

DRAFT AIA® Document A101™ – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the ___ day of _____ in the year 2025
(In words, indicate day, month and year.)

BETWEEN the Owner:

Rowan University
201 Mullica Hill Road
Glassboro, NJ 08028

and the Contractor:

for the following Project:

Alterations to Facility Located at 202 Delsea Drive 202 Delsea Drive
Glassboro, NJ 08028

The Architect:

DIGroup Architecture
15 Bethany Street
New Brunswick, NJ 08901

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101™-2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201™-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, Bid Solicitation, Bid Submission and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be

- ☐ The date of this Agreement.
- ☐ A date set forth in a notice to proceed issued by the Owner
- ☒ Established as follows: January 20, 2025
(Insert a date or a means to determine the date of commencement of the Work.)
- « »

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work. **TIME IS OF THE ESSENCE.**

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

☐ Not later than () calendar days from the date of commencement of the Work.

☒ By the following date: December 24, 2026

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
Entire Scope of Work	<u>December 24, 2026</u>

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth below:

Liquidated damages of \$3,000.00 per day for each calendar day substantial completion is not achieved.

Liquidated damages of \$3,000.00 per day for each calendar day work on the closeout/punch list is incomplete

§ 3.4 By submission of the Bid and execution of the Contract, the Contractor agrees that the time specified for Final Completion of the Work is a reasonable period for completion of the Work taking into consideration the average climatic range, material delivery time experience in the Contractor's industry.

§ 3.5 Should the Contractor fail to substantially complete the Work by the date set for Substantial Completion set forth above, the Contractor shall and hereby agrees to pay the Owner the sum of \$3000 per day for each consecutive calendar day which elapses between the above-referenced date set for Substantial Completion and the date of actual Substantial Completion as certified to and approved by the Owner. Should the Contractor fail to fully complete the Work in conformity with all provisions of the Contract by the date set for Final Completion set forth above, the Contractor shall and hereby agrees to pay the Owner the sum of \$3000 per day for each consecutive calendar day which elapses between the above-referenced date set for Final Completion and the date of actual Final Completion as certified to and approved by the Owner.

§ 3.6 The per day liquidated damages sum referenced herein is hereby agreed to be a reasonable and proper measure of damages which the Owner will sustain per diem by failure of Contractor to complete Work within time as stipulated; it being recognized by Owner and Contractor that the damages suffered by Owner which could result from a failure of the Contractor to complete the Work on schedule is uncertain and cannot be calculated with any degree of mathematical certainty. In no way shall costs of Liquidated Damages be construed as a penalty to the Contractor. In addition to liquidated damages, Owner shall have the right to recover the actual damages as are capable of being ascertained and which are not duplicative of elements covered by the liquidated damages provisions. Nothing in this paragraph shall limit the right of Owner to complete the Work following the Contractor's breach of contract.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be _____ (\$), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, are inclusive of the total Contract Sum:

Item	Price
Deduct Alternate No. 1: Remove Site Lighting For existing parking lot along Fish Pond Road	

Deduct Alternate No. 2: Remove parking lot asphalt and seal coat over existing pavement

Deduct Alternate No. 3: Remove second & third floor gang-toilet rooms

Deduct Alternate No. 4: Remove first floor Gang toilet rooms

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. (Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
Not Applicable		

§ 4.3 Allowances, if any, included in the total Contract Sum reflected in Section 4.1: (Identify each allowance.)

Item	Price
Allowance No. 1: NJDCA Permit	\$350,000.00

§ 4.4 Unit prices, if any: (Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
Plaster Repair	Per square foot	
Brick Repointing	Per square foot	

§ 4.5 Liquidated damages, if any: (Insert terms and conditions for liquidated damages, if any.)

See Sections 3.3, 3.4, 3.5, and 3.6 above.

§ 4.6 Other: (Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

Not Applicable.

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the last day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the last day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than Forty Five (45) days after the Architect receives the Application for Payment. (Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.3.1 APPLICATIONS FOR PAYMENT: The form for Applications for Payment shall be a notarized AIA Document G702, Application and Certification for Payment, supported by AIA document G703 Continuation Sheets. Each Application for Payment must be accompanied by three (3) sets of Certified Payroll Records for the period covered by the Application. The payroll records shall indicate the proper classification of employees and the payment of overtime, if any. These records shall include each Contractor's subcontractor's certified payroll. Payment will not be authorized if the required payroll records have not been submitted.

§ 5.1.3.2 All Applications for Payment, Certified Payroll Records and Manning Reports shall include the relevant purchase order number and project number.

§ 5.1.4 The Owner may decide to disapprove an Application for Payment, or withhold payment, in whole or in part, to the extent reasonably necessary to protect the Owner if, in its opinion, the representations as described in Section 5.1.4.1 below cannot be made. If the Owner withholds a Certificate for Payment, the Owner will notify the Contractor as provided in Article 5 hereof. The Owner may also decide to withhold certifying payment in whole or in part, because of subsequently discovered evidence or subsequent observations, to such extent as may be necessary to protect the Owner from loss because of:

1. Defective Work which has not been remedied;
2. Third party claims filed or reasonable belief probable filing of such claims;
3. Failure of the Contractor to make payments properly to vendors, subcontractors or for labor, materials and equipment;
4. Reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract sum;
5. Damage to the Owner or another contractor;
6. Reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
7. Failure to carry out the Work in accordance with the Contract Documents;
8. Avoidable delay in the progress of the Work;
10. Failure to maintain the Project Site in a safe and satisfactory condition in accordance with good construction practices as recommended by the Engineer after consultation with the Contractor; and
11. Failure to submit updates as requested by the Owner or as required by the General Conditions.

When the foregoing reasons for withholding payment are resolved, certification will be made for amounts previously withheld in the manner set forth in Section 5.1.3 above.

§ 5.1.4.1 The issuance of a separate Certificate for Payment will constitute representations by the Owner's Project Manager to the Owner, based on its individual observations at the Site and the data comprising the Application for Payment submitted by the Contractor, that the Work has progressed to the point indicated and that, to the best of the Owner's knowledge, information and belief, quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to completion and to specific qualifications expressed by the Engineer. The issuance of a separate Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a separate Certificate for Payment will not be a representation that the Owner has: (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed the Contractor's construction means, methods, techniques, sequences or procedures; (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Retainage shall be determined as follows: the Owner will withhold Five percent (5%) of the amount due on each partial payment when the outstanding balance of the Contract is more than Four Hundred Fifty Thousand Dollars (\$450,000.00). When the outstanding balance of the Contract is Four Hundred Fifty Thousand Dollars (\$450,000.00) or less, the Owner will withhold Ten percent (10%) as retainage. Retainage shall be withheld until the Owner determines that the work has been satisfactorily completed and no unsettled claims exist. The final acceptance shall not be binding or conclusive upon the Owner should it subsequently discover that the contractor has supplied inferior material or workmanship or has departed from the terms of his contract. Should such a condition appear the Owner shall have the right, notwithstanding final acceptance and payment, to cause the work to be properly done in accordance with the drawings and specifications at the cost and expense of the contractor.

§ 5.1.7.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

None.

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:

(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

None.

§ 5.1.7.3

Intentionally Omitted.

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

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§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201-2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 45 days after the issuance of the final Certificate for Payment.

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§ 5.3 Interest

Payments due and unpaid under the Contract shall bear no interest from the date payment is due at the rate stated below.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201-2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker:

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In connection with any disputes between the parties regarding whether a party has failed to make payments required pursuant to N.J.S.A. 2A:30A-2, such disputes may be submitted to a process of alternative dispute resolution. In any civil action brought to collect payments pursuant to N.J.S.A. 2A:30A-2, the action shall be conducted in the State of New Jersey, and the prevailing party shall be awarded reasonable costs and attorney fees.

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201-2017, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

[☐] Arbitration pursuant to Section 15.4 of AIA Document A201-2017

[☒] Litigation in Superior Court of New Jersey, Gloucester County

[☐] Other *(Specify)*

« »

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-2017.

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§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:
(Name, address, email address, and other information)

Kevin McMullan, Project Manager
Rowan University
201 Mullica Hill Road
Glassboro, NJ 02028

McMullan@rowan.edu

§ 8.3 The Contractor's representative:
(Name, address, email address, and other information)

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

In addition to the form of Notice provided by Section 1.6 of AIA Document A201, notice may be provided via electronic mail to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served when acknowledged in a response email from such designated representative.

§ 8.7 Other provisions:

§ 8.8 It is the obligation of the Contractor to provide a full and complete copy of all insurance policies held by it at the Contractor's sole expense, upon reasonable request by the Owner, in the amounts specified in the Bid Documents (see Article 11 of modified AIA Document A201-2007 General Conditions of the Contract for Construction). The Contractor's failure to obtain or maintain adequate insurance coverage shall result in the immediate termination of this Agreement. The Owner will have the right to request copies of the Contractor's insurance policies or any part thereof for the duration of the contract period.

§8.9 This Agreement, the General Conditions of the Contract as modified or supplemented in writing, and the Supplemental General Conditions shall control in the case of conflict between these documents and the Project Specifications, the Project Manual and any other exhibits incorporated by reference into this Agreement in Article 9 herein.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 Modified AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor
- .2 Modified AIA Document A201™-2017, General Conditions of the Contract for Construction
- .3 Exhibit A Modified AIA Document A101-2017
- .4 Exhibit B Request for Proposal 25-39 Renovations to Administrative Facility for Rowan University
- .5 Bid Drawings (Architect: Dated:)
- .6 Project Manual (Architect: Dated:)

.7 Addenda, if any:

Addendum #1: Questions & Answers

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:

(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[☐] AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

« »

[☐] The Sustainability Plan:

Title	Date	Pages

[☐] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.9 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Contractor's Bid attached hereto as Exhibit "C"

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

CONTRACTOR (Signature)

Joseph F. Scully, Senior Vice President of Finance