

Nanette B. Stephens

Direct: (630) 524-2595
nstephens@gwillplaw.com

March 13, 2015

Eduardo J. Fernandez – Via Reg. Mail & E-Mail
Eduardo.Fernandez2@illinois.gov
Department of Financial and Professional Regulation
Division of Professional Regulation
100 West Randolph Street
Suite 9-300
Chicago, IL 60601

**Re: Department of Financial and Professional Regulation of the State of Illinois
v. Carla Burkhart and Hurricane Graphics, Inc.
Case No. 2014 11747**

Dear Mr. Fernandez:

Please find enclosed the original and two (2) copies of **Respondents, Carla Burkhart and Hurricane Graphics, Inc.'s Answer to Rule to Show Cause** for filing. Please return the file-stamped copies in the enclosed self-addressed stamped envelope.

Do not hesitate to contact Mr. Feagans at (630) 524-2563 if you have any questions. Thank you for your assistance.

Very truly yours,

GRIFFIN | WILLIAMS LLP

Nanette B. Stephens
Legal Assistant

NBS:nbs

Enclosure

**STATE OF ILLINOIS
DEPARTMENT OF FINANCIAL AND PROFESSION REGULATION
DIVISION OF PROFESSIONAL REGULATION**

DEPARTMENT OF FINANCIAL AND
PROFESSIONAL REGULATION
OF THE STATE OF ILLINOIS,

COMPLAINANT,

CASE NO. 2014 11747

VS.

CARLA BURKHART AND
HURRICANE GRAPHICS,

RESPONDENTS.

NOTICE OF FILING

TO: Eduardo J. Fernandez – Eduardo.Fernandez2@illinois.gov & regular mail
Department of Financial and Professional Regulation
Division of Professional Regulation
100 West Randolph Street, Suite 9-300
Chicago, IL 60601

☒ Under penalty as provided by law under 735 ILCS 5/1-1-09, the undersigned certifies that the statements set forth in this instrument are true and correct.

On the 13th day of March, 2015, I, Nanette B. Stephens, a non-attorney, certify that I filed a true and correct copy of the foregoing with the Department of Financial and Professional Regulation: **Respondents, Carla Burkhardt and Hurricane Graphics, Inc.'s Answer to Rule to Show Cause and Appearance** in the above-entitled cause.

By: 

Nanette B. Stephens

CERTIFICATE OF SERVICE

☒ Under penalty as provided by law under 735 ILCS 5/1-109, the undersigned certifies that the statements set forth in this instrument are true and correct.

On the 13th day of March, 2015, I, Nanette B. Stephens, a non-attorney, certify that a true and correct copy of the foregoing was e-mailed and mailed via first class mail addressed to the party listed above: **Respondents, Carla Burkhardt and Hurricane Graphics, Inc.'s Answer to Rule to Show Cause and Appearance**, by depositing the same in a United States Post Office Box in the City of Geneva, Kane County, Illinois, enclosed in a sealed envelope, with United States postage fully prepaid thereon.

By: 

Nanette B. Stephens

Joshua M. Feagans / Atty. No. 6286141
GRIFFIN | WILLIAMS LLP
501 West State Street, Suite 203
Geneva, IL 60134
Phe: (630) 524-2563
Fax: (630) 262-0644

**STATE OF ILLINOIS
DEPARTMENT OF FINANCIAL AND PROFESSION REGULATION
DIVISION OF PROFESSIONAL REGULATION**

DEPARTMENT OF FINANCIAL AND
PROFESSIONAL REGULATION
of the State of Illinois,

Complainant,

vs.

CARLA BURKHART and
HURRICANE GRAPHICS,

Respondents.

Case No. 2014 11747

APPEARANCE

The undersigned attorney, JOSHUA M. FEAGANS, ESQ. of GRIFFIN | WILLIAMS LLP hereby enters his appearance in the above-captioned matter on behalf of the Respondents, CARLA BURKHART and HERRICANE GRAPHICS, INC.

CARLA BURKHART and HERRICANE
GRAPHICS, INC., Respondents

By: _____

One of Their Attorneys

Josh Feagans, Esq./6286141
GRIFFIN | WILLIAMS LLP
501 W. State Street, Suite 203
Geneva, IL 60134
(630) 524-2563
(630) 262-0644 facsimile

**STATE OF ILLINOIS
DEPARTMENT OF FINANCIAL AND PROFESSION REGULATION
DIVISION OF PROFESSIONAL REGULATION**

DEPARTMENT OF FINANCIAL AND
PROFESSIONAL REGULATION
of the State of Illinois,

Complainant,

vs.

CARLA BURKHART and
HURRICANE GRAPHICS,

Respondents.

Case No. 2014 11747

ANSWER TO RULE TO SHOW CAUSE

NOW COME the Respondents, CARLA BURKHART and HERRICANE GRAPHICS, INC., by and through their attorneys, GRIFFIN | WILLIAMS LLP, and in response to the Rule to Show Cause issued pursuant to Section 305/23(c) of the Illinois Architecture Practice Act, 225 ILCS 305/23(c), state as follows:

1. Carla Burkhart ("Burkhart") is the President of Herricane Graphics, Inc. ("Herricane"), an Illinois corporation. Herricane Graphics, Inc. was incorporated on July 24, 1992 and is in good standing with the Illinois Secretary of State. See Corporation File Detail Report attached hereto as Exhibit 1. Burkhart denies doing business as a sole proprietor or under the name "Hurricane Graphics."
2. Burkhart and Herricane further deny that they, individually or jointly, advertised or offered architectural services to the College of DuPage in April 2012.

3. Assuming *arguendo* that the allegations denied above relate to the April 19, 2012, contract between College of DuPage and Herricane, attached hereto as Exhibit 2 in its entirety, Burkhart and Herricane call the Department's attention to the following facts:

- a. The contract was a form document purchased by the College of DuPage and provided to Herricane by the College of DuPage;
- b. Burkhart is not a party to the contract;
- c. Herricane does not engage in or advertise itself to perform architectural services;
- d. Herricane engages in the business of signage design, construction and installation;
- e. The subject contract, Exhibit 2 hereto, is a form document. It is not a contract for architectural services. Rather, it is a contract for signage design services. The subject contract contains several exhibits thereto pursuant to §13.2 thereof which clearly illustrate this fact.
- f. Exhibit A to the subject contract refers to a "Signage Design Contract." The Board Approval incorporated therewith continues to describe Herricane's work as signage design;
- g. Exhibit B to the subject contract details to the scope of the services to be provided. The scope of services relates entirely to signage and do not involve architectural services;
- h. Exhibit C to the subject contract refers to Herricane as the "Consultant" and refers entirely to a project related to "Signage;"
- i. Exhibit D is a fee schedule and does not provide any reference to architectural fees;

j. Exhibit E is styled "Project Parameters." Paragraph 2 thereto specifically excludes any services related to "architecture;"

k. Exhibit F details various projects related to the subject contract as "Signage Projects;"

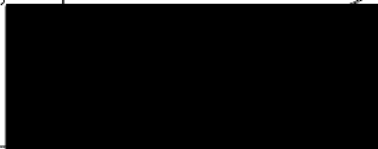
l. Exhibit H further describes the various projects related to the subject contract. The projects are exclusively related to signage. Exhibit H does not contain any reference to architectural services; and

m. Burkhart signed the subject contract as President of Hurricane, not individually or under the name "Hurricane." The signature is as a "Designer," not an architect. The standard form AIA Document B101 – 2007 typically provides for signature by the "Owner" and "Architect."

4. The "Notice to Proceed," attached hereto as Exhibit 3, received by Hurricane from the College of DuPage in relation to the subject contract, Exhibit 2 hereto, refers to "Signage Design" services, not architectural services.

WHEREFORE, the Respondents, CARLA BURKHART and HERRICANE GRAPHICS, INC., deny the allegations asserted, deny that any Rule To Show Cause should be granted, deny that any order to Cease and Desist is appropriate or should be entered, requests that this matter be dismissed in their favor and for such other and further relief as is equitable and just.

CARLA BURKHART and HERRICANE
GRAPHICS, INC., Respondents

By: 
One of Their Attorneys

Josh Feagans, Esq.
GRIFFIN | WILLIAMS LLP
501 W. State Street, Suite 203
Geneva, IL 60134
(630) 524-2563
(630) 262-0644 facsimile
#56554



CORPORATION FILE DETAIL REPORT

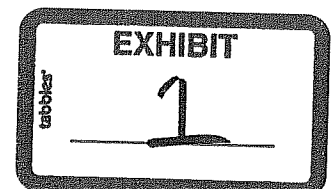
Entity Name	HERRICANE GRAPHICS, INC.	File Number	56927697
Status	ACTIVE		
Entity Type	CORPORATION	Type of Corp	DOMESTIC BCA
Incorporation Date (Domestic)	07/24/1992	State	ILLINOIS
Agent Name	CARLA BURKHART	Agent Change Date	06/26/2009
Agent Street Address	1275 W ROOSEVELT ST STE 112	President Name & Address	CARLA BURKHART 1275 W ROOSEVELT RD WEST CHICAGO 60185
Agent City	WEST CHICAGO	Secretary Name & Address	SAME
Agent Zip	60185	Duration Date	PERPETUAL
Annual Report Filing Date	05/27/2014	For Year	2014
Assumed Name	INACTIVE - SCHREINER CHICAGO ACTIVE - SCHREINER CHICAGO		

[Return to the Search Screen](#)

[Purchase Certificate of Good Standing](#)

(One Certificate per Transaction)

[BACK TO CYBERDRIVEILLINOIS.COM HOME PAGE](#)



AIA Document B101™ - 2007

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the « 19th » day of « April » in the year « 2012 »
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, address and other information)

College of DuPage
425 Fawell Boulevard
Glen Ellyn, Illinois 60137

and the Architect:
(Name, legal status, address and other information)

Herricane Graphics, Inc.
1275 W Roosevelt Street
West Chicago, Illinois 60185

for the following Project:
(Name, location and detailed description)

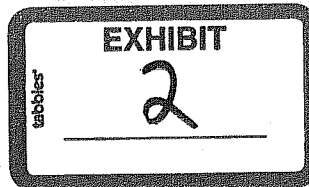
College of DuPage Signage Design
The Owner's budget for the cost of the work is \$106,865.00.

The Owner and Architect 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.



ELECTRONIC COPYING of any portion of this AIA Document to another electronic file is prohibited and constitutes a violation of copyright laws as set forth in the footer of this document.

TABLE OF ARTICLES

- 1 INITIAL INFORMATION
- 2 ARCHITECT'S RESPONSIBILITIES
- 3 SCOPE OF ARCHITECT'S BASIC SERVICES
- 4 ADDITIONAL SERVICES
- 5 OWNER'S RESPONSIBILITIES
- 6 COST OF THE WORK
- 7 COPYRIGHTS AND LICENSES
- 8 CLAIMS AND DISPUTES
- 9 TERMINATION OR SUSPENSION
- 10 MISCELLANEOUS PROVISIONS
- 11 COMPENSATION
- 12 SPECIAL TERMS AND CONDITIONS
- 13 SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Article 1 and in optional Exhibit A, Initial Information. For the avoidance of doubt, the Initial Information includes the information on Architect's proposal to Owner, dated June 29, 2011, Sections 1-9 plus Exhibits A – D ("Scope Document"); plus Owner's specific standards entitled "A/E Ground Rules" ("Owner's Standards"). Architect's Proposal and Owner's Standards are attached as Exhibit A.

(Complete Exhibit A, Initial Information, and incorporate it into the Agreement at Section 13.2, or state below Initial Information such as details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, authorized representatives, anticipated procurement method, and other information relevant to the Project.)

« Details of the Project's site and program, Owner's budget for the Cost of the Work and other information relevant to the Project are set forth in Architect's Proposal »

§ 1.2 The Owner's anticipated dates for commencement of construction and Substantial Completion of the Work are set forth below:

- .1 Commencement of construction date: Per Project Description in Exhibit C
- .2 Substantial Completion date: Per Project Description in Exhibit C

§ 1.3 The Owner and Architect may rely on the Initial Information, except as otherwise set forth herein and subject to Architect's obligation to review all Initial Information in accordance with the Standard of Care (defined in paragraph 2.2). Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall by mutual agreement appropriately adjust the schedule, the Architect's services and the Architect's compensation. In the event of conflict between any general conditions contained in the Architect's Proposal and the terms and conditions of this Agreement shall be resolved in favor of this Agreement.

§ 1.4 Construction-Delivery Methodology— Construction-Manager-at-Risk

The Owner, College of DuPage is a public entity subject to the statutory requirements of public bidding. It is the intent of the Owner to publicly bid and award contracts in accordance with the applicable bidding laws. Upon award of the contracts by Owner, the Construction Manager will either enter into contracts directly with the multiple prime contractors and/or trade contractors [hereinafter referred to as "subcontractors"] pursuant to the Contract Documents or the Owner upon award will enter into contracts with the subcontractors and assign the contracts to the Construction Manager. The Owner envisions contemporaneously awarding a contract to a Construction Manager. A draft copy of the Owner Construction Manager's Agreement is attached hereto and incorporated by reference herein as Exhibit B. Architect and Construction Manager shall cooperate and coordinate their collective efforts.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect has been engaged to provide the professional design services required herein because of its character, experience and qualifications in dealing with the design, construction and renovation of major institutions of higher education and commercial buildings. The Architect shall provide the professional services as set forth in this Agreement in accordance with the Standards of Care (defined below). The Architect represents that it and its Specialty Consultants are skilled and experienced in university and college design, rehabilitation and construction administration and shall exercise appropriate professional care and skill to comply with all applicable federal and state laws as well as Owner's Standards and any and all rules, regulations and specifications adopted by the Illinois Community College Board and any other agency with authority over the construction or rehabilitation of college facilities in effect at the time of submission of the Construction Documents for permit or upon issuance of contract documents for bid.

§ 2.2 The Architect shall perform all services under this Agreement consistent with the skill, judgment and care and experience and qualifications of design professionals with a national reputation for performing professional services in similar projects, taking into consideration Owner's Standards and Owner's requirements for cost-effectiveness, schedule and programmatic requirements and as otherwise necessary for the successful performance of this Project ("Standard of Care").

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and 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.

§ 2.5 The Architect shall maintain at its own expense the following insurance for the duration of this Agreement. Insurance shall be placed with insurance companies rated at least A with a financial rating of at least Class X by Best's Key Rating Guide and shall incorporate a provision requiring the giving of written notice to Owner at least thirty (30) days prior to the cancellation or non-renewal of any such policies.

(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)

1. General Liability

Comprehensive General Liability Insurance (including limited form contractual liability and completed operations, explosion, collapse and underground hazards), covering personal injury, bodily injury and property damages in the amount of Two Million Dollars (\$2,000,000) covering personal injury, bodily injury and property damage.

2. Automobile Liability

Comprehensive Automobile Liability Insurance, including hired and non-owned vehicles, if any, in the amount of One Million Dollars (\$1,000,000) covering personal injury, bodily injury and property damage.

3. Workers' Compensation

Worker's Compensation Insurance in the amount of the statutory maximum with an Employer's Liability coverage of at least One Million (\$1,000,000) Each Accident, One Million (\$1,000,000) each employee, One Million (\$1,000,000) Policy Limit.

.4 Professional Liability

Architect's Professional Liability Insurance in the amount of Three Million Dollars (\$3,000,000.00) (including contractual liability coverage with all coverage retroactive to the earlier of the date of this Agreement and the commencement of Architect's services in relation to the Project), including economic loss, said coverage to be maintained for a period of four (4) years after the date of final payment hereunder. At Owner's option and expense professional liability coverage may be increased.

.5 Umbrella/Excess Liability

Umbrella or excess of loss coverage for Employer's Liability, Comprehensive Liability and Auto Liability of not less than Four Million Dollars (\$4,000,000) for any one occurrence and subject to the same aggregate limits specified in paragraphs (2.5.1), (2.5.2) and (2.5.3), are accepted subject to approval by the Owner as to form and amount of self-insured retention.

§2.6 Architect shall submit valid certificates and policies, in form and substance satisfactory to Owner evidencing the effectiveness of the foregoing insurance policies along with original copies of the amendatory riders to any such policies to Owner for Owner's approval before Architect commences the rendition of any services hereunder.

§ 2.7 Specialty Consultants

The Architect shall exercise professional care in accordance with the Standard of Care to engage specialty engineers, consultants, agents, employees and officers, who shall possess the experience, skill, knowledge and character necessary to qualify them individually for the particular duties they perform and who shall perform all work in conformity with the standards of reasonable care and skill with respect to professional services they are rendering. Said specialty consultants shall carry professional liability insurance in the amounts set forth in §2.5 herein unless agreed to by Owner in writing to a lesser amount. As between the Architect and Owner the Architect assumes full responsibility for the acts, errors and omissions of its Specialty Consultants. Specialty Consultants shall carry and maintain professional liability insurance in the amounts established by this Agreement and written by insurance companies with the same Best Guide rating established herein. Certificates of insurance of specialty consultants shall be tendered to the Owner.

Firm	General Liability	Auto	Worker's Comp	Excess/ Umbrella	Professional
Herricane Graphics, Inc.	\$2,000,000	\$1,000,000	Statutory Max \$1,000,000	\$4,000,000	\$3,000,000

--	--	--	--	--	--

§ 2.8 To the fullest extent permitted by law, the Architect hereby agrees to indemnify and hold the Owner, its directors, members, officers, agents, and employees (collectively the "Indemnitees") harmless from all losses, claims, liabilities, injuries, damages and expenses, including attorneys' fees, that the Indemnities may incur caused by the negligent performance or lack of performance by the Architect of its duties and obligations under or pursuant to this Agreement.

§ 2.9 The Architect hereby agrees to maintain the insurance described in paragraphs 2.5 herein during the term hereof and for a period of no less than four (4) years after the issuance of a Certificate of Final Completion. If the Architect fails to furnish and maintain the insurance required, the Owner may after written notice to Architect purchase such insurance on behalf of the Architect, and the Architect shall pay the cost thereof to the Owner upon demand and shall furnish to the Owner any information needed to obtain such insurance;

§ 2.10 Architect shall insure specifically the indemnity contained in § 2.8 of this Agreement, and shall include the Indemnitees as additional insureds by causing amendatory riders or endorsements to be attached to the insurance policies described in subparagraphs (2.5.1) and (2.5.2). The insurance coverage afforded under these policies shall be primary to any insurance carried independently by the Indemnitees. Said amendatory riders or endorsements shall indicate that as respects the Indemnitees, there shall be severability of interests under said insurance policies for all coverages provided under said insurance policies.

(i) Specialty Structural, Electrical, Mechanical Engineers professional liability insurance shall be in the amount of \$3,000,000 with no greater than a \$50,000 deductible. Specialty engineers shall be identified by Architect and copies of their professional liability insurance policies shall be submitted to Owner. Coverage shall be supplied by insurers with a Best Guide rating of A-, IV or better.»

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3A.1 The Architect's Basic Services consist of those described in Article 3 and include without limitation, structural, mechanical, plumbing, fire protection, electrical engineering, civil engineering § 4.1 and (including storm water management from the Project through all portions of Owner's campus until discharged outside Owner's campus), furniture, fixtures and equipment, all drawings and documents required for Leadership in Energy and Environmental Design ("LEED") certification, and asset management, and any other Specialty Consultants and engineering services as may be necessary to provide a complete and accurate performance of services and construction ready Construction Documents upon construction contract award. The Architect shall utilize REVIT to provide Building Information Modeling ("BIM") of the Project Design Documents and provide updated 'record' drawings for each month during the Construction Phase. Except as provided otherwise in § 4.1, services not set forth in Article 3 are Additional Services.

§ 3A.1.1 The Architect shall manage the Architect's services, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Owner.

§ 3A.1.2 The Architect shall coordinate its services with those services provided by the Owner, the Construction Manager and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants except as otherwise provided herein and subject to the Architect's obligation to perform all services in accordance with the Standard of Care. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

§ 3A.1.3 A schedule for the performance of the Architect's services is included in Section 5.0 and Exhibit D of Architect's Proposal. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary as the Project proceeds until the commencement of construction.

§ 3A.1.4 The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval.

§ 3A.1.5 The Architect in cooperation and coordination with Owner and Construction Manager shall, at appropriate times, contact the 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.

§ 3A.1.6 The Architect shall cooperate and actively assist the Owner and Construction Manager and provide service generally in connection with the Owner's responsibility for filing documents required for peer review, code review (including by way of example preparing response letters) and the approval of governmental authorities having jurisdiction over the Project. Storm water permits or modifications to the existing storm water permits shall be secured by Owner. Architect to assist in filing documents for governmental approval.

§ 3B. PRE-PLANNING/PROGRAMMING PHASE

§ 3B.1.1 The Architect shall field verify existing site, building and engineering conditions, including all internal and underground utilities that may be impacted during the course of the Project; assess and review existing as-built information supplied by Owner, field verify existing conditions as required and prepare base drawings using Revit software compatible with Owner's Standards; review Owner's files of existing architectural and engineering documents and reports provided by Owner's Facilities, Planning and Construction Department to be supplied upon request. Architect shall specify to Owner required documents and reports to be supplied by Owner. Architect shall be responsible to confirm the accuracy of documents and reports supplied by Owner and prepare accurate drawings and models based on same..

§ 3B.1.2 The Architect shall prepare a comprehensive BIM modeled assessment of the current conditions of the proposed site and impacted adjacencies ("Facilities Condition Assessment"). The Facility Condition Assessment shall include the collection of data supplied by the Owner and through the Architect's field observation, evaluation of the data and presentation of data in an acceptable format.

§ 3B.1.3 Owner shall provide appropriate Program Information and Educational Specifications. Architect shall participate in user group meetings to confirm the Programming and Educational Project Requirements.

§ 3C PROGRAM VERIFICATION

§ 3C.1.1 The Architect shall be responsible for determining the accuracy and reliability of any such measured drawings and surveys supplied by Owner pursuant to § 3B.1.1. Without limiting the generality of the foregoing, Architect shall be responsible for reviewing the GPS Audit provided by Owner and using it to prepare construction documents and as-built drawings in AutoCad based on such Initial Information. Architect shall exercise professional care in accordance with the Standard of Care, investigate existing field conditions and as necessary take field measurements to accomplish the issuance of construction ready Construction Documents. Where appropriate, Architect shall recommend to Owner additional surveys or testing to ascertain existing conditions.

§ 3C.1.2 Architect shall perform a detailed site investigation to assist the Owner in establishing a detailed Program, based upon user group input where appropriate, and in conjunction with the Construction Manager, schedule requirements, and a budget for each distinct portion of the Cost of the Work, each in terms of the other. The Architect in conjunction with Owner's Representative and Construction Manager shall meet with department representatives and Owner's Core Leadership Team members to verify department educational and building program needs. The Architect shall prepare a detailed programming schedule and milestones. The Architect shall provide Owner programming verification options to consolidate space needs and improve building efficiency. The Architect shall confirm to Owner that the Program Statement can, in the Architect's opinion, be provided within the Owner's approved budget. The Architect shall present the Program Statement and opinion that the Program Statement can be provided within the Owner's budget to Owner's Executive Cabinet for approval. Upon approval by the Executive Cabinet, the Architect shall submit the Program for approval to the Owner's Board of Trustees.

§ 3.2 SCHEMATIC DESIGN PHASE SERVICES

§ 3.2.1 The Architect shall review the program and other information requested by Architect and furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services. The scope of the Project shall be periodically reviewed and revised to accurately reflect the programming requirements of each distinct major component of the Project and compliance with the approved budget.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, and the proposed procurement or delivery method and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project's requirements agreed upon with the Owner, the Architect shall prepare and present for the Owner's approval a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other environmentally responsible design services under Article 4.

§ 3.2.5.2 The Architect shall with the Owner and Construction Manager consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule and budget for the Cost of the Work.

§ 3.2.6 Architect shall cooperate and coordinate with Construction Manager, their respective cost estimation responsibilities so that accuracy of reconciliation is assured. The Architect shall submit to the Owner a preliminary estimate of Construction Cost based on current area, volume or similar conceptual estimating techniques. The Architect shall reconcile any significant differences in its preliminary estimate of Construction Cost with the preliminary estimate of Construction Costs independently prepared by the Construction Manager. Each of the reconciled estimates prepared by Architect and Construction Manager shall be within 105% of the established budget and each of the estimates shall be within five percent (5%) of each other to proceed to the next phase of design. In the event Architect and Construction Manager are unable to reconcile their respective cost estimate, notice shall be promptly given to Owner; provided, that their respective cost estimates must be reconciled before proceeding with the Design Development phase.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

~~§ 3.2.8 The Architect shall prepare a LEED checklist and cost estimate of silver level LEED Certification which if implemented into the design as sustainable features would qualify for LEED certification. After review of the LEED check list and estimate of potential cost for LEED Certification with the Owner, Owner shall promptly give Architect direction concerning continued pursuit of LEED Certification and incorporation of LEED sustainable features into the design of the Project. Architect's MEP engineer shall provide an energy model which conforms to LEED Certification as part of the basic fee.~~

§ 3.2.9 The Owner shall have ten (10) business days upon receipt of the completed Schematic Design Phase to review and approve.

§ 3.3 DESIGN DEVELOPMENT PHASE SERVICES

~~§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.~~

~~§ 3.3.2 The Architect shall within ten (10) business days of the completion of the Design Development Phase update the estimate of the Cost of the Work. The Architect in conjunction with the Construction Manager shall advise the Owner of any adjustments to the preliminary estimate of Construction Cost. The Architect shall reconcile any significant differences in its preliminary estimate of Construction Cost with the preliminary estimate of Construction Costs independently prepared by the Construction Manager. Each of the reconciled estimates prepared by Architect and Construction Manager shall be within 105% of the established budget. In the event Architect and Construction Manager are unable to reconcile their respective cost estimates, notice shall be promptly given to Owner; provided, that their respective cost estimates must be reconciled before proceeding with the Construction Document phase.~~

~~§ 3.3.3 The Architect shall submit the Design Development documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.~~

~~§ 3.3.4 The Owner shall review and approve within ten (10) business days upon receipt of the completed Design Development Documents.~~

§ 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare construction ready Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. Architect, and where appropriate, Specialty Consultants in conjunction with the Construction Manager shall perform interdisciplinary document review and exercise reasonable care to coordinate mechanical, structural, architectural and other disciplines to assist Construction Manager to enhance constructability of construction documents and limit design conflicts between trades during construction. The Architect shall exercise the Standard of Care to design an operational and maintenance friendly facility. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review and approve in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Construction Manager and Owner in the development and preparation of (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms. ~~THE ARCHITECT AND CONSTRUCTION MANAGER SHALL SUBMIT TO OWNER AND TO OWNER'S ATTORNEYS FOR REVIEW AND APPROVAL ALL AGREEMENTS AND CONDITIONS PREPARED FOR SUBMISSION TO BIDDERS THIRTY (30) DAYS PRIOR TO RELEASE OF BIDDING INFORMATION. BID FORMS SHALL BE SUBMITTED FOR REVIEW THIRTY (30) DAYS PRIOR TO RELEASE OF BIDDING INFORMATION.~~

§ 3.4.4 The Architect and Construction Manager shall within ten (10) business days of completion of each of the schematic design phase, design development phase and at 50% completion of the Construction Documents; and within twenty (20) business days of 100% completion of the Construction Documents, update the detailed estimate

for the Cost of the Work and reconcile same in accordance with § 3.2.6 and § 3.3.2, and submit same to Owner for its review and approval. Architect's and Construction Manager's respective estimates must be so reconciled before proceeding beyond this phase.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.5 BIDDING PHASE SERVICES

§ 3.5.1 GENERAL

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the final Construction Documents, the Architect shall assist the Owner (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) and Construction Manager in (1) obtaining competitive bids; (2) confirming responsiveness of bids; (3) determining the successful bid, if any; (4) perform a due diligence review of the apparent low bidders' qualifications and responsibility based on references and other industry sources and make a written recommendation to Owner to award or reject the low bidder setting forth with specificity the detailed reason for approval or rejection; (5) awarding and preparing contracts for construction. If Architect recommends rejection of low bidder, it in conjunction with the Construction Manager shall perform a due diligence inquiry of the next low bidder until an award is recommended.

§ 3.5.2 COMPETITIVE BIDDING

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect in conjunction with the Construction Manager shall assist the Owner in bidding the Project by

- .1 procuring the reproduction of Bidding Documents for distribution to prospective bidders;
- .2 distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
- .3 organizing and conducting a pre-bid conference for prospective bidders;
- .4 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda; and
- .5 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.
- .6 providing review of documents.

§ 3.5.2.3 The Architect shall outline requirements for and may consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.6 CONSTRUCTION PHASE SERVICES

§ 3.6.1 GENERAL

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™-2007, General Conditions of the Contract for Construction as amended, a copy of which is attached hereto and incorporated by reference herein as **Exhibit B**.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate

for Payment. If the work to be performed by the Contractor has not been completed within 90 (ninety) days following the scheduled date of Substantial Completion (and the delay is through no fault of the Architect), there shall be owing to the Architect solely from withholdings on the amount due the Construction Manager and/or responsible Trade Contractors an additional amount equal to the Architect's services beyond that date computed in accordance with this Agreement. The Construction Manager shall cause to be included in the Contract Documents, provisions incorporating the said extra compensation payable to the Architect as a deduction from the amount due the responsible Contractor(s) and/or Construction Manager under the Construction Contract and Architect shall initiate Change Orders reflecting same.

§ 3.6.2 EVALUATIONS OF THE WORK

§ 3.6.2.1A The Architect shall exercise the Standard of Care to provide periodic on-site construction observation of the progress of the Work and conformance of the Work to the requirements of the Contract Documents, an average number of eight (8) hours of such observation per week appropriate to the stage of construction exclusive of on-site meetings. The Architect shall in accordance with the Standard of Care monitor and review conformance of materials, finishes and workmanship to the standards established by the Contract Documents, review the Work, witness tests and evaluate test reports and notify the Owner and Construction Manager of deficiencies observed in Contractor's Work. At intervals appropriate to the stage of construction, Architect's appropriate consulting engineer(s) (structural, mechanical, electrical and others specialty consultants) shall provide on-site observation to verify the conformance of the Work to the requirements of the Contract Documents. Observation shall consist of visual observations of materials, equipment, and construction work for the purpose of ascertaining to the best of the Architect's and its consultants' knowledge, information and belief that the Work is in conformance with the Contract Documents and with the design intent. Such observation shall not be relied upon by others as acceptance of the Work, nor should it be construed to relieve the Contractor in any way from his obligation and responsibilities under the Contract Documents.

§ 3.6.2.1B On the basis of such periodic on-site construction observation as an Architect, the Architect shall exercise the Standard of Care to keep the Owner informed of the progress and quality of the Work and shall exercise the Standard of Care to guard Owner against defects and deficiencies in the Work of the Contractor and promptly report to the Owner and Construction Manager any defects or deficiencies of any Work in the construction of the Project observed by the Architect. The Architect shall submit a field report to the Owner and a copy to the Construction Manager for each observation. The Architect and its consulting engineers, consultants, agents and officers shall promptly upon notice or discovery make necessary revisions or corrections of errors, ambiguities or omissions in its Drawings and Specifications without additional compensation. The Architect shall at no additional cost or expense to Owner provide Project Representation beyond Basic Services when required due to the Architect's failure to exercise the Standard of Care and shall be liable to the Owner for all damages incurred due to corrective work, extra work, additions or replacement work required as a result of errors, omissions or ambiguities caused by the Architect's failure to exercise the Standard of Care. The Architect shall not be responsible for the original cost of any work, labor, materials or supplies that would have been incurred by the Owner if the Architect had exercised the Standard of Care. To the extent Specialty Consultants perform professional services in excess of that required by the Base Contract through no fault of such Specialty Consultants, the Owner shall reimburse Architect for consulting engineering fees and expenses incurred without mark-up to provide on-site observation.

§ 3.6.2.1C The Architect shall report to the Owner known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor. However, neither the Owner nor the Architect shall be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents except to the extent caused by acts or omissions of the Architect. Neither the Architect nor its consulting engineers shall be in control over or in charge of the Work, nor shall either be responsible for means, methods, techniques, sequences or procedures or for safety precautions and programs of either Construction Manager or Trade Contractors. Nothing contained herein shall in any way be construed to limit or relieve the Trade Contractors of their sole and exclusive responsibility for construction site safety and their obligations and responsibilities under the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of and shall neither be responsible for acts or omissions of the Construction Manager, Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work nor the safety programs or requirements of the Construction Manager, Trade Contractors, Subcontractors, or their respective agents or employees, or of any other persons or entities performing portions of the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Construction Manager, Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and initially decide matters concerning performance during construction under, and requirements of, the Contract Documents on written request of either the Owner, Construction Manager or Trade Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and the Standard of Care and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by Owner, Construction Manager and applicable Trade Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents and the Standard of Care.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2007 attached as **Exhibit H**, the Architect shall render initial decisions on Claims arising during Construction between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

§ 3.6.3.1 The Architect and the Construction Manager shall promptly review and certify the amounts due the Construction Manager and SubContractors and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed 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) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 SUBMITTALS

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. All Contractor submittals shall be received by Construction Manager and stamped by Construction Manager indicating submittals comply with all the requirements established in the Contract Documents for review and approval by the Architect.

§ 3.6.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action within ten (10) working day of receipt upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and

installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. When professional certification of performance criteria is required by the Contract Documents, Architect through its consulting engineers shall review, verify and approve submittals for compliance with performance criteria and verify the design is coordinated and compatible with adjacent integral systems. Architect and its consultants shall not be required to verify sealed engineering and performance data submitted by Contractor which is integral to the specified performance criteria. Notwithstanding the Architect's reliance on sealed engineered drawings, Architect shall remain responsible for verification that sealed architectural/engineering designs of others are coordinated with adjacent integrated systems and all performance and design criteria provided. Owner shall reimburse Architect for review by its consulting engineers the reasonable hourly rate charged by the consulting engineer(s) without mark-up to the extent such services exceed the requirements of the base contract.

§ 3.6.4.4 Subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 CHANGES IN THE WORK

§ 3.6.5.1 The Architect with the Owner's prior approval may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an actual adjustment in the Contract Sum of more than \$1,000.00 or an extension of the Contract Time. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 PROJECT COMPLETION

§ 3.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents. All Contractor submittals shall be received by and stamped by Construction Manager indicating submittals comply with the requirements established by the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

§ 3.6.6.6 The Architect shall prepare and provide the Owner with electronic versions of Record Drawings in a format acceptable to Owner based upon the modifications to the record documents maintained during construction by the Construction Manager and each Trade Contractor and delivered to the Architect prior to Final Payment, and including the on-site observations of the Architect. While the information submitted by the Construction Manager and Trade Contractors and incorporated by the Architect into these reproducible drawings and specifications will be assumed to be reliable, the Architect will not be responsible for the accuracy of the information nor for any errors or omissions which may appear in the record documents as a result of Contractor inaccuracies.

§ 3.6.6.7 The Architect and their Specialty Consultants shall cooperate with the Commissioning Agent employed by Owner throughout the design and construction of the Project. Recommendations made by the commissioning agent shall be incorporated into the design, as directed by the Owner and as required by LEED EA Prerequisite 1. The Architect and consulting engineers shall provide all necessary information to the commissioning agent to complete a whole building energy simulation as described in LEED EA Credit 1, if directed by the Owner. The Commissioning Agent shall provide enhanced commissioning as required in LEED EA credit 2, if the Owner elects to proceed with LEED certification, as noted in paragraph 2.2.7 of this Agreement. In the event Architect disagrees with the recommendation of commissioning Agent or if commissioning Agent's recommendation increases the scope of the work, Architect shall promptly submit the controversy to the Owner for direction.

§ 3.6.6.8. The Architect and its consultants shall use the Project Management Information System supplied and directed by Owner to communicate, archive, log, track and distribute project documentation during the entire course of the Project.

ARTICLE 4 ADDITIONAL SERVICES INCLUDED IN BASIC SERVICES

§ 4.1 The following Services listed below are included in Basic Services unless specifically designated as an "Additional Service" in the table below as the Architect's responsibility, and the Owner shall approve such Services in writing. Owner shall compensate the Architect as provided in Section 11.2. See Scope of Basic Services, Exhibit B.

(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)

Additional Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description (Section 4.2 below or in an exhibit attached to this document and identified below)
§ 4.1.1 Programming		
§ 4.1.2 Multiple preliminary designs		
§ 4.1.3 Measured drawings		
§ 4.1.4 Existing facilities surveys (§3B and §3C)		
§ 4.1.5 Site Evaluation and Planning (B203™ 2007)		
§ 4.1.6 Building information modeling		
§ 4.1.7 Civil engineering		
§ 4.1.8 Landscape design		
§ 4.1.9 Architectural Interior Design (B252™ 2007)		
§ 4.1.10 Value Analysis (B204™ 2007)		
§ 4.1.11 Detailed cost estimating		
§ 4.1.12 On-site project representation	A	Base Contract
§ 4.1.13 Conformed construction documents	A	Base Contract
§ 4.1.14 As-Designed Record drawings	A	Base Contract

§ 4.1.15 — As-Constructed-Record drawings	A	Base Contract
§ 4.1.16 — Post-occupancy evaluation	A	Base Contract
§ 4.1.17 — Facility Support Services (B210 TM -2007)	n/a	Base Contract
§ 4.1.18 — Tenant-related services	n/a	Base Contract
§ 4.1.19 — Coordination of Owner's consultants	n/a	Base Contract
§ 4.1.20 — Telecommunications/data design	A	Base Contract
§ 4.1.21 — Security Evaluation and Planning (B206 TM -2007)	A	Base Contract
§ 4.1.22 — Commissioning (B211 TM -2007)	Ø	Owner
§ 4.1.23 — Extensive environmentally responsible design	A	Base Contract
§ 4.1.24 — LEED TM Certification (B214 TM -2007)	A	Base Contract
§ 4.1.25 — Fast-track design services	A	Excavation Package Only
§ 4.1.26 — Historic Preservation (B205 TM -2007)	n/a	
§ 4.1.27 — Furniture, Furnishings, and Equipment Design (B253 TM -2007)	A	Base Contract
§ 4.1.28 — Traffic Analysis/Design	Owner	n/a
§ 4.1.29 — Signage, Graphics	Owner	n/a
§ 4.1.30 — Artwork	A	Base Contract
§ 4.1.31 — Structural Engineering	A	Base Contract
§ 4.1.32 — MBR	A	Base Contract
§ 4.1.33 — Acoustical Engineer	A	N/A
§ 4.1.34 — FFE	A	Base Contract
§ 4.1.35 — Asset Management	A	Base Contract

§ 4.2 Insert a description of each Additional Service designated in Section 4.1 as the Architect's responsibility, if not further described in an exhibit attached to this document.

« »

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.3.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the Owner's request for unique system designs, in-depth material research, energy modeling;
- .3 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing other than College of DuPage Board of Trustee Meetings;
- .8 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.3.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

1. Reviewing a Contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;
2. Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
3. Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
4. Evaluating an extensive number of Claims as the Initial Decision Maker;
5. Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or
6. To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion identified in Initial Information, whichever is earlier.

§ 4.3.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

1. « Two » (« 2 ») reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor
3. « Two » (« 2 ») inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
4. « Two » (« 2 ») inspections for any portion of the Work to determine final completion

§ 4.3.4 If the services covered by this Agreement have not been completed within « thirty six » (« 36 ») months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 5.2 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner with the assistance of the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project to the extent authorized by Board policy. The Owner 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.

§ 5.4 The Owner shall furnish any existing construction documents related to the Project as well as surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site as reasonably requested by Architect. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements

and trees; and information concerning available utility services 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.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations. The Owner shall furnish construction testing services. If a traffic study becomes required by a jurisdictional authority, the Owner shall supply same.

§ 5.6 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner 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 and that they are justified given Owner's budget. The Owner shall require that its consultants maintain professional liability insurance as appropriate to the services provided. The Architect shall define with specificity the nature of surveys, geotechnical and other services requested by Architect and required for the Project to be supplied by Owner and shall review the services performed for compliance with the services required.

§ 5.7 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.8 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

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

§ 5.10 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the Architect's consultants through the Architect about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Architect of any direct communications that may affect the Architect's services.

§ 5.11 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.12 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.13 If required by the scope of the Project, the Owner shall employ a Commissioning Agent for this Project.

§ 5.14 The Owner at its cost shall provide a licensed Project Management Information System which shall consist of the Constructware Project Management System by Autodesk. The Owner, Architect and the Construction Manager shall use the system for communication, archiving, logging and tracking Project Information. Owner shall provide all necessary training on the Project Management Information System.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' and Construction Manager's general conditions costs, overhead and profit. The Cost of the Work shall include the compensation of the Architect, Pre-construction Cost of the Construction Manager, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared

by the Architect, represent the Architect's judgment as a design professional exercising the Standard of Care. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect.

§ 6.3.1 In preparing detailed estimates of the Cost of Work, the Architect shall be permitted to include Owner approved contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the program and scope of the Project; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work; provided, however that there shall be no contingency in the estimates of the Cost of the Work to cover field re-work arising out of Architect's errors and omissions which shall remain the responsibility of Architect. The detailed estimates of Construction Cost shall be in a format approved by Owner and coordinated with Construction Manager. Detailed cost estimation shall be prepared with increasing refinement and detail consistent with the degree of completion of the Plans and Specifications. The Architect shall submit estimations to the Owner and/or its representatives, meet with the Owner and/or its representatives, and reconcile any discrepancies between its Construction Cost estimate and the detailed estimate prepared by the Construction Manager. The Architect shall in writing so advise and explain to the Owner how any estimate discrepancies were reconciled. Architect shall promptly advise the Owner of any adjustments to previous estimates of the Cost of the Construction indicated by changes in Project requirements or general market conditions. In the event Architect and Construction Manager are unable to reconcile their respective cost estimate, notice shall be promptly given to Owner. If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget, the Architect shall after notifying the Owner's representative and President of the College in writing, make appropriate recommendations to the Owner to adjust the Project design to the Budget.

§ 6.3.2 It is agreed and understood that Owner is relying on both the Architect of Record and the Construction Manager for cost estimation of the Construction Cost. If Construction Costs are exceeded by 105% of the estimate of Construction Cost, based upon the aggregate of the lowest bona fide responsible, responsive bidders, the Plans and Specifications at no cost to the Owner at the Owner's option shall be revised or redesigned by the Architect subject to Owner's approval to ensure that subsequent bona fide bids are within the 105% range of the budget established for the Cost of the Work. The Construction Manager shall provide additional Construction Management services associated with re-bidding the Project or portions of the Project and shall assume responsibility for time delays associated therewith at no added cost to the Owner. Additional Construction Management services include value engineering, bid document preparation, publication, printing and distribution of revised Contract Documents, coordinating and conducting pre-bid and post bid meetings, bid analysis and recommendations to award.

§ 6.3.3 The Owner's budget is the fixed limit of construction cost. The Owner's Budget has been established in the Project Description.

§ 6.4 If Bidding has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, through no fault of the Architect, the Owner's budget for the Cost of the Work or fixed limit of Construction Cost shall be adjusted to reflect industry recognized changes in the general level of prices in the applicable construction market resulting therefrom.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or portions thereof within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or

.5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect, without additional compensation, shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

§ 6.8 The Owner shall establish a contingency for unforeseen conditions which shall be included as Cost of the Work if actually expended on construction.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect warrants that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 7.2 The Owner shall be deemed to be the owner of all drawings, plans, specifications and other documents prepared referred to as Instruments of Service by the Architect and its consultants, including those in electronic form without restrictions on this Project, additions to the Project or for completion of the Project by others, or modification or maintenance of the Project, provided the Owner is not in default in any payment due and owing. The Owner shall hold the Architect harmless from any error or omission which arises from subsequent use of the plans and specifications under this paragraph in which the Architect herein is not engaged to perform such subsequent services.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 GENERAL

§ 8.1.1 All claims, disputes and other matters in question between any of the following: Architect, Construction Manager, Program Manager, Owner, Contractor, Subcontractor, Sub-Subcontractor or any material supplier arising out of, or relating to, agreements to which two or more of said parties are bound, or the Contract Documents or the breach thereof, except as provided in subparagraph 2.6.17 with respect to the Architect's decisions on matters relating to aesthetic effect, at the exclusive option of the Owner shall be decided by arbitration. Arbitration shall be conducted in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining as modified herein, unless the parties mutually agree otherwise. In any such arbitration, the arbitrator shall make separate findings as to liability and the amount of damages with respect to each party to the arbitration to the extent any liability or responsibility for damages exists. The Architect, Construction Manager, Program Manager, Contractor, subcontractors and material suppliers who have an interest in the dispute shall be joined as parties to the arbitration. The Owner's contracts with the Architect, Construction Manager, Program Manager, and the Contractor's subcontract with the subcontractors and material suppliers, shall require such joinder. The arbitrator shall have authority to decide all issues between the parties including but not limited to claims for extras, delay and liquidated damages, matters involving defects in the Work, right to payment, whether matters decided by the Architect involve aesthetic effect and whether the necessary procedures for arbitration have been followed. The foregoing agreement to arbitrate and any other agreement to arbitrate with an additional person or persons, duly consented to by the parties, shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrator shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 8.1.2 Notice of the demand for arbitration shall be filed in writing and served on the other party to the arbitration as well as the American Arbitration Association. The demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

§ 8.1.3 All parties shall carry on the Work and perform their duties during any arbitration proceedings, and the Owner shall continue to make payments as required by agreements and the contract document. However, at the request of either the Owner or Architect, contested payments may be placed in an escrow account pending resolution of the dispute.

§ 8.1.4 In addition to the other rules of the American Arbitration Association applicable to any arbitration hereunder, the following shall apply:

(a) Promptly upon the filing of the arbitration each party shall be required to set forth in writing and to serve upon each other party a detailed statement of its contentions of fact and law.

(b) All parties to the arbitration shall be entitled to reasonable discovery procedures and to the scope of discovery applicable to civil actions under Illinois law, including the provisions of the Code of Civil Procedure and Illinois Supreme Court rules applicable to discovery. Such discovery shall be noticed, sought and governed by those provisions of Illinois law.

(c) The arbitration shall be commenced and conducted as expeditiously as possible consistent with affording reasonable discovery as provided herein. Similarly, the scope of discovery, and the extent of proceedings hereunder relating to discovery, shall be consistent with the parties' intent that the arbitration be conducted as expeditiously as possible.

(d) The arbitrator shall be bound to follow the laws of the state of Illinois and apply the terms and conditions of this Agreement and the Contract Documents to the extent applicable.

(e) These additional rules shall be implemented and applied by the arbitrator(s).

§ 8.1.5 In the event of any litigation or arbitration between the parties hereunder, all attorneys' fees, expenses and other costs incurred shall be borne by the party determined to be at fault and in the event that more than one party is determined to be at fault, shall be allocated equitably by the court or arbitrator.

§ 8.1.6 CLAIMS FOR CONSEQUENTIAL DAMAGES

Except to the extent covered by insurance required to be carried by Architect and its consultants under §§ 2.5, 2.7 or 2.10 above, the Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 MEDIATION

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement may upon agreement of the parties be subject to mediation.

§ 8.2.2 The Owner and Architect may endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 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 as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

[☒] Arbitration pursuant to Section 8.1 of this Agreement

[« »] Litigation in a court of competent jurisdiction

[« »] Other (Specify)

« »

§ 8.3.4 CONSOLIDATION OR JOINDER

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided in accordance with § 8.1 above 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).

§ 8.3.4.2 Either party, 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.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement for services properly performed and accounted for under this Agreement and billed to the Owner and expenses properly incurred and billed to the Owner, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid for such properly performed and billed and accounted for services and properly incurred and billed expenses all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted if the suspension lasts for more than thirty (30) days. The withholding or escrowing by Owner of payments as permitted under this Agreement shall not constitute grounds for termination.

§ 9.2 If the Owner suspends the Project for more than thirty (30) days, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and properly incurred.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the substantive law of Illinois, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern all matters relating to the conduct of the arbitration.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction, as amended and attached hereto as Exhibit B.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 10.5 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.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site. If the Architect obtains knowledge of the presence of hazardous materials, Architect exercising due skill and caution, shall promptly notify the Owner of known areas of actual or suspected hazardous material. Upon notice to Owner, the Architect shall have no further obligation under this paragraph. The Architect will use its best professional skill and care to prepare Contract Documents that will not include asbestos-containing materials, and will obtain from the manufacturers of materials which the Architect suspects or has reason to know may contain asbestos and which are specified in the Contract Documents, full information regarding the composition of such material, and manufacturer's certifications that such materials do not contain asbestos polychlorinated biphenyl (PCB) or other toxic substances not ordinarily used in construction of institutions of higher learning. Based upon such manufacturers' supplied data, the Architect will furnish to Owner a certification that the materials as specified in the Contract Documents do not contain asbestos or other toxic materials.

§ 10.7 Subject to the Owner's review and approval, the Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

§ 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information. For the avoidance of doubt, the documents and matters referenced in §7.2 above shall be considered Owner's Confidential Information, subject to the terms and conditions of this §10.8. The undertakings specified in this §10.8 shall not apply to any such "confidential" or "business proprietary" ("Confidential Information") which the receiving party can prove: (a) has become part of the public domain other than by acts or omissions of the receiving party or its directors, officers, employees, consultants, agents or assigns; or (b) has been furnished or made known to the receiving party by third parties (other than those acting on behalf of the disclosing party) who are free to disclose it as a matter of legal right and without restriction on disclosure or use; or (c) was in the receiving party's possession prior to disclosure by the disclosing party and was not acquired by the receiving party or its directors, officers, employees, consultants, agents or assigns, directly or indirectly from the disclosing party; or (d) was independently developed by the

receiving party without knowledge or use of the disclosing party's Confidential Information. No Confidential Information obtained by the receiving party (or by their employees, consultants and contractors), its/their directors, officers, employees, consultants, agents or assigns shall be deemed to be in the public domain or in their prior possession merely because it is embraced by more general information in the public domain or in their prior possession.

All Confidential Information whether written or oral, whether tangible or intangible, and in whatever form or medium provided, including, without limitation, notes, documents, tracings, photographs, models, computer programs and software (including all machine readable object code, source code and documentation), records, tapes, print-outs or other media, and all drafts, copies or excerpts thereof, shall at all times be the property of the disclosing party and shall be returned to the disclosing party at any time upon its request, except that a single copy may be retained by the legal counsel of the receiving party to demonstrate compliance with this provision.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.) See Exhibit

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

« Architect's and its consultant's Hourly Fee Schedules are attached hereto and incorporated by reference herein as Exhibit D. »

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

«See Exhibit D. »

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus « ten » percent («10 » %).

«See Exhibit D. »

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows: See Exhibit D.

Schematic-Design-Phase
Design-Development-Phase
Construction-Documents
Phase
Bidding-or-Negotiation-Phase
Construction-Phase

Total-Basic-Compensation

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

« »

Employee or Category

Rate

§ 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES

§ 11.8.1 Reimbursable Expenses shall not exceed 3.5% of the total design fees earned on this Project. Reimbursable Expenses are in addition to compensation for Basic and Additional Services. Reimbursable Expenses include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation in excess of 100 miles from the Project Site and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Display quality presentation renderings, models, animations, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses; and
- .11 Other similar Owner approved Project-related expenditures.

§ 11.8.2 Except as otherwise provided herein, for Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus « fifteen » percent («15 » %) of the expenses incurred.

§ 11.9 COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

« »

§ 11.10 PAYMENTS TO THE ARCHITECT

§ 11.10.1 An initial payment of ~~ten thousand dollars~~ (\$ ~~10,000.00/xx~~) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice and shall be applied to Architect's precontract mobilization costs.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice in accordance with Owner's payment procedures and payment schedule. Amounts unpaid «sixty » («60 ») days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

(Insert rate of monthly or annual interest agreed upon.)

«per annum in accordance with 815 ILCS 205/2. »

§ 11.10.3 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.4 For costs and payments reimbursable to Architect as Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates, Architect shall maintain a method of accounting in accordance with generally accepted accounting principles and practices and such as is acceptable to Owner. For the purpose of auditing such costs and payments reimbursable to Architect, Owner shall have access during regular business hours to books, records, accounts, correspondence, instructions, plans, drawings, receipts and memoranda ("Audit Information") of Architect which are pertinent to the such reimbursable costs, expenses and payments. Should Owner desire to make an audit, Architect agrees to make available such Audit Information for at least three (3) years after the final billing for the services to be performed by Architect under this Agreement.

§ 11.10.5 Any request for payment by Architect shall contain a certification by the Architect that there are no written claims of mechanics' or material men's liens with respect to the services, that all due and payable bills with respect to the services have been paid to the date or shall be paid from the proceeds of such payment, that there is no known basis for the filing of any mechanics' or material men's liens on the Project, and that waivers from all of Architect's special consultants and subcontractors of all tiers constitute an effective waiver of lien under laws of Illinois to the extent of payments that have been made or with respect to payments that will be made concurrently with such payment.

If any claim or lien or stop-notice or any other demand for payment on security therefor, including claims or demands upon performance and payment bond sureties for the Project, is made or filed with the Owner or the Project by any person claiming that Architect or any Specialty Consultant or any other person claiming under any of them has failed to make payment for any labor, services, trust fund contribution, materials, equipment, taxes or other item furnished or obligation incurred for, or in connection with the services under this Agreement, or if at any time there shall be evidence of such nonperformance or nonpayment of any claim or lien or stop-notice or other demand for which, if established, the Owner or the Project might become liable, then the Owner shall have the right to retain from any payment then due or thereafter to become due under the Architect or to be reimbursed by Contractor for an amount sufficient to (i) satisfy, discharge and defend against any such claim or lien or stop-notice or other demand, or any action or proceeding thereon which may be brought to judgment or award; (ii) make good any such nonpayment, nonperformance, damage, failure or default; and (iii) compensate the Owner for and indemnify it against any and all loss, liability, damages, cost and expense (including attorneys' and consultants' fees and costs) which may be sustained or incurred in connection therewith.

Should any specialty consultant, supplier or other person claiming by, through or under Architect make, record or file, or maintain any action on or respecting a claim of mechanic's lien, stop-notice, equitable lien, payment or performance bond or a lis pendens, relating to the Project, the Architect shall immediately and at its own expense procure, furnish and record appropriate statutory release bonds.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

§ 12.1 It is intended that shall be the Principal-in-Charge, Carla Burkhart, President, Hurricane Graphics, Inc., shall be Project Manager, and the Project Designer. Assignment of field representatives and other Architect's personnel to the Project shall be at the discretion of the Architect, subject to change at the reasonable request of the Owner and shall be added to the project team when and as needed.

§ 12.2 Owner and Architect agree that time is of the essence of this Contract. In the event Architect is hindered, delayed or prevented from performing its obligations under this Agreement as a result of any fire, flood, landslide, tornado or other act of God, malicious mischief, theft, strike, lockout, failure of any governmental agency or Owner to furnish information or to approve or to disapprove Architect's work or any other cause beyond reasonable control of Architect, the time for completion of Architect's Work shall be extended by the period of resulting delay.

§ 12.3 Architect shall, to the best of its ability and otherwise in accordance with the Standard of Care, design the Project in accordance with and comply with all applicable laws existing as of the date bids for the Contract for Construction are to be received, including, without limitation, all provisions of the Illinois Human Rights Act (775 ILCS 5/1-101 et seq.), and specifically including, without limitation, Section 2-105 thereof (775 ILCS 5/2-105), and at all times during the performance hereunder shall maintain a sexual harassment policy in accordance with the provisions of that Act.

§ 12.4 Architect represents that it does not discriminate in its hiring practices based upon race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service. Architect shall assure the Owner that Trade Contractors shall not discriminate as set forth in this paragraph. 775 ILCS 5/2-1054; 44 Ill. Admin. Code §750 et seq.

§ 12.5 Architect represents that it is in conformance with a Drug Free Workplace Act. 30 ILCS 580/1 et seq.

§ 12.6 Architect shall certify that it is not barred from contracting as a result of bid rigging or bid rotation. 720 ILCS 5/33E-11.

§ 12.7 Upon direction of the Owner, each employee of Architect who shall have daily contact with students enrolled at one of the Owner's premises shall submit to a Criminal Background Check at Owner's expense. »

ARTICLE 13 SCOPE OF THE AGREEMENT

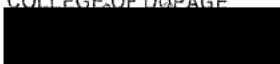
§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents listed below:

- Exhibit A Standard Board Approval Transmittal
- Exhibit B Scope of Basic Services
- Exhibit C Task Order NO: 001
- Exhibit D Standard Fee and Reimbursement Schedule
- Exhibit E Project Parameters
- Exhibit F Project Matrix Dated 8.20.12
- Exhibit G Remuneration and Project Budget
- Exhibit H Project Description
- Exhibit I AIA Document A201-2007

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

OWNER
COLLEGE OF DUPAGE


(Signature)
Thomas J. Glaser, Senior VP Administration and
Treasurer
(Printed name and title)

DESIGNER
HERRICANE GRAPHICS INC.



(Signature)
BURKHART, PRESIDENT
(Printed name and title)

Exhibit A

Consent Agenda
Item 9. B. 5) e)
April 19, 2012

COLLEGE OF DuPAGE REGULAR BOARD MEETING

STANDARD BOARD APPROVAL

1. SUBJECT

Signage Design Contract.

2. BUDGET STATUS

Funds in the amount of \$90,340.00 are being provided by the FMP Signage Budget #03-90-32758-5803001 and the Special Initiatives Budget #03-90-36771-5803001.

3. BACKGROUND INFORMATION

This item represents signage design for the following projects as well as future projects as identified:

College Chronology Wall	\$31,240.00
SRC South Atrium	\$30,000.00
SRC Donor Wall	\$15,000.00
SSC Lobby Column Design	\$3,500.00
SSC Board Room Signage	\$5,600.00
SRC North Lobby ID	<u>\$5,000.00</u>
Total	\$90,340.00

The fee for all projects includes planning, bidding, project management services and reimbursable expenses.

This purchase complies with State Statute, Board Policy and Administrative Procedures. The purchase of professional services are exempt from bidding under Illinois Public Community College Act, 110 ILCS 805/3-27.1.

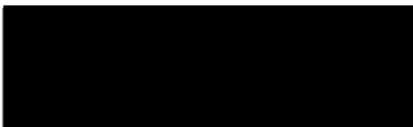



4. RECOMMENDATION

That the Board of Trustees approves a Signage Design Contract with Hurricane Graphics, 1275 W. Roosevelt Road, Suite 112, West Chicago, IL 60185 for a total expenditure of \$90,340.00.

SIGNATURE PAGE FOR SIGNAGE DESIGN CONTRACT.

ITEM(S) ON REQUEST

That the Board of Trustees approves a Signage Design Contract with Hurricane Graphics, 1275 W. Roosevelt Road, Suite 112, West Chicago, IL 60185 for a total expenditure of \$85,340.00.

	3/30/12
Director, Facilities Planning & Development	Date
	3/30/12
Director, Business Affairs	Date
	4/3/12
Senior Vice President, Administration and Treasurer	Date
	4/4/12
President	Date

COLLEGE OF DuPAGE
REGULAR BOARD MEETING

CONSTRUCTION-RELATED BOARD APPROVAL

1. SUBJECT

Ratification of Construction-Related Change Orders.

2. BUDGET STATUS

Change orders will be funded from the designated project's overall budget and fall within the project's approved budget. All change orders not in excess of \$100,000.00, or 10% of the contract price, have been approved by the Director of Facilities Planning and Development. All single change orders exceeding \$50,000.00 have been approved by the President. All single change orders exceeding \$100,000.00, or 10% of the contract price, require approval by the Board of Trustees. Multiple change orders to a single construction-related contract are allowed up to a cumulative limit of 20% of the original contract price. Multiple change orders exceeding 20% of the contract price require approval by the Board of Trustees.

3. BACKGROUND INFORMATION

Referendum-Related Projects

Design-Related Scope Change: BIC/SRC, Mortenson #210.1 and #220.

Owner-Requested Scope Change: 2011 Site and Grounds, A. Horn #06, #07; Pirtano #04; Central Lawn #01, #02; Abbey Paving #36, #38; BIC/SRC, Mortenson #223; CHC and HEC Signage Design, Herricane Graphics #01; HEC, Power #157; HEC 911 Signage, Herricane Graphics #01; HEC Streetscape Signage, Herricane Graphics #01; Parking, Abbey Paving #25, #27, #28, #29, #30, #31, #32; V3 Companies #02; PE Renovation, Power #03; SRC South Hallway, Mortenson #01; SSC Reception Desk Signage, Herricane Graphics #01

Result of Internal Audit: BIC/SRC, Mortenson #218.1 and #224.

Capital Budget Projects

Owner-Requested Scope Change: HSC Nursing Lab Remodel, Schwartz Construction Group #01.

4. RECOMMENDATION

That the Board of Trustees ratifies the Construction-Related Change Orders from the attached Summary for July 2012.

SUMMARY OF RATIFICATION OF CONSTRUCTION-RELATED CHANGE ORDERS

REFERENDUM-RELATED PROJECTS

- 2011 SITE AND GROUNDS – A. HORN #06: \$3,285.16. This change is to provide a stone veneer on the inside of the existing planter at the SRC South Plaza. *This is an Owner-Requested Scope Change.*
- 2011 SITE AND GROUNDS – A. HORN #07: \$18,876.00. This change is to provide precast caps and additional stone veneer for the concrete retaining walls along the sidewalks in the MAC Amphitheater. *This is an Owner-Requested Scope Change.*
- 2011 SITE AND GROUNDS – PIRTANO #04: \$2,776.50. This change is to provide exploratory excavation surveying of existing utilities at the proposed location of the MAC Tensile Structure foundations. *This is an Owner-Requested Scope Change.*
- 2012 SITE AND GROUNDS – CENTRAL LAWN #01: \$9,230.00. This change order reconciles the differences in unit-price quantities required by the contract documents and the quantities required by the Certified Irrigation Design. *This is an Owner-Requested Scope Change.*
- 2012 SITE AND GROUNDS – CENTRAL LAWN #02: \$5,350.00. This change order is for the installation of a new irrigation main across the top of the BIC South Hill. The existing irrigation main was found to be too shallow. *This is an Owner-Requested Scope Change.*
- 2012 SITE AND GROUNDS – ABBEY PAVING #36: \$67,587.56. This change order encompasses the scope of Project 10c - PE Canopy Trees. This work was structured as a change order to Abbey Paving's work as it incorporates areas where Abbey has existing responsibilities in their contract. *This is an Owner-Requested Scope Change.*
- 2012 SITE AND GROUNDS – ABBEY PAVING #38: \$34,207.97. As part of planned landscaping enhancements to the MAC Courtyard, this change order modifies the proposed irrigation to accommodate revised landscaping along the edge of Pond 2. This change order also includes the replacement of the existing irrigation control wire at the SRC South Plaza. *This is an Owner-Requested Scope Change.*
- BIC/SRC – MORTENSON #218.1: CREDIT (\$16,434.00). The C.O.D. Auditor has completed his final review of Owner Change Orders #06 through #10. This change order is to correct the overcharges. *This change order is the result of an Internal Audit.*
- BIC/SRC – MORTENSON #220: \$6,714.00. During construction it was found that there were areas of conflict with existing structural steel and existing wall thicknesses that required the 2-1/2" AV conduits to be rerouted. The cost is related to rerouting these conduits in 13 classrooms. *This is a Design-Related Scope Change.*
- BIC/SRC – MORTENSON #223: CREDIT (\$3,113.00). The original design drawings showed flooring work to be completed on the 1st and 2nd floor of the SRC. This work is being eliminated since the scope of work has changed and will be completed as part of the SRC South Hallway project. *This is an Owner-Requested Scope Change.*

- BIC/SRC – MORTENSON #224: CREDIT (\$1,157.00). The C.O.D. Auditor has completed his final review of Berger Excavation's change orders. This change order is to correct the overcharges. *This change order is the result of an Internal Audit.*
- BIC/SRC – MORTENSON: #210.1: \$30,246.00. During construction there were several mechanical and plumbing system Requests for Information's (RFI's) submitted which added additional costs and credits to the contract to finalized system detail work. *This is a Design-Related Scope Change.*
- CHC AND HEC SIGNAGE DESIGN – HERRICANE GRAPHICS: #01: \$14,487.00. This is a change order to increase the contract to Hurricane Graphics on the CHC & HEC Design projects. The initial project scope did not include specialty lobby or hotel signage or exterior specialty signage to accommodate the 'W' logo. This change order is for design and construction work to accommodate owner requested signage in various locations throughout the building. *This is an Owner-Requested Scope Change.*
- HEC – POWER: #157: \$30,970.00. This change is to provide user requested additional exhaust fans and associated control wiring work associated with the two rooms having artificial smoke systems. Due to increased program use, the users requested to have additional building controls over the system to remove the smoke from the building more quickly than initially intended in the base building design. Funds for this work are not provided by the construction budget but rather the space and planning funds. *This is an Owner-Requested Scope Change.*
- HEC 911 SIGNAGE – HERRICANE GRAPHICS #01: \$14,159.00. This is a change order to increase the contract to Hurricane Graphics. The initial contract was for design only. Hurricane was the successful contractor for installation as well. The total budget anticipated for this scope of work was \$32,254.00 and with this change this work is within that budget. *This is an Owner-Requested Scope Change.*
- HEC STREETSCAPE SIGNAGE – HERRICANE GRAPHICS: #01: \$9,317.00. This is a change order to increase the contract to Hurricane Graphics. The change is to accommodate the expedited schedule to install the signage by building grand opening ceremonies as well as minor accommodations for field conditions adjustments made onsite during installation. *This is an Owner-Requested Scope Change.*
- PARKING – ABBEY PAVING #25: \$20,461.53. This change order is to relocate existing irrigation main in conflict with new storm sewer. Repair existing irrigation main found to be leaking. Relocate water line in conflict with location of new electrical equipment. *This is an Owner-Requested Scope Change.*
- PARKING – ABBEY PAVING #27: \$1,289.40. This change order is for the additional utility locating costs associated with 2011 landscape projects #16 SRC South and #25 MAC Courtyard. *This is an Owner-Requested Scope Change.*
- PARKING – ABBEY PAVING #28: \$6,349.00. This change order is for the relocation of several existing underground electrical power and lighting conduits found to be in conflict with required project excavation. *This is an Owner-Requested Scope Change.*

- PARKING – ABBEY PAVING #29: \$5,082.00. This change order is to furnish cobble stones for erosion control pads at swales, because the reuse of existing cobbles not possible. *This is an Owner-Requested Scope Change.*
- PARKING – ABBEY PAVING #30: \$5,691.11. This change order is for lot patching and traffic control signage to make College Ave. Parking Lots 6 and 7 safer during the winter. *This is an Owner-Requested Scope Change.*
- PARKING – ABBEY PAVING #31: \$41,980.87. This change order is for soil stabilization, in excess of contract allowances, for College Ave. Parking Lot 6 (stage1) and Lot 1A. *This is an Owner-Requested Scope Change.*
- PARKING – ABBEY PAVING #32: \$925.58. This change order is for additional handicap parking pavement striping in College Ave. Parking Lot 1. *This is an Owner-Requested Scope Change.*
- PARKING – V3 COMPANIES #2: \$36,485.00. This change order is for additional design services for modifications to Pond 9 to accommodate storm water run-off associated with the new CMC Building. In addition, this design is to accommodate the west campus future buildings as shown in the Planned Unit Development. *This is an Owner-Requested Scope*
- PE RENOVATION – POWER #03: \$134,983.00. This change is for 3MD Relocation Services movers to relocate the MAC Performance department to west campus as a change order to their contract. *This is an Owner-Requested Scope Change.*
- SRC SOUTH HALLWAY – MORTENSON: #01: \$3,716.00. During the shop drawing review, it was determined that sidelights for the Media Room entrances did not show electric glass. This cost is to change the standard glass to the electric glass. *This is an Owner-Requested Scope Change.*
- SSC RECEPTION DESK SIGNAGE – HERRICANE GRAPHICS: #01: \$16,525.00. This is a change order to amend the Board approved signage design package approved previously for various signage work across campus. The total package of work previously awarded to Hurricane Graphics was \$90,340.00 for design services. The design services for the Student Services Center reception desk was mistakenly omitted. This change would increase the contract to include all design and engineering associated with this scope of work. Installation and construction is not included in this change. *This is an Owner-Requested Scope Change.*

CAPITAL BUDGET PROJECTS

- HSC NURSING LAB REMODEL – SCHWARTZ CONSTRUCTION GROUP #01: \$7,300.00. The nursing staff requested changes that would increase the space in the lab to add an additional bed. This change is for the cost to remove and refinish the walls and ceiling in the storage room and for the additional cost to move the door. *This is an Owner-Requested Scope Change.*

SIGNATURE PAGE FOR CONSTRUCTION-RELATED CHANGE ORDERS

ITEM(S) ON REQUEST

That the Board of Trustees approves the Construction-Related Change Orders listed for July 2012.

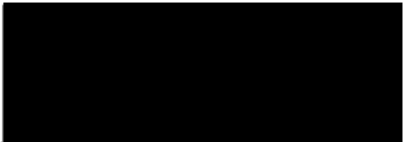
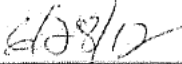

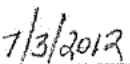

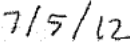
	
John Wandolowski, Director Facilities Planning & Development	Date
	
Senior Vice President, Administration and Treasurer	Date
	For DR. BREUER 
President	Date

Exhibit B

SCOPE OF BASIC SERVICES

Project Descriptions:

See attachments for detailed descriptions of each of the following projects:

- A. Student Services Center Lobby/Reception Signage
- B. Student Services Center Column Covers
- C. SRC South Atrium Signage
- D. SRC North Lobby Signage
- E. President's Chronology Wall
- F. SRC Donor Wall
- G. Student Services Center Board Room Signage

Pre-Design Services:

Existing Conditions Survey

The Client shall provide Consultant with available digital files of the site as well as any other relevant information. Consultant shall survey the existing conditions and take accurate measurements of the required area of Work. Consultant shall prepare a complete set of Existing Conditions Survey documents, which will include an elevation of each area of work. These documents will be used by the Consultant to perform the following Design Services.

Design Services:

Programming Phase

Programming is the process of identifying and organizing essential information about the project, as it exists, and how it relates to the Project as described above. Consultant will provide one (1) meeting to discuss the Client's priorities and establish the Project requirements, including an initial project budget.

A Program Statement shall be prepared by the Consultant and it shall be approved by the Client prior to proceeding with any design work.

Schematic Design Phase

With the Client's approval of the Program Statement, the Consultant shall prepare a Schematic Design for three (3) proposed solutions to the Project, as described on page one. Each Schematic Design will include floor plans and building elevations illustrating the project with the changes proposed by each Schematic Design.

The Consultant will provide one (1) meeting to present the Schematic Design solutions. The Client shall select one (1) proposed solution and discuss any changes required to better meet the Project requirements. The Consultant will prepare a maximum of two (2) revisions during the Schematic Design Phase and meet to present each revision. Any additional revisions during the Schematic Design Phase shall be considered Additional Services.

The Consultant must also furnish the Client with a Statement of Probable Construction Cost. The Schematic Design drawings shall be approved by the Client prior to proceeding to the next phase.

Design Development Phase

With the Client's approval of the Schematic Design, the Consultant shall develop additional details to fix and describe the character of the Project. For example, interior spaces that require special design features, treatments and/or upgrades shall be incorporated into the Design Development drawings.

The Consultant shall assist the Client in the selection of hardware, finishes, materials, substrates, fixtures, tile, stone, decorative lighting and paint colors.

The Design Development drawings shall be approved by the Client prior to proceeding to the next phase.

Construction Documents Phase

Based on the approved Schematic Design and Design Development drawings and any further adjustments in the scope and/or the budget for the Project, the Consultant shall prepare Construction Documents consisting of drawings and specifications that will describe the scope of work and be suitable for filing with the Building Department and for construction by a qualified General Contractor.

Construction Documents shall include, but not be limited to:

- Fully coordinated documents conforming to applicable district, municipal, county, state and federal laws, regulations, ordinances and interpretations of same.
- Architectural Floor Plans delineate the existing construction, demolition, new construction, and the cross referencing of details and sections on subsequent drawings.
- Building Elevations at each exterior facade show the existing residence with the proposed new construction including notes indicating finishes, materials and any special conditions.
- Details, Sections, Schedules and Notes communicate, in detail, different aspects of the design relating to construction and/or code requirements. These details are essential in conveying the design concept to the General Contractor, the subcontractors and to the Building Department.
- The Consultant will develop, coordinate and complete the technical specifications, which designate all construction materials, systems, qualities, workmanship and equipment, using the CSI format. Front End Documents (General and Supplementary Conditions) will be provided by the Client but will be incorporated by the Consultant into the Project Manual.
- The Consultant provide a Statement of Probable Construction Cost for all items included in the Construction Documents.
- Engineering Note: The Consultant's Scope of Services does not include mechanical, electrical, plumbing, fire suppression, structural or civil engineering. See the attached Standard Terms and Conditions for more information.

The Construction Documents shall be approved by the Client prior to proceeding to the next phase.

Bidding and Selection of Contractors

The Consultant shall assist the Client in assembling and evaluating the bid package which will include:

- Preparing the Construction Documents to the Client in an editable Word format.
- The Consultant will electronically provide Bid Documents to COD Purchasing Department and COD reproduction service company (if required) for copy and distribution by COD to bidders.
- Actively assisting the College with bidder participation
- Coordinate and attend a pre-bid meeting with the Bidders (as required) providing the College with meeting minutes from pre-bid meeting comments.
- Address Bidder's questions and concerns (as required) The Consultant will answer questions, supply additional details to the Bid Documents, and clarify contradictions or ambiguities in documents through the issuance of Addenda. All clarifications shall be distributed electronically by the Consultant to the Client for distribution to bidders.
- Assist the Client with the evaluation of the bids in written format.
- Assist the Client with the awarding of the contract

All correspondence is to go directly through the Client's Purchasing or Project Management staff as the direct point of contact (depending on project size and scope).

Construction Administration Phase

Based on the signed contract between College of DuPage and the General Contractor, the Consultant shall provide the following services during construction.

The Consultant shall attend Project coordination meetings with the Client and the General Contractor as reasonably required to assist in expediting the Project and to provide clarification of construction documents. The Consultant shall visit the Project site at regular intervals (as negotiated) or as appropriate to monitor the progress of the work and determine whether the work is in accordance with the Construction Documents. The Consultant shall recommend the rejection of any work that is not in accordance with the Construction Documents.

The Consultant shall review and certify the Contractors' request for payment.

The Consultant shall review and take appropriate action in a timely manner on all subcontractors' submittals such as shop drawings, product data and/or samples. The Consultant shall prepare supplemental and clarification drawings, as required. At substantial completion, the Architect shall prepare a "punch list" of work to be corrected and review the corrective work to completion.

The Consultant shall review the status of construction to determine the dates of substantial completion and final completion, and shall receive and forward to the Client written warranties and related documents assembled by the General Contractor and subcontractors.

SCHEDULE

The Consultant will meet the schedules identified in the attached Project Descriptions.

EXHIBIT C

TASK ORDER NO: 001

CONSULTANT TRACKING NO: 00-146

This is a Task Order executed pursuant to the terms of the Consultant Agreement entered into between COLLEGE OF DUPAGE NO. 502 (Client) and Hurricane Graphics (Consultant) on or about Date This Task Order is an amendment to said Agreement.

Date: 8/25/12

Project: Campus Special Initiatives and Signage (excludes Wayfinding)

Services: See Exhibit E for scope of services

Budget: \$571,000

A. Services Required (Check all required):

Pre-Design Services (e.g. programming)
Design Phase Services
 Schematic Design
 Design Development
 Construction Documents
Construction Cost Estimates
Bidding Phase Services
Construction Phase Services
Other Describe: _____

B. Schedule (See Exhibit E for Schedule Duration)

Date of Commencement: _____

Date of Completion of Schematic Design: _____

Date of Completion of Design Development: _____

Date of Completion of Construction Documents: _____

Date of Completion of Construction: _____

Date of Construction Final Completion: _____

C. Basis of Payment (Choose One).

1. Lump Sum

If Lump Sum is chosen, the Lump Sum Fee for Consultant's Services shall be:

One Hundred Sixteen Thousand Sixty Six Dollars (written in words).

\$ 116.066 (Written in numerals).

2. Reimbursable Hourly Rate.

Consultant's Hourly Rates at commencement of this Task Order are attached as Exhibit D. Total compensation to Consultant for reimbursement for hours expended and costs of subconsultants shall not exceed \$ 15,000 without prior written consent of Client

3. Reimbursables Expenses are to be reimbursed separately.

Reimbursables Expenses shall not exceed \$ _____ without prior written consent of Client Consultant mark-up on Reimbursables Expenses shall be _____%.

D. Other Terms:

E. Entire Agreement

This Task Order represents the entire agreement between Consultant and Client for this specific Task, and supersedes all prior negotiations or agreements (except the Agreement), written or oral, relating to this Task but which are not included herein. This Task Order may only be amended by written instrument executed by Client and Consultant

COLLEGE OF DUPAGE
DISTRICT NO. 502

Herricane Graphics

By: _____

By: _____

Its: _____

Its: _____

Date: _____

Date: _____

EXHIBIT D

Standard Fee and Reimbursement Schedule

Herricane Graphics
West Chicago, Illinois
August 8, 2012

PROFESSIONAL AND TECHNICAL STAFF

Principal / Designer	\$150 per hour
Project Manager	\$125 per hour
Junior Designer	\$105.00 per hour
Project Staff	\$85.00 per hour
Draftsperson	\$85.00 per hour
Clerical Staff	\$50.00 per hour

All billing is based on (3) three hour increments.

These billing rates are subject to semi-annual review and revision.

REIMBURSABLE EXPENSES

Mileage Travel and Subsistence	\$0.50/mile
FedEx, Postage, etc.	Cost
Copies (8-1/2" x 11")	\$0.10/copy
Color Copies (8-1/2" x 11")	Cost+ 15%
Color Copies (11" x 17") Plotting	Cost+ 15%
Reproduction and Printing	Cost+ 15%
Materials Equipment Rental	Cost+ 15%
Subcontract Services	Cost+ 15%
Art, Fonts, Images, Prototyping	Cost + 15%

Travel expenses should they be required are also additional. Travel could infer parking, mileage, air etc. Mileage exceeding 50 miles per COD request is acceptable.

INVOICES

An initial payment retainer of \$1,000.00 dollars (\$ 1,000.00) shall be paid to the Consultant prior to commencement of the Scope of Services and shall be credited toward the Client's final payment.

Progress invoices and associated lien wavers shall be issued monthly and payment is due upon receipt

EXHIBIT E

PROJECT PARAMETERS

1. "Client" or "Owner" shall mean College of DuPage (COD). The term "subconsultants" shall mean those firms contracted to Hurricane Graphics for production of the work.
2. Exclusions to the scope include; architecture, geotechnical, survey, construction layout, construction testing, structural engineering, and any LEED design or submittal requirements, although Hurricane will coordinate our Work with COD and their separate consultants and contractors.
3. Digital files shall refer to text documents (specifications) produced in Microsoft Office Word 2007 (or current) format and drawing documents produced in AutoCAD Version 2009 (or current).
4. Reproduction services of documents for Client review, permits and bidding shall be the responsibility of the Client.
5. Hurricane will prepare all meeting minutes for meetings we attend and distribute to COD and participants. Hurricane to furnish 'hand written' meeting notes to the Client for reference.
6. COD will serve as the initial point of contact for the contractor during construction.

Exhibit F

Project Matrix
Update 11.1.12

Project Name	Anticipated Design per Hurricane Graphics							Board Approved Value:
	Planning	Design/ Construction Documentation	Bidding	Project Management	Expenses	Design Total	Board Approval	
Signage Projects								
A. SCC Lobby Reception	\$ 11,440.00	\$ 975.00	\$ 1,700.00	\$ 2,410.00	\$ -	\$ 16,525.00	7.19.12	\$ 16,525.00
B. SSC Lobby Column Covers	\$ 3,500.00	\$ 470.00	\$ 235.00	\$ 820.00	\$ -	\$ 5,025.00	4.19.12	\$ 3,500.00
C. SRC South Atrium	\$ 13,415.00	\$ 2,780.00	\$ 3,535.00	\$ 4,390.00	\$ 6,658.50	\$ 30,778.50	4.19.12	\$ 30,000.00
D. SRC North Lobby Design	\$ 5,002.50	\$ 1,115.00	\$ 750.00	\$ 1,940.00	\$ -	\$ 8,807.50	4.19.12	\$ 5,000.00
E. SRC Chronology Wall	\$ 16,525.00	\$ 1,610.00	\$ 2,165.00	\$ 4,810.00	\$ 6,130.00	\$ 31,240.00	4.19.12	\$ 31,240.00
F. SRC Donor Wall	TBD	TBD	TBD	TBD	TBD	\$ 15,000.00	4.19.12	\$ 15,000.00
G. SSC Board Room Signage	\$ 5,100.00	\$ -	\$ 810.00	\$ 2,280.00	\$ 500.00	\$ 8,690.00	4.19.12	\$ 5,600.00
					Totals:	\$ 116,066.00		\$ 106,865.00

Exhibit G

REMUNERATION AND PROJECT BUDGET

Labor Fee: Lump sum fees are provided in the Project Matrix dated 8/20/12

Reimbursable Expenses: Reimbursable expenses are included in lump sum labor fee.

Extra Services:

Services in addition to those described above are to be compensated at the hourly rates noted, and for related reimbursable expenses, in accordance with the attached Standard Fee and Reimbursement Schedule for the actual hours worked and costs incurred.

Compensation for Design Services during the Design Development through Construction Administration phases described above shall be based on 20 percent (20%) of the Construction Cost, as defined in the attached Standard Terms and Conditions.

The total basic compensation shall be divided by phase as described below:

Design Development Phase: 30%	(thirty percent)
Construction Documents Phase: 40%	(forty percent)
Bidding and Selection of GC: 10%	(ten percent)
Construction Administration Phase: 20%	(twenty percent)
Basic Compensation: 100%	(one hundred percent)

Exhibit H

PROJECT DESCRIPTION A

Name: Student Services Center Lobby/Reception Signage

Schedule: Design Completion: 7/1/12
Construction Documentation Completion: 11/16/12
Bidding: 11/19-11/30/12
Installation: TBD
Substantial Completion: 1/11/13

Construction Budget and Remuneration: Per Project Matrix dated 8/20/12

PROJECT DESCRIPTION B

Name: Student Services Center Column Covers

Schedule: Design Completion: 8/1/12
Construction Documentation Completion: 8/31/12
Bidding: 9/3-9/7/12
Installation: 12/3-12/7 (This time altered for the 1st floor graphics installation added later.)
Substantial Completion: 12/7/12

Construction Budget and Remuneration: Per Project Matrix dated 8/20/12

PROJECT DESCRIPTION C

Name: SRC South Atrium Signage

Schedule: Design Completion: 8/31/12
Construction Documentation Completion: 9/14/12
Bidding: 2nd time- 11/7-11/20/12
Board Award: 12/15/12
Installation: TBD
Substantial Completion: 3/4 – 3/8/13

Construction Budget and Remuneration: Per Project Matrix dated 8/20/12

PROJECT DESCRIPTION D

Name: SRC North Lobby Signage

Schedule: Design Completion: 6/26/12
Construction Documentation Completion: 6/26/12
Bidding: 7/1-7/9/12 Rebid 8/13-8/17/12
Installation: 10/15-10/19
Substantial Completion: 10/26/12

Construction Budget and Remuneration: Per Project Matrix dated 8/20/12

PROJECT DESCRIPTION E

Name: President's Chronology Wall

Schedule: Design Completion: 9/14/12 Design Revision 11/20
Construction Documentation Completion: 11/30/12
Bidding: 12/4-12/18/12
Board Award: 1/15/13
Installation: TBD
Substantial Completion: 3/30/13

Construction Budget and Remuneration: Per Project Matrix dated 8/20/12

PROJECT DESCRIPTION F

Name: SRC Donor Wall

Schedule: Design Completion: TBD
Construction Documentation Completion: TBD
Bidding: TBD
Board Award: TBD
Installation: TBD
Substantial Completion: TBD

Construction Budget and Remuneration: Per Project Matrix dated 8/20/12

PROJECT DESCRIPTION G

Name: SSC Board Room Signage

Schedule: Design Completion: 6/14/12
Construction Documentation Completion: 6/14/12
Bidding: 6/18-6/28/12
Installation: 8/1-8/31/12
Substantial Completion: 8/31/12



COLLEGE OF DUPAGE

Purchasing

425 Fawell Blvd.
Glen Ellyn, Illinois 60137-6599
www.cod.edu

630 942-2216
FAX 630 858-9078

Notice to Proceed

December 6, 2012

Hurricane Graphics
1275 W. Roosevelt Rd., Suite 112
West Chicago, IL 60185
Attn: Carla Burkhart

Reference: Signage Design

Enclosed please find your copy of the above referenced contract.

This contract has been approved by the Board of Trustees and signed by the proper official on behalf of the College of DuPage.

Please note that the Contract calls for submittal of a Certificate of Insurance within ten days of receipt of this notice. The items are to be delivered to the College of DuPage Purchasing Manager.



Patrick J. McFadden
Purchasing Manager

PJM/tmb

Enclosure

Cc: File
Bruce Schmiedl w/attachment

