



**AIA**<sup>®</sup>

# Document A141<sup>™</sup> – 2014 Exhibit A

## Design-Build Amendment

This Amendment is incorporated into the accompanying AIA Document A141<sup>™</sup>-2014, Standard Form of Agreement Between Owner and Design-Builder dated the      day of      in the year      (the "Agreement")  
*(In words, indicate day, month and year.)*

### for the following PROJECT:

Heckart Lodge – Graduate School, 2900 SW Jefferson Way, Corvallis, OR 97333

### THE OWNER:

*(Name, legal status and address)*

Oregon State University  
Attn: Debera Massahos  
644 SW 13th Street  
Corvallis, OR 97333

Phone: 541-737-4261  
Fax: 541-737-2170

### THE DESIGN-BUILDER:

*(Name, legal status and address)*

The Owner and Design-Builder hereby amend the Agreement as follows.

### TABLE OF ARTICLES

- A.1 CONTRACT SUM
- A.2 CONTRACT TIME
- A.3 INFORMATION UPON WHICH AMENDMENT IS BASED
- A.4 DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS
- A.5 COST OF THE WORK

### ARTICLE A.1 CONTRACT SUM

§ A.1.1 The Owner shall pay the Design-Builder the Contract Sum in current funds for the Design-Builder's performance of the Contract after the execution of this Amendment. The Contract Sum shall be the Cost of the Work plus the Design-Builder's Fee with a Guaranteed Maximum Price, in accordance with Section A.1.4 below and shall not include compensation the Owner paid the Design-Builder for Work performed prior to execution of this  
*(Paragraphs deleted)*  
Amendment.

### 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. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

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§ A.1.2 [Intentionally deleted.]  
§ A.1.2.1 [Intentionally deleted.]

§ A.1.2.2  
*(Paragraphs deleted)*  
[Intentionally deleted.]

§ A.1.2.3  
*(Paragraphs deleted)*  
[Intentionally deleted.]  
*(Table deleted)*  
*(Paragraph deleted)*

§ A.1.3 [Intentionally deleted.]  
§ A.1.3.1 [Intentionally deleted.]

§ A.1.3.2  
*(Paragraphs deleted)*  
[Intentionally deleted.]

**§ A.1.4 Cost of the Work Plus Design-Builder's Fee With a Guaranteed Maximum Price**

§ A.1.4.1 The Cost of the Work is as defined in Article A.5, Cost of the Work.

§ A.1.4.2 The Design-Builder's Fee:  
*(State a lump sum, percentage of Cost of the Work or other provision for determining the Design-Builder's Fee and the method for adjustment to the Fee for changes in the Work.)*

**§ A.1.4.3 Guaranteed Maximum Price**

§ A.1.4.3.1 The sum of the Cost of the Work and the Design-Builder's Fee is guaranteed by the Design-Builder not to exceed (\$ ), subject to additions and deductions for changes in the Work as provided in the Design-Build Documents. Such maximum sum is referred to in the Design-Build Documents as the Guaranteed Maximum Price. Costs that would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Design-Builder without reimbursement by the Owner.

*(Paragraph deleted)*

In the event the final sum of the Cost of the Work plus the final Design-Builder's Fee is less than the final Guaranteed Maximum Price, the savings shall devolve 100% to the Owner and 0% to the Design-Builder. In the event of any such savings, upon the making of final payment, the Guaranteed Maximum Price shall be deemed to be reduced by the amount of any difference between the Guaranteed Maximum Price and the Cost of the Work plus the Design-Builder's Fee so that the final amount of the Guaranteed Maximum Price is equal to the Cost of the Work plus the Design-Builder's Fee as of the date of such final payment.

**§ A.1.4.3.2 Itemized Statement of the Guaranteed Maximum Price**

Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, allowances, contingencies, alternates, the Design-Builder's Fee, and other items that comprise the Guaranteed Maximum Price.

*(Provide information below or reference an attachment.)*

§ A.1.4.3.3 The Guaranteed Maximum Price includes the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:

*(State the numbers or other identification of accepted alternates. If the Owner is permitted to accept other alternates subsequent to the execution of this Amendment, attach a schedule of such other alternates showing the change in the*

*Cost of the Work and Guaranteed Maximum Price for each and the deadline by which the alternate must be accepted.)*

**§ A.1.4.3.4** Unit Prices, if any:  
*(Identify item, state the unit price, and state any applicable quantity limitations.)*

Item	Units and Limitations	Price per Unit (\$0.00)
The Design-Builder acknowledges and agrees that the quantities indicated in Section A.1.4.3.4, if any, are estimates and that the Owner is not a guarantor of any particular quantities of unit price Work. In the event the actual quantities differ so significantly from the estimated quantities that application the agreed unit prices would result in an inequity to either the Owner or the Design-Builder, the unit prices shall be equitably adjusted.		

**§ A.1.4.3.5** Assumptions, if any, on which the Guaranteed Maximum Price is based:

**§ A.1.5 Payments**

**§ A.1.5.1 Progress Payments**

**§ A.1.5.1.1** Based upon Applications for Payment submitted to the Owner by the Design-Builder, Owner shall make progress payments on account of the Contract Sum, less 5% retainage, to the Design-Builder as provided below and elsewhere in the Design-Build Documents. A progress payment shall not be considered acceptance or approval of any Work or waiver of any defects therein.

**§ A.1.5.1.2** The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

**§ A.1.5.1.3** Provided that an Application for Payment is received not later than the first day of the month, the Owner shall make payment of the approved amount to the Design-Builder not later than the fifteenth day of the following month. If an Application for Payment is received by the Owner after the application date fixed above, payment shall be made by the Owner not later than forty-five ( 45 ) days after the Owner receives the Application for Payment.

*(Federal, state or local laws may require payment within a certain period of time.)*

**§ A.1.5.1.4** With each Application for Payment the Design-Builder shall submit certified payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, documentation of any reimbursable expenses and any other evidence required by the Owner to demonstrate that cash disbursements already made by the Design-Builder on account of the Cost of the Work equal or exceed (1) progress payments already received by the Design-Builder, less (2) that portion of those payments attributable to the Design-Builder's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

**§ A.1.5.1.5** The Design-Builder shall submit the most recent schedule of values in accordance with the Design-Build Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work. Compensation for design services, if any, shall be shown separately. The Design-Builder's Fee shall be shown separately. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule of values, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

**§ A.1.5.1.6** In taking action on the Design-Builder's Applications for Payment, the Owner shall be entitled to rely on the accuracy and completeness of the information furnished by the Design-Builder and shall not be deemed to have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Sections A.1.5.1.4 or A.1.5.1.5, or other supporting data; to have made exhaustive or continuous on-site inspections;

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or to have made examinations to ascertain how or for what purposes the Design-Builder has used amounts previously paid. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ A.1.5.1.7 Except with the Owner's prior approval, the Design-Builder shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ A.1.5.2 [Intentionally deleted.]

§ A.1.5.2.1 [Intentionally deleted.]

§ A.1.5.2.2

*(Paragraphs deleted)*

[Intentionally deleted.]

§ A.1.5.2.3

*(Paragraphs deleted)*

[Intentionally deleted.]

§ A.1.5.2.4 [Intentionally deleted.]

§ A.1.5.3 [Intentionally deleted.]

§ A.1.5.3.1 [Intentionally deleted.]

§ A.1.5.3.2

*(Paragraphs deleted)*

[Intentionally deleted.]

§ A.1.5.3.3 [Intentionally deleted.]

**§ A.1.5.4 Progress Payments—Cost of the Work Plus a Fee with a Guaranteed Maximum Price**

§ A.1.5.4.1 Applications for Payment where the Contract Sum is based upon the Cost of the Work Plus a Fee with a Guaranteed Maximum Price shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Design-Builder on account of that portion of the Work for which the Design-Builder has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ A.1.5.4.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 6.3.9 of the Agreement.
- .2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 Add the Design-Builder's Fee. The Design-Builder's Fee shall be computed upon the Cost of the Work at the rate stated in Section A.1.4.2 or, if the Design-Builder's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .4 Subtract retainage of five percent ( 5 %);
- .5 Subtract the aggregate of previous payments made by the Owner;

- .6 Subtract the shortfall, if any, indicated by the Design-Builder in the documentation required by Section A.1.5.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .7 Subtract amounts, if any, for which the Owner has withheld or nullified a payment as provided in Section 9.5 of the Agreement.

**§ A.1.5.4.3** The Owner and Design-Builder shall agree upon (1) a mutually acceptable procedure for review and approval of payments to the Architect, Consultants, and Contractors and (2) subject to Section 9.6.9.7 of the Agreement, the percentage of retainage held on agreements with the Architect, Consultants, and Contractors; and the Design-Builder shall execute agreements in accordance with those terms.

**§ A.1.5.4.4** All Applications for Payment, even those submitted pursuant to Section A.1.5.4.2, must include the documentation required in Section A.1.5.1.4.

#### **§ A.1.5.5 Final Payment**

**§ A.1.5.5.1** Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Design-Builder not later than 45 days after the Design-Builder has fully performed the Contract and the requirements of Section 9.10 of the Agreement have been satisfied, except for the Design-Builder's responsibility to correct non-conforming Work discovered after final payment or to satisfy other requirements, if any, which extend beyond final payment.

**§ A.1.5.5.2** If the Contract Sum is based on the Cost of the Work, the Owner's auditors will review and report in writing on the Design-Builder's final accounting within 30 days after the Design-Builder delivers the final accounting to the Owner. Based upon the Cost of the Work the Owner's auditors report to be substantiated by the Design-Builder's final accounting, and provided the other conditions of Section 9.10 of the Agreement have been met, the Owner will, within seven days after receipt of the written report of the Owner's auditors, either issue a final approval of payment, or notify the Design-Builder in writing of the reasons for withholding approval as provided in Section 9.5.1 of the Agreement.

**§ A.1.5.5.3** If Owner's accountants report the Cost of the Work as substantiated by the Design-Builder's final accounting to be less than claimed by the Design-Builder or if Owner's Authorized Representative declines to approve any duly submitted payment request by Design-Builder, the Design-Builder shall be entitled to demand a review by the Owner's Chief Procurement Officer of the disputed amount. Such demand shall be made by the Design-Builder within 30 Days after the Design-Builder's receipt of a copy of the rejection of the application for payment; failure to demand additional review within this 30-Day period shall result in the substantiated amount reported by Owner's accountants becoming binding on the Design-Builder. In addition, If Owner or any other state agency performs a subsequent audit of the Cost of the Work and determines any item therein to have been unsubstantiated or that Design-Builder was otherwise overpaid, Design-Builder shall have 30 Days after delivery of request for reimbursement by Owner to demand additional review by Owner's highest contracting authority; failure to make such demand within this 30 Day period shall result in the requested reimbursement becoming unconditionally due and payable by Design-Builder. If Design-Builder timely submits a protest to the Owner's highest contracting authority, Design-Builder's Claim shall be subject to the claims review process in Section 14.1.3. Pending a final resolution, Owner shall pay the Design-Builder the amount of the application for payment approved by the Owner's Authorized Representative.

### **ARTICLE A.2 CONTRACT TIME**

**§ A.2.1** Contract Time, as defined in the Agreement at Section 1.4.13, is the period of time, including authorized adjustments, for Substantial Completion of the Work.

**§ A.2.2** The Design-Builder shall achieve Substantial Completion of the Work not later than *(Paragraphs deleted)* the date set forth in Section 1.1.7 of the Agreement.

### **ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED**

**§ A.3.1** The Contract Sum and Contract Time set forth in this Amendment are based on the following:

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**User Notes:** (1165248878)

§ A.3.1.1 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
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§ A.3.1.2 The Specifications, which shall not alter the Owner's Criteria unless specifically identified below:  
(Either list the specifications here or refer to an exhibit attached to this Amendment.)

Section	Title	Date	Pages
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§ A.3.1.3 The Drawings, which shall not alter the Owner's Criteria unless specifically identified below:  
(Either list the drawings here or refer to an exhibit attached to this Amendment.)

Number	Title	Date
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§ A.3.1.4 The Sustainability Plan, if any:  
(If the Owner identified a Sustainable Objective in the Owner's Criteria, identify the document or documents that comprise the Sustainability Plan by title, date and number of pages, and include other identifying information. The Sustainability Plan identifies and describes the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner's and Design-Builder's roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews, testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project, as those terms are defined in Exhibit C to the Agreement.)

Title	Date	Pages
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Other identifying information:

§ A.3.1.5 Allowances and Contingencies:  
(Identify any agreed upon allowances and contingencies, including a statement of their basis.)

.1 Allowances

.2 Contingencies

§ A.3.1.6 Design-Builder's assumptions and clarifications:

§ A.3.1.7 Deviations from the Owner's Criteria as adjusted by a Modification:

§ A.3.1.8 To the extent the Design-Builder shall be required to submit any additional Submittals to the Owner for review, indicate any such submissions below:

#### ARTICLE A.4 DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS

§ A.4.1 The Design-Builder's key personnel are identified  
(Paragraphs deleted)  
in the Agreement.

§ A.4.2 The Design-Builder shall retain the following Consultants, Contractors and suppliers, identified below:  
(List name, discipline, address and other information.)

#### ARTICLE A.5 COST OF THE WORK

##### § A.5.1 Cost To Be Reimbursed as Part of the Contract

##### § A.5.1.1 Labor Costs

§ A.5.1.1.1 Wages of construction workers directly employed by the Design-Builder to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ A.5.1.1.2 With the Owner's prior approval, wages or salaries of the Design-Builder's supervisory and administrative personnel when stationed at the  
(Paragraphs deleted)  
site and wages or salaries of the Design-Builder's supervisory and administrative personnel when stationed at the Design-Builder's home office, but only for that portion of their time required for the Work.  
(Table deleted)

§ A.5.1.1.3 Wages and salaries of the Design-Builder's supervisory or administrative personnel engaged at factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ A.5.1.1.4 Costs paid or incurred by the Design-Builder for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Section A.5.1.1.

§ A.5.1.1.5 [Intentionally deleted.]

§ A.5.1.2 **Contract Costs.** Payments made by the Design-Builder to the Architect, Consultants, Contractors and suppliers in accordance with the requirements of their subcontracts.

##### § A.5.1.3 Costs of Materials and Equipment Incorporated in the Completed Construction

§ A.5.1.3.1 Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction, provided such materials and equipment are not customarily the Design-Builder's responsibility and such materials and equipment are only used on the Project. The purchase of any such materials and equipment costing in excess of one hundred dollars (\$100) must be recorded and tracked by the Contractor.

§ A.5.1.3.2 Costs of materials described in the preceding Section A.5.1.3.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, given to Owner's surplus property.

##### § A.5.1.4 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ A.5.1.4.1 Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Design-Builder at the site and fully consumed in the performance of the Work, provided the

provision of such materials, supplies, temporary facilities, machinery, equipment and hand tools are not customarily the Design-Builder's responsibility and are only used on the Project. The purchase of any materials, supplies, machinery, equipment and hand tools costing in excess of one hundred dollars (\$100) must be recorded and tracked by the Contractor. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Design-Builder shall mean fair market value. Materials, supplies, temporary facilities, machinery, equipment and hand tools for which Owner has reimbursed the Design-Builder, shall become the Owner's property at the completion of the Work or, at the Owner's option, given to Owner's surplus property.

**§ A.5.1.4.2** Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers, which are provided by the Design-Builder at the site, whether rented from the Design-Builder or others, and costs of transportation, installation, minor repairs, and replacements, dismantling, and removal thereof. Rates and quantities of equipment rented shall be according to industry standards, shall not exceed 100% of the rental rates published from time to time in the Rental Rate Blue Book for Construction Equipment, prepared by Machinery Information Division of Primedia Information Incorporated in effect at the time of rental, shall not exceed acquisition costs, and for individual items exceeding \$10,000, will be subject to Owner's prior approval. Design-Builder shall deliver to Owner a list of published rates from time to time at Owner's request. For all items rented or leased, the Design-Builder shall charge Owner only the rental charge incurred by Design-Builder with no additional administrative or other mark-up. Design-Builder shall make efforts and use its best skills and judgment to procure equipment in the most expeditious and economical manner consistent with the interest of the Owner. Efforts shall include, but not be limited to, providing Owner with a rent/buy analysis so that Owner may elect for Design-Builder to procure the item in lieu of rental if the facility at issue is expected to be rented for six months or longer. Such rent/buy analysis shall include, where available, a leasing rate commensurate with the expected term of rental of the facility at issue. Inclusions to and exclusions from rental rates will be made in accordance with American Association of Equipment Dealer standards.

**§ A.5.1.4.2.1** Design-Builder owned, hired, leased, or rented construction equipment, machinery, motor vehicles, scaffolds, and tools costing more than \$5,000 each, used in the proper performance of Work and not typically owned by workers, at the actual rates incurred by Design-Builder, which in no event shall exceed the rates listed in the "Construction Equipment Cost Schedule," which is attached to the Agreement as Exhibit J and incorporated herein by reference, or if unlisted, at rates not greater than the fair rental rates for such items in the general vicinity of the Site; whether listed on Exhibit J or unlisted, the total accumulated amount payable to Design-Builder for a particular item of equipment, machinery, motor vehicle, scaffold, or tool costing more than \$5,000 shall not exceed seventy (70%) percent of the depreciated fair market value of such item when first put into service in connection with the Work. Fair rental rates shall take into account the condition, obsolescence, availability, rental period, and the amount and type of use of such equipment, machinery, or tool.

**§ A.5.1.4.3** Costs of removal and proper disposal of debris from the site of the Work and its proper and legal disposal.

**§ A.5.1.4.4** Those portion of the costs of telephone, water, electricity and other utility services directly related to Design-Builder's Work at the Project site, document reproductions, electronic communications, postage and parcel delivery charges, dedicated data and communications services, teleconferences, Project websites, extranets and reasonable petty cash expenses of the site office. To the extent Design-Builder is using telephone and other utility services for purposes other than Work on the Project, only those portions of the telephone and other utility services directly related to Design-Builder's Work on the Project are to be reimbursed as part of the Contract.

**§ A.5.1.4.5** Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior written approval.

#### **§ A.5.1.5 Miscellaneous Costs**

**§ A.5.1.5.1** Premiums for the cost of that portion of insurance and bonds required by the Design-Build Documents that are directly attributed to the Contract except that Owner's prior written approval is required for subguard. Requests for subguard approval require Design-Builder to submit a detailed cost breakdown including but not limited to the premium cost and administrative cost. Design-Builder shall be responsible and pay for all self-insured retentions and deductibles on all insurance furnished by Design-Builder without reimbursement from Owner.



Premiums for payment and performance bonds furnished by Design-Builder in accordance with the Contract Documents if and to the extent payment and performance bonds required by the Contract Documents. All bond costs are to be at actual and auditable cost, inclusive of all premium adjustments, credits, dividends, and rebates. Actual and auditable costs will govern over any proposals, stipulated rates, or schedules. Owner may require Design-Builder to provide a copy of a certificate of insurance and a financial endorsement for any reimbursable insurance.

§ A.5.1.5.2 Sales, use or similar taxes imposed by a governmental authority that are specifically related to the Work and for which the Design-Builder is liable.

§ A.5.1.5.3 Fees and assessments for the building permit and for other permits, licenses and inspections for which the Design-Builder is required by the Design-Build Documents to pay.

§ A.5.1.5.4 Fees of laboratories for tests required by the Design-Build Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 15.5.3 of the Agreement or by other provisions of the Design-Build Documents, and which do not fall within the scope of Section A.5.1.6.3.

§ A.5.1.5.5 Royalties and license fees paid for the use of a particular design, process, document or product required by the Design-Build Documents; the cost of defending suits or claims for infringement of patent rights and copyrights arising from such requirement of the Design-Build Documents; and payments made in accordance with legal judgments against the Design-Builder resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Design-Builder's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the second to last sentence of Section 3.1.13.2 of the Agreement or other provisions of the Design-Build Documents, then they shall not be included in the Cost of the Work.

§ A.5.1.5.6 With the Owner's prior written approval, costs for electronic equipment and software directly related to the Work.

§ A.5.1.5.7 Deposits lost for causes other than the Design-Builder's fault, negligence or failure to fulfill a specific responsibility in the Design-Build Documents.

§ A.5.1.5.8 With the Owner's prior written approval, which shall not be unreasonably withheld, legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Design-Builder, reasonably incurred by the Design-Builder after the execution of the Agreement and in the performance of the Work.

§ A.5.1.5.9 With the Owner's prior written approval, relocation, and temporary living allowances of the Design-Builder's personnel required for the Work, in accordance with the reimbursable travel and per diem expenses specified in Exhibit F to the Agreement.

§ A.5.1.5.10 Subject to Owner's prior written approval and to the extent allowed under Owner's travel reimbursement policy, attached as Exhibit F to the Agreement, that portion of the travel and per diem subsistence expenses of the Design-Builder's personnel determined by Owner to be reasonable and necessary, at Owner approved rates, incurred while traveling in discharge of duties connected with the Work. These costs do not include daily travel to and from the job site. Main office staff travel shall not be reimbursed unless approved in advance by Owner. These travel expenses shall be reimbursed at cost, but not exceeding the rates stated in Exhibit F.

#### § A.5.1.6 Other Costs and Emergencies

§ A.5.1.6.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner and specifically identified as a Cost of the Work herein.

§ A.5.1.6.2 Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property, but only to the extent not the result of the fault or negligence of Design-Builder, Architect, Consultants and Contractors.

**§ A.5.1.6.3** Costs of repairing or correcting damaged or nonconforming Work executed by the Design-Builder, Contractors or suppliers, provided that such damaged or nonconforming Work was not caused by negligence or failure to fulfill a specific responsibility of the Design-Builder and only to the extent that the cost of repair or correction is not recovered by the Design-Builder from insurance, sureties, Architect, Consultants, Contractors, suppliers, or others.

#### **§ A.5.1.7 Related Party Transactions**

**§ A.5.1.7.1** For purposes of Section A.5.1.7, the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Design-Builder; any entity in which any stockholder in, or management employee of, the Design-Builder owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Design-Builder. The term "related party" includes any member of the immediate family of any person identified above. Upon Owner's request, Design-Builder shall provide a list of all related parties within the meaning of this Section A.5.1.7.1.

**§ A.5.1.7.2** If any of the costs to be reimbursed arise from a transaction between the Design-Builder and a related party, the Design-Builder shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Design-Builder shall procure the Work, equipment, goods or service from the related party, as a Contractor, according to the terms of Section A.5.4. If the Owner fails to authorize the transaction, the Design-Builder shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Section A.5.4.

**§ A.5.1.7.3** In no event shall Design-Builder be entitled to payment of any additional markup on work self-performed by Design-Builder or performed by a related party. Markup for such work shall be limited to Design-Builder's Fee, as provided in Section A.1.4.2.

#### **§ A.5.2 Costs Not to Be Reimbursed as Part of this Contract**

The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Design-Builder's personnel stationed at the Design-Builder's principal office or offices other than the site office, except as specifically provided in Section A.5.1.1;
- .2 Expenses of the Design-Builder's principal office and offices other than the site office;
- .3 Overhead and general expenses, except as may be expressly included in Section A.5.1;
- .4 The Design-Builder's capital expenses, including interest on the Design-Builder's capital employed for the Work;
- .5 Except as provided in Section A.5.1.6.3 of this Agreement, costs due to the negligence or failure of the Design-Builder, Contractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract;
- .6 Any cost not specifically and expressly described in Section A.5.1;
- .7 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded;
- .8 Costs incurred prior to the Owner's approval thereof, when such prior approval is required by the Design-Build Documents, and costs incurred in excess of the Owner's limitations or contrary to the Owner's limitations or instructions, when such limitations or instructions are imposed by the Owner pursuant to the Design-Build Documents;
- .9 Costs of deductibles under any and all insurance policies;
- .10 Costs of subcontractor default insurance (also known as Subguard);
- .11 Costs related to routine travel to and from the Project site; and
- .12 Costs expressly excluded from the Cost of the Work by the Design-Build Documents..

#### **§ A.5.3 Discounts, Rebates, and Refunds**

**§ A.5.3.1** Cash discounts obtained on payments made by the Design-Builder shall accrue to the Owner if (1) before making the payment, the Design-Builder included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Design-Builder with which to make payments; otherwise, cash discounts shall accrue to the Design-Builder. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Design-Builder shall make provisions so that they can be obtained.

§ A.5.3.2 Amounts that accrue to the Owner in accordance with Section A.5.3.1 shall be credited to the Owner as a deduction from the Cost of the Work.

#### § A.5.4 Other Agreements

§ A.5.4.1 When the Design-Builder has provided a Guaranteed Maximum Price, and a specific bidder (1) is recommended to the Owner by the Design-Builder; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Design-Build Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Design-Builder may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Design-Builder and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ A.5.4.2 Agreements between the Design-Builder and Contractors shall conform to the applicable payment provisions of the Design-Build Documents, and shall not be awarded on the basis of cost plus a fee (with or without a Guaranteed Maximum Price) without the prior consent of the Owner. If an agreement between the Design Builder and a Contractor is awarded on a cost plus a fee basis, the Design-Builder shall provide in the agreement for the Owner to receive the same audit rights with regard to the Cost of the Work performed by the Contractor as the Owner receives with regard to the Design-Builder in Section A.5.5, below.

§ A.5.4.3 The agreements between the Design-Builder and Architect and other Consultants identified in the Agreement shall be in writing. These agreements shall be promptly provided to the Owner upon the Owner's written request.

#### § A.5.5 Accounting Records

Design-Builder shall retain and the Owner and its duly authorized representatives shall have access, for a period not less than ten (10) years, to the Design-Builder's records, books, documents, papers, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to the Contract, financial and accounting records, including records pertaining to overhead and indirect costs, for the purpose of making audit, examination, excerpts and transcripts. Design-Builder's accounting and control systems shall be satisfactory to Owner. If for any reason, any part of the Work or this Contract shall be subject to litigation, Design-Builder shall retain all such records until all litigation is resolved and Design-Builder shall continue to provide Owner and/or its agents with full access to such records until such time as all litigation is complete and all periods for appeal have expired and full and final satisfaction of any judgment, order or decree is recorded and Owner receives a record copy of documentation from Design-Builder.

§ A.5.5.1 The Owner and Owner's representatives, including the Oregon Secretary of State accountants and auditors, shall have the right to conduct independent audits of the Design-Builder's records, books and other documents referenced in Section A5.5 at any time during the performance of the Work and thereafter until the end of the period referenced in Section A5.5. Without limiting Owner's right to audit at any time during the performance of the Work, Owner intends to conduct a final audit of reimbursable costs prior to final payment. The Design-Builder shall cooperate fully with Owner in the performance of such audits. If such audits determine that the Design-Builder has submitted Applications for Payment or has been paid pursuant to Applications for Payment more than the amount actually due under the Design-Build Documents, the Design-Builder shall (1) issue a credit to the Owner by the amount of the overage, if the overage has not been paid, and (2) pay the amount of the overage and accumulated interest thereon, if the overage has been paid. If the amount of the overage determined by the, whether paid or not, is one hundred two percent (102%) or more of the amount actually due under the Design-Build Documents, the Design-Builder shall pay the cost of the audit. Such cost shall not be included in the Cost of the Work.

#### § A.5.6 Relationship of the Parties

The Design-Builder accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to exercise the Design-Builder's skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests.

This Amendment to the Agreement entered into as of the day and year first written above. Except as specifically set forth above, the terms and conditions of the Contract remain unaltered by this Amendment.

\_\_\_\_\_  
**OWNER** *(Signature)*

\_\_\_\_\_  
*(Printed name and title)*

\_\_\_\_\_  
**DESIGN-BUILDER** *(Signature)*

\_\_\_\_\_  
*(Printed name and title)*



Init.

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# Additions and Deletions Report for AIA<sup>®</sup> Document A141<sup>™</sup> – 2014 Exhibit A

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 10:00:48 on 07/29/2016.

## PAGE 1

~~(Name and location or address)~~

Heckart Lodge – Graduate School, 2900 SW Jefferson Way, Corvallis, OR 97333

...

~~(Name, legal status and address)~~

Oregon State University  
Attn: Debera Massahos  
644 SW 13th Street  
Corvallis, OR 97333

Phone: 541-737-4261

Fax: 541-737-2170

...

§ A.1.1 The Owner shall pay the Design-Builder the Contract Sum in current funds for the Design-Builder's performance of the Contract after the execution of this Amendment. The Contract Sum shall be ~~one of the following~~ the Cost of the Work plus the Design-Builder's Fee with a Guaranteed Maximum Price, in accordance with Section A.1.4 below and shall not include compensation the Owner paid the Design-Builder for Work performed prior to execution of this Amendment:

*(Check the appropriate box.)*

~~Stipulated Sum, in accordance with Section A.1.2 below~~

~~Cost of the Work plus the Design-Builder's Fee, in accordance with Section A.1.3 below~~

Cost of the Work plus the Design-Builder's Fee with a Guaranteed Maximum Price, in accordance with Section A.1.4 below Amendment.

~~(Based on the selection above, complete Section A.1.2, A.1.3 or A.1.4 below.)~~

~~§ A.1.2 Stipulated Sum~~

~~§ A.1.2 [Intentionally deleted.]~~

~~§ A.1.2.1 The Stipulated Sum shall be (\$ \_\_\_\_\_), subject to authorized adjustments as provided in the Design-Build Documents. [Intentionally deleted.]~~

~~§ A.1.2.2 The Stipulated Sum is based upon the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:~~

*(State the numbers or other identification of accepted alternates. If the Owner is permitted to accept other alternates subsequent to the execution of this Amendment, attach a schedule of such other alternates showing the change in Stipulated Sum for each and the deadline by which the alternate must be accepted.)*

**[Intentionally deleted.]**

**§ A.1.2.3** Unit prices, if any:

*(Identify item, state the unit price, and state any applicable quantity limitations.)*

**[Intentionally deleted.]**

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

**§ A.1.3 Cost of the Work Plus Design-Builder's Fee**

**§ A.1.3 [Intentionally deleted.]**

**§ A.1.3.1** The Cost of the Work is as defined in Article A.5, Cost of the Work. **[Intentionally deleted.]**

**§ A.1.3.2** The Design-Builder's Fee:

*(State a lump sum, percentage of Cost of the Work or other provision for determining the Design-Builder's Fee, and the method for adjustment to the Fee for changes in the Work.)*

**[Intentionally deleted.]**

**PAGE 2**

**§ A.1.4.3.1** The sum of the Cost of the Work and the Design-Builder's Fee is guaranteed by the Design-Builder not to exceed (\$ ), subject to additions and deductions for changes in the Work as provided in the Design-Build Documents. Such maximum sum is referred to in the Design-Build Documents as the Guaranteed Maximum Price. Costs that would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Design-Builder without reimbursement by the Owner.

*(Insert specific provisions if the Design-Builder is to participate in any savings.)*

In the event the final sum of the Cost of the Work plus the final Design-Builder's Fee is less than the final Guaranteed Maximum Price, the savings shall devolve 100% to the Owner and 0% to the Design-Builder. In the event of any such savings, upon the making of final payment, the Guaranteed Maximum Price shall be deemed to be reduced by the amount of any difference between the Guaranteed Maximum Price and the Cost of the Work plus the Design-Builder's Fee so that the final amount of the Guaranteed Maximum Price is equal to the Cost of the Work plus the Design-Builder's Fee as of the date of such final payment.

...

**§ A.1.4.3.3** The Guaranteed Maximum Price ~~is based on~~ includes the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:

**PAGE 3**

The Design-Builder acknowledges and agrees that the quantities indicated in Section A.1.4.3.4, if any, are estimates and that the Owner is not a guarantor of any particular quantities of unit price Work. In the event the actual quantities differ so significantly from the estimated quantities that application the agreed unit prices would result in an inequity to either the Owner or the Design-Builder, the unit prices shall be equitably adjusted.

...

**§ A.1.5.1.1** Based upon Applications for Payment submitted to the Owner by the Design-Builder, ~~the~~ Owner shall make progress payments on account of the Contract ~~Sum~~ Sum, less 5% retainage, to the Design-Builder as provided

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User Notes:

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below and elsewhere in the Design-Build Documents. A progress payment shall not be considered acceptance or approval of any Work or waiver of any defects therein.

...

§ A.1.5.1.3 Provided that an Application for Payment is received not later than the first day of the month, the Owner shall make payment of the ~~certified~~ approved amount to the Design-Builder not later than the fifteenth day of the following month. If an Application for Payment is received by the Owner after the application date fixed above, payment shall be made by the Owner not later than forty-five ( 45 ) days after the Owner receives the Application for Payment.

...

§ A.1.5.1.4 With each Application for Payment ~~where the Contract Sum is based upon the Cost of the Work, or the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder shall submit~~ the Design-Builder shall submit certified payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, documentation of any reimbursable expenses and any other evidence required by the Owner to demonstrate that cash disbursements already made by the Design-Builder on account of the Cost of the Work equal or exceed (1) progress payments already received by the Design-Builder, less (2) that portion of those payments attributable to the Design-Builder's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

§ A.1.5.1.5 ~~With each Application for Payment where the Contract Sum is based upon a Stipulated Sum or Cost of the Work with a Guaranteed Maximum Price, the~~ The Design-Builder shall submit the most recent schedule of values in accordance with the Design-Build Documents. The schedule of values shall allocate the entire Contract Sum-Guaranteed Maximum Price among the various portions of the Work. Compensation for design services, if any, shall be shown separately. Where the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, the-The Design-Builder's Fee shall be shown separately. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule of values, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

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#### § A.1.5.2 Progress Payments—Stipulated Sum

##### § A.1.5.2 [Intentionally deleted.]

§ A.1.5.2.1 Applications for Payment where the Contract Sum is based upon a Stipulated Sum shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

[Intentionally deleted.]

§ A.1.5.2.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of — percent ( — %) on the Work. Pending final determination of cost to the Owner of Changes in the Work, amounts not in dispute shall be included as provided in Section 6.3.9 of the Agreement;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of — percent ( — %);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, the Owner has withheld or nullified, as provided in Section 9.5 of the Agreement. [Intentionally deleted.]

§ A.1.5.2.3 The progress payment amount determined in accordance with Section A.1.5.2.2 shall be further modified under the following circumstances:

~~.1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Owner shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and (Section 9.8.6 of the Agreement discusses release of applicable retainage upon Substantial Completion of Work.)~~

~~.2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Design Builder, any additional amounts payable in accordance with Section 9.10.3 of the Agreement. [Intentionally deleted.]~~

~~§ A.1.5.2.4 Reduction or limitation of retainage, if any, shall be as follows:~~

~~(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections A.1.5.2.2.1 and A.1.5.2.2.2 above, and this is not explained elsewhere in the Design-Build Documents, insert provisions here for such reduction or limitation.) [Intentionally deleted.]~~

~~§ A.1.5.3 Progress Payments—Cost of the Work Plus a Fee~~

~~§ A.1.5.3 [Intentionally deleted.]~~

~~§ A.1.5.3.1 Where the Contract Sum is based upon the Cost of the Work plus a fee without a Guaranteed Maximum Price, Applications for Payment shall show the Cost of the Work actually incurred by the Design Builder through the end of the period covered by the Application for Payment and for which Design Builder has made or intends to make actual payment prior to the next Application for Payment.~~

~~[Intentionally deleted.]~~

~~§ A.1.5.3.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:~~

~~.1 Take the Cost of the Work as described in Article A.5 of this Amendment;~~

~~.2 Add the Design Builder's Fee, less retainage of — percent (—%). The Design Builder's Fee shall be computed upon the Cost of the Work described in the preceding Section A.1.5.3.2.1 at the rate stated in Section A.1.3.2; or if the Design Builder's Fee is stated as a fixed sum in that Section, an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work in that Section bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~

~~.3 Subtract retainage of — percent (—%) from that portion of the Work that the Design Builder self performs;~~

~~.4 Subtract the aggregate of previous payments made by the Owner;~~

~~.5 Subtract the shortfall, if any, indicated by the Design Builder in the documentation required by Section A.1.5.1.4 or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and~~

~~.6 Subtract amounts, if any, for which the Owner has withheld or withdrawn a Certificate of Payment as provided in the Section 9.5 of the Agreement. [Intentionally deleted.]~~

~~§ A.1.5.3.3 The Owner and Design Builder shall agree upon (1) a mutually acceptable procedure for review and approval of payments to the Architect, Consultants, and Contractors and (2) the percentage of retainage held on agreements with the Architect, Consultants, and Contractors, and the Design Builder shall execute agreements in accordance with those terms. [Intentionally deleted.]~~

...

~~.3 Add the Design-Builder's Fee, less retainage of — percent (—%). Fee. The Design-Builder's Fee shall be computed upon the Cost of the Work at the rate stated in Section A.1.4.2 or, if the Design-Builder's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~

~~.4 Subtract retainage of — percent (—%) from that portion of the Work that the Design Builder self performs; five percent ( 5 %);~~

PAGE 5

~~§ A.1.5.4.3 The Owner and Design-Builder shall agree upon (1) a mutually acceptable procedure for review and approval of payments to the Architect, Consultants, and Contractors and (2) the (2) subject to Section 9.6.9.7 of the~~



Agreement, the percentage of retainage held on agreements with the Architect, Consultants, and Contractors; and the Design-Builder shall execute agreements in accordance with those terms.

§ A.1.5.4.4 All Applications for Payment, even those submitted pursuant to Section A.1.5.4.2, must include the documentation required in Section A.1.5.1.4.

...

§ A.1.5.5.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Design-Builder not later than ~~30~~45 days after the Design-Builder has fully performed the Contract and the requirements of Section 9.10 of the Agreement have been satisfied, except for the Design-Builder's responsibility to correct non-conforming Work discovered after final payment or to satisfy other requirements, if any, which extend beyond final payment.

§ A.1.5.5.2 If the Contract Sum is based on the Cost of the Work, the Owner's auditors will review and report in writing on the Design-Builder's final accounting within 30 days after the Design-Builder delivers the final accounting to the Owner. Based upon the Cost of the Work the Owner's auditors report to be substantiated by the Design-Builder's final accounting, and provided the other conditions of Section 9.10 of the Agreement have been met, the Owner will, within seven days after receipt of the written report of the Owner's auditors, either issue a final Certificate for Payment, approval of payment, or notify the Design-Builder in writing of the reasons for withholding a certificate approval as provided in Section 9.5.1 of the Agreement.

§ A.1.5.5.3 If Owner's accountants report the Cost of the Work as substantiated by the Design Builder's final accounting to be less than claimed by the Design-Builder or if Owner's Authorized Representative declines to approve any duly submitted payment request by Design-Builder, the Design-Builder shall be entitled to demand a review by the Owner's Chief Procurement Officer of the disputed amount. Such demand shall be made by the Design-Builder within 30 Days after the Design-Builder's receipt of a copy of the rejection of the application for payment; failure to demand additional review within this 30-Day period shall result in the substantiated amount reported by Owner's accountants becoming binding on the Design-Builder. In addition, If Owner or any other state agency performs a subsequent audit of the Cost of the Work and determines any item therein to have been unsubstantiated or that Design-Builder was otherwise overpaid, Design-Builder shall have 30 Days after delivery of request for reimbursement by Owner to demand additional review by Owner's highest contracting authority; failure to make such demand within this 30 Day period shall result in the requested reimbursement becoming unconditionally due and payable by Design-Builder. If Design-Builder timely submits a protest to the Owner's highest contracting authority, Design-Builder's Claim shall be subject to the claims review process in Section 14.1.3. Pending a final resolution, Owner shall pay the Design-Builder the amount of the application for payment approved by the Owner's Authorized Representative.

...

§ A.2.2 The Design-Builder shall achieve Substantial Completion of the Work not later than (—) days from the date of this Amendment, or as follows:

*(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)*

**Portion of Work**

**Substantial Completion Date**

, subject to adjustments of the Contract Time as provided in the Design-Build Documents.

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.) the date set forth in Section 1.1.7 of the Agreement.

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§ A.3.1.2 ~~The Specifications:~~Specifications, which shall not alter the Owner's Criteria unless specifically identified below:

...

§ A.3.1.3 ~~The Drawings:~~Drawings, which shall not alter the Owner's Criteria unless specifically identified below:

PAGE 7

§ A.4.1 ~~The Design-Builder's key personnel are identified below:~~  
~~(Identify name, title and contact information.)~~

~~.1 Superintendent~~

~~.2 Project Manager~~

~~.3 Others~~

in the Agreement.

...

§ A.5.1.1.2 ~~With the Owner's prior approval, wages or salaries of the Design-Builder's supervisory and administrative personnel when stationed at the site.~~

~~(If it is intended that the wages or salaries of certain personnel stationed at the Design-Builder's principal or other offices shall be included in the Cost of the Work, identify below the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)~~

site and wages or salaries of the Design-Builder's supervisory and administrative personnel when stationed at the Design-Builder's home office, but only for that portion of their time required for the Work.

<u>Person Included</u>	<u>Status (full-time/part-time)</u>	<u>Rate (\$0.00)</u>	<u>Rate (unit of time)</u>
------------------------	-------------------------------------	----------------------	----------------------------

...

§ A.5.1.1.5 ~~Bonuses, profit sharing, incentive compensation and any other discretionary payments paid to anyone hired by the Design-Builder or paid to the Architect or any Consultant, Contractor or supplier, with the Owner's prior approval.~~~~[Intentionally deleted.]~~

...

§ A.5.1.3.1 ~~Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.~~construction, provided such materials and equipment are not customarily the Design-Builder's responsibility and such materials and equipment are only used on the Project. The purchase of any such materials and equipment costing in excess of one hundred dollars (\$100) must be recorded and tracked by the Contractor.

§ A.5.1.3.2 ~~Costs of materials described in the preceding Section A.5.1.3.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Design-Builder. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.~~given to Owner's surplus property.

...

**§ A.5.1.4.1** Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Design-Builder at the site and fully consumed in the performance of the Work. Work, provided the provision of such materials, supplies, temporary facilities, machinery, equipment and hand tools are not customarily the Design-Builder's responsibility and are only used on the Project. The purchase of any materials, supplies, machinery, equipment and hand tools costing in excess of one hundred dollars (\$100) must be recorded and tracked by the Contractor. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Design-Builder shall mean fair market value. Materials, supplies, temporary facilities, machinery, equipment and hand tools for which Owner has reimbursed the Design-Builder, shall become the Owner's property at the completion of the Work or, at the Owner's option, given to Owner's surplus property.

**§ A.5.1.4.2** Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that workers, which are provided by the Design-Builder at the site the site, whether rented from the Design-Builder or others, and costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Design-Builder owned item may not exceed the purchase price of any comparable item. Rates of Design-Builder owned equipment and quantities of equipment shall be subject to the Owner's prior approval and replacements, dismantling, and removal thereof. Rates and quantities of equipment rented shall be according to industry standards, shall not exceed 100% of the rental rates published from time to time in the Rental Rate Blue Book for Construction Equipment, prepared by Machinery Information Division of Primedia Information Incorporated in effect at the time of rental, shall not exceed acquisition costs, and for individual items exceeding \$10,000, will be subject to Owner's prior approval. Design-Builder shall deliver to Owner a list of published rates from time to time at Owner's request. For all items rented or leased, the Design-Builder shall charge Owner only the rental charge incurred by Design-Builder with no additional administrative or other mark-up. Design-Builder shall make efforts and use its best skills and judgment to procure equipment in the most expeditious and economical manner consistent with the interest of the Owner. Efforts shall include, but not be limited to, providing Owner with a rent/buy analysis so that Owner may elect for Design-Builder to procure the item in lieu of rental if the facility at issue is expected to be rented for six months or longer. Such rent/buy analysis shall include, where available, a leasing rate commensurate with the expected term of rental of the facility at issue. Inclusions to and exclusions from rental rates will be made in accordance with American Association of Equipment Dealer standards.

**§ A.5.1.4.2.1** Design-Builder owned, hired, leased, or rented construction equipment, machinery, motor vehicles, scaffolds, and tools costing more than \$5,000 each, used in the proper performance of Work and not typically owned by workers, at the actual rates incurred by Design-Builder, which in no event shall exceed the rates listed in the "Construction Equipment Cost Schedule," which is attached to the Agreement as Exhibit J and incorporated herein by reference, or if unlisted, at rates not greater than the fair rental rates for such items in the general vicinity of the Site; whether listed on Exhibit J or unlisted, the total accumulated amount payable to Design-Builder for a particular item of equipment, machinery, motor vehicle, scaffold, or tool costing more than \$5,000 shall not exceed seventy (70%) percent of the depreciated fair market value of such item when first put into service in connection with the Work. Fair rental rates shall take into account the condition, obsolescence, availability, rental period, and the amount and type of use of such equipment, machinery, or tool.

**§ A.5.1.4.3** Costs of removal and proper disposal of debris from the site of the Work and its proper and legal disposal.

**§ A.5.1.4.4** Costs of Those portion of the costs of telephone, water, electricity and other utility services directly related to Design-Builder's Work at the Project site, document reproductions, electronic communications, postage and parcel delivery charges, dedicated data and communications services, teleconferences, Project websites, extranets and reasonable petty cash expenses of the site office. To the extent Design-Builder is using telephone and other utility services for purposes other than Work on the Project, only those portions of the telephone and other utility services directly related to Design-Builder's Work on the Project are to be reimbursed as part of the Contract.

**§ A.5.1.4.5** Costs of materials and equipment suitably stored off the site at a mutually acceptable location, with subject to the Owner's prior written approval.

§ A.5.1.5.1 Premiums for the cost of that portion of insurance and bonds required by the Design-Build Documents that can be directly attributed to the Contract. ~~With the Owner's prior approval self-insurance for either full or partial amounts of the coverages required by the Design-Build Documents are directly attributed to the Contract except that Owner's prior written approval is required for subguard. Requests for subguard approval require Design-Builder to submit a detailed cost breakdown including but not limited to the premium cost and administrative cost. Design-Builder shall be responsible and pay for all self-insured retentions and deductibles on all insurance furnished by Design-Builder without reimbursement from Owner. Premiums for payment and performance bonds furnished by Design-Builder in accordance with the Contract Documents if and to the extent payment and performance bonds required by the Contract Documents. All bond costs are to be at actual and auditable cost, inclusive of all premium adjustments, credits, dividends, and rebates. Actual and auditable costs will govern over any proposals, stipulated rates, or schedules. Owner may require Design-Builder to provide a copy of a certificate of insurance and a financial endorsement for any reimbursable insurance.~~

§ A.5.1.5.2 Sales, use or similar taxes imposed by a governmental authority that are specifically related to the Work and for which the Design-Builder is liable.

§ A.5.1.5.5 Royalties and license fees paid for the use of a particular design, ~~process-process~~, document or product required by the Design-Build Documents; the cost of defending suits or claims for infringement of patent rights and copyrights arising from such requirement of the Design-Build Documents; and payments made in accordance with legal judgments against the Design-Builder resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Design-Builder's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the second to last sentence of Section 3.1.13.2 of the Agreement or other provisions of the Design-Build Documents, then they shall not be included in the Cost of the Work.

§ A.5.1.5.6 With the Owner's prior written approval, costs for electronic equipment and software directly related to the Work.

§ A.5.1.5.7 Deposits lost for causes other than the Design-Builder's fault, negligence or failure to fulfill a specific responsibility in the Design-Build Documents.

§ A.5.1.5.8 With the Owner's prior written approval, which shall not be unreasonably withheld, legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Design-Builder, reasonably incurred by the Design-Builder after the execution of the Agreement and in the performance of the Work.

§ A.5.1.5.9 With the Owner's prior approval, ~~expenses incurred in accordance with the Design-Builder's standard written personnel policy for relocation, and temporary living allowances of, the Design-Builder's personnel required for the Work.~~ written approval, relocation, and temporary living allowances of the Design-Builder's personnel required for the Work, in accordance with the reimbursable travel and per diem expenses specified in Exhibit F to the Agreement.

§ A.5.1.5.10 ~~That portion of the reasonable expenses of the Design-Builder's supervisory or administrative personnel~~ Subject to Owner's prior written approval and to the extent allowed under Owner's travel reimbursement policy, attached as Exhibit F to the Agreement, that portion of the travel and per diem subsistence expenses of the Design-Builder's personnel determined by Owner to be reasonable and necessary, at Owner approved rates, incurred while traveling in discharge of duties connected with the Work. These costs do not include daily travel to and from the job site. Main office staff travel shall not be reimbursed unless approved in advance by Owner. These travel expenses shall be reimbursed at cost, but not exceeding the rates stated in Exhibit F.

...

**§ A.5.1.6.1** Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the ~~Owner~~ Owner and specifically identified as a Cost of the Work herein.

**§ A.5.1.6.2** Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and ~~property~~ property, but only to the extent not the result of the fault or negligence of Design-Builder, Architect, Consultants and Contractors.

**§ A.5.1.6.3** Costs of repairing or correcting damaged or nonconforming Work executed by the Design-Builder, Contractors or suppliers, provided that such damaged or nonconforming Work was not caused by negligence or failure to fulfill a specific responsibility of the Design-Builder and only to the extent that the cost of repair or correction is not recovered by the Design-Builder from insurance, sureties, Architect, Consultants, Contractors, suppliers, or others.

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**§ A.5.1.7.1** For purposes of Section A.5.1.7, the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Design-Builder; any entity in which any stockholder in, or management employee of, the Design-Builder owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Design-Builder. The term "related party" includes any member of the immediate family of any person identified above. Upon Owner's request, Design-Builder shall provide a list of all related parties within the meaning of this Section A.5.1.7.1.

...

**§ A.5.1.7.3** In no event shall Design-Builder be entitled to payment of any additional markup on work self-performed by Design-Builder or performed by a related party. Markup for such work shall be limited to Design-Builder's Fee, as provided in Section A.1.4.2.

...

- ~~.6~~ Any cost not specifically and expressly described in Section A.5.1; ~~and~~
- ~~.7~~ Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be ~~exceeded~~ exceeded;
- ~~.8~~ Costs incurred prior to the Owner's approval thereof, when such prior approval is required by the Design-Build Documents, and costs incurred in excess of the Owner's limitations or contrary to the Owner's limitations or instructions, when such limitations or instructions are imposed by the Owner pursuant to the Design-Build Documents;
- ~~.9~~ Costs of deductibles under any and all insurance policies;
- ~~.10~~ Costs of subcontractor default insurance (also known as Subguard);
- ~~.11~~ Costs related to routine travel to and from the Project site; and
- ~~.12~~ Costs expressly excluded from the Cost of the Work by the Design-Build Documents..

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**§ A.5.4.2** Agreements between the Design-Builder and Contractors shall conform to the applicable payment provisions of the Design-Build Documents, and shall not be awarded on the basis of cost plus a fee (with or without a Guaranteed Maximum Price) without the prior consent of the Owner. If an agreement between the Design Builder and a Contractor is awarded on a cost plus a fee basis, the Design-Builder shall provide in the agreement for the Owner to receive the same audit rights with regard to the Cost of the Work performed by the Contractor as the Owner receives with regard to the Design-Builder in Section A.5.5, below.

...

The Design-Builder shall keep full and detailed records and accounts related to the cost of the Work and exercise such controls as may be necessary for proper financial management under the Contract and to substantiate all costs incurred. The Design-Builder shall retain and the Owner and its duly authorized representatives shall have access,

for a period not less than ten (10) years, to the Design-Builder's records, books, documents, papers, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to the Contract, financial and accounting records, including records pertaining to overhead and indirect costs, for the purpose of making audit, examination, excerpts and transcripts. Design-Builder's accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Design-Builder's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Contractor's proposals, purchase orders, vouchers, memoranda and other data relating to the Contract. The Design-Builder shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law-Owner. If for any reason, any part of the Work or this Contract shall be subject to litigation, Design-Builder shall retain all such records until all litigation is resolved and Design-Builder shall continue to provide Owner and/or its agents with full access to such records until such time as all litigation is complete and all periods for appeal have expired and full and final satisfaction of any judgment, order or decree is recorded and Owner receives a record copy of documentation from Design-Builder.

§ A.5.5.1 The Owner and Owner's representatives, including the Oregon Secretary of State accountants and auditors, shall have the right to conduct independent audits of the Design-Builder's records, books and other documents referenced in Section A5.5 at any time during the performance of the Work and thereafter until the end of the period referenced in Section A5.5. Without limiting Owner's right to audit at any time during the performance of the Work, Owner intends to conduct a final audit of reimbursable costs prior to final payment. The Design-Builder shall cooperate fully with Owner in the performance of such audits. If such audits determine that the Design-Builder has submitted Applications for Payment or has been paid pursuant to Applications for Payment more than the amount actually due under the Design-Build Documents, the Design-Builder shall (1) issue a credit to the Owner by the amount of the overage, if the overage has not been paid, and (2) pay the amount of the overage and accumulated interest thereon, if the overage has been paid. If the amount of the overage determined by the, whether paid or not, is one hundred two percent (102%) or more of the amount actually due under the Design-Build Documents, the Design-Builder shall pay the cost of the audit. Such cost shall not be included in the Cost of the Work.

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This Amendment to the Agreement entered into as of the day and year first written above. Except as specifically set forth above, the terms and conditions of the Contract remain unaltered by this Amendment.

## **Certification of Document's Authenticity**

**AIA® Document D401™ – 2003**

I, Darci L. Dyches, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 10:00:48 on 07/29/2016 under Order No. 9163710375\_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A141™ – 2014 Exhibit A, Design-Build Amendment, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

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*(Signed)*

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*(Title)*

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*(Dated)*