

**AGREEMENT FOR ARCHITECTURAL SERVICES
FOR MINOR PROJECTS**

THIS AGREEMENT

made this _____ day of _____, 2016, by and between Florida Atlantic University Board of Trustees (hereinafter called the "Owner"), and _____ Federal I.D. Number: _____, hereinafter called the Architect.

WHEREAS, the primary intent of this Agreement is to obtain professional architectural services for projects related to the Florida Atlantic University; however, other universities in the State University System may at their discretion utilize this Agreement to obtain professional architectural services when the location of their projects makes such an arrangement convenient.

WHEREAS, Minor Projects shall include repairs, modifications, alterations, and new construction projects whose Project Amounts as defined in Paragraph 7.1 hereinafter do not exceed \$2,000,000; or planning or study activities for which the fee does not exceed \$200,000.

WHEREAS, the Architect understands that this Contract is not exclusive and that the Owner, at its discretion, may hire other Architects or Engineers for any given Minor Project(s) and may retain other Architects or Engineers for Minor Projects on terms similar to those contained in this Contract.

NOW THEREFORE, the Owner and the Architect, for the considerations hereinafter set forth, agree as follows:

ARTICLE 1. The Architect agrees to provide professional services for each project as hereinafter set forth.

ARTICLE 2. The Owner agrees to pay the Architect as compensation for services:

2.1 For Basic Services described in Article 3, a lump sum amount negotiated on each occasion of activating a specific designated project which is satisfactory to both parties, or a not-to-exceed amount based on the following hourly rates:

Principal Architect	\$ 0.00
Project Manager	\$ 0.00
Project Architect	\$ 0.00
Interior Designer	\$ 0.00
Architectural Drafting	\$ 0.00
Clerical Support	\$ 0.00

2.2 For Additional Services, only when approved in writing by the Owner or, compensation based on the provisions of Paragraph 2.1 above.

2.3 The Owner shall determine whether the compensation is to be based on a lump sum or on the above listed hourly rates.

2.4 The hourly rates may be revised only by written amendment to this agreement signed by both parties.

ARTICLE 3. ARCHITECT'S BASIC SERVICES

3.1 Preliminary Design Phase. If authorized by the Owner:

3.1.1 Upon written notice to proceed for each project, the Architect shall consult with the Owner to ascertain the requirements of the project.

3.1.2 The Architect shall prepare Schematic Design Studies leading to a recommended solution together with a general description of the Project for approval by the Owner, and shall submit to the Owner an estimate of Probable Project Construction Cost based on current area, volume, or other unit costs.

3.1.3 The Architect shall prepare, from the approved Schematic Design Studies, the Design Development Documents consisting of plans, elevations and other drawings, including perspective sketches and outline specifications to fix and illustrate the size and character of the entire project in its essentials as to kinds of materials, type of structure, mechanical

and electrical systems and such other work as may be required. The Architect shall submit the Design Development Documents to the Owner for review and approval, together with a further Estimate of Probable Project Construction Cost.

3.2 Construction Document Phase. If authorized by the Owner.

3.2.1 The Architect shall prepare, from the Approved Design Development Documents, Working Drawings and Specifications setting forth in detail the work required for the architectural, structural, mechanical, electrical, service-connected equipment, and site work, and the necessary bidding information, General Conditions of the Contract, and shall assist in the drafting of Proposal and Contract Forms. The Architect shall submit the Construction Documents to the Owner for review and approval.

3.2.2 The Architect shall keep the Owner informed of any adjustments to previous Estimates of Probable Project Construction Cost indicated by changes in scope, requirements, or market conditions.

3.2.3 The Architect shall furnish up to ten (10) copies of the Contract Documents, as directed by the Owner, consisting of construction drawings, specifications, construction agreement forms, general conditions, special provisions and technical provisions.

3.3 Construction Phase - General Administration of Construction Contracts. If authorized in writing by the Owner

3.3.1 The Architect shall assist the Owner in obtaining proposals from Contractors and in awarding and preparing construction contracts.

3.3.2 To the extent provided by this Agreement between the Owner and the Contractor, the Architect shall make decisions on all claims of the Owner and Contractor and on all other matters relating to the execution and progress of the work or the interpretation of the Contract Documents. The Architect shall check samples, schedules, shop drawings and other materials submitted within 21 days after receipt, and shall issue an approval if found to be in conformity with the design concept of the project and in compliance with the information given by the Contract Documents prepared by the Architect. The Architect shall prepare Change Orders, and assemble written guarantees required of the Contractor.

3.3.3 The Architect shall visit the site a minimum of once per week, or at more frequent intervals appropriate to the stage of construction, to remain familiar generally with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the Contract Documents. The Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work, or be responsible for the techniques or sequences of construction or the safety precautions incident thereto; neither will the Architect be responsible for the Contractor's failure to carry out the construction work in accordance with the Contract Documents. On the basis of observations as a qualified professional while at the site, the Architect will keep the Owner informed of the progress of the work, will endeavor to guard the Owner against defects and deficiencies in the work of the Contractors, and may condemn work as failing to conform to the Contract Documents. Based on such observations and the Contractor's Applications for Payment, the Architect will determine the amount owing to the Contractor and will issue Certificates for Payment in such amounts. These certificates will constitute a representation to the Owner, based on such observations and the data comprising the Application for Payment, that the work has progressed to the point indicated. By issuing a Certificate for Payment, the Architect will also represent to the Owner that, to the best of the Architect's knowledge, information and belief, based on what the observations have revealed, the quality of the work is in accordance with the Contract Documents. The Architect will conduct inspections to determine the dates of substantial and final completion and issue approval for final payment.

ARTICLE 4. THE OWNER'S RESPONSIBILITIES

4.1 The Owner shall provide full information as to the requirements for the Project.

4.2 The Owner shall furnish or direct the Architect to obtain, at the Owner's expense, a certified survey of the site giving, as required, grades and lines of streets, alleys, pavements and adjoining property; rights of way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the building site; locations, dimensions and complete data pertaining to existing buildings, other improvements and trees; full information as to available service and utility lines, both public and private; and test borings and pits necessary for determining subsoil conditions.

4.3 The Owner shall pay for structural, chemical, mechanical, soil mechanics or other tests and reports, if required.

4.4 The Owner shall arrange and pay for such legal, auditing and insurance counseling services as may be required by the Owner for the Project.

4.5 If the Owner observes or otherwise becomes aware of any defect in the Project, the Owner shall give prompt written notice thereof to the Architect.

4.6 If the Estimate of the Probable Project Construction Cost or the Detailed Cost Estimate or the lowest bona fide proposal is in excess of any limit stated herein, the Owner may give written approval of an increase in the limit or shall direct the Architect to revise the project scope or quality, or both, to reduce the cost as required.

4.7 The Owner shall review and approve or take other appropriate action on all work submittals of the Architect within twenty one (21) calendar days.

ARTICLE 5. REIMBURSABLE EXPENSE

5.1 Reimbursable Expense includes actual expenditures made by the Architect in the interest of the Project for the following incidental expenses:

5.1.1 Reproduction of drawings and specifications (excluding copies for Architect's office use, sets required at each phase for the Owner's review and approval, and sets furnished under Subparagraph 3.2.3); fees paid for securing approval of authorities having jurisdiction over the project; and iron pipes and concrete monuments. No travel or wages will be allowed from the architect's office to project site. If other travel is authorized in advance by the Owner, the reimbursement shall be in accordance with Section 112.061, F.S.

5.1.2 If authorized in advance by the Owner, premium portions of overtime; renderings or models for the Owner's use.

5.1.3 If their employment is authorized in advance by the Owner, fees of special consultants, for other than the normal structural, mechanical and electrical engineering services and fees for estimators making Detailed Cost Estimates.

ARTICLE 6. PROJECT CONSTRUCTION COST

6.1 Project Construction Cost shall be based upon one of the following sources with precedence in the order listed:

6.1.1 Lowest acceptable bona fide Contractor's proposal received for any or all portions of the Project.

6.1.2 Detailed Estimate of Project Construction Cost if authorized by the Owner.

6.1.3 The Architect's latest Estimate of Probable Project Construction Cost based on current area, volume or other unit costs.

6.2 When labor, material or service connected equipment is furnished by the Owner, the Project Construction Cost shall include costs therefor at current market cost.

ARTICLE 7. STATEMENTS OF PROJECT COST

7.1 Owner's Project Amount: the Project Amount is the amount budgeted for actual construction of the Project including connections to utilities but is exclusive of cost of land, furnishings, contingencies and professional fees. The Project Amounts will be determined by the Owner on an individual basis.

7.2 Architect's Estimates: Since the Architect does not have control over the cost of labor and materials, nor over competitive bidding and market conditions, the estimates of construction cost provided for herein are to be made on the basis of experience and qualifications; however, the Architect does not guarantee the accuracy of the estimates or probable cost as compared to the Contractor's bid. The Architect shall, however, conform to the following provisions in an attempt to keep the Project cost within the Project Amount.

7.2.1 At the start of the Construction Document phase, the Architect shall resolve with the Owner any apparent discrepancy between his Estimates of Probable Construction Cost and the scope and requirements of the Owner. The Architect shall be permitted to include acceptable alternates in the contract documents for the purpose of providing a finished and acceptable facility within the Project Amount. Inability of the Owner to award an acceptable construction

contract because the lowest acceptable bid is greater than the available funds shall be cause for the Architect to be required to revise the project at the Architect's own cost and expense in accordance with the requirements of this Agreement until a contract can be awarded within the Project Amount.

7.2.2 If the Architect advises the Owner in writing, after the Preliminary Design Phase is completed and/or before the Construction Documents are 50% complete, that in the Architect's opinion the scope of the work which the Owner establishes and insists upon will cause the construction cost to exceed the funds available and resolution thereafter of this discrepancy fails, or if the Owner increases the Probable Construction Cost during the Construction Document Phase by adding to the scope and/or requirements and the Architect so notifies the Owner in writing of the probable increase in cost, and the Owner orders the Architect to proceed notwithstanding, then the Architect shall not be responsible for the Owner not being able to award a construction contract within the available funds. Under such conditions, the compensation for the extra work of the Architect, as required, to include alternates in the Bidding Documents as requested by the Owner and/or to redesign and redraft the contract documents, shall be negotiated as provided for in Article 2 hereinabove.

7.2.3 If an award of construction contract is delayed more than four months following the completion of contract documents the Architect shall be permitted to revise the estimates in accordance with recognized published changes in construction costs.

ARTICLE 8. PERIOD OF SERVICE

8.1 Unless sooner terminated, as provided in Article 11, this Agreement shall remain in force for a period which may reasonably be required for the design, award of contracts and construction of each Project initiated with a Purchase Order by _____, including extra work and any required extension thereto.

8.2 This agreement may be renewed at the Owner's option for two (2) one year extensions, to be evaluated annually, based upon satisfactory performance of the Architect.

ARTICLE 9. PAYMENTS TO THE ARCHITECT

9.1 Payments on accounts of the Architect's service shall be as follows:

9.1.1 For Basic or Additional Services, upon satisfactory completion thereof, the amount prescribed in accordance with Article 2 hereinabove.

9.2 Payments for services of the Architect as defined in Article 3 hereinabove, and for Reimbursable Expense as defined in Paragraph 5.1 herein above, shall be made monthly upon presentation of a detailed invoice, or at such other interval as provided in the project authorization from the Owner. Invoices shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

9.3 In the event University owes payment to the Vendor, the University shall initiate payment via Automated Clearing House (ACH) direct deposit batch processing within forty (40) days after receipt of an acceptable invoice and receipt and after inspection and acceptance of the goods, services or both, as provided in accordance with the terms and conditions of the applicable purchase order/agreement. Failure to initiate or mail the payment within 40 days may subject the University to accrue interest at a rate established pursuant to §55.03(1), Florida Statutes on the unpaid balance from the expiration of such 40 day period. Invoices shall cite the Contract and shall be submitted in detail sufficient for a proper pre-audit and post-audit. Each bill or invoice must clearly identify the services, portion of services, and expenses for which compensation is sought. Payment will be tendered only for services or the portion of services completed prior to the submission of the bill or invoice, or for expenses incurred prior to such submission. The University has established a "Vendor Ombudsman" for vendors who may be experiencing problems in obtaining timely payment(s). The University's Ombudsman may be contacted at (561) 297-3693. Invoices which have been returned because of vendor preparation errors will result in delay in payment. The invoice payment requirements do not commence until a properly completed invoice is provided to the University.

9.4 No deduction shall be made from the Architect's compensation on account of liquidated damages or other sums withheld from payments to contractors.

9.5 If any work designed or specified by the Architect during any phase of service is abandoned or suspended in whole or in part, the Architect is to be paid for the service performed on account of it prior to receipt of written notice from the Owner of such abandonment or suspension, together with reimbursements then due and any terminal expense resulting from abandonment or suspension for more than three months.

ARTICLE 10. ARCHITECT'S ACCOUNT RECORDS

10.1 Records relating to payment of the Architect's personnel, consultants, and Reimbursable Expense pertaining to projects included under this Agreement and records of accounts between the Owner and Contractor shall be kept on a generally recognized accounting basis and shall be available to the Owner or his authorized representative at mutually convenient times.

ARTICLE 11. TERMINATION OF AGREEMENT

11.1 This Agreement may be terminated by either party upon seven days' notice by mutual agreement, or should the other party fail substantially to perform in accordance with its terms through no fault of the other. In the event of termination, due to the fault of others than the Architect, the Architect shall be paid for services performed to termination date, including reimbursements then due, plus terminal expense. This Agreement may be terminated by the Owner at its sole discretion upon seven day's written notice to the Architect.

ARTICLE 12. USE OF ARCHITECT'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

12.1 The Drawings, Specifications and other documents prepared by the Architect for this Project are instruments of the Architect's service for use solely with respect to this Project and, unless otherwise provided, the Architect shall be deemed the author of these documents and shall retain all common law, statutory and other reserved rights, including the copyright. The Owner shall be permitted to retain copies, including reproducible copies, of the Architect's Drawings, Specifications and other documents for information and reference in connection with the Owner's use and occupancy of the Project. The Architect's Drawings, Specifications or other documents may be used by the Owner or others for future additions or renovations to this Project with no additional compensation to the Architect. The Owner shall not use the Architect's Drawings, Specifications, or other documents for the construction of a new facility unless agreed to in writing by the Architect.

12.2 Submission or distribution of documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the Architect's reserved rights.

ARTICLE 13. CLAIMS AND DISPUTES

13.1 Claims, disputes or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof shall be determined under the judiciary system of the State of Florida. In the event of litigation pertaining to this Agreement or other services provided hereunder, the parties consent to the exclusive venue of Palm Beach County, Florida.

ARTICLE 14. SPECIAL PROVISIONS

14.1 This Agreement shall be governed by the laws of Florida.

14.2 Terms in this Agreement shall have the same meaning as those in the General Conditions of the Contract for Construction.

14.3 The procedures and requirements as set forth in the "*Florida Atlantic University Professional Services Guidelines*," dated April 2003, Architects and Engineers will be enforced and will be strictly adhered to and all submittals shall be completed as specified.

14.4 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitations shall commence to run as provided by state law.

14.5 The Owner and Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither Owner nor Architect shall assign this Agreement without the written consent of the other.

14.6 This Agreement represents the entire and integrated agreement between the Owner and Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

14.7 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

14.8 Prohibition against contingent fees: the Architect warrants that the Architect has not employed or retained any company or person (other than a bona fide employee working solely for the Architect) to solicit or secure this agreement, and that the Architect has not paid or agreed to pay any person, company, corporation, individual or firm (other than a bona fide employee working solely for the Architect) any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this agreement.

14.9 By execution of this document and in compliance with 287.055(5)(a) of the Florida Statutes, the Architect certifies that all factual unit costs supporting the fees specified in this agreement are accurate, complete and current at the time of negotiations; and that any other factual unit costs that may be furnished the Owner in the future to support any additional fees that may be authorized will also be accurate and complete. The fees specified in this Agreement and any additional fees that may be authorized in the future shall be adjusted to exclude any significant sums which the Owner determines the fee was increased due to inaccurate, incomplete, or non-current factual unit costs.

14.10 As required by Section 119.0701, Florida Statutes, the Architect/Engineer shall comply with public records laws, specifically to: (i) keep and maintain public records that ordinarily and necessarily would be required by the Owner in order to perform the service, (ii) provide the public with access to public records on the same terms and conditions that the Owner would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law, (iii) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law, and (iv) meet all requirements for retaining public records and transfer, at no cost, to the Owner all public records in possession of the Architect/Engineer upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Owner in a format that is compatible with the information technology systems of the Owner.

As required by Section 287.058, Florida Statutes, this contract may be unilaterally cancelled by the Owner for refusal by the Architect to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119 and made or received by the Architect in conjunction with the contract.

14.11 Unless otherwise provided in this Agreement, the Architect and Architect's consultants shall have no responsibility for the discovery, prior presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances.

14.12 The Architect shall enlist the services of a qualified consultant when approved in writing by the Owner, for, but not limited to, surveys, subsurface investigation, testing and cost estimating when required. The direct cost of these services shall be invoiced to the Owner from the Consultant through the Architect, with approval for payment by the Architect stated on the invoice. The Owner may pay the consultant directly, at the Architect's discretion, in accordance with the terms of the written authorization.

14.13 As provided by Section 287.0582, F.S., the State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature.

14.14 As required by Section 287.133, Florida Statutes, the Architect warrants that it is not on the convicted vendor list for a public entity crime committed within the past 36 months. The Architect further warrants that it will neither utilize the services of, nor contract with, any supplier, subcontractor, or consultant in excess of \$15,000.00 in connection with this Project for a period of 36 months from the date of their being placed on the convicted vendor list.

14.15 Each party assumes any and all risk of personal injury and property damage attributable to the willful or negligent acts or omissions of that party and its own officers, employees and other agents. Architect also assumes such risk with respect to the willful or negligent acts or omissions of persons subcontracting with Architect or otherwise acting or engaged to act at the instance of Architect in furtherance of Architect fulfilling its obligations under this Agreement.

14.16 Architect agrees to defend, indemnify and hold harmless the Owner, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Architect and other persons employed or utilized by the Architect in its performance under this Agreement.

14.17 During the term of this Agreement, Architect shall carry, at its own expense, blanket professional liability insurance with a coverage amount of \$1,000,000 and general liability insurance with a coverage amount of \$500,000 per claim and \$1,000,000 per occurrence. The Florida Atlantic University Board of Trustees, Florida Atlantic University, the State of Florida and their respective officers, employees, volunteers and agents shall be named as additional insureds on the general liability policy. An insurance certificate shall be provided to the Owner prior to commencement of any work. The Architect shall notify the Owner in the event of cancellation, termination, non-renewal, or material change in the policies, including, but not limited to, any reduction in the aggregate coverage provided by the policies.

14.18 Failure to exercise or delay in exercising any right, power or remedy accruing to either party on any breach or default of the other party shall not impair any such right, power or remedy, or be construed as a waiver of any such breach or default or of any similar breach or default occurring; nor shall any waiver of any single breach or default be construed as a waiver of any other breach or default occurring.

14.19 The Architect is an independent contractor pursuant to Florida law. It is understood and agreed that nothing contained is intended, or should be construed, as creating or establishing the relationship of partners between the parties, or as constituting Architect as the agent or representative of Owner for any purpose in any manner whatsoever. Architect is not authorized to bind Owner to any contracts or other obligations. Architect shall not expressly or impliedly represent to any party that Architect and Owner are partners or that Architect is the agent or representative of Owner for any purpose or in any manner whatsoever.

14.20 Architect agrees to abide by all applicable federal, state and local laws, ordinances and regulations and all Owner regulations and policies, specifically including without limitation the University's sexual harassment regulations and policies and those pertaining to conduct on Owner property. To the extent the Owner has access to University information, including without limitation financial, business, strategic, health or student records, Architect agrees to maintain the confidentiality of such information and shall not disclose, discuss, or divulge any such information other than as directly and expressly required to fulfill Architect's obligations under the Agreement or as other required by law. Owner shall consider the employment by any vendor of unauthorized aliens a violation of section 274(a) of the Immigration and Naturalization Act.

******* The remainder of this page is intentionally blank*******

IN WITNESS WHEREOF, the parties have affixed their signatures, effective on the date first written above.

******* ARCHITECT *******

Attest:

CONSULTANT

By: _____

By: _____
Principal

(Name, Title and Corporate Seal)

Date: _____

As Witnessed by:

******* OWNER *******

Florida Atlantic University Board of Trustees

By: _____
Stacy Volnick
Vice President for Administrative Affairs &
Chief Administrative Officer

As Witnessed By:

Date: _____

APPROVED AS TO FORM AND LEGALITY

By: _____
Associate General Counsel
Florida Atlantic University

Date: _____