction Documents, prepare necessary supplementary documents, including sketches, drawings, specifications or other written instructions as reasonably necessary to establish the appropriateness of, and to implement the work incorporated in the Construction Contract by Change Orders and change directions, subject to the provisions of Article 3 and Section 4.2.

(e) Change Orders Caused by Errors and Omissions by the Architect and its Subconsultants.

(i) The Architect will not be additionally compensated for architectural services related to Change Orders, or individual portions thereof, made necessary by the Architect's or its subconsultants' errors and/or omissions. The College and Architect shall provide notice to each other if and when errors and omissions are discovered during the Project to enable them to be cured at minimum cost and impact to the Project, but the failure to provide such notice shall not be a waiver of the right of the College to seek reimbursement and other damages from the Architect.

(ii) Prior to final payment to the Architect, the Architect and the College shall meet in an effort to jointly reconcile any and all additional costs of the work, including all approved change orders, to determine the extent to which any of such costs constitute damages attributable to the errors and/or omissions on the part of the Architect and/or its subconsultants. If the agreed upon total of such errors and omissions costs exceed the amount

of the final payment to the Architect, then the Architect may not receive its final payment and may be required to pay the excess to the College within thirty (30) days of the meeting. If the Architect and the College do not agree on the amount of such costs, then payment may be made or credit taken for the amount not in dispute and the disputed amount shall be determined pursuant to the dispute resolution procedure set forth in Article 7.

2.3.10 Schedule and Progress. The Architect shall not delay the construction work. The contractor will be required by its contract to prepare and utilize a Critical Path Method (“CPM”) schedule for the construction work, and to prepare and provide monthly updates during construction showing progress, delays, causes of delays, recommendations to address delays, and anticipated problems. The Architect shall provide input to the contractor regarding the initial schedule and any updates regarding the time allowed for actions required of the College and the Architect. When the CPM schedule is finalized and approved, the Architect shall perform its services in accordance with the schedule so as not to delay the construction work. Should the Architect cause a delay in the construction work and the College incurs damages or additional costs and/or expenses as a result of the Architect’s delay, the Architect shall reimburse the College for all such damages, additional costs and/or expenses, and/or the College shall be entitled to withhold payment from the Architect for the amount of such damages, additional costs or expenses.

2.3.11 Contractor Submittal Review. The Architect shall review and approve or take other appropriate action upon the contractor’s submittals such as shop drawings, product data, samples and other submittals for conformity and compliance with the Contract Documents, and render interpretations of drawings and specifications to ensure that the intent and meaning of the Contract Documents is faithfully carried out and understood by the contractor. Copies of all “Approved” or “Approved-as-Noted” shop drawings and other submittals shall be furnished by the Architect to the College as they are being reviewed during the course of the Project. Prior to beginning work on the Project, the contractor shall furnish to the Architect and the College for their review and approval, a schedule setting forth the submittals that the contractor intends to submit to the Architect for review and approval, the date upon which the contractor will make each such submittal, and the date upon which the Architect shall complete its review of each such submittal, which in no event shall be less than ten (10) days (“Submittal Schedule”). The Architect and the College shall identify all submittals that will require more than ten (10) days to review and notify the Contractor of the required review period. The Contractor shall adjust the submittal schedule to accommodate the extended review period. The Architect shall conduct its review and approval of all submittals in accordance with the Submittal Schedule. In the event that a submittal is made that is not set forth on the Submittal Schedule, the Architect shall review and return such submittal within ten (10) working days of receipt. The Architect shall maintain a record of submittals and copies of submittals supplied by the contractor.

2.3.12 Determination of Completion. The Architect shall conduct inspections to determine the date of substantial completion of the Project, shall issue a certificate of substantial completion, shall prepare a list (“Punch List”) of all remaining work to be completed and any work that is not in conformation with the Contract Documents and must be corrected prior to final completion and final payment to the contractor, shall prepare an estimate of the costs to complete any incomplete work and to correct any nonconforming work and shall assist the College in obtaining the Certificate of Occupancy from governing agencies. When the work

is found to be substantially complete, the Architect shall inform the College about the balance of the contract sum remaining to be paid to the contractor, including the amount to be retained from the contract sum for final completion or correction of the work based on the Architect's estimate of the cost to complete any incomplete work and to correct nonconforming work.

2.3.13 Additional Representation. If more project representation is required at the site, the College may by a supplemental agreement in writing, authorize the Architect to employ a project field representative at the expense of the College. The additional compensation for such services must be specified in the supplemental agreement.

2.3.14 Architect shall provide all other Construction Phase services set forth in the RFP and/or Proposal.

2.4 POST CONSTRUCTION PHASE. The Post Construction Phase will begin at the issuance of the certificate of substantial completion, and will end upon completion of the Warranty Inspection set forth in Section 2.4.5 and completion of all of the services set forth in this Contract. The Architect's responsibilities shall include:

2.4.1 Record Drawings. Before approving a certificate of final completion for the contractor, the Architect shall obtain the completed as-built record plans from the contractor, transpose all annotations to the final tracings in the same AutoCAD format used to generate the original plans, designate the plans as record tracings, and provide both the contractor as-built plans and two (2) full size sets of final as-built tracings and electronic pdf and CAD files to the College before the Architect approves the certificate of final completion.

2.4.2 Determination of Completion. The Architect shall conduct inspections to determine the date of final completion of the project, shall conduct regular inspections to confirm punch list work has been completed by the contractor and nonconforming work has been corrected by the contractor, shall assist the College in obtaining the Final Certificate of Occupancy from governing agencies, shall obtain written guarantees and all other documents and items required to be submitted by the contractor as a condition of final completion, shall ensure that the documents the contractor is required to submit to the College in connection with final completion are submitted in appropriate form in accordance with the Construction Contract, shall issue a certificate of final completion, and shall advise the College that the contractor is entitled to final payment under the Construction Contract.

2.4.3 Start-Up and Testing. The Architect and its subconsultants shall assist the College in initial start-up and testing, adjusting and balancing, and training and consultation as required.

2.4.4 Update TCNJ Drawings. The Architect shall provide AutoCAD drawings of floor plans updated with actual room numbers (not construction drawing room numbers), provide an updated TCNJ campus map in AutoCAD to show the building footprint and associated landscaping and hardscaping, and provide an updated TCNJ utility map to show utility infrastructure associated with the project. The floor plans will be converted to the College's standard layer list. The College will provide Architect with an AutoCAD drawing of the campus map and utility map.

2.4.5 Warranty Inspection. Approximately ten (10) months from the date of Substantial Completion, the Architect shall conduct a visual inspection of the Project with the College and the contractor to determine whether any correction of work is required in accordance with the provisions of the Construction Documents. The Architect shall prepare a Report.

2.4.6 Architect shall provide all other Post Construction Phase services set forth in the RFP and/or Proposal.

ARTICLE 3 ADDITIONAL SERVICES

3.1 GENERAL. The services described in this Article 3 are not included in Basic Services unless so identified in Article 2, and they shall be paid for by the College as provided in this Contract, in addition to compensation for Basic Services. The services described in this Article 3 shall only be provided if authorized or confirmed in advance in writing by the College. No claims for additional services shall be made unless the College is notified prior to the Architect's rendering such services and such services are approved by the College in writing. Approved Additional Services shall be billed monthly. Failure to strictly comply with these requirements shall constitute a waiver of any claim for such Additional Services. Notwithstanding anything herein to the contrary, the College shall have no obligation to pay for any Additional Services or Expenses caused by the Architect's or its subconsultants' negligence or failure to perform in accordance with this Contract.

3.2 The following items shall be considered Additional Services

3.2.1 Providing more extensive representation at the site than is required under Basic Services, unless due to the errors and/or omissions of the Architect.

3.2.2 Providing services required because of significant changes in the Project including, but not limited to, size, quality, complexity, or the College's schedule.

3.2.3 Preparing Drawings, Specifications, and other documentation and supporting data, and providing additional services in connection with a Change Order or construction change directive, unless due to a deficiency in the Construction Documents.

3.2.4 Providing new or additional Drawings or Specifications made necessary by the default of the Contractor or by major defects or deficiencies in the work of the contractor;

3.2.5 Providing services, other than the 10-month warranty inspection set forth in Section 2.4.5, after issuance of final payment, provided that the Architect's post construction phase services have been fully completed.

3.2.6 Providing services in connection with an arbitration proceeding, or legal proceeding except where the Architect is a party and/or where the Architect is assisting the College defend against a claim caused, in whole or in part, by an error and/or omission by the Architect.

3.2.7 Providing any other services not otherwise included in this Contract and not customarily furnished in accordance with generally accepted architectural practice, which are requested and authorized in advance in writing by the College as being Additional Services.

**ARTICLE 4
COMPENSATION**

4.1 COMPENSATION FOR BASIC SERVICES.

4.1.1 Contract Fee: For the Architect’s Basic Services described under Article 2, the College shall compensate the Architect the fixed fee of \$ [REDACTED] which is allocated as follows:

<u>PHASE</u>	<u>PERCENTAGE OF FEE</u>	<u>AMOUNT</u>
Program Document Phase	%	\$
Schematic Design Phase	%	\$
Design Development Phase	%	\$
Total of Construction Documents Phase and Government Agency Review Phase	%	\$
Bidding Phase	%	\$
Construction Phase	20%	\$
Post Construction Phase	5%	\$
SUBTOTAL	100%	\$
DCA Permit Fee Allowance		
TOTAL		\$

The Architect may bill on a monthly basis up to the maximum of each phase.

4.2 COMPENSATION FOR ADDITIONAL SERVICES (AND LIMITATIONS)

4.2.1 Additional Services. For Additional Services that arise during the course of the Project and are expressly authorized in advance in writing by the College, the Architect shall be compensated by a lump sum fee in accordance with a written supplemental agreement agreed to by the parties in advance of the Additional Services. Alternatively, at the election of the College, the Architect may be compensated for the actual time spent on the Project (documented as required in Section 3.1) at the Architect’s standard hourly rates approved in advance in writing by the College and attached hereto, and actual expenses without any additional fee, markup or multiplier for overhead or profit or anything else.

4.2.2 Extra Work for Damaged Work or Contractor Default. If the Architect is required to provide professional services in connection with the replacement of any work damaged by causes beyond its control during construction, or in connection with a default of the contractor, it shall be compensated for its actual costs, but only in accordance with a written supplemental agreement in advance of the extra work.

4.2.3 Design Phase and Bidding Phase Changes. When the Architect is entitled to be paid actual costs under Section 2.2.7(d) for extra work expressly authorized by the College in advance in writing during a Design and Bidding Phase, it shall be paid extra compensation on the same terms as provided in Section 4.2.1. Additional services provided by independent subconsultants to the Architect under this Contract which are requested and approved by the College should be calculated by the subconsultants in accordance with this paragraph, and the Architect will then be paid 1.1 times the costs billed by the subconsultants to the Architect.

4.2.4 Design Phase and Bidding Phase Delays. The Architect shall not be entitled to additional compensation for delays in the Design and Bidding Phases, including delays in the College's review of any of the Architect's Design and Bidding Phase submissions, or in making decisions to authorize the project to continue to a subsequent phase.

4.2.5 Changes During Construction Phase. If the College authorizes changes and change orders during the construction and if the Architect performs services in connection with those changes, it will be paid extra compensation on the same terms as provided in Section 4.2.1.

4.2.6 Construction Administration and Post Construction Phases Delays. The Architect shall not be entitled to additional compensation as a result of delays during the Construction Administration and Post Construction Phases except as provided in this paragraph. If the actual construction period exceeds the period specified in the Construction Contract by twenty percent (20%) or more, through no fault of the Architect or its subconsultants, the College may, by a supplemental written agreement, compensate the Architect on a cost basis for periodic services beyond that time and rendered at the site during construction, such as weekly, bi-weekly or monthly observations and job site meetings. Any such additional compensation shall not include non-periodic services under this Contract, such as review of contractor submittals and observations which are not periodic, such as observations in connection with the substantial completion and final completion of the Project.

4.3 COMPENSATION FOR REIMBURSABLE EXPENSES.

4.3.1 The College will reimburse the following expenses, if it requests that they be incurred, in accordance with the State of New Jersey and College policies and procedures:

(a) Fees paid for D.C.A. permit applications, inspections, certificates of occupancy or approvals from other authorities at a rate of 1.1 times actual cost;

(b) Public notices, announcements and advertising at a rate of 1.1 times actual cost;

(c) Expense of overtime work, if specifically requested and authorized by the College in advance in writing. The fee is to be determined and agreed to by the College in writing prior to proceeding with work;

(d) Renderings and models, beyond those included in Basic Services, requested by the College, at prices to be agreed upon when authorized. The fee is to be determined and agreed to by the College in writing prior to proceeding with work;

(e) Expenses of transportation and living in connection with out-of-town travel, if specifically requested and authorized in advance in writing by the College. The fee is to be determined in writing prior to proceeding with work.

4.3.2 Expenses such as faxes, telephones, pagers, reproduction or copying of documents, travel, and postage and overnight express charges are included in the Contract Fee and are not to be billed as extras.

4.4 PAYMENTS TO THE ARCHITECT.

4.4.1 Architect shall prepare and submit monthly invoices for payments under this Contract. Each invoice submitted by the Architect shall be based on the components of Basic Services that are itemized in Section 4.1.1 above and shall show the percentage of completion of each portion of the Basic Services and any Additional Services as of the end of the period covered by the invoice.

4.4.2 The amount of each interim payment to the Architect shall be computed as follows:

(a) Take that portion of the Basic Compensation properly allocable to each itemized component of Basic Services and each component of any Additional Services as determined by multiplying the percentage completion of each portion of the services by the dollar amount of that component of services;

(b) Subtract the aggregate of previous payments made by the College;
and

(c) Subtract any amounts withheld by the College for losses and other damages caused by the Architect's and/or its subconsultants' breach of this Contract, failure to meet any deadlines imposed in this Contract, and/or negligent errors or omissions.

4.4.3 Payments are due and payable within thirty (30) days after the College's receipt of the Architect's invoice with proper documentation. No interest shall be applied to late payments.

4.4.4 Subconsultant Portion of Fee. The Architect shall submit with each invoice a certification that all associated architects, engineers, and subconsultants have been paid a proportionate share of any previous payments made under this Contract to the extent they are entitled.

4.4.5 Final Payment. Subject to Section 2.3.9(e)(ii), the final balance of the fee due under this Contract (with the exception of the portion of Architect's fee for the Warranty Inspection to be conducted pursuant to Section 2.4.5) shall be paid not later than thirty (30) days after receipt of the final invoice, issuance of the certificate of final completion, and acceptance

by the College that the Construction Contract is complete. Prior to final payment to the Architect, the Architect shall furnish evidence satisfactory to the College that there are no claims or obligations outstanding in connection with its services. Acceptance of final payment shall constitute a waiver of all claims by the Architect for compensation for its services. Payment for the portion of the Architect's fee for the Warranty Inspection shall be paid not later than thirty (30) days after the completion of the Warranty Inspection.

4.5 WAIVER AND RELEASE OF LIENS AND CLAIMS.

4.5.1 With each Application for Payment, Architect and each of its subconsultants for whom payment is sought shall execute and submit as a condition of payment releases of liens and claims in a form acceptable to the College.

4.5.2 Upon final payment to Architect, Architect shall deliver to the College a certified accounting of final payment and release of liens and claims from Architect and all subconsultants working through and under Architect in a form acceptable to the College and an affidavit that so far as Architect has knowledge or information, the releases include and cover all materials and services over which Architect has control for which a lien could be filed.

4.5.3 If any lien remains unsatisfied after all payments are made or if any subconsultant or other person acting through and under Architect files a mechanic's lien or claim or notice of intention or right to file a lien for or on account of the services furnished under or in connection with this Contract, Architect agrees to discharge or remove such lien, claim or notice at its own expense by bond, payment, or otherwise within twenty (20) calendar days from the date of the filing thereof, and upon its failure to do so, the College shall have the right to cause any such lien or claim, notice of intention or stop notice to be removed or discharged by whatever means the College chooses, at the sole cost and expense of Architect (such costs and expenses to include legal fees and disbursements). Architect agrees to hold harmless and indemnify the College from and against any and all such liens, claims or other filings, and actions brought or judgments rendered thereon, and from and against any and all losses, damages, liabilities, costs and expenses, including legal fees and disbursements, which the College may sustain in connection therewith. The provision of this subparagraph shall survive termination of this Contract.

4.6 COST RECORDS. The Architect shall maintain and retain weekly payroll, overhead, cost and accounting records for services performed on the Project, including costs and expenses pertaining to Additional Services required by the College and Reimbursable Expenses, and shall require its subconsultants on the Project to do likewise. The records shall be maintained and shall be made available to the College or its representatives when requested. These records shall be maintained in accordance with generally accepted accounting principles and practices. All such records shall be retained and made available to the College for inspection when requested for a period of seven (7) years after final payment is received by the Architect under this Contract, or the duration of any dispute or lawsuit arising out of the Project, whichever is later. Any failure to maintain or produce such records shall preclude the Architect from being paid or retaining any payments which are based on costs and expenses of it or its subconsultants which are reflected in the records.

**ARTICLE 5
TIME OF PERFORMANCE**

5.1 TIME IS OF ESSENCE. Time is of the essence in the Architect’s performance of its services under this Contract.

5.2 MILESTONE DESIGN SCHEDULE.

5.2.1 The Architect shall perform its services under this Contract in accordance with the Milestone Design Schedule set forth below and the Design Schedule as set forth in Section 2.2.7(b) and the Construction Schedule to be developed by the contractor awarded the Construction Contract as set forth in Section 2.3.9.

<u>PROJECT PHASE</u>	<u>MILESTONE DATE/RANGE</u>
Program Document (PD) Phase....	[Insert Start Date through End Date]
PD Documents Complete.....	[Insert Date]
Approval to Proceed to SD Phase.....	[Insert Date]
Schematic Design (SD) Phase.....	[Insert Start Date through End Date]
SD Documents Complete.....	[Insert Date]
Cost Reconciliation Complete.....	[Insert Date]
Approval to Proceed to DD Phase.....	[Insert Date]
Design Development (DD) Phase... [Insert Start Date through End Date]	
DD Documents Complete.....	[Insert Date]
Cost Reconciliation Complete.....	[Insert Date]
Approval to Proceed to CD Phase.....	[Insert Date]
Construction Documents Phase..... [Insert Start Date through End Date]	
50% Documents Complete.....	[Insert Date]
Cost Reconciliation Complete.....	[Insert Date]
100% Documents Complete.....	[Insert Date]
Government Agency Review Phase... [Insert Start Date through End Date]	
Approval to Proceed to Bidding Phase... [Insert Date]	
Bidding Phase..... [Insert Start Date through End Date]	
Construction Phase..... [Insert Start Date through End Date]	
Post Construction Phase [Insert Start Date through End Date]	

5.2.2 By executing this Contract, the Architect represents that the Milestone Design Schedule as set forth in Section 5.2.1 herein is reasonable for the scope of services to be performed under this Contract.

**ARTICLE 6
THE COLLEGE’S RESPONSIBILITIES**

6.1 Unless otherwise provided for under this Contract, the College shall provide information regarding requirements for and limitations on the Project, including the College's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements.

6.2 The College shall establish and update an overall budget for the Project, along with input from the Architect, including the Construction Cost, the College's other costs and reasonable contingencies with respect to all of these costs.

6.3 The College shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

6.4 The College shall furnish surveys describing physical characteristics, legal limitations, and utility locations for the Project and a written legal description of the site. The surveys and legal information shall include, as applicable, grade and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data pertaining to existing buildings, other improvements and trees; and information concerning available utility service and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

6.5 The College shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project.

6.6 The College shall furnish all legal, insurance and accounting services, including auditing services, which may be reasonably necessary at any time for the Project to meet the College's needs and interests; provided, however, nothing herein shall be construed to require the College to pay for legal, accounting or other services provided for the protection or benefit of the Architect.

6.7 The College shall provide written notice to the Architect if the College becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

6.8 Before entering into the Construction Contract, the College shall coordinate the Architect's duties and responsibilities set forth in the Construction Contract with the Architect's services set forth in this Contract. The College shall provide the Architect a copy of the executed Construction Contract.

6.9 The College shall provide the Architect access to the Project prior to the commencement of the work and shall obligate the contractor awarded the Construction Contract for the Project to provide the Architect access to the work wherever it is in preparation or progress.

ARTICLE 7 DISPUTE RESOLUTION

7.1 CLAIMS. The Architect understands that any claims which it asserts against the College shall be subject to the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq. The Architect agrees that it shall not be entitled to assert claims against the College for any compensation beyond that provided for in this Contract by reason of the acts or omissions of any third parties except as provided in this Contract. The Architect also agrees that it may not assert claims for consequential damages as that term is defined in law. The Architect also agrees that suits against the College will be pursued in the State of New Jersey in the county where the project is located. Causes of action between the parties to this Contract pertaining to acts or failure to act shall be deemed to have accrued and the applicable statute of limitations shall commence to run in accordance with applicable law.

7.2 MEDIATION. If a dispute or claim arises out of or relates to this Contract, or the breach thereof, and if the dispute cannot be settled through negotiation, the dispute or claim may, at the College's sole option, be subject to mediation administered by the American Arbitration Association under its Construction Industry Mediation Rules as a condition precedent to binding dispute resolution. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable in any court having jurisdiction thereof.

7.3 METHOD OF BINDING DISPUTE RESOLUTION. For any dispute or claim, not resolved by mediation pursuant to Section 7.2 (if applicable), the method of binding dispute resolution shall be litigation in the state or district courts of the State of New Jersey, unless the College in its sole discretion decides to submit the dispute or claim to arbitration pursuant to Section 7.4 of this Contract.

7.4 ARBITRATION.

7.4.1 Any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation may be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration. The arbitrator shall be a New Jersey licensed attorney with at least twenty (20) years' experience practicing in construction law. In the event that the parties mutually agree to use a panel of three arbitrators, then the construction attorney will be the presiding arbitrator, one of the arbitrators will be a registered architect and the other will be a contractor, all of whom shall be neutral and independent. This section shall not preclude the College or Architect from instituting legal action to discharge an invalid construction lien. The arbitration hearing shall be held in Mercer County, New Jersey, at the offices of the College's attorneys.

7.4.2 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the

institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

7.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

7.4.4 The award rendered by the arbitrator(s) shall be a reasoned award and shall include a statement of findings of fact and conclusions of law and shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

7.5 CONSOLIDATION OR JOINDER.

7.5.1 The College, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

7.5.2 The College, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

7.5.3 The College, at its sole discretion, may grant to any person or entity made a party to an arbitration conducted under this Section 7.5.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the College under this Contract.

7.6 WORK DURING PENDENCY OF DISPUTE. Unless otherwise instructed by the College, the Architect shall carry on its services during the pendency of any dispute hereunder, and the College shall continue making payments to the Architect of undisputed amounts.

7.7 PROMPT PAYMENT CLAIMS. Notwithstanding the foregoing, disputes regarding whether a party has failed to make payments required pursuant to New Jersey's Prompt Payment Act may be submitted to alternative dispute resolution as provided in N.J.S.A. 2A:30a-2(f).

7.8 DISPUTE RESOLUTION PROCESS IN SUBCONSULTANT CONTRACTS. Architect shall include this dispute resolution process in all of its subconsultant contracts on this Project.

ARTICLE 8
TERMINATION, SUSPENSION, OR ABANDONMENT

8.1 SUSPENSION. The College may upon not less than three (3) days written notice suspend all or any part of the Project or the Architect's services under this Contract. In the event of suspension by the College, the Architect shall be compensated for services satisfactorily performed prior to notice of such suspension. If the College directs that the work on the Project resume within twelve (12) months after the College's suspension order, the Architect shall be obligated to complete the Project for the Basic Fee provided for in this Contract, plus additional compensation for any work or documented expense necessitated by the stop order, to be approved by the College in writing before the work resumes.

8.2 TERMINATION FOR CAUSE. Either party may terminate this Contract upon not less than seven (7) days' written notice should the other party fail substantially to perform in accordance with the terms of this Contract through no fault of the party initiating the termination. If the College terminates this Contract because the Architect has failed to perform in accordance with the terms of this Contract, the College shall be entitled to recover from Architect or set-off against any sums due to Architect, the College's damages and any costs of delay in replacing Architect with a different Architect. The College shall be entitled to withhold payment from Architect until such damage may be calculated. If it is later determined that the Architect was not properly terminated under this section, then the termination shall be deemed to be for the convenience of the College and the Architect will be entitled to be reimbursed pursuant to Section 8.3 herein.

8.3 TERMINATION FOR CONVENIENCE. The College may terminate this Contract upon not less than seven (7) days' written notice to the Architect for the College's convenience and without cause. In the event of termination not the fault of the Architect, the Architect shall be compensated for services satisfactorily performed prior to termination less payments previously made, together with Reimbursable Expenses then due and documented Termination Expenses. Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated. In no event shall the Architect be entitled to any amount for the Architect's anticipated profit on the value of the services not performed by the Architect.

8.4 STOP WORK. Unless otherwise directed, the Architect shall immediately stop all work upon receipt of a notice of termination or suspension from the College. The College may order that the work on the Project be stopped temporarily, and on written notice, the Architect shall cease all work on the Project except as necessary to properly secure the Project. In the event of a notice of termination, the Architect shall furnish to the College reproducible electronic copies of all drawings, specifications and reports prepared by the Architect and its subconsultants to the date of termination, whether or not termination is due to the fault of the Architect.

ARTICLE 9
MISCELLANEOUS PROVISIONS

9.1 CONTRACT FOR PERSONAL SERVICES. This Contract requires personal professional services by the Architect, and the Architect shall not assign or transfer its obligations or rights under this Contract without the written consent of the College.

9.2 PUBLICITY. Publicity and/or public announcements pertaining to the Project must be approved in writing by the College prior to release.

9.3 NO CONFLICT OF INTEREST. Except with the College’s knowledge and written consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect’s professional judgment with respect to this Project.

9.4 CONFIDENTIAL INFORMATION. The Architect shall maintain the confidentiality of information specifically designated as confidential by the College, unless withholding such information would violate applicable law. The Architect shall require its subconsultants to maintain the confidentiality of information specifically designated as confidential by the College.

9.5 BUILDING ACCESS. The Architect shall be responsible for the sign out, distribution, safe use and return of all building keys and/or access cards, and shall be responsible for all costs associated with failure to return these items (e.g., the cost to re-key/re-implement the system).

9.6 DESIGNATED REPRESENTATIVES/KEY PERSONNEL.

9.6.1 Architect’s Designated Representatives/Key Personnel: The Architect shall designate representative(s) authorized to act on behalf of the Architect with respect to the Project. The Architect’s designated representatives are:

- Architect’s Principal in Charge: [REDACTED]
- Architect’s Project Manager: [REDACTED]
- Mechanical Engineer: [REDACTED]
- Electrical Engineer: [REDACTED]
- Civil Engineer: [REDACTED]
- Plumbing Engineer: [REDACTED]
- Information Technology: [REDACTED]
- Audio/Visual: [REDACTED]
- Acoustician: [REDACTED]
- Landscape Architect: [REDACTED]
- Interior Designer: [REDACTED]

The Architect shall not change its designated representatives or the individuals assigned to the Project absent true necessity. If circumstances compel it to do so, the substitution and the substitute individuals must be approved in advance in writing by the College.

9.6.2 College’s Designated Representatives: The College shall designate representative(s) authorized to act on behalf of the College with respect to the Project. The College’s designated representative are:

Design Project Manager: _____

Contract Administrator: _____

Campus Architect: _____

Director of Construction: _____

Anticipated Project Manager: _____

9.6.3 Decisions and authorizations on behalf of the College under this Contract must be approved by the Campus Architect.

9.6.4 Agreements made and/or actions taken by the Architect, which by their nature effect a change to this Contract, shall only be binding upon the College when such agreement or action is specifically authorized in writing, in advance, by the College’s designated representative. Any change undertaken by the Architect at the direction of anyone other than the College’s designated representative(s), or without prior written authorization of the College’s designated representative(s), is at the Architect’s own risk.

9.7 NOTIFICATIONS. All notices required under this Agreement shall be in writing, signed by the party giving same, and shall be deemed properly given if hand delivered or sent by reputable overnight courier, or by registered or certified U.S. mail, return receipt requested, postage pre-paid and addressed as follows:

9.7.1 Notice to the Architect. Written notices from the College to the Architect shall be addressed to:

9.7.2 Notice to the College. Written notices from the Architect to the College should be addressed to:

Lynda Kane Rothermel, Campus Architect
Office of Campus Planning
The College of New Jersey
PO Box 7718

Ewing, NJ 08628-0718
Telephone No. (609) 771-2815
Fax No. (609) 637-5150

9.8 DISCRIMINATION IN EMPLOYMENT: The Architect and any subconsultants engaged by it shall comply with N.J.S.A. 10:2-1 through 4 and N.J.S.A. 10:5-1 et seq., including N.J.S.A. 10:5-31 through 35, which prohibit discrimination in employment on public contracts. The statute and the rules and regulations promulgated thereunder shall be considered to be part of this Contract and binding upon the Architect and its subconsultants. During the performance of this Contract, the Architect agrees that:

9.8.1 Discrimination. It shall not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status or sex. The Architect shall 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 or sex. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation and selection for training, including apprenticeship. The Architect agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of this non-discrimination clause.

9.8.2 Advertisements. The Architect shall, in all solicitations or advertisements for employees, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status or sex.

9.8.3 Notices. The Architect shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' representative of the Architect's commitment, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

9.8.4 Handicap. As required by N.J.S.A. 10:5-4.1, any unlawful discrimination against any person because of a physical handicap or any unlawful employment practice against such a person is prohibited unless the nature and the extent of the handicap necessarily preclude the performance of the particular employment duties.

9.9 PEER REVIEW OF PROJECT DESIGN. The College reserves the right at any time, at the College's expense, to perform a peer review on the Project design provided by Architect hereunder, in whole or in part, as it exists at that time. If the result of such peer review identifies any (1) errors or omissions, (2) items to be redesigned in order to benefit from any recommended value engineering items, or (3) any other items to be redesigned for reasons resulting from the peer review to which the College agrees, then Architect agrees that it will correct and/or incorporate any such items, as applicable, and update the design accordingly.

9.10 INDEMNIFICATION.

9.10.1 To the fullest extent permitted by law, the Architect shall defend (except as provided in section 9.10.1(a) below), indemnify, and hold harmless the College, the State of New Jersey, the New Jersey Educational Facilities Authority, Trenton State College Corporation, and any other persons or entities designated by the College, and the officers, directors, principals, attorneys, agents, servants, and employees of any of them (collectively the “Indemnified Parties”) from and against claims, damages, losses and expenses, including but not limited to attorneys’ fees, arising out of or resulting from: (1) performance of the services, whether such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including loss of use resulting therefrom caused in whole or in part by the negligent or willful acts or omissions of the Architect, a subconsultant, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder or (2) any one or more of the items set forth in subparagraph 9.10.3. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this subparagraph 9.10.1.

(a) Notwithstanding the foregoing, the Architect shall not be obligated to defend the Indemnified Parties from a professional liability claim asserted solely against the Indemnified Parties and to which the Architect is not a party. Architect still shall be required to indemnify and hold harmless the Indemnified Parties from a professional liability claim as set forth above.

9.10.2 In claims against any person or entity indemnified under this paragraph 9.10 by an employee of the Architect, a subconsultant or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under paragraph 9.10 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Architect or subconsultant under workers’ compensation acts, disability benefit acts or other employee benefit acts, nor shall the same be limited by the types of limits of insurance carried or to be carried by the Architect or any subconsultant pursuant to this Agreement or otherwise.

9.10.3 The indemnity, defense, and hold harmless set forth in subparagraph 9.10.1 shall be supplemented by the following:

(a) any claims or liens of subconsultants, except to the extent that the non-payment upon which the claim or lien is predicated resulted solely from the College’s wrongful failure to pay the Architect sums due under this Agreement;

(b) any fines, penalties, liquidated damages, assessments or other executions imposed by any governmental authority having jurisdiction over the Project by reason of the Architect’s failure to comply with any requirement of this Agreement;

(c) any losses, damages, or expenses incurred by reason of the Architect’s failure to obtain and maintain in force or cause to be obtained and maintained, the insurance required by the terms of this Agreement;

(d) any losses, damages, or expenses incurred by reason of any failure (whether or not specifically identified herein) by the Architect to perform its obligations under the Contract Documents or any breach of this Contract;

(e) any claims, damages, or expenses incurred by reason of infringement or alleged infringement of any patent, copyright, or other intellectual property or similar rights; and

(f) any claims, damages, liquidated damages, penalties, or fines assessed against the College, directly or indirectly, under any applicable laws, codes, statutes, or regulations.

9.10.4 If any judgment is rendered against the Indemnified Parties for which indemnification is required under this paragraph 9.10, the Architect shall satisfy and discharge it. The Architect shall reimburse the College for reasonable attorney fees, costs and expenses incurred by the Indemnified Parties in the defense of such suit or claim.

9.10.5 The College shall give written notice to the Architect of claims and suits for which indemnification may be claimed pursuant to this paragraph 9.10.

9.10.6 The foregoing obligations shall survive the completion of the services and final payment to the Architect (or the sooner termination of this Agreement) with respect to all matters accrued during the term of this Contract and such obligations shall not be construed to negate, abridge or reduce any other rights, obligations or indemnity which would otherwise exist as to a party or person indemnified by this paragraph 9.10.

9.10.7 The Architect shall cause this provision (paragraph 9.10) to be included in all agreements with its subconsultants.

9.11 INSURANCE BY THE ARCHITECT. The Architect shall secure and maintain in force for the term of this Contract plus three (3) years following the final acceptance of the work, insurance coverage provided herein. All insurance coverage is subject to the approval of the College and shall be issued by an insurance company authorized to do business in the State of New Jersey and which maintains an A.M. Best rating of A- (VII) or better.

The Architect shall provide the College with current Certificates of Insurance and endorsements (including but not limited to additional insured endorsements) for all coverage and renewals thereof which must contain the provision that the insurance provided in the certificate shall not be canceled or modified for any reason except after thirty (30) days written notice to the College. All insurance required herein shall contain a waiver of subrogation in favor of the College. All insurance required herein, except Workers' Compensation and Professional Liability, shall name the College, the State of New Jersey, the New Jersey Educational Facilities Authority, Trenton State College Corporation and any other persons or entities designated by the College as additional insureds.

The Architect expressly agrees that any insurance protection required by this Contract shall in no way limit the Architect's obligations under this Contract, and shall not be construed to relieve the

Architect from liability in excess of such coverage. Nor shall it preclude the College from taking such actions as are available to it under any other provisions of this Contract or under any law.

9.11.1 Types and Minimum Amounts of Insurance Required

(a) Commercial General Liability Insurance

Commercial General Liability insurance written on an occurrence form including independent contractor liability, products/completed operations liability, contractual liability, covering but not limited to the liability assumed under the indemnification provisions of this contract including products and completed operations. The policy shall not include any endorsement that restricts or reduces coverage as provided by the ISO CG0001 form without the approval of the College. The minimum limits of liability shall not be less than a combined single limit of one million dollars (\$1,000,000) per occurrence, two million dollars (\$2,000,000) general aggregate, two million dollars (\$2,000,000) product/completed operations aggregate. A “per project aggregate” endorsement shall be included, so that the general aggregate limit applies separately to the project that is the subject of this contract.

(b) Comprehensive Automobile Liability Insurance

Architect must maintain Comprehensive Automobile Liability insurance covering owned, non-owned, and hired vehicles. The limits of liability shall not be less than a combined single limit of one million dollars (\$1,000,000) per occurrence.

(c) Workers’ Compensation Insurance and Employers’ Liability Protection

Architect shall maintain Worker's Compensation Insurance applicable to the laws of the State of New Jersey and other State or Federal jurisdictions required to protect the employees of the Architect and any subconsultant/subcontractor who will be engaged in the performance of this Contract. The certificate must so indicate that no proprietor, partner, executive officer or member is excluded. This insurance shall include Employers' Liability Protection with a limit of liability not less than five hundred thousand dollars (\$500,000) bodily injury, each occurrence, five hundred thousand dollars (\$500,000) disease, each employer, and five hundred thousand dollars (\$500,000) disease, aggregate limit.

(d) Professional Liability Insurance

Architect must maintain Professional Liability Insurance with minimum limits of liability that shall not be less than a combined single limit of two million dollars (\$2,000,000) per claim. The professional liability insurance shall be maintained for a period of not less than three (3) years following the

actual completion and acceptance of the Project by the College's Contracting Officer. Should the Architect change carriers during the term of this Contract, it shall obtain from its new carrier an endorsement for retroactive coverage.

9.11.2 Evidence of Insurance. The Architect shall when this Contract is signed and before beginning the services required under this Contract, provide the College with valid certificates of insurance and endorsements to evidence the Architect's insurance coverage as required herein.

9.11.3 Remedies for Lack of Insurance. If the Architect fails to renew any of its required insurance policies, or any policy is canceled, terminated or modified, the College may refuse to make payment of any monies due under this Contract. The College, in its sole discretion and for its sole benefit, may purchase such insurance on behalf of the Architect, and the Architect shall pay the costs thereof to the College upon demand and shall furnish to the College the information needed to obtain such insurance. The College may also withhold monies due to the Architect to attempt to obtain such insurance on behalf of the Architect. During any period when the required insurance is not in effect, the College may, in its sole discretion, either suspend the services under this Contract or terminate this Contract.

9.11.4 Insurance by Architect's Subconsultants. Except as modified by the College in writing, the insurance requirements set forth above, including without limitation the requirement to name the Additional Insureds, shall also apply to each of the Architect's subconsultants. The Architect shall be responsible for obtaining certificates of insurance and endorsements for all coverage and renewals thereof for each of its subconsultants prior to the subconsultant's commencement of services on the Project. The Architect shall provide copies of all certificates of insurance and endorsements, evidencing the insurance and waivers of subrogation required to be furnished by its subconsultants under this Contract, to the College upon request.

9.12 OWNERSHIP OF DOCUMENTS. The drawings, specifications and other documents prepared by the Architect for this Project are instruments of the Architect's service, and the Architect hereby transfers to the College all rights of ownership and use, including all common law, statutory and other reserved rights, including copyright, provided that the College pays all sums that are actually due and undisputed under the Agreement. The College shall retain all rights of ownership even if this Contract is terminated and/or the College decides not to proceed. The Architect shall provide to the College originals of the Architect's drawings, CAD files, specifications and other documents relating to the Project. CAD files shall be provided to the College at no additional cost with all copyrights associated with the use of that file in connection with the property. The College may use the CAD files as it deems appropriate including, but not limited to disseminating this information to other consultants. The Architect's drawings, specifications, CAD files and other documents shall not be used by the College or others on other projects. To the extent that liability arises from the modification or misuse of the instruments of service by the College or another consultant retained by the College, the Architect shall not be responsible for such modification or misuse. Nothing herein, however, shall diminish the professional liability of the Architect and its subconsultants for design errors and/or omissions in the instruments of service. The Architect for its own record purposes may retain

copies of its documents including plans and specifications prepared prior to entering into this Agreement. The Architect may use any designs or details that the Architect prepared after entering into this Agreement only after obtaining the College's written consent to such use, which consent shall not be unreasonably withheld.

9.13 CONTRACT TERMS, CHANGES, AND LAW. This Contract constitutes the entire agreement between the College and the Architect. The terms and conditions of this Contract may not be changed except by a writing signed by the Architect and the College. If any provision of this Contract is found by any court of competent jurisdiction to be invalid, illegal or unenforceable, such provision shall be deemed to be modified to the minimum extent necessary to cause it to be valid, legal and enforceable and the invalidity, illegality or unenforceability of such provision prior to such modification shall not affect the other provisions of this Contract, and all provisions not affected by the invalidity, illegality or unenforceability shall remain in full force and effect.

9.14 APPLICABLE LAW. This Contract shall be governed by the laws of the State of New Jersey.

9.15 ERRORS AND OMISSIONS.

9.15.1 Subject to the Applicable Standard of Care, if an error or omission in the Architect's Services and/or any subconsultant's services is discovered prior to construction, the Architect shall correct the error or omission and provide corrected drawings and specifications without any charge.

9.15.2 If an error or omission is discovered during construction and the required revision or addition affects the planned construction sequence of work and/or results in additional costs to the College, subject to the Applicable Standard of Care, then the Architect will pay for the cost to have this instrument of service corrected or included, and compensate the College for construction costs to be associated with the added or revised work.

9.15.3 This provision shall in no way limit the rights and remedies of the College for breach of this Contract or other liability under the law. The College shall have the right to seek to recover any and all damages caused by the Architect's breach of this Agreement and/or the Applicable Standard of Care, including but not limited to the increased costs of construction, the costs to remove, correct and/or replace installed Work as a result of errors and omissions, the expense of replacement design services, losses and expenses resulting from delays in the completion of construction and initial operation of the facility.

9.16 DISCREPANCIES. If there are any discrepancies between this Contract and the RFP, Proposal, and/or Addendum identified in this Contract and/or any other proposal referenced in or attached to this Contract, the terms and conditions of this Contract shall control and take precedence.

9.17 NO THIRD PARTY BENEFICIARY. Nothing contained in this Contract shall create a contractual relationship with or a cause of action in favor of a third party against either the College or the Architect.

9.18 INTERPRETATION. The parties acknowledge that each party, and if it so chooses, its counsel, have reviewed and revised this Contract and that normal rules of construction to the effect that any ambiguities be resolved in favor of the non-drafting party shall not be employed in the interpretation of this Contract or any amendments or exhibits thereto.

9.19 COMPLIANCE WITH PROCUREMENT STATUTES. The Architect 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. 18A:64-6.1, 6.2 and 6.3, and that the Architect has not and shall not violate the laws of the State 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 College employee or officer. Any violation of this provision shall be cause for the College to terminate this Contract, to retain all unpaid and/or unearned fees, and to recover all fees paid. The Architect shall notify the College in writing of any interest which it or its subconsultants have in, or association with, any contractor, subcontractor, material supplier, consultant, or manufacturer, or other party which has any interest in this Project.

9.20 BUSINESS REGISTRATION SUBMISSIONS AND REQUIREMENTS (Compliance with P.L. 2009, c.315). The Architect is to comply with the following New Jersey Business Registration of Public Contractors' provisions. P.L. 2009, c.315 (Chapter 57) amends and supplements the business registration provisions of N.J.S.A. 52:32-44 which impose certain requirements upon a business competing for, or entering into a contract with a State agency. Chapter 57 expands the requirement of business registration to business organizations competing for, or entering into a contract with the following public contracting agencies: state colleges and universities, and county colleges. Architect requirements pursuant to P.L. 2009, c.315:

9.20.1 The Architect must include proof of business registration at the time it submits a bid or proposal in response to a request for bids or proposals. For all other transactions, proof of business registration must be submitted before the issuance of a purchase order or contracting document.

9.20.2 The Architect must provide written notice to its subconsultants, regardless of the level (tier) of the subconsultant, of the requirement to submit proof of business registration to the Architect. The Architect shall obtain and maintain on file the proof of business registration of each subconsultant.

9.20.3 Before final payment on the Contract is made by the contracting agency, the Architect shall submit an accurate list and the proof of business registration of each subconsultant or used in the fulfillment of this Contract, or shall attest that no subconsultants were used.

9.20.4 The Architect shall comply with the other provisions of P.L. 2009, c.315 and shall remit use taxes as required to the New Jersey Division of Taxation.

9.21 MULTIPLE COUNTERPARTS. This Contract may be executed in counterparts. All executed counterparts shall constitute one contract, and each counterpart is deemed an original. The parties hereby acknowledge and agree that facsimile signatures or

signatures transmitted by electronic mail in so-called “pdf” format shall be legal and binding and shall have the same full force and effect as if an original of this Contract had been delivered.

ACKNOWLEDGEMENT

IN WITNESS WHEREOF, the parties have duly executed this agreement on the date first above written.

THE COLLEGE OF NEW JERSEY

By _____
Lynda Kane Rothermel,
Campus Architect and Director of
Campus Planning

By _____
Lloyd Ricketts, Treasurer

Date _____

Date _____

By _____
Michael Dixon
VP for Facilities Management

By _____
Anup Kapur, Executive Director of
Procurement Services

Date _____

Date _____

ARCHITECT

By _____
Name _____
Title _____

Date _____

APPENDIX D

FEE SHEET

CONSULTANT FIRM NAME: _____

CONTACT NAME: _____

CONTACT EMAIL: _____

Each position proposed for this project should be indicated in the chart below for your team, including within your company and any sub-consultants. You may add position names and/or alter the existing position names, but we prefer that you use the positions listed below as much as possible. Please mark n/a for any positions that are not within your company or your sub-consultants.

Discipline	In-house / Consultant Firm Name	Position	Hourly Rate
Architecture		Junior Designer/Drafter	
		Designer/Drafter	
		Senior Designer/Drafter	
		Interior Designer	
		Project Architect	
		Project Manager	
Structural		Junior Designer/Drafter	
		Designer/Drafter	
		Senior Designer/Drafter	
		Structural Engineer	
Civil		Junior Designer/Drafter	
		Designer/Drafter	
		Senior Designer/Drafter	
		Civil Engineer	
Mechanical		Junior Designer/Drafter	
		Designer/Drafter	
		Senior Designer/Drafter	
		Mechanical Engineer	
Plumbing		Junior Designer/Drafter	
		Designer/Drafter	

		Senior Designer/Drafter	
		Plumbing Engineer	
Fire Protection		Junior Designer/Drafter	
		Designer/Drafter	
		Senior Designer/Drafter	
		Plumbing Engineer	
Tel/Data		Junior Designer/Drafter	
		Designer/Drafter	
		Senior Designer/Drafter	
		Project Manager	
Media Services		Junior Designer/Drafter	
		Designer/Drafter	
		Senior Designer/Drafter	
		Project Manager	
Security		Junior Designer/Drafter	
		Designer/Drafter	
		Senior Designer/Drafter	
Commissioning		Junior Designer/Drafter	
		Designer/Drafter	
		Senior Designer/Drafter	
		Engineer	
Cost Estimating		Cost Estimator	

APPENDIX F

MANDATORY FORMS AND SUBMITTALS

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE
N.J.S.A. 10:5-31 et seq., N.J.A.C. 17:27

GOODS, PROFESSIONAL SERVICES AND GENERAL SERVICE CONTRACTS

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

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not 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 contractor or subcontractor, 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, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor, 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 contractor or subcontractor where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to **N.J.S.A. 10:5-31 et seq.** as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to afford equal employment opportunities to minority and women workers consistent with Good faith efforts to meet targeted county employment goals established in accordance with **N.J.A.C. 17:27-5.2**, or Good faith efforts to meet targeted county employment goals determined by the Division, pursuant to **N.J.A.C. 17:27-5.2**.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, 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, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personal testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor 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, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval
Certificate of Employee Information Report
Employee Information Report Form AA302

The contractor and its subcontractor shall furnish such reports or other documents to the Division of Public Contracts Equal Employment Opportunity Compliance as may be requested by the Division 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 Division of Public Contracts Equal Employment Opportunity Compliance for conducting a compliance investigation pursuant **to Subchapter 10 of the Administrative Code at N.J.A.C.17:27.**

IF AWARDED A CONTRACT YOUR COMPANY/FIRM WILL BE REQUIRED TO COMPLY WITH THE AFFIRMATIVE ACTION REQUIREMENTS LISTED ABOVE.

Firm Name: _____

Signature: _____

Title: _____

Date: _____



STATEMENT OF OWNERSHIP DISCLOSURE

N.J.S.A. 52:25-24.2 (P.L. 1977, c.33, as amended by P.L. 2016, c.43)

This statement shall be completed, certified to, and included with all bid and proposal submissions. Failure to submit the required information is cause for automatic rejection of the bid or proposal.

Name of Organization: _____

Organization Address: _____

Part I Check the box that represents the type of business organization:

- Sole Proprietorship (skip Parts II and III, execute certification in Part IV)
- Non-Profit Corporation (skip Parts II and III, execute certification in Part IV)
- For-Profit Corporation (any type) Limited Liability Company (LLC)
- Partnership Limited Partnership Limited Liability Partnership (LLP)
- Other (be specific): _____

Part II

The list below contains the names and addresses of all stockholders in the corporation who own 10 percent or more of its stock, of any class, or of all individual partners in the partnership who own a 10 percent or greater interest therein, or of all members in the limited liability company who own a 10 percent or greater interest therein, as the case may be. **(COMPLETE THE LIST BELOW IN THIS SECTION)**

OR

No one stockholder in the corporation owns 10 percent or more of its stock, of any class, or no individual partner in the partnership owns a 10 percent or greater interest therein, or no member in the limited liability company owns a 10 percent or greater interest therein, as the case may be. **(SKIP TO PART IV)**

(Please attach additional sheets if more space is needed):

Name of Individual or Business Entity	Home Address (for Individuals) or Business Address

--	--

Part III DISCLOSURE OF 10% OR GREATER OWNERSHIP IN THE STOCKHOLDERS, PARTNERS OR LLC MEMBERS LISTED IN PART II

If a bidder has a direct or indirect parent entity which is publicly traded, and any person holds a 10 percent or greater beneficial interest in the publicly traded parent entity as of the last annual federal Security and Exchange Commission (SEC) or foreign equivalent filing, ownership disclosure can be met by providing links to the website(s) containing the last annual filing(s) with the federal Securities and Exchange Commission (or foreign equivalent) that contain the name and address of each person holding a 10% or greater beneficial interest in the publicly traded parent entity, along with the relevant page numbers of the filing(s) that contain the information on each such person. **Attach additional sheets if more space is needed.**

Website (URL) containing the last annual SEC (or foreign equivalent) filing	Page #'s

Please list the names and addresses of each stockholder, partner or member owning a 10 percent or greater interest in any corresponding corporation, partnership and/or limited liability company (LLC) listed in Part II **other than for any publicly traded parent entities referenced above.** The disclosure shall be continued until names and addresses of every noncorporate stockholder, and individual partner, and member exceeding the 10 percent ownership criteria established pursuant to N.J.S.A. 52:25-24.2 has been listed. **Attach additional sheets if more space is needed.**

Stockholder/Partner/Member and Corresponding Entity Listed in Part II	Home Address (for Individuals) or Business Address

Part IV Certification

I, being duly sworn upon my oath, hereby represent that the foregoing information and any attachments thereto to the best of my knowledge are true and complete. I acknowledge: that I am authorized to execute this certification on behalf of the bidder/proposer; that the **The College of New Jersey** is relying on the information contained herein and that I am under a continuing obligation from the date of this certification through the completion of any contracts with **The College of New Jersey** to notify the **The College of New Jersey** in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I am subject to criminal prosecution under the law and that it will constitute a material breach of my agreement(s) with the, permitting the **The College of New Jersey** to declare any contract(s) resulting from this certification void and unenforceable.

Full Name (Print):		Title:	
Signature:		Date:	



NON-COLLUSION STATEMENT

Date: _____

The College of New Jersey
The Office of Finance & Business Services, Purchasing Department
Administrative Services Building, Room 201
P.O. Box 7718
Ewing, New Jersey 08628-0718

To Whom It May Concern:

This is to certify that the undersigned bidder _____ as not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the proposal submitted to The College of New Jersey on the _____ day of _____, 20____.

Signature: _____

Corporate Seal:

Attest by: _____

Sworn to and subscribed before me this _____ day of _____, 20____.

My commission Expires: _____

Notary Public

THIS STATEMENT MUST BE COMPLETED AND SIGNED

INFORMATION AND INSTRUCTIONS

For Completing the “Two-Year Vendor Certification and Disclosure of Political Contributions” Chapter 51 Form

Background Information

On September 22, 2004, then-Governor James E. McGreevey issued E.O. 134, the purpose of which was to insulate the negotiation and award of State contracts from political contributions that posed a risk of improper influence, purchase of access or the appearance thereof. To this end, E.O. 134 prohibited State departments, agencies and authorities from entering into contracts exceeding \$17,500 with individuals or entities that made certain political contributions. E.O. 134 was superseded by Public Law 2005, c. 51, signed into law on March 22, 2005 (“Chapter 51”).

On September 24, 2008, Governor Jon S. Corzine issued E.O. 117 which is designed to enhance New Jersey’s efforts to protect the integrity of procurement decisions and increase the public’s confidence in government. The Executive Order builds upon the provisions of Chapter 51.

Two-Year Certification Process

Upon approval by the State Chapter 51 Review Unit, the Certification and Disclosure of Political Contributions form is valid for a two (2) year period. Thus, if a vendor receives approval on January 1, 2014, the certification expiration date would be December 31, 2015. Any change in the vendor’s ownership status and/or political contributions during the two-year period will require the submission of new Chapter 51/Executive Order 117 forms to the State Review Unit. **Please note that it is the vendor’s responsibility to file new forms with the State should these changes occur.**

State Agency Instructions: Prior to the awarding of a contract, the State Agency should first use NJSTART (<https://www.njstart.gov/bsol/>) to check the status of a vendor’s Chapter 51 certification before contacting the Review Unit’s mailbox at CD134@treas.nj.gov. If the State Agency does not find any Chapter 51 Certification information in NJSTART and/or the vendor is not registered in NJSTART, then the State Agency should send an e-mail to CD134@treas.nj.gov to verify the certification status of the vendor. If the response is that the vendor is NOT within an approved two-year period, then forms must be obtained from the vendor and forwarded for review. If the response is that the vendor is within an approved two-year period, then the response so stating should be placed with the bid/contract documentation for the subject project.

Instructions for Completing the Form

Part 1: BUSINESS ENTITY INFORMATION

Business Name – Enter the full legal name of the vendor, including trade name if applicable.

Address, City, State, Zip and Phone Number -- Enter the vendor's street address, city, state, zip code and telephone number.

Vendor Email – Enter the vendor’s primary email address.

Vendor FEIN – Please enter the vendor’s Federal Employment Identification Number.

Business Type - Check the appropriate box that represents the vendor's type of business formation.

Listing of officers, shareholders, partners or members - Based on the box checked for the business type, provide the corresponding information. (A complete list must be provided.)

Part 2: DISCLOSURE OF CONTRIBUTIONS

Read the three types of political contributions that require disclosure and, if applicable, provide the recipient's information. The definition of "Business Entity/Vendor" and "Contribution" can be found on pages 3 and 4 of this form.

Name of Recipient - Enter the full legal name of the recipient.

Address of Recipient - Enter the recipient's street address.

Date of Contribution - Indicate the date the contribution was given.

Amount of Contribution - Enter the dollar amount of the contribution.

Type of Contribution - Select the type of contribution from the examples given.

Contributor's Name - Enter the full name of the contributor.

Relationship of the Contributor to the Vendor - Indicate the relationship of the contributor to the vendor. (e.g. officer or shareholder of the company, partner, member, parent company of the vendor, subsidiary of the vendor, etc.)

NOTE: If form is being completed electronically, click "Add a Contribution" to enter additional contributions. Otherwise, please attach additional pages as necessary.

Check the box under the recipient information if no reportable contributions have been solicited or made by the business entity. **This box must be checked if there are no contributions to report.**

Part 3: CERTIFICATION

Check Box A if the representative completing the Certification and Disclosure form is doing so on behalf of the business entity and all individuals and/or entities whose contributions are attributable to the business entity.

(No additional Certification and Disclosure forms are required if BOX A is checked.)

Check Box B if the representative completing the Certification and Disclosure form is doing so on behalf of the business entity and all individuals and/or entities whose contributions are attributable to the business entity with the exception of those individuals and/or entities that submit their own separate form. For example, the representative is not signing on behalf of the vice president of a corporation, but all others. The vice president completes a separate Certification and Disclosure form. **(Additional Certification and Disclosure forms are required from those individuals and/or entities that the representative is not signing on behalf of and are included with the business entity's submittal.)**

Check Box C if the representative completing the Certification and Disclosure form is doing so on behalf of the business entity only. **(Additional Certification and Disclosure forms are required from all individuals and/or entities whose contributions are attributable to the business entity and must be included with the business entity submittal.)**

Check Box D when a sole proprietor is completing the Certification and Disclosure form or when an individual or entity whose contributions are attributable to the business entity is completing a separate Certification and Disclosure form.

Read the five statements of certification prior to signing.

The representative authorized to complete the Certification and Disclosure form must sign and print her/his name, title or position and enter the date.

State Agency Procedure for Submitting Form(s)

The State Agency should submit the completed and signed Two-Year Vendor Certification and Disclosure forms either electronically to: cd134@treas.nj.gov or regular mail at: Chapter 51 Review Unit, P.O. Box 230, 33 West State Street, Trenton, NJ 08625-0230. Original forms should remain with the State Agency and copies should be sent to the Chapter 51 Review Unit.

Business Entity Procedure for Submitting Form(s)

The business entity should return this form to the contracting State Agency.
The business entity can submit the Certification and Disclosure form directly to the Chapter 51 Review Unit only when:

- The business entity is approaching its two-year certification expiration date and is seeking certification renewal;
- The business entity had a change in its ownership structure; OR
- The business entity made any contributions during the period in which its last two-year certification was in effect, or during the term of a contract with a State Agency.

Questions & Information

Questions regarding Public Law 2005, Chapter 51 (N.J.S.A. 19:44A-20.13) or E.O. 117 (2008) may be submitted electronically through the Division of Purchase and Property website at: <https://www.state.nj.us/treas/purchase/eo134questions.shtml>.

Reference materials and forms are posted on the Political Contributions Compliance website at: <http://www.state.nj.us/treasury/purchase/execorder134.shtml>.



Division of Purchase and Property

Two-Year Chapter 51/Executive Order 117 Vendor Certification and
Disclosure of Political Contributions

FOR STATE USE ONLY

Solicitation, RFP, or Contract No. _____ Award Amount _____

Description of Services _____

State Agency Name _____ Contact Person _____

Phone Number _____ Contact Email _____

Check if the Contract / Agreement is Being Funded Using FHWA Funds

**Please check if requesting
recertification**

Part 1: Business Entity Information

Full Legal Business Name _____
(Including trade name if applicable)

Address _____

City _____ State _____ Zip _____ Phone _____

Vendor Email _____ Vendor FEIN (SS# if sole proprietor/natural person) _____

**Check off the business type and list below the required information for the type of business selected.
MUST BE COMPLETED IN FULL**

- Corporation: LIST ALL OFFICERS and any 10% and greater shareholder (If the corporation only has one officer, please write "sole officer" after the officer's name.)
- Professional Corporation: LIST ALL OFFICERS and ALL SHAREHOLDERS
- Partnership: LIST ALL PARTNERS with any equity interest
- Limited Liability Company: LIST ALL MEMBERS with any equity interest
- Sole Proprietor

Note: "Officers" means President, Vice President with senior management responsibility, Secretary, Treasurer, Chief Executive Officer or Chief Financial Officer of a corporation, or any person routinely performing such functions for a corporation.

Also Note: "N/A will not be accepted as a valid response. Where applicable, indicate "None."

All Officers of a Corporation or PC

**10% and greater shareholders of a corporation
or all shareholders of a PC**

All Equity partners of a Partnership

All Equity members of a LLC

If you need additional space for listing of Officers, Shareholders, Partners or Members, please attach separate page.

Part 2: Disclosure of Contributions by the business entity or any person or entity whose contributions are attributable to the business entity.

1. **Report below all contributions solicited or made during the 4 years immediately preceding the commencement of negotiations or submission of a proposal to any:**

Political organization organized under Section 527 of the Internal Revenue Code and which also meets the definition of a continuing political committee as defined in N.J.S.A. 19:44A-3(n)

2. **Report below all contributions solicited or made during the 5 ½ years immediately preceding the commencement of negotiations or submission of a proposal to any:**

Candidate Committee for or Election Fund of any Governorial or Lieutenant Governorial candidate
State Political Party Committee
County Political Party Committee

3. **Report below all contributions solicited or made during the 18 months immediately preceding the commencement of negotiations or submission of a proposal to any:**

Municipal Political Party Committee
Legislative Leadership Committee

Full Legal Name of Recipient _____
Address of Recipient _____
Date of Contribution _____ Amount of Contribution _____
Type of Contribution (i.e. currency, check, loan, in-kind) _____
Contributor Name _____
Relationship of Contributor to the Vendor _____
If this form is not being completed electronically, please attach additional contributions on separate page. Click the "Add a Contribution" tab to enter additional contributions.

Remove Contribution

Add a Contribution

Check this box only if no political contributions have been solicited or made by the business entity or any person or entity whose contributions are attributable to the business entity.

Part 3: Certification (Check one box only)

- (A) I am certifying on behalf of the business entity and all individuals and/or entities whose contributions are attributable to the business entity as listed on Page 1 under **Part 1: Vendor Information**.
- (B) I am certifying on behalf of the business entity and all individuals and/or entities whose contributions are attributable to the business entity as listed on Page 1 under **Part 1: Vendor Information**, except for the individuals and/or entities who are submitting separate Certification and Disclosure forms which are included with this submittal.
- (C) I am certifying on behalf of the business entity only; any remaining persons or entities whose contributions are attributable to the business entity (as listed on Page 1) have completed separate Certification and Disclosure forms which are included with this submittal.
- (D) I am certifying as an individual or entity whose contributions are attributable to the business entity.

I hereby certify as follows:

- I have read the Information and Instructions accompanying this form prior to completing the certification on behalf of the business entity.**
- All reportable contributions made by or attributable to the business entity have been listed above.**

3. The business entity has not knowingly solicited or made any contribution of money, pledge of contribution, including in-kind contributions, that would bar the award of a contract to the business entity unless otherwise disclosed above:

- a) Within the 18 months immediately preceding the commencement of negotiations or submission of a proposal for the contract or agreement to:
 - (i) A candidate committee or election fund of any candidate for the public office of Governor or Lieutenant Governor or to a campaign committee or election fund of holder of public office of Governor or Lieutenant Governor; OR
 - (ii) Any State, County or Municipal political party committee; OR
 - (iii) Any Legislative Leadership committee.
- b) During the term of office of the current Governor or Lieutenant Governor to:
 - (i) A candidate committee or election fund of a holder of the public office of Governor or Lieutenant Governor; OR
 - (ii) Any State or County political party committee of the political party that nominated the sitting Governor or Lieutenant Governor in the last gubernatorial election.
- c) Within the 18 months immediately preceding the last day of the sitting Governor or Lieutenant Governor's first term of office to:
 - (i) A candidate committee or election fund of the incumbent Governor or Lieutenant Governor; OR
 - (ii) Any State or County political party committee of the political party that nominated the sitting Governor or Lieutenant Governor in the last gubernatorial election.

4. During the term of the contract/agreement the business entity has a continuing responsibility to report, by submitting a new Certification and Disclosure form, any contribution it solicits or makes to:

- (a) Any candidate committee or election fund of any candidate or holder of the public office of Governor or Lieutenant Governor; OR
- (b) Any State, County or Municipal political party committee; OR
- (c) Any Legislative Leadership committee.

The business entity further acknowledges that contributions solicited or made during the term of the contract/agreement may be determined to be a material breach of the contract/agreement.

5. During the two-year certification period the business entity will report any changes in its ownership structure (including the appointment of an officer within a corporation) by submitting a new Certification and Disclosure form indicating the new owner(s) and reporting said owner(s) contributions.

I certify that the foregoing statements in Parts 1, 2 and 3 are true. I am aware that if any of the statements are willfully false, I may be subject to punishment.

Signed Name _____ Print Name _____

Title/Position _____ Date _____

Procedure for Submitting Form(s)

The contracting State Agency should submit this form to the Chapter 51 Review Unit when it has been required as part of a contracting process. The contracting State Agency should submit a copy of the completed and signed form(s), to the Chapter 51 Unit and retain the original for their records.

The business entity should return this form to the contracting State Agency. The business entity can submit this form directly to the Chapter 51 Review Unit only when it -

- Is approaching its two-year certification expiration date and wishes to renew certification;
- Had a change in its ownership structure; OR
- Made any contributions during the period in which its last two-year certification was in effect, or during the term of a contract with a State Agency.

Forms should be submitted either electronically to: cd134@treas.nj.gov , or regular mail at: Chapter 51 Review Unit, P.O. Box 230, 33 West State Street, Trenton, NJ 08625.

"N.J.S.A. 52:34-13.2 CERTIFICATION"
SOURCE DISCLOSURE CERTIFICATION FORM

Contractor: _____ Waiver Number: _____

I hereby certify and say:

I have personal knowledge of the facts set forth herein and am authorized to make this Certification on behalf of the Contractor.

The Contractor submits this Certification in response to the referenced contract issued by the Division of Purchase and Property, Department of the Treasury, State of New Jersey (the "Division"), in accordance with the requirements of N.J.S.A. 52:34-13.2.

Instructions:

List every location where services will be performed by the Contractor and all Subcontractors.

If any of the services cannot be performed within the United States, the Contractor shall state, with specificity the reasons why the services cannot be so performed. Attach additional pages if necessary.

Contractor and/or Subcontractor	Description of Services	Performance Location[s] by COUNTRY	Reasons why services cannot be performed in USA
------------------------------------	-------------------------	--	---

Any changes to the information set forth in this Certification during the term of any contract awarded under the referenced solicitation or extension thereof will be immediately reported by the Contractor to the Director, Division of Purchase and Property (the "Director").

The Director shall determine whether sufficient justification has been provided by the Contractor to form the basis of his certification that the services cannot be performed in the United States and whether to seek the approval of the Treasurer.

I understand that, after award of a contract to the Contractor, it is determined that the Contractor has shifted services declared above to be provided within the United States to sources outside the United States, prior to a written determination by the Director that extraordinary circumstances require the shift of services or that the failure to shift the services would result in economic hardship to the State of New Jersey, the Contractor shall be deemed in breach of contract, which contract will be subject to termination for cause pursuant to Section 3.5b.1 of the Standard Terms and Conditions.

I further understand that this Certification is submitted on behalf of the Contractor in order to induce the Division to accept a bid proposal, with knowledge that the Division is relying upon the truth of the statements contained herein.

I certify that, to the best of my knowledge and belief, the foregoing statements by me are true. I am aware that if any of the statements are willfully false, I am subject to punishment.

Contractor: _____
[Name of Organization or Entity]

By: _____

Title: _____

Print Name: _____

Date: _____

State of New Jersey

DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN

Solicitation Number: Bidder/Offeror:

Pursuant to Public Law 2012, c. 25, any person or entity that submits a bid or proposal or otherwise proposes to enter into or renew a contract must complete the certification below to attest, under penalty of perjury, that the person or entity, or one of the person or entity's parents, subsidiaries, or affiliates, is not identified on a list created and maintained by the Department of the Treasury as a person or entity engaging in investment activities in Iran.

I certify, pursuant to Public Law 2012, c. 25, that the person or entity listed above for which I am authorized to bid/renew:

- is not providing goods or services of \$20,000,000 or more in the energy sector of Iran, including a person or entity that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran, AND
is not a financial institution that extends \$20,000,000 or more in credit to another person or entity, for 45 days or more, if that person or entity will use the credit to provide goods or services in the energy sector in Iran.

In the event that a person or entity is unable to make the above certification because it or one of its parents, subsidiaries, or affiliates has engaged in the above-referenced activities, a detailed, accurate and precise description of the activities must be provided in part 2 below to the Division of Purchase and Property under penalty of perjury. Failure to provide such will result in the proposal being rendered as non-responsive and appropriate penalties, fines and/or sanctions will be assessed as provided by law.

PART 2: PLEASE PROVIDE FURTHER INFORMATION RELATED TO INVESTMENT ACTIVITIES IN IRAN

You must provide a detailed, accurate and precise description of the activities of the bidding person/entity, or one of its parents, subsidiaries or affiliates, engaging in the investment activities in Iran outlined above by completing the boxes below.

EACH BOX WILL PROMPT YOU TO PROVIDE INFORMATION RELATIVE TO THE ABOVE QUESTIONS. PLEASE PROVIDE THOROUGH ANSWERS TO EACH QUESTION. IF YOU NEED TO MAKE ADDITIONAL ENTRIES, PLEASE ADD AN ADDITIONAL SHEET.

Name Relationship to Bidder/Offeror
Description of Activities
Duration of Engagement Anticipated Cessation Date
Bidder/Offeror Contact Name Contact Phone Number

[Empty box for additional information]

Certification: I, being duly sworn upon my oath, hereby represent and state that the foregoing information and any attachments thereto to the best of my knowledge are true and complete. I attest that I am authorized to execute this certification on behalf of the above-referenced person or entity. I acknowledge that the State of New Jersey is relying on the information contained herein and thereby acknowledge that I am under a continuing obligation from the date of this certification through the completion of any contracts with the State to notify the State in writing of any changes to the answers of information contained herein. I acknowledge that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I recognize that I am subject to criminal prosecution under the law and that it will also constitute a material breach of my agreement(s) with the State of New Jersey and that the State at its option may declare any contract(s) resulting from this certification void and unenforceable.

Full Name (Print): Signature:

Title: Date:

VENDOR QUALIFICATION SHEET

Vendors are required to submit evidence of qualifications to meet all requirements as required by the Office of Finance & Business Services at The College of New Jersey by providing the information listed below.

If this information is being requested as part of an RFP or RFQ, vendors may be requested to furnish additional information for clarification purposes. This will in no way change the vendor's original proposal.

TO BE COMPLETED BY VENDOR

1. Please list the types of commodities that your company can provide.

A.

B.

C.

2. The number of years your firm has been providing these services. _____ Year(s)

3. Location of vendor's office that will be responsible for managing contract/service:

Name: _____

Telephone: _____ Fax: _____

Email Address: _____

Street Address: _____

City/State/Zip: _____

Federal Identification Number: _____

4. Address where all purchase orders and payment are to be mailed by users of any contract(s) resulting from this proposal (if different from above).

Purchase Orders:

Firm Name: _____

Street Address: _____

City/State/Zip: _____

Remittances:

Firm Name: _____

Street Address: _____

City/State/Zip: _____

VENDOR QUALIFICATIONS- continued

5. Name of insurance company:

Street Address: _____

City/State/Zip: _____

Types of Insurance: _____

6. Name of individual to contact for sales/services information:

Name: _____

Telephone: _____

Email Address: _____

Street Address: _____

City/State/Zip: _____

7. List the names and titles of personnel who will service this contract:

8. Is your firm registered with the Secretary of State of New Jersey? **Yes** ____ **No** ____

9. Is your firm incorporated? **Yes** ____ **No** ____

A) In What State? _____

10. Is your firm considered a small business in the State of New Jersey? **If yes, please attach a certificate or certification statement from the New Jersey Commerce and Economic Growth Commission.** If no and you would like to register, please contact the New Jersey Commerce and Economic Growth Commission at 609-777-0885.

Small Business: **Yes** ____ **No** ____

A) What category does your firm fall under?

Gross Revenues do not exceed \$500,000 _____

Gross Revenues do not exceed \$5 million _____

Gross Revenues do not exceed \$12 million _____

Under Executive Order 34, TCNJ is responsible for soliciting demographic information from its vendors. TCNJ is required to seek the following information from each firm under contract with us:

1. Is more than fifty percent (50%) of your company minority owned? (circle one) YES NO
(African-American, Hispanic, Asian, and/or Native American)

2. Is more than fifty percent (50%) of your company woman owned? (circle one) YES NO

3. What is the ethnicity of the owner of your company: (check applicable according to 51% ownership)
 - Asian American
 - Multiple Ethnicities
 - Non-Minority
 - Hispanic American
 - African American
 - Caucasian American Female
 - Native American
 - Unspecified

TCNJ is required to solicit the foregoing information. Your response, however, is **strictly voluntary**. Please be advised that any contracting decisions made by TCNJ will **not** be influenced in any way by your decision to provide the above information.

EXECUTIVE ORDER #34: MINORITY AND WOMEN BUSINESS ENTERPRISES

On September 15, 2006, Governor Corzine signed Executive Order 34 establishing a Division of Minority and Women Business Development. The Division is charged with administering and monitoring policies, practices, and programs to ensure that New Jersey owned minority and women business enterprises (MWBE) are afforded an equal opportunity to participate in New Jersey's purchasing and procurement processes.

State entities are required to report to the Division the ethnic and gender composition of the vendors with which we do business.

VENDOR QUALIFICATIONS-

11. Please provide a list of former or present clients. Also, indicate the name of a contact person and telephone number for reference purposes. **Any personnel from The College of New Jersey listed as a reference will not be considered a valid reference.**

- A. **Client Name:**

 Contact Name:

 Telephone Number:

 Fax Number:

 Email Address:

- B. **Client Name:**

 Contact Name:

Telephone Number:

Fax Number:

Email Address:

C. Client Name:

Contact Name:

Telephone Number:

Fax Number:

Email Address:

D. Client Name:

Contact Name:

Telephone Number:

Fax Number:

Email Address:

VENDOR QUALIFICATIONS- continued

12. Please answer the following questions related to your prior experience:

- a. Has the bidder been found, through either court adjudication, arbitration, mediation, or other contractually stipulated alternate dispute resolution mechanism, to have: failed to provide or perform goods or services; or failed to complete the contract in a timely manner; or otherwise performed unsatisfactorily under a prior contract with the contracting unit? If yes, attach summary of details on a separate sheet.

Yes _____

No _____

- b. Has the bidder defaulted on a contract, thereby requiring the local unit to utilize the services of another contractor to provide the goods or perform the services or to correct or complete the contract? If yes, attach summary of details on a separate sheet.

Yes _____

No _____

- c. Has the bidder defaulted on a contract, thereby requiring the local unit to look to the bidder's surety for completion of the contract or tender of the costs of completion? If yes, attach summary of details on a separate sheet.

Yes _____

No _____

- d. Has the bidder been debarred or suspended from contracting with any of the agencies or departments of the executive branch of the State of New Jersey at the time of contract award, whether or not the action was based on experience with the contracting unit. If yes, attach summary of details on a separate sheet.

Yes _____

No _____

Firm Name: _____

Signature: _____

Title: _____

Date: _____



GENERAL TERMS AND CONDITIONS

Unless the vendor is specifically instructed otherwise or specifically deleted on this form, the following terms and conditions apply to all contracts or purchase agreements made with The College of New Jersey. These terms are in addition to any terms and conditions set forth in a solicitation and should be read in conjunction with same unless specifically indicated otherwise. If applicable, these terms and conditions shall also incorporate as if fully set forth herein the attached Rider for Purchases Funded, In Whole or In Part, By Federal Funds. In the event that the vendor would like to present terms and conditions that are in conflict with these terms and conditions or proposes changes or modifications or takes exception to any of The College's terms and conditions, the vendor must present those conflicts in writing prior to the submission of their proposal/bid for the required goods/services. Any conflicting terms and conditions that the College is willing to accept will be reflected in writing. Any cross out or change in the College's terms and conditions at time of proposal/bid submission may be a factor in determining an award of contract or purchase agreement.

Vendors are notified by this statement that all terms and conditions will become a part of any contract or order awarded as a result of a request for proposal whether stated in part, in summary, or by reference. In the event a vendor's terms or conditions conflict with a State law and/or the College's terms and conditions, the State law or College's terms and conditions will prevail.

The vendor's status pursuant to all contracts or purchase agreements shall be that of an independent contractor and not of an employee of The College or the State of New Jersey.

1. STATE LAW REQUIRING MANDATORY COMPLIANCE BY ALL VENDORS

1.1 CORPORATE AUTHORITY-N.J.S.A. 14A:13-3 requires that all corporations be authorized to do business in the State of New Jersey. Corporations incorporated out of the State must file a Certificate of Authority with the Secretary of State, Department of State, State House, Trenton, New Jersey.

1.2 ANTI-DISCRIMINATION-All parties to any contract with The College of New Jersey agree not to discriminate in employment and agree to abide by all anti-discrimination laws including those contained in N.J.S.A 10:2-1 through 10:2-4, N.J.S.A. 10:5-1 et seq. and N.J.S.A. 10:5-31 through 10:5-38, and all rules and regulations issued thereunder. The vendor agrees that:

A. In the hiring of persons for the performance of work under this contract or any subcontract hereunder, or for the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under this contract, no contractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex, discriminate against any person who is qualified and available to perform the work to which the employment relates;

B. No contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee engaged in the performance of work under this contract or any subcontract hereunder, or engaged in the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under such contract, on account of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex;

C. There may be deducted from the amount payable to the contractor by the contracting public agency, under this contract, a penalty of \$50.00 for each person for each calendar day during which such person is discriminated against or intimidated in violation of the provisions of the contract; and

D. This contract may be canceled or terminated by the contracting public agency, and all money due or to become due hereunder may be forfeited, for any violation of this section of the contract occurring after notice to the contractor from the contracting public agency of any prior violation of this section of the contract.

1.3 PREVAILING WAGE ACT-The New Jersey Prevailing Wage Act N.J.S.A. 34:11-56.26 et seq. is hereby made a part of every contract entered into on behalf of The College of New Jersey except those contracts which are not within the contemplation of the Act. The vendor's signature on his proposal guarantees that neither the firm nor any subcontractors employed to perform the work covered by his proposal has been suspended or debarred by the Commissioner of the Department of Labor and Workforce Development for violation of the provisions of the Prevailing Wage Act and/or the Public Works Contractor Registration Acts; the vendor's signature on the proposal is also his guarantee that he and any subcontractors he might employ to perform the work covered by his proposal will comply with the provisions of the Prevailing Wage and Public Works Contractor Registration Acts. The College of New Jersey can terminate the contract in the event vendor or any subcontractor violates the Prevailing Wage Act.

1.4 WORKER AND COMMUNITY RIGHT TO KNOW ACT-The provisions of N.J.S.A. 34:5A-1 et seq which require the labeling of all containers of hazardous substances are applicable to this contract. Therefore, all goods offered for purchase to The College must be labeled by the vendor in compliance with the provisions of the Act.

1.5 OWNERSHIP DISCLOSURE-Contracts for any work, goods, or services cannot be issued to any firm unless the firm has disclosed the names and addresses of all its owners holding 10% or more of the firm's stock or interest. Refer to N.J.S.A. 52:25-24.2.

1.6 COMPLIANCE-STATE LAWS-It is agreed and understood that any contracts and/or orders placed as a result of this proposal shall be governed by and construed in accordance with the laws of the State of New Jersey. The laws of the State of New Jersey shall determine the rights and obligations of the parties hereto.

A. Business Registration – Pursuant to N.J.S.A. 52:32-44, the College is prohibited from entering into a contract with an entity unless the entity and each subcontractor that is required by law to be named in a bid/proposal/contract has a valid Business Registration Certificate on file with the Division of Revenue and Enterprise Services within the State Department of the Treasury.

The contractor and any subcontractor providing goods or performing services under the contract, and each of their affiliates, shall, during the term of the contract, collect and remit to the Director of the Division of Taxation in the Department of the Treasury the use tax due pursuant to the “Sales and Use Tax Act, P.L. 1966, c. 30 (N.J.S.A. 54:32B-1 et seq.) on all their sales of tangible personal property delivered into the State. Any questions in this regard can be directed to the Division of Revenue at (609) 292-1730. Form NJ-REG can be filed online at <https://nj.gov/labor/handbook/formdocs/FormIntroNJREG.html>

B. Public Works Contractor Registration Act - The New Jersey Public Works Contractor Registration Act requires all contractors, subcontractors and lower tier subcontractors who bid on or engage in any contract for public work as defined in N.J.S.A. 34:11-56.26 be first registered with the New Jersey Department of Labor and Workforce Development. Any questions regarding the registration process should be directed to the Division of Wage and Hour Compliance at (609) 292-9464 or https://www.nj.gov/labor/wagehour/wagehour_index.html.

C. The contractor must comply with all provisions of the Americans With Disabilities Act (ADA), 42 U.S.C. 12101 et seq.

D. Certification and Disclosure of Political Contributions – Pursuant to N.J.S.A. 19:44A-20.14 et seq. (P.L. 2005, c. 51 and EO no. 117), the College is prohibited from entering into contracts exceeding \$17,500 with individuals or entities that made certain political contributions. Prior to awarding any contract or agreement, the vendor shall submit the Certification and Disclosure form to The College, for review and approval by the State Treasurer or his designee, certifying that no contributions prohibited by either Chapter 51 or Executive Order 117 have been made by the vendor and reporting all contributions the vendor made during the preceding four years to any political organization organized under 26 U.S.C.527 of the Internal Revenue Code that also meets the definition of a “continuing political committee” within the mean of N.J.S.A. 19:44A-3(n) and N.J.A.C. 19:25-1.7.

E. Political Contribution Disclosure – For any contract exceeding \$17,500, with the exception of contracts awarded as a result of the public advertising for bids, the vendor must comply with the requirements of P.L. 2005, c.271.

F. Annual ELEC Disclosure - Contractor is advised of its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC),

pursuant to N.J.S.A 19:44A-20.27 (P.L. 2005, c. 271, section 3 as amended) if the contractor receives contracts in excess of \$50,000 from a public entity in a calendar year. It is the contractor's responsibility to determine if filing is necessary. Failure to so file can result in the imposition of financial penalties by ELEC. Additional information about this requirement is available from ELEC at 888-313-3532 or at www.elec.state.nj.us.

G. Compliance Codes - The contractor must comply with NJUCC and the latest NEC70, B.O.C.A. Basic Building code, OSHA and all applicable codes for this requirement. The contractor will be responsible for securing and paying all necessary permits, where applicable.

H. Buy American Act - Pursuant to N.J.S.A 52:32-1 and 52:33-1 et seq., if manufactured items or farm products will be provided under this contract to be used in public work or a public contract, they shall be manufactured or produced in the United States and the vendor shall be required to so certify provided this requirement is not inconsistent with the public interest, the cost not unreasonable, nor the requirement impractical.

I. Service Performed in the U.S. – Under N.J.S.A. 52:34-13.2, all contracts primarily for shall be performed with the United States, except when the Contracting Officer certifies in writing a finding that a required service cannot be provided by a contractor or subcontractor within the United States.

J. Diane B. Allen Equal Pay Act - Pursuant to N.J.S.A. 34:11-56.14, a contractor performing “qualifying services” or “public work” to the State or any agency or instrumentality of the State shall provide the Commissioner of Labor and Workforce Development a report regarding the compensation and hours worked by employees categorized by gender, race, ethnicity, and job category. For more information and report templates see <https://nj.gov/labor/equalpay/equalpay.html>.

K. Warranty of No Solicitation By Paid Agent - Pursuant to N.J.S.A. 18A:64-6.1, the contractor warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, broker-age or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business. If a breach or violation of this section occurs, the College shall have the right to terminate the contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

1.7 COMPLIANCE-LAWS-The vendor must comply with all local, state, and federal laws, rules, and regulations applicable to this contract and to the goods delivered and/or services performed hereunder.

2. LIABILITIES

2.1 LIABILITY-COPYRIGHT-The vendor shall hold and save The College of New Jersey and its officers, agents, students, and employees harmless from liability of any nature or kind for or on account of the use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of any contract awarded pursuant to this proposal.

2.2 INDEMNIFICATION-The vendor shall assume all risk of and responsibility for any and all claims, demands, suits, actions, recoveries, judgments, and costs and expenses in connection therewith on account of the loss of life, property, or injury or damage to the person, body or property of any person or persons whatsoever which shall arise from or result directly or indirectly from the work and/or materials supplied under this contract; and additionally agrees to indemnify, defend, and save harmless The College of New Jersey and its officers, agents, students, and employees from and against such proceedings. This indemnification obligation is not limited by, but is in addition to, the insurance obligations contained in this agreement.

2.3 INSURANCE BY THE CONTRACTOR: The insurance shall be of the kinds and in the amounts required in this paragraph, and shall be issued by insurance companies approved to do business in New Jersey. The College of New Jersey, the State of NJ, and the NJ Educational Facilities Authority shall be named as an additional insured on the policies. The Contractor expressly agrees that any insurance protection required by this contract shall in no way *limit* the Contractor's obligations under this contract, and shall not be construed to relieve the Contractor from liability in excess of such coverage. Nor shall it preclude the College from taking such actions as are available to it under any other provisions of this contract or law. The successful vendor shall secure and maintain in force, for the term of the contract, liability insurance as provided herein. The certificate shall not be cancelled for any reason except after 30

days written notification to the Purchasing Department for The College of New Jersey.

A. The insurance to be provided by the successful bidder shall be as follows:

1. Commercial General Liability policy as broad as the standard coverage form currently in use in the State of New Jersey, which shall not be circumscribed by any endorsements limiting the breadth of coverage. The policy shall include an endorsement (broad form) for contractual liability and products liability (completed operations). Limits of liability shall not be less than \$1,000,000 per occurrence for bodily injury liability and \$1,000,000 per occurrence for property damage liability.

2. Comprehensive General Automobile Liability policy covering owned, non-owned, and hired vehicles with minimum limits of \$1,000,000 combined single limits.

3. Worker's Compensation Insurance applicable to laws of the State of New Jersey and Employers Liability Insurance with a limit of not less than \$500,000.

4. Professional Liability Insurance (consultants) Consultant must maintain Professional Liability Insurance with minimum limits of liability that shall not be less than a combined single limit of two million dollars (\$2,000,000) per claim. The professional liability insurance shall be maintained for a period of not less than two years following the actual completion and acceptance of the Project by The College's Contracting Officer. Should the Consultant change carriers during the term of this contract, it shall obtain from its new carrier an endorsement for retroactive coverage.

B. Upon request, the successful vendor will provide certificates of such insurance to the Purchasing Department prior to the start of the contract and periodically during the course of a multi-year contract.

C. **EVIDENCE OF INSURANCE.** The Contractor shall when this contract is signed and before beginning the work required under this contract, provide the College with valid certificates of insurance signed by an insurance provider or authorized agent or underwriter to evidence the Contractor's insurance coverage as required in this paragraph, and also copies of the policies themselves. The certificates of insurance shall specify that the insurance provided is of the types and in the amounts required in this paragraph, and that the policies cannot be canceled except after 30 days written notice to the College.

D. **CANCELLATION.** The certificates of insurance shall provide for 30 days written notice to the College before any cancellation, expiration or non-renewal during the term the insurance is required by this contract. The Contractor shall also be required to provide the College with valid certificates of renewal when policies expire. The Contractor shall also, when requested, provide the College with additional copies of each policy required under this contract, which are certified by an agent or underwriter to be true copies of the policies issued to the Contractor.

E. **REMEDIES FOR LACK OF INSURANCE.** If the Contractor fails to renew any of its required insurance policies, or any policy is canceled, terminated or modified, the College may refuse to pay monies due under this contract. The College, in its sole discretion and for its sole benefit, may use monies retained under this paragraph to attempt to renew the Contractor's insurance or obtain substitute coverage if possible for the College's sole benefit, and may invoke other applicable remedies under the contract including claims against the Contractor and its surety. During any period when the required insurance is not in effect, the College may also, in its sole discretion, either suspend the work under the contract or terminate the contract.

3. **TERMS GOVERNING ALL PROPOSALS TO THE COLLEGE OF NEW JERSEY**

3.1 CONTRACT AMOUNT-The amount of any contract negotiated, as a result of this proposal shall not be construed as either the maximum or the minimum amount, which the College shall be obligated to order.

3.2 CONTRACT PERIOD AND EXTENSION OPTION-If, in the opinion of the Contracting Officer it is in the best interest of the College to extend any contract awarded as a result for a period of all or any part of a year, the vendor will be so notified of the intent at least 30 days prior to the expiration date of the existing contract. If the extension is acceptable to the vendor, at the original prices and on the original terms, notice will be given to the vendor by the College's Contracting Officer in writing. Unless otherwise specified in such cases, a new Performance Bond may be required of the vendor on a pro rata basis of the original Performance Bond to cover the period of the extension.

3.3 VENDOR RIGHT TO PROTEST INTENT TO AWARD

A. Except in cases of emergency, vendors have the right to protest the Contracting Officer's award of the contract as announced in the notice of intent to award. Unless otherwise stated, a vendor's protest must be received no later than seven business days after the date on the notice of intent to award. In the public interest, the Contracting Officer may shorten the protest period, but shall provide at least 48 hours for vendors to respond to a proposed award.

B. A protest must be in writing and delivered to the Contracting Officer. It must include the specific grounds for challenging the award.

C. The Contracting Officer shall render the College's decision within 10 days to the protesting vendor.

3.4 TERMINATION OF CONTRACT

A. Change of Circumstances:

1. Where the circumstances or needs of the College significantly change or the contract is otherwise deemed no longer to be in the public interest, the Contracting Officer may terminate the contract.

2. The vendor must, where practicable, be given 30 days written notice and an opportunity to respond.

B. For Cause:

1. Where a vendor fails to perform or comply with a contract, the Contracting Officer may terminate the contract subsequent to ten days written notification to the vendor and an appropriate opportunity for the vendor to respond.

2. When a vendor executes a contract poorly as evidenced by formal complaint, late delivery, and poor performance of service, short-shipping etc., the Contracting Officer may terminate the contract subsequent to ten days written notification to the vendor and an appropriate opportunity for response. In exceptional situations the Contracting Officer may reduce the period of notification and discretionary dispense with an opportunity to respond.

C. For Convenience:

1. Notwithstanding any provision or language in this contract to the contrary, the Contracting Officer may terminate at any time, in whole or in part, any contract for the convenience of The College, upon no less than 30 days written notice to the vendor.

D. In the event of termination under this section, the vendor will be compensated for work performed in accordance with the contract, up to the date of termination. Such compensation may be subject to adjustments.

3.5 COMPLAINTS-Where a vendor has a history of performance problems as evidenced by formal complaints and/or contract cancellation for cause pursuant to 3.4.B, that vendor may be bypassed for any future contract awards unless the vendor submits with proposal documentation:

A. An explanation of the past performance difficulties and the reasons for such occurrences.

B. An outline of corrective action taken by the vendor to preclude future recurrences of the same or similar problems in the event the vendor is awarded the contract.

3.6 SUBCONTRACTING OR ASSIGNMENT-The contract may not be subcontracted or assigned by the vendor, in whole or in part, without the prior written consent of the Contracting Officer. Such consent, if granted, shall not relieve the vendor of any of his responsibilities under the contract. In the event that a vendor proposes to subcontract for the services to be performed under the terms of the contract award, it shall be stated in the proposal and a list of subcontractors and an itemization of the subcontract services to be supplied will be attached, for approval prior to award of the contract. Nothing contained in the specifications shall be construed as creating any contractual relationship between a subcontractor and the College.

3.7 PERFORMANCE GUARANTEE OF VENDOR-The vendor hereby certifies that:

A. The equipment offered is standard new equipment, is the manufacturer's latest model in production with parts regularly used for the type of equipment offered and that such parts are all in production and not likely to be discontinued; also, that no attachment or part has been substituted or applied contrary to manufacturer's recommendations and standard practice.

B. All equipment operated by electrical current is UL listed where applicable.

C. All new machines are guaranteed as fully operational for the period stated in the RFP from time of written acceptance by The College. The vendor will render prompt service without charge, regardless of geographic location.

D. Sufficient quantities of parts for the proper service to equipment will be maintained at distribution points and service headquarters.

E. Trained technicians are regularly employed in the territory to provide service and repairs to equipment within 48 hours or a period of time accepted as customary industry practice.

F. Any material/equipment rejected for failure to meet the specifications or requirements of the College shall be immediately replaced by the vendor with properly specified equipment/material. Such replacement shall be completely at the vendor's expense.

G. All services rendered to the College shall be performed in strict and full compliance with the specifications of the contract.

1. A service contract shall not be considered complete until final approval by the College is rendered.
2. Payment for services rendered may not be made until final approval is given by the College.

H. Vendor's obligations under this contract is in addition to the vendor's other expressed or implied assurances under this contract or New Jersey State Law and in no way diminishes any other rights that the College may have against the vendor for faulty material, equipment, or work.

I. Bid and Performance Security

a. Bid Security – If bid security is required, such security must be submitted with the bid in the amount listed in the Request for Proposal, see N.J.A.C. 17: 12- 2.4. Acceptable forms of bid security are as follows:

1. A properly executed individual or annual bid bond issued by an insurance or security company authorized to do business in the State of New Jersey, a certified or cashier's check drawn to the order of The College of New Jersey.

2. The College will hold all bid security during the evaluation process. As soon as is practicable after the completion of the evaluation, the College will:

- a. Issue an award notice for those offers accepted by the State;

- b. Return all bond securities to those who have not been issued an award notice.

All bid security from contractors who have been issued an award notice shall be held until the successful execution of all required contractual documents and bonds (performance bond, insurance, etc. If the contractor fails to execute the required contractual documents and bonds within thirty (30) calendar days after receipt of award notice, the contractor may be found in default and the contract terminated by the College. In case of default, the College reserves all rights inclusive of, but not limited to, the right to purchase material and/or to complete the required work in accordance with the New Jersey Administrative Code and to recover any actual excess costs from the contractor. Collection against the bid security shall be one of the measures available toward the recovery of any excess costs.

b. Performance Security - If performance security is required, the successful bidder shall furnish performance security in such amount on any award of a term contractor line item purchase, see N.J.A.C. 17: 12- 2.5.

Acceptable forms of performance security are as follows:

1. The contractor shall be required to furnish an irrevocable security in the amount listed in the bid or Request for Proposal payable to The College of New Jersey, binding the contractor to provide faithful performance of the contract.

2. The performance security shall be in the form of a properly executed individual or annual performance bond issued by an insurance or security company authorized to do business in the State of New Jersey, a certified or cashier's check drawn to the order of The College of New

New Jersey.

The Performance Security must be submitted to the College within 30 days of the effective date of the contract award and cover the period of the contract and any extensions thereof. Failure to submit performance security may result in cancellation of contract for cause pursuant to provision 3.5b,1, and nonpayment for work performed.

3.8 DELIVERY GUARANTEES-Deliveries shall be made at such time and in such quantities as ordered in strict compliance with the conditions contained in the contract. The vendor shall be responsible for the delivery of material in first class condition and in accordance with good commercial practice. Items delivered must be strictly in accordance with bid specifications. In the event delivery of goods or services is not made within the time frame specified or under the schedule stipulated in the specifications, the College may obtain the goods or services from any available source and the difference in price, if any, will be paid by the vendor failing to fulfill the commitment.

3.9 RIGHT TO INSPECT VENDOR'S FACILITIES-The College reserves the right to inspect the vendor's establishment before making an award, for the purposes of ascertaining whether the vendor has the necessary facilities for performing the contract. The College may also consult with clients of the bidder during the evaluation of bids. Such consultation is intended to assist the College in making a contract award which is most advantageous to the College.

3.10 RIGHT TO FINAL ACCEPTANCE-The College reserves the right to reject all bids, or to award a contract in whole or in part if of the College determines it is the most advantageous to the College, price and other factors considered. In case of tie bids, the contract shall be awarded at the discretion of the Contracting Officer to the vendor or vendors best meeting all of the specifications and conditions.

3.11 MAINTENANCE OF RECORD-The vendor shall maintain records for products and/or services delivered against the contract for a period of three (3) years from the date of final payment. Such records shall be made available to the College upon request.

3.12 Extension of Contract to Other Institutions – It is understood and agreed that in addition to The College of New Jersey, other New Jersey higher education institutions may also participate in this contract at the same pricing, terms, etc.

3.13 MERGERS, ACQUISITIONS - If, during the term of this contract, the contractor shall merge with or be acquired by another firm, the contractor shall give notice to the College as soon as practicable and in no event longer than thirty (30) days after said merger or acquisition. The contractor shall provide such documents as may be requested, which may include but need not be limited to the following:

- a. Corporate resolutions prepared by the awarded contractor and new entity ratifying acceptance of the original contract, terms, conditions and prices.
- b. updated information including ownership disclosure and Federal Employer Identification Number

3.14 Right to Request further Information-The College reserves the right to request all information which may assist in making a contract award, including factors necessary to evaluate the bidder's financial capabilities to perform the contract. Further the College reserves the right to request a bidder to explain, in detail, how the bid prices were determined.

3.15 BID ACCEPTANCES AND REJECTIONS - The College reserves the right to waive minor elements of non-compliance or reject bids in accordance with law.

4. TERMS RELATING TO PRICE QUOTATION

4.1 PRICE FLUCTUATIONS DURING CONTRACT-Unless otherwise noted by the College, all prices quoted shall be firm and not be subject to increase during the period of the contract. In the event of a manufacturer's price decrease during the contract period, the College shall receive the full benefit of such price reduction on any subsequent orders for goods or services. The Purchasing Department must be notified in writing of any price reduction within five (5) days of the effective date.

Failure to report price reductions may result in cancellation of contract for cause.

4.2 DELIVERY COSTS-Unless noted otherwise in the specification, all quoted prices shall include delivery F.O.B. Destination. The vendor shall assume all liability and responsibility for the delivery of merchandise in good condition to The College of New Jersey or any other location specified by the contract. F.O.B. Destination shall be interpreted as platform delivery to the Receiving Department of the College or other receiving point indicated in the contract. In certain instances

spot deliveries may be specified and required. No additional freight charges will be payable for transportation costs resulting from partial shipments made for the vendor's convenience when a single shipment is ordered.

4.3 COD TERMS-Unless otherwise stated COD terms are not acceptable and such contingency shall constitute just cause for automatic rejection of a bid.

4.4 TAX CHARGES-The College of New Jersey is exempt from the New Jersey sales or use tax pursuant to Section 9(a)(1) of the New Jersey Sales and Use Tax Act N.J.S.A. 54:32B-1 et seq. Additionally, the College is exempt from Federal Excise Tax. An exemption certificate or number is not required for The College of New Jersey to make tax-exempt purchases. Official requests on College letterhead or official purchase orders signed by a qualified officer is sufficient proof for the vendor of exemption from paying the sales tax. Vendors should not include tax charges in their price quotations or on subsequent invoices for purchased goods or services. The College's Federal Employer Identification Number is 222797398.

4.5 PAYMENT TO VENDORS-Payments for goods and/or services purchased by the College will only be made after receipt of contracted items and approval of the invoice for payment. The College obligation hereunder is contingent upon the availability of appropriated funds from which payment for contract purposes can be made.

New Jersey Prompt Payment Act –The New Jersey Prompt Payment Act N.J.S.A. 52:32-32 et seq. requires state agencies to pay for goods and services within sixty (60) days of the agency's receipt of a properly executed invoice or within sixty (60) days of receipt and acceptance of goods and services, whichever is later. Properly executed performance security, when required, must be received by the College prior to processing any payments for goods and services accepted by the College. Interest will be paid on delinquent accounts at a rate established by the State Treasurer. Interest will not be paid until it exceeds \$5.00 per properly executed invoice.

Cash discounts and other payment terms included as part of the original agreement are not affected by the Prompt Payment Act.

4.6 CASH DISCOUNTS-Cash discounts for periods of less than 21 days will not be considered as factors in the award of contracts. For purposes of determining the College's compliance with any discount offered:

A. A discount period shall commence on the date of a properly executed vendor invoice for products and services that have been duly accepted by the College in accordance with terms, conditions and specifications of a valid Contract/Purchase Order. If the invoice is received prior to delivery of the goods or performance of services, the discount period begins with the receipt and acceptance of the goods or completion of services.

B. The date of the check issued by the College in payment of an invoice shall be deemed the date of the College's response to an invoice for cash discount purposes.

5. FORCE MAJEURE

If, because of force majeure, either party hereto is unable to carry out any of its obligations under this contract, other than the obligations to pay money due hereunder, and if such party promptly gives to the other party hereto written notice of such force majeure, then the obligations of the party giving such notice shall be suspended to the extent made necessary by such force majeure and during its continuance, provided that the party giving such notice shall use its best efforts to remedy such force majeure insofar as possible with all reasonable dispatch. The term "force majeure" as used herein shall mean any causes beyond the control of the party affected thereby, such as, but not limited to, acts of God, act of public enemy, insurrections, riots, strikes, lockouts, labor disputes, fire, explosions, floods, breakdowns, or damage to plants, equipment or facilities, embargoes, orders, or acts of civil or military authority, or other causes of a similar nature. Upon the cessation of the force majeure event, the party that had given original notice shall again promptly give notice to the other party of such cessation.

6. STANDARDS PROHIBITING CONFLICTS OF INTEREST - The following prohibitions on vendor activities shall apply to all contracts or purchase agreements made with the State of New Jersey, pursuant to Executive Order No. 189 (1988).

a. No vendor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13b and e., in the Department of the Treasury or any other agency with which such vendor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i., of any such officer or employee, or partnership, firm or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13g.

b. The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from any State vendor shall be reported in writing forthwith by the vendor to the Attorney General and the Executive Commission on Ethical Standards.

c. No vendor may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such vendor to, any State officer or employee or special State officer or employee or special State officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm or entity with which he is employed or associated or in which he has an interest within the meaning of N.J.S.A. 52: 130-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.

d. No vendor shall influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.

e. No vendor shall cause or influence, or attempt to cause or influence, any State officer or employee or special State officer or employee to use, or attempt to use, his official position to secure unwarranted privileges or advantages for the vendor or any other person.

f. The provisions cited above in paragraph 6a through 6e shall not be construed to prohibit a State officer or employee or Special State officer or employee from receiving gifts from or contracting with vendors under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards may promulgate under paragraph 6c.

NOTICE TO ALL BIDDERS SET-OFF FOR STATE TAX NOTICE - Please be advised that, pursuant to N.J.S.A. 54:49-19, and notwithstanding any provision of the law to the contrary, whenever any taxpayer, partnership or S corporation under contract to provide goods or services or construction projects to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of State government, is entitled to payment for those goods or services at the same time a taxpayer, partner or shareholder of that entity is indebted for any State tax, the Director of the Division of Taxation shall seek to set off that taxpayer's or shareholder's share of the payment due the

taxpayer, partnership, or S corporation. The amount set off shall not allow for the deduction of any expenses or other deductions which might be attributable to the taxpayer, partner or shareholder subject to set-off under this act.

The Director of the Division of Taxation shall give notice to the set-off to the taxpayer and provide an opportunity for a hearing within 30 days of such notice under the procedures for protests established under R.S. 54:49-18. No requests for conference, protest, or subsequent appeal to the Tax Court from any protest under this section shall stay the collection of the indebtedness. Interest that may be payable by the State, pursuant to P.L. 1987, c.184 (c.52:32-32 et seq.), to the taxpayer shall be stayed.

APPLICABLE LAW - This contract is subject to New Jersey law, including but not limited to the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq. and the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq. This Agreement and all matters or issues collateral to it, shall be governed by and construed in accordance with the law of the State of New Jersey, without regard to its conflict of law provisions.