

**APPROVAL OF A SETTLEMENT AGREEMENT BETWEEN IVY TECH AND L +
W/CLINTON & ASSOCIATES, REGION 9**

RESOLUTION NUMBER 2005-89

WHEREAS, Ivy Tech and R.W. Clinton & Associates, Inc. entered into a contract wherein R.W. Clinton & Associates, Inc. agreed to provide professional architectural and engineering services to Ivy Tech for the new Johnson Hall and the renovated McDaniel Hall located in Richmond, Indiana, and

WHEREAS, said contract was amended to assign the contract to LWC, and

WHEREAS, certain steel bracing design problems were discovered during the construction of Johnson Hall on or about February 23, 2004, and

WHEREAS, the steel bracing had to be redesigned by LWC, already completed construction had to be retrofitted, and, as a result, the project was delayed and additional costs and claims were incurred by Ivy Tech in completing the project; and

WHEREAS, contractors on the project have filed claims against Ivy Tech claiming damages resulting from the delay, and

WHEREAS, The Skillman Corporation is the construction manager for the project and has submitted a claim for costs from the delay, and

WHEREAS, disputes have arisen between Ivy Tech, LWC, and Skillman resulting in claims by Ivy Tech against LWC, and

WHEREAS, Arch Insurance Group is the insurer of LWC pursuant to a design professional liability policy, and

WHEREAS, Ivy Tech, LWC, Arch Insurance Group, and Skillman conducted a mediation session in accordance with Indiana's Rules for Alternate Dispute Resolution, and

WHEREAS, the mediation session concluded with a compromise and settlement, and

WHEREAS, Arch Insurance Group, as insurer of LWC, has issued two payments to Ivy Tech in the amounts of \$200,000 and \$591,685.21, and

WHEREAS, Ivy Tech, LWC, Arch Insurance Group, and Skillman desire to settle and compromise their disputes;

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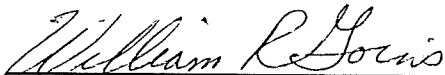
NOW THEREFORE BE IT RESOLVED, that the State Trustees do hereby approve the settlement agreement between Ivy Tech Community College, The Skillman Corporation, and L + W/Clinton & Associates in which Arch Insurance Group, as insurer of LWC, shall pay to Ivy Tech the balance of the policy limits after deduction of the following amounts:

1. Previous payments of \$791,685.21,
2. A deposit into an escrow account, and
3. Policy expenses properly chargeable under the insurance policy, and


FURTHER BE IT RESOLVED, that the escrowed funds are to be used to settle contractor's claims against Ivy Tech claiming damages resulting from the delay, and

FURTHER BE IT RESOLVED, that the State Trustees do hereby authorize and direct the President and any other appropriate College Officer to execute all necessary documents for the above stated settlement agreement after the documents have been reviewed and approved by the College Interim General Counsel.

**State Trustees
Ivy Tech Community College of Indiana**



William R. Goins, Chairman



William F. Morris, Assistant Secretary

Dated December 15, 2005

Buildings, Grounds, and Capital Committee
Region 9 – Settlement agreement between the College and L + W/Clinton & Associates
December 15, 2005
Additional Information

As many of you know, the completion of the Richmond Phase 1 project, Johnson Hall, has been delayed due to faulty design of the steel bracing. The project completion was delayed from May 2005 to December 2005. Additional steel bracing was designed and fabricated and placed in the Building. The architect (R. W. Clinton & Associates, now L + W/Clinton & Associates) admitted fault and committed to paying for the corrections needed within the limits of their insurance.

After many months of attempting to agree on a settlement with the architect and their insurance company, Arch Insurance Group, the College, L + W/Clinton & Associates, and Arch Insurance Group agreed to nonbinding arbitration. The result of arbitration is a settlement agreement that needs to be approved by the State Trustees.

The College will receive the policy limits of L +W/Clinton's insurance less expenses properly chargeable under their insurance policy. The College has already received \$791,685.21. Funds will also be placed in an escrow account from which contractor's delay claims can be paid after negotiations with each contractor are complete. Any funds left in the escrow account after all contractor's delay claims have been settled and costs to settle those claims have been paid, will be paid equally to the College and Arch Insurance Group.

Action Requested: Approval of Resolution 2005-89 for the settlement agreement between the College and L + W/Clinton & Associates.