

AIA® Document A141® – 2024 Exhibit B

Design-Build Amendment

This Amendment dated the [] day of [] in the year [] (the “Amendment”) is incorporated into, and amends, AIA Document A141®–2024, Standard Form of Agreement Between Owner and Design-Builder for a Traditional Design-Build Project dated the [] day of [] in the year [] (the “Agreement”) (In words, indicate day, month, and year.)

for the following **PROJECT:**
(Name and location or address)

THE OWNER:
(Name, ~~legal status,~~ and address)

CASE WESTERN RESERVE UNIVERSITY
10900 Euclid Avenue
Cleveland, Ohio 44106

THE DESIGN-BUILDER:
(Name, ~~legal status,~~ and address)

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

TABLE OF ARTICLES

- B.1 CONTRACT SUM
- B.2 CONTRACT TIME
- B.3 INFORMATION UPON WHICH AMENDMENT IS BASED
- B.4 DESIGN-BUILDER’S KEY PERSONNEL, CONSULTANTS, SUBCONTRACTORS, AND SUPPLIERS
- B.5 OWNER’S SEPARATE CONTRACTORS
- B.6 COST OF THE WORK

ARTICLE B.1 CONTRACT SUM

§ B.1.1 The Owner shall pay the Design-Builder the Contract Sum in current funds for the Design-Builder’s performance of the ~~Agreement~~Contract after the execution of this Amendment. The Contract Sum shall be the amount to be paid to the Design-Builder for

ADDITIONS AND DELETIONS:
The author of this document may have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes 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 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.

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.

performance of the Work after execution of the Design-Build Amendment. The Contract Sum shall include Early Release Work but shall not include any other compensation the Owner paid the Design-Builder for Work performed prior to execution of this Amendment. The Contract Sum shall be ~~one of the following~~:
(Check the appropriate box.)

- ☐ ~~Stipulated Sum, in accordance with Section B.1.2 below~~
- ☐ ~~Cost of the Work plus the Design Builder’s Fee, in accordance with Section B.1.3 below~~
- ☒ Cost of the Work plus the Design-Builder’s Fee as set forth in Section 2.4.1 of the Agreement on the Eligible Cost of the Work and its self-performed Work, with a Guaranteed Maximum Price, in accordance with Section B.1.4 ~~below~~.

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

§ B.1.2 Stipulated Sum~~Intentionally Deleted.~~

~~§ B.1.2.1 The Stipulated Sum shall be (\$), subject to authorized adjustments as provided in the Design-Build Documents.~~

~~§ B.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.)~~

~~§ B.1.2.3 Unit prices, if any:
(Identify the item and state the unit price, and the quantity limitations, if any, to which the unit price will be applicable.)~~

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

~~§ B.1.2.4 Allowances, if any, included in the stipulated sum:
(Identify each allowance.)~~

Item	Price

§ B.1.3 Cost of the Work Plus Design-Builder’s Fee~~Intentionally Deleted.~~

~~§ B.1.3.1 The Cost of the Work is as defined in Article B.6, Cost of the Work.~~

~~§ B.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.)~~

§ B.1.4 Cost of the Work Plus Design-Builder’s Fee With a Guaranteed Maximum Price

~~§ B.1.4.1 The Cost of the Work is as defined in Article B.6, Cost of the Work.~~

§ B.1.4.2 The Design-Builder’s Fee: Per Section 2.4.1 of the Agreement
(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.)

§ B.1.4.3 Guaranteed Maximum Price

§ B.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 byfor changes in the Work as provided in the Design-Build Documents. ~~This maximum sum is referred to in the Design-Build Documents as the Guaranteed Maximum Price. The Guaranteed Maximum Price shall include all sales, consumer, use and similar taxes for the Work provided by the Design-Builder that are legally enacted, whether or not yet effective, at the time this Amendment is executed. Costs which~~Costs that would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Design-Builder without reimbursement by the Owner. To the extent the Cost of the Work is less than the Guaranteed Maximum Price, the Design-Builder shall not be entitled to the difference or any portion thereof.

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

§ B.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, ~~including Design Services to be performed after execution of the Design-Build Amendment and Early Release Work.~~

(Provide ~~itemized statement~~ information below or reference an attachment.)

§ B.1.4.3.3 Alternates

§ B.1.4.3.3.1 The Guaranteed Maximum Price is based on the following Alternates, if any, included in the Guaranteed Maximum Price 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.)

Item	Price
§ B.1.4.3.3.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Exhibit B. Upon acceptance, the Owner shall issue a Modification to the Agreement. (Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)	

Item	Price	Conditions for Acceptance
§ B.1.4.3.4 Unit Prices, if any: (Identify the item, and state the unit price, and the quantity limitations, if any, to which the unit price will be applicable.)		

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

§ B.1.4.3.5 ~~Allowances, if any:~~ Intentionally deleted. Intentionally deleted.
(Identify each allowance.)

Item	Price

~~§ B.1.4.3.6 Assumptions and clarifications, if any, on which the Guaranteed Maximum Price is based:
(Identify each assumption and clarification.)~~

~~§ B.1.4.3.7 To the extent that the Design-Build Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Design-Build Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.~~

§ B.1.5 Payments

§ B.1.5.1 Progress Payments

§ B.1.5.1.1 Based upon Applications for Payment submitted to the Owner by the Design-Builder, and approved in writing by the Owner, the Owner shall make progress payments on account of the Contract Sum to the Design-Builder as provided below and elsewhere in the Design-Build Documents.

§ B.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:~~

§ B.1.5.1.3 Provided that an Application for Payment is received by the Owner not later than the first day of the month, and provided such Application for Payment is approved by the Owner in accordance with the terms of the Contract Documents, the Owner shall make payment of the ~~amount~~ certified amount to the Design-Builder not later than the first day of the following month. If an Application for Payment is received by the Owner after the application date fixed above, ~~payment of the amount certified and provided such Application for Payment is approved by the Owner in accordance with the terms of the Contract Documents, payment~~ shall be made by the Owner not later than forty-five (45) days after the Owner receives and approves the Application for Payment.
(Federal, state or local laws may require payment within a certain period of time.)

§ B.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 payrolls, petty cash accounts, receipted invoices ~~or with sufficient detail including company name, address, phone number and a detailed description of the Work performed including labor, equipment and materials, and identifying the number of hours and rates included or detailed~~ invoices with check vouchers attached, and any other evidence required by the Owner to demonstrate that ~~payments~~ 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, less that portion of the progress payments attributable to the Design-Builder's Fee.

§ B.1.5.1.5 With each AIA G702 Application for Payment ~~where the Contract Sum is based upon a Stipulated Sum or Cost of the Work with a Guaranteed Maximum Price,~~ the Design-Builder shall submit the most recent Owner approved detailed schedule of values, AIA G703 (Continuation Sheet), which at minimum shall identify each Subcontractor and all components of the GMP (including general conditions, general requirements, Cost of the Work, Design-Builder's Contingency, allowances, Design-Builder's Fee and approved Change Orders) in accordance with the Design-Build Documents. The schedule of values shall allocate the entire Contract Sum among: ~~(1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the~~ The Design-Builder's Fee;
shall be shown separately. ~~§ B.1.5.1.6~~ The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. The Owner approved schedule of values shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§ B.1.5.1.7 ~~With the exception of any line items for general conditions or general requirements, the~~ allocation of the Guaranteed Maximum Price under this Section B.1.5.1 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ B.1.5.1.8 When the Design-Builder allocates costs from ~~a Design-Builder's e~~ Contingency to another line item in the schedule of values, the Design-Builder shall submit supporting documentation to the Owner.

§ B.1.5.1.9 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 B.1.5.1.4 or B.1.5.1.5, or other supporting data; to have made exhaustive or continuous on-site inspections; 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.

§ B.1.5.1.10 Except with the Owner's prior written 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.

§ B.1.5.2 Progress Payments—Stipulated Sum Intentionally Deleted.

~~§ B.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.~~

~~§ B.1.5.2.2~~ In accordance with AIA Document A141® 2024, Standard Form of Agreement Between Owner and Design-Builder for a Traditional Design-Build Project, and subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

~~§ B.1.5.2.2.1~~ The amount of each progress payment shall include:

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

~~§ B.1.5.2.2.2~~ The amount of each progress payment shall be reduced by:

- ~~.1—The aggregate of any amounts previously paid by the Owner;~~
- ~~.2—The amount, if any, for Work that remains uncorrected and for which the Owner has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A141 2024;~~
- ~~.3—Any amount for which the Design-Builder does not intend to pay a Subcontractor, sub-subcontractor, or material supplier, unless the Work has been performed by others the Subcontractor intends to pay;~~
- ~~.4—Any amount for which the Owner may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A141 2024; and~~
- ~~.5—Retainage withheld pursuant to Section B.1.5.2.3.~~

~~§ B.1.5.2.3 Retainage~~

~~§ B.1.5.2.3.1~~ For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

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

~~§ B.1.5.2.3.2~~ The following items are not subject to retainage:

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

~~§ B.1.5.2.3.3~~ Reduction or limitation of retainage, if any, shall be as follows:

~~(If the retainage established in Section B.1.5.2.3.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section B.1.5.2.3.4, insert provisions for such modifications.)~~

~~§ B.1.5.2.3.4~~ Upon Substantial Completion of the Work, the Design-Builder may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment, except as follows:

~~(Insert any conditions precedent to the release of all or a portion of the retainage, such as correction of the Construction Work, consent of surety, etc.)~~

~~§ B.1.5.2.3.5~~ 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.

~~§ B.1.5.3 Progress Payments—Cost of the Work Plus a Fee~~[Intentionally Deleted.](#)

~~§ B.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.

~~§ B.1.5.3.2~~ In accordance with AIA Document A141 2024, and subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

~~§ B.1.5.3.2.1~~ The amount of each progress payment shall include:

- ~~.1—The Cost of the Work as described in Article B.6;~~
- ~~.2—That portion of Change Directives that the Owner determines to be reasonably justified; and~~
- ~~.3—The Design-Builder's Fee computed upon the Cost of the Work described in Section B.1.5.3.2.1.1 at the rate stated in Section B.1.3.2; or if the Design-Builder's Fee is stated as a fixed sum in Section B.1.3.2 an amount which bears the same ratio to that fixed sum Fee as the Cost of the Work included in Section B.1.5.3.2.1.1 bears to a reasonable estimate of the probable Cost of the Work upon its completion.~~

~~§ B.1.5.3.2.2~~ The amount of each progress payment shall be reduced by:

- ~~.1—The aggregate of any amounts previously paid by the Owner;~~

- ~~.2—The amount, if any, for Work that remains uncorrected and for which the Owner has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A141–2024;~~
- ~~.3—Any amount for which the Design-Builder does not intend to pay a Subcontractor, sub-subcontractor, or material supplier, unless the Work has been performed by others the Design-Builder intends to pay;~~
- ~~.4—Any amount for which the Owner may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A141–2024;~~
- ~~.5—The shortfall, if any, indicated by the Design-Builder in the documentation required by Section B.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~~
- ~~.6—Retainage withheld pursuant to Section B.1.5.3.3.~~

§ B.1.5.3.3 Retainage

~~§ B.1.5.3.3.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:~~

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

~~§ B.1.5.3.3.2 The following items are not subject to retainage:~~

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

~~§ B.1.5.3.3.3 Reduction or limitation of retainage, if any, shall be as follows:~~

~~(If the retainage established in Section B.1.5.3.3.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section B.1.5.3.3.4, insert provisions for such modification.)~~

~~§ B.1.5.3.3.4 Upon Substantial Completion of the Work, the Design-Builder may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment except as follows:~~

~~(Insert any conditions precedent to the release of all or a portion of the retainage, such as correction of the Construction Work, consent of surety, etc.)~~

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

~~§ B.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 ~~payment~~ or intends to make 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.

~~§ B.1.5.4.2 In accordance with AIA Document A141–2024, and s~~ Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

~~§ B.1.5.4.3 The amount of each progress payment shall include:~~

- ~~.1~~ Take T 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 ~~most recent~~ Owner approved schedule of values;
- ~~.2~~ Add T 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 ~~completed construction Work~~ or, if approved in ~~writing in~~ advance by the Owner in writing, (and provided that the Design-Builder, shall provide the Owner with a certificate of insurance for full replacement and naming Owner as an additional insured, provide a bill of sale, and provide for on-site inspection by the Owner), suitably stored off the site at a location agreed upon in writing;
- ~~.3—That portion of Change Directives that the Owner determines to be reasonably justified; and~~
- ~~.4—The Design-Builder’s Fee, computed upon the Cost of the Work described in Sections B.1.5.4.3.1 and B.1.5.4.3.2 at the rate stated in Section B.1.4.2 or, if the Design-Builder’s Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed sum fee as the Cost of the Work included in Sections B.1.5.4.3.1 and B.1.5.4.3.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.~~
- .3 Add the Design-Builder’s Fee on the Eligible Cost of the Work and self-performed Work;

~~§ B.1.5.4.4 The amount of each progress payment shall be reduced by:~~

- .4 Subtract retainage of ten percent (10%) of the Eligible Cost of the Work and self-performed Work, and the Design-Builder's Fee (on both the Eligible Cost of the Work and self-performed Work);
- ~~.1—5 Subtract The aggregate of any amounts previously paid payments made by the Owner;~~
- ~~.2 The amount, if any, for Work that remains uncorrected and for which the Owner has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A141-2024;~~
- ~~.3 Any amount for which the Design-Builder does not intend to pay a Subcontractor, sub-subcontractor, or material supplier, unless the Work has been performed by others the Design-Builder intends to pay;~~
- ~~.4 Any amount for which the Owner may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A141-2024;~~
- .5—6 Subtract The shortfall, if any, indicated by the Subcontractor Design-Builder in the documentation required by Section B.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
- ~~.6 Retainage withheld pursuant to Section B.1.5.4.5.~~
- .7 Subtract amounts, if any, for which the Owner has withheld or nullified a Certificate for Payment.

Except with the Owner's prior approval, payments for the Work, other than for services provided by Architect and other Consultants retained directly by the Design-Builder, shall be subject to retainage of not less than «ten» percent («10» %). The Owner and Design-Builder shall agree on a mutually acceptable procedure for review and approval of payments and retention for Contractors.

§ B.1.5.4.5 Retainage

~~§ B.1.5.4.5.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:~~

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

~~§ B.1.5.4.5.2~~ § B.1.5.4.5.3 The following items are not subject to retainage: Owner and Design-Builder shall agree upon (1) a mutually acceptable procedure for review and approval of payments to the Architect, Consultants, and Subcontractors, 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.

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

§ B.1.5.4.4 Notwithstanding anything to the contrary in the Design-Build Documents and to the fullest extent permitted under Ohio law, the Owner shall be entitled to withhold ten percent (10%) of the Cost of the Work, the Design-Builder's Fee, the general conditions, and the general requirements as retainage to be held until thirty (30) days after final completion of the Work. Further, the Design-Builder shall withhold ten percent (10%) of the subcontract amount for each subcontract, and such requirement shall be included in the subcontracts. Amounts retained may be released to the Subcontractors only upon the Owner's prior written approval.

§ B.1.5.4.5 Notwithstanding anything contained in the Design-Build Documents to the contrary, the Design-Builder shall not be entitled to any progress payment for any Work performed unless the Owner shall have received when due, and approved the following: (1) Insurance Certificates; (2) Payment & Performance Bonds; and (3) appropriate waiver of liens from the Design-Builder, the Architect, and all Consultants, Subcontractors and suppliers at every tief.

§ B.1.5.4.5.3 Reduction or limitation of retainage, if any, shall be as follows:

~~(If the retainage established in Section B.1.5.4.5.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section B.1.5.4.5.4, insert provisions for such modification.)~~

§ B.1.5.4.5.4 Upon Substantial Completion of the Work, the Design-Builder may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment, except as follows:

~~(Insert any conditions precedent to the release of all or a portion of the retainage, such correction of the Construction Work, consent of surety, etc.)~~

§ B.1.5.5 Final Payment

§ B.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 days after:

~~.1— 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 Construction Work as provided in Article 12 of AIA Document A141–2024, and non-conforming Work discovered after final payment or to satisfy other requirements, if any, which necessarily extend beyond final payment;~~

~~.2—the Design-Builder has submitted a final Application for Payment and, if the Contract Sum is based on the Cost of the Work, a final accounting for the Cost of the Work;~~

~~.3—a final Certificate for Payment has been issued by the Owner in accordance with Article 9 of AIA Document A141–2024;~~

~~.4—other conditions precedent to the Owner's obligations to issue final payment to the Design-Builder:
(Insert any other conditions precedent to final payment.)~~

§ B.1.5.5.2 If the Contract Sum is based on the Cost of the Work, ~~within 30 days of the Owner's receipt of auditors will review and report in writing on~~ the Design-Builder's final accounting ~~for within 30 days after the Design-Builder delivers the final accounting to the Owner. Based upon~~ the Cost of the Work, the Owner's ~~shall conduct an audit of the Cost of the Work or notify the auditors report to be substantiated by the~~ Design-Builder's ~~that it will not conduct an audit.~~

~~final accounting~~ **§ B.1.5.5.2.1** ~~If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Design-Builder.~~

~~**§ B.1.5.5.2.2**, and provided the other conditions of Section 9.10 of the Agreement have been met, the Owner will, W~~ within seven days after receipt of the written report ~~described in Section B.1.5.5.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section B.1.5.5.1 have been met, the Owner will~~ ~~of the Owner's auditors~~, either issue a final Certificate for Payment ~~to the Design-Builder~~, or notify the Design-Builder in writing of the Owner's reasons for withholding a certificate. ~~The time periods stated in this Section B.1.5.5.2.2 supersede those stated in Article 9 of AIA Document A141–2024. The Owner is not responsible for verifying the accuracy of the Design-Builder's final accounting: as provided in Section 9.5.1 of the Agreement.~~

~~**§ B.1.5.5.2.3** If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Design-Builder's final accounting, is less than the amount claimed by the Design-Builder, the Design-Builder shall be entitled to request mediation of the disputed amount pursuant to Article 15 of the AIA Document A141–2024, without seeking an initial resolution of the claim pursuant to Article 15 of AIA Document A141–2024. A request for mediation shall be made by the Design-Builder within 30 days after the Design-Builder's receipt of a copy of the Owner's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Design-Builder. Pending a final resolution of the disputed amount, the Owner shall pay the Design-Builder the amount substantiated by the Owner's auditors within 30 days or such shorter period required by law.~~

§ B.1.5.5.3 Final Payment shall be made to the Design-Builder only after occurrence of all of the events described below:

- .1 Acceptance of the Work by the Owner as fully performed under the Design-Build Documents;
- .2 Written assignment to the Owner by all Subcontractors and suppliers of all warranties and guarantees in the form provided by the Owner;
- .3 Three (3) copies of each Maintenance Manual issued by any manufacturers and/or suppliers;
- .4 The Project Record Documents redlined showing all changes from the original Construction Documents, which documents shall be delivered in electronic and reproducible formats;
- .5 Conditional written releases of all liens and/or requests to file liens against the Project, signed by the Architect, and each Consultant, Subcontractor and supplier who performed labor, services, or furnished materials in connection with the Work. If the Architect, any Consultant or Subcontractor, or supplier refuses to furnish a release and waiver liens, the Design-Builder shall furnish a bond satisfactory to the Owner to indemnify the Owner against any such possible lien;
- .6 All deliverables specified in the Design-Build Documents; and
- .7 If required by the Owner, other data establishing payment or satisfaction of all such obligations required by the Design-Build Documents.

~~**§ B.1.5.5.3** If, subsequent to final payment, and at the Owner's request, the Design-Builder incurs costs, described in Sections B.6.2, and not excluded by Section B.6.3, to correct defective or nonconforming Construction Work, the Owner shall reimburse the Design-Builder for such costs, and the Design-Builder's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price, if the Contract Sum is based on the Cost of the Work subject to a Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section B.1.4, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section B.1.5.5.3 in determining the net amount to be paid by the Owner to the Design-Builder.~~

§ B.1.5.5.4 No payment hereunder, nor any occupancy of the Project or any part thereof shall be construed as an acceptance of any Work or waiver of any rights of the Owner either in the Design-Build Documents or at law.

ARTICLE B.2 CONTRACT TIME

~~§ B.2.1 The date of commencement of the Construction Work shall be:~~
~~(Check one of the following boxes.)~~

- ~~[] The date of execution of this Amendment.~~
~~[] Established as follows:~~

~~(Insert a date or a means to determine the date of commencement of the Construction Work.)~~

~~If a date of commencement of the Construction Work is not selected, then the date of commencement of the Construction Work shall be the date of execution of this Amendment.~~

~~§ B.2.1.1 Unless otherwise provided, the Contract Time, as defined in the Agreement at Section 1.4.6, is the period of time, including authorized adjustments, allotted in the Design-Build Documents for Substantial Completion of the Work. The Contract Time shall be measured from the date of commencement of the Construction Work.~~

§ B.2.2 Substantial Completion

~~§ B.2.2.1 The Design-Builder shall achieve Substantial Completion of the Work, subject to adjustments of the Contract Time as provided in the Design-Build Documents, the Design-Builder shall achieve Substantial Completion of the entire Work not later than () days from the date of this Amendment, or as follows:~~

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

~~(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.)~~

~~[] Not later than () calendar days from the date of commencement of the Work.~~
Not Applicable.

~~[] By the following date:~~

~~§ B.2.2.2 Subject to adjustments of the Contract Time as provided in the Design-Build Documents, if portions of the Work are to be Substantially Complete prior to Substantial Completion of the entire Work, the Design-Builder shall achieve Substantial Completion of such portions by the following dates:~~

Portion of Work
Not Applicable

Substantial Completion Date

~~§ B.2.2.3 Other:~~

~~(Insert provisions for bonus, shared savings, cost savings, or other incentives, if any, that might result in a change to the Contract Sum or Guaranteed Maximum Price., if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)~~

Not Applicable

ARTICLE B.3 INFORMATION UPON WHICH AMENDMENT IS BASED

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

§ B.3.1.1 The ~~following~~ Supplementary and other Conditions of the ~~Agreement~~ Contract are those contained in the Project Manual, Cover Page & Table of Contents Only – Attachment #1 - Project Manual (Specifications)

Document

Title

Date

Pages

§ B.3.1.2 The ~~following~~ Specifications:

~~(Either list the Specifications here or refer to an exhibit attached to this Amendment.)~~

See Attachment #1 (Project Manual/Specifications)

Section

Title

Date

Pages

§ B.3.1.3 The ~~following~~ Drawings:

(Either list the ~~D~~rawings here or refer to an exhibit attached to this Amendment.)

[See Attachment #2 \(Drawing List\)](#)

Number

Title

Date

§ B.3.1.4 The Sustainability Plan, if any:

~~(If the Owner identified a Sustainable Objective, 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

§ B.3.1.4 Other identifying information:

[See Attachment #3, if any.](#)

§ B.3.1.5 ~~Assumptions and clarifications, if any~~ Allowances and Design Builder's Contingency:

(Identify ~~each assumption and clarification~~ [any agreed upon allowances and contingencies, including a statement of their basis.](#))

[.1 Allowances](#)

[.2 Design Builder's Contingency](#)

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

§ B.3.1.6 Deviations from the Owner's Criteria as adjusted by a Modification:

§ B.3.1.7 To the extent the Design-Builder shall be required to submit any [additional](#) Submittals to the Owner for review, indicate any such submissions below:

~~(List any Submittals that the Design Builder is required to submit to the Owner for review.)~~

§ B.3.1.9 The Guaranteed Maximum Price is based upon the following other documents and information, all of which are part of the Design-Build Documents:

§ B.3.1.8 Owner's Intended BIM Uses

The Owner intends to utilize Building Information Modeling ("Model") on the Project for the following post construction uses. Any use in addition to those identified below shall be at the Owner's sole risk:
(Examples include building system maintenance, building system analysis, asset management, space management and tracking, disaster planning, and record modeling.)

[Attachment 4 – Sample Certificate of Liability Insurance dated 11/14/13, pages 1 of 1](#)

[Attachment 5 – Project Schedule, pages 1 of 1](#)

~~§ B.3.1.8.1 The Owner agrees that the extent of its reliance on any Model, or a portion thereof, shall be in accordance with a BIM Execution Plan agreed to by the Parties. If the Parties do not agree to a BIM Execution Plan, the Owner's reliance on any Model shall be at the Owner's sole risk.~~

ARTICLE B.4 DESIGN-BUILDER'S KEY PERSONNEL, CONSULTANTS, SUBCONTRACTORS, AND SUPPLIERS

§ B.4.1 The Design-Builder's key personnel are identified below:

(Identify name, title, and contact information.)

- .1 Superintendent

- .2 Project Manager

- .3 Others

~~§ B.4.2 In addition to the persons or entities identified in the Agreement, the~~ **The** Design-Builder shall retain the following Consultants, Subcontractors, and suppliers, identified below:

(List name, discipline, address, and other information.)

ARTICLE B.5 OWNER'S SEPARATE CONTRACTORS

§ B.5.1 The Owner shall retain the following Separate Contractors to perform construction or operations related to the Project:

(List name, discipline, address, and other information for each Separate Contractor and identify the construction or operations to be performed by such Separate Contractor.)

ARTICLE B.6 COST OF THE WORK [FOR CONSTRUCTION PHASE](#)

[§ B.6.1 Cost to Be Reimbursed](#)

§ B.6.1.1 The term Cost of the Work shall mean [the direct out of pocket](#) costs necessarily incurred by the Design-Builder in the proper performance of the Work. The Cost of the Work shall include only the items set forth in [the Sections B.6.2.1 through B.6.6.1](#).

§ B.6.1.2 Where, ~~pursuant to the Design-Build Documents,~~ any cost is subject to the Owner's prior approval, the Design-Builder shall obtain ~~such~~ [this](#) approval in writing prior to incurring the cost.

§ B.6.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

§ B.6.2 Cost to Be Reimbursed as Part of the Contract

§ B.6.2.1 Labor Costs

§ B.6.2.1.1 Wages ~~or salaries~~ 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.~~ Cost to be reimbursed will be the actual wages paid to individuals performing the Work.

§ B.6.2.1.2 Wages or salaries of the Design-Builder's supervisory and administrative personnel when stationed at the site ~~and performing Construction Work,~~ with the Owner's prior ~~approval.~~ written approval. No Design-Builder personnel stationed at the Design-Builder's home or branch offices shall be charged to the Cost of the Work. Non-field office based Design-Builder management and support personnel are expected to provide service and advise from time to time throughout the job and their time devoted to project matters is considered to be covered by and included in the Design-Builder's Fee.

(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.)

<u>Person Included</u>	<u>Status (full-time/part-time)</u>	<u>Rate (\$0.00)</u>	<u>Rate (unit of time)</u>
§ B.6.2.1.3 Wages or salaries of the Design-Builder's supervisory and administrative personnel when performing Construction Work and stationed at a location other than the site, but only for that portion of time required for the Construction Work, and limited to the personnel and activities listed below: <i>(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Construction Work.)</i>			

~~§ B.6.2.1.4 Wages and salaries of the Design-Builder's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Construction Work, but only for that portion of their time required for the Construction Work.~~

§ B.6.2.1.5 ~~Net~~ Costs paid or incurred by the Design-Builder, ~~as required by law or collective bargaining agreements, for~~ for payroll, taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by collective bargaining such agreements, customary-benefits agreed to in advance in writing by the Owner such as sick leave, medical and health benefits plans, holidays, vacations, and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Section B.6.2.1. "Net costs" means actual costs incurred, after applying for the benefit of the Owner all related credits and adjustments available, including but not limited to experience modifiers for workers' compensation insurance or program coverage, annual limitations on payroll taxes, effective rates, premium discounts, dividends, rebates, expense constants, and assigned risk-pool costs on taxes and insurance and any other credits and adjustments to these costs regardless of when such items first become available. Bonuses and training will not be reimbursed unless they are approved in advance in writing by the Owner. The Owner, in its sole discretion, may elect to permit the Design-Builder to charge and be paid during the course of the Project for such personnel taxes, insurance and benefits by using an agreed fixed provisional rate, which charges will be subject to audit by the Owner at any time including after the conclusion of the Project. In the event that any such audit reveals a difference between the agreed provisional rate and the actual net cost relating to the Project, an appropriate credit or payment will be made promptly by the appropriate party.

§ B.6.2.1.4 When computing actual costs chargeable to the Cost of the Work for payroll taxes, the Design-Builder shall give proper consideration to the annual limitations of the wages subject to applicable payroll taxes. The Design-Builder may accomplish this through the use of an accounting system which computes actual costs for payroll taxes when incurred up to the wage limit cut-off and allocates same to all jobs by individual based on the time worked on each job by the individual. Alternatively the Design-Builder may use an estimated net payroll tax percentage to allocate payroll tax costs during the year and make appropriate adjustments at the end of the year or at the end of the project (whichever is more appropriate) to adjust the costs to actual net payroll tax cost. Using the latter approach, if 50% of the wages paid to an individual during the year were chargeable to the Cost of the Work, then only 50% of the actual annual costs of payroll taxes would be allocable to the Cost of the Work.

§ B.6.2.1.5 Cost of the Work shall include the actual net cost of the Design-Builder for workers' compensation insurance attributable to the wages chargeable to the Cost of the Work per this Agreement. The actual net cost of workers' compensation shall take into consideration all cost adjustments due to experience modifiers, premium discounts, policy dividends, retrospective rating plan premium adjustments, assigned risk pool rebates, any applicable weekly maximums and any other

cost adjustments not identified herein but applicable. The Design-Builder may charge an estimated amount for workers' compensation insurance costs, but will make appropriate cost adjustments to actual costs within 45 days of receipt of actual cost adjustments from the insurance carrier.

§ B.6.2.1.6 Overtime wages paid to salaried personnel (only if approved in advance in writing by the Owner) will be reimbursed at the actual rate of overtime pay paid to the individual. No time charges for overtime hours worked on the project will be allowed if the individual is not paid for the overtime worked.

§ B.6.2.1.7 Any overtime premium or shift differential expense to be incurred by the Design-Builder for hourly workers shall require Owner's advance written approval before the incremental cost of the overtime premium or shift differential will be considered a reimbursable cost. If the Design-Builder is required to work overtime as a result of an inexcusable delay or other coordination problems caused by the Design-Builder or anyone they are responsible for, the overtime premium and/or shift differential expense portion of the payroll expense and related labor burden costs will not be reimbursable.

§ B.6.2.1.68 If agreed rates for Reimbursable labor burden costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification. will be limited to payroll taxes, workers' compensation insurance, the employer's portion of union benefit costs for union employees working on the project, and the actual verifiable fringe benefit costs incurred by the Design-Builder for non-union individuals working on the project, provided that the following maximums (as a percentage of reimbursable actual wages of the individual, excluding labor burden costs) shall apply for each of the following types of fringe benefit costs specifically attributable to each of the non-union personnel working on the project:

(1) Medical Insurance	10.00%
(2) Dental Insurance	1.00%
(3) AD&D Insurance, Life Insurance	1.00%
(4) Holiday, vacation and other "off" paid time (not worked) does not include training	10.00%
(5) Pension Plan Contributions to Vested Employee Account	10.00%

For non-union personnel, no other fringe benefit costs (other than the five (5) specific categories listed immediately above shall be considered reimbursable Cost of the Work. Any labor burden costs that are in excess of the amounts considered reimbursable or are otherwise not considered reimbursable under the terms of this Agreement are intended to be included in and covered by the Design-Builder's Fee.

§ B.6.2.1.9 Employee bonuses will not be considered reimbursable labor or labor burden costs. Bonuses paid to the Design-Builder employees will be considered a non-reimbursable cost considered to be included in the Design-Builder's Fee.

§ B.6.2.2 Consultant and Subcontract Costs. Payments made 6.2.1.10 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 Consultants, Subcontractors, and suppliers in accordance with the requirements of their subcontracts or similar agreements or supplier, with the Owner's prior written approval.

§ B.6.3 Subcontract Costs. Subcontract costs incurred in compliance with the Agreement, including without limitation, Section 5.9.1 of the Agreement.

§ B.6.2.3.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ B.6.2.3.4.1 Costs, including transportation and storage-at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

§ B.6.2.3.4.2 Costs of materials described in the preceding Section B.6.2.3.4.1 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 Construction 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.

§ B.6.2.4.3 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ B.6.2.4.3.1 Costs of transportation, storage, installation, maintenance, dismantling, and removal of materials, supplies, temporary facilities, machinery, equipment, and costs-of 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 ~~Construction~~ Work. 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.

~~§ B.6.2.4.26.4.3.2~~ Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Design-Builder at the site, and costs of transportation, installation, ~~dismantling~~, minor repairs, ~~dismantling~~ and removal ~~of such temporary facilities, machinery, equipment, and hand tools. Rates. Major repairs, overhauls and/or replacements are to be covered by the rental rates, and are not reimbursable. Rates of Design-Builder-owned equipment~~ and quantities of equipment ~~owned by the Design-Builder, or a related party as defined in Section B.6.2.7~~ shall be subject to the Owner's prior written approval. ~~The total rental cost of any such equipment may not exceed the purchase price of any comparable item.~~

§ B.6.4.3.3 Intentionally deleted.

§ B.6.4.3.4 Proposed rental rates and related fair market values for equipment owned by the Design-Builder or a Related Party shall be submitted to and approved by the Owner in writing prior to being used in connection with the Work. The projected usage for each piece of equipment proposed to be rented, and estimated total rentals, shall be submitted for approval in writing in advance in a form satisfactory to the Owner, so that an appropriate lease versus buy decision can be made. The projected usage for each piece of equipment to be rented for use on the project and the estimated total rentals shall be considered by the Design-Builder before the piece of equipment is rented so that an appropriate rent versus buy decision can be made. Purchased equipment shall be considered "job owned". At the completion of the project, the Design-Builder may keep any such equipment for an appropriate fair market value credit to job cost, which will be mutually agreed to by the Owner and the Design-Builder.

§ B.6.4.3.5 Each piece of equipment to be rented shall have hourly, daily, weekly, and monthly rates and the most economical rate available shall be reimbursed based on the circumstances of actual need and usage of the piece of equipment while it is stationed at the Project site. When the piece of equipment is no longer needed for the Work, no rental charges will be reimbursed if the piece of equipment remains at the Project site for the convenience of the Design-Builder.

§ B.6.4.3.6 The reimbursable equipment rental rates for Design-Builder owned tools and equipment shall not exceed 75% of the published rates based on the latest edition of "Rental Rates and Specifications" published by the Associated Equipment Distributors (AED). If the AED publication does not contain information related to the type of equipment rented, the Design-Builder will be allowed to use a maximum equipment rental rate equal to 75% of the current competitive rental rates from local third party equipment rental companies.

§ B.6.4.3.7 The aggregate rentals chargeable for each piece of Design-Builder owned tools or equipment shall not exceed 50% of the fair market value of such equipment at the time of its commitment to the Work. The original purchase price and date of purchase of the equipment will be documented with a copy of the purchase invoice for the piece of equipment. Such aggregate limitations will apply and no further rentals shall be charged even if a piece of equipment is taken off the Project and is later replaced by a similar piece of equipment. For purpose of computing the aggregate rentals applicable to aggregate rental limitations, rental charges for similar pieces of equipment will be combined if the pieces of equipment were not used at the same time.

§ B.6.4.3.8 Fair market value for used material and equipment as referred to in this Agreement shall mean the estimated price a reasonable purchaser would pay to purchase the used material or equipment at the time it was initially needed for the job, which is typically lower than the price a reasonable purchaser would pay for similar new construction material or construction equipment.

§ B.6.4.3.9 Rental charges for equipment that is not owned by the Design-Builder or any of its affiliates, subsidiaries, or other related parties and is rented from third parties for use in proper completion of the Work shall be considered reimbursable and will be reimbursed at actual costs, as long as rental rates are consistent with those prevailing in the locality. Any lease/purchase rental arrangements must be disclosed to the Owner in advance. For any lease/purchase arrangements where any of the lease/purchase rental charges were charged to the Owner as reimbursable job costs, appropriate credit adjustments to job cost will be made for an appropriate pro rata share of the fair market value of the equipment at the time it was last used on the job.

§ B.6.4.3.10 All losses resulting from lost, damaged, or stolen tools and equipment shall be the sole responsibility of the Design-Builder, and not the Owner, and the cost of such losses shall not be reimbursable under this Contract.

§ B.6.4.3.11 The Design-Builder shall be required to maintain a detailed equipment inventory of all job-owned equipment (either purchased and charged to job cost or job-owned through aggregate rentals) and such inventory shall be submitted to the Owner each month. For each piece of equipment, such inventory must include a minimum (1) original purchase documents including price or acquisition cost, (2) acquisition date, (3) approved fair market value at the time the piece of equipment was first used on the job, and (4) final disposition.

§ B.6.4.3.12 All costs incurred for minor maintenance and repairs shall be reimbursed at actual cost. Such costs include routine and preventive maintenance, minor repairs and other incidental costs. Repairs and/or replacements of a capital nature are considered to be covered by rental rates. Major repairs and overhauls are not considered routine and ordinary consequently such costs are not reimbursable and are intended to be covered by rental rates.

§ B.6.2.4.36.4.3.13 Costs of removal of debris from the site of the ~~Construction~~ Work and its proper and legal disposal.

§ B.6.2.4.4 Costs of the Design-Builder's site office, including general office equipment and supplies. 6.4.3.14 Costs of 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. Reproduction costs will be the actual costs of reproduction subject to a maximum of seven cents (\$.07) per square foot for prints and a maximum of five cents per 8 1/2 x 11 inch page for offset print or photo copied contract documents, specifications, etc. Telephone costs will be the actual costs paid to the third party telephone company for the field office telephone.

§ B.6.4.3.15 That portion of the reasonable expenses of the Design-Builder's supervisory or administrative personnel incurred while traveling in discharge of duties directly connected with the Work. Project related travel expenses shall be reimbursed at actual cost and mileage shall only be reimbursed when traveling on project related business, in a personal vehicle. Reimbursable mileage shall be reimbursed in accordance with the current IRS Standard Business Mileage Rate. Mileage shall not be reimbursed for travel in a company vehicle to or from an employee's home, to or from the main office, for training or other company related business. Any travel involving airfare will require advance written approval by the Owner.

Reimbursables meals shall not include alcoholic beverages.

Reimbursement for meals shall be expensed in accordance with the current USGSA per diem rate for Cleveland, Cuyahoga County, Ohio. Expenses shall be for employees of the Design-Builder only when engaged in work directly associated with the Work. Mark-ups on reimbursable expenses are prohibited and not a Cost of the Work.

Charges listed on the invoice should match precisely with supporting itemized documentation. Supporting itemized documentation for all reimbursable costs is required for reimbursement.

§ B.6.2.4.56.4.3.16 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, with the Owner's prior ~~approval~~ written approval and proof of insurance of the stored materials and equipment. Design-Builder will provide to the Owner any and all supporting documentation reasonably requested and access to stored materials and equipment.

§ B.6.2.56.5 Miscellaneous Costs

§ B.6.2.5.1 ~~Premiums for~~ Subject to the terms of this Section B.6.5.1, the Design-Builder's actual cost for insurance coverages shall be considered to be a Cost of the Work. All premiums for any insurance and bonds required for the Project shall reflect the net actual costs to the Design-Builder after taking into consideration cost adjustments due to experience modifiers, premium discounts, policy dividends, retrospective rating plan premium adjustments, assigned risk pool rebates, refunds or any other reduction not noted. Premiums shall in no case exceed an amount equal to 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 written approval costs § B.6.2.5.1.1 Costs for for Design-Builder may self-insuree, for either full or partial amounts of the coverages required by the Design-Build Documents, ~~with the Owner's prior approval.~~

~~§ B.6.2.5.1.2 Costs for insurance through a captive insurer owned or controlled by the Design-Builder, with the Owner's prior approval.~~

.1 The Design-Builder's actual cost for insurance coverages shall be considered to be included within any line item within the schedule of values for general condition costs. All premiums for any insurance and bonds required for the Project shall reflect the net actual costs to the Design-Builder after taking into consideration cost adjustments due to experience modifiers, premium discounts, policy dividends, retrospective rating plan premium adjustments, assigned risk pool rebates, refunds or any other reduction not noted.

.2 In the event that the Design-Builder elects to utilize workers' compensation insurance programs that involve either self-insurance and/or large deductibles, the maximum amount to be considered reimbursable costs under this contract will not exceed an amount equal to 40% of the standard state workers' compensation rates applicable to Design-Builder straight time wages. Any Design-Builder costs incurred in connection with the contractor's elected workers' compensation insurance program that exceed the amount reimbursed by the Owner under the formula in this paragraph will be considered included in and covered by the Design-Builder's Fee.

.3 In the event that the Design-Builder elects to utilize a subcontractor default insurance program (sometimes referred to as SUBGUARD), the maximum amount to be considered reimbursable costs under this contract will not exceed six tenths of a percent (.6%) of the total amount of subcontracts covered by such an insurance program. Any Design-Builder costs incurred in connection with the Design-Builder's elected subcontractor default insurance program that exceeds the amount reimbursable by the Owner under the formula in this paragraph will be considered to be included in and covered by the Design-Builder's Fee.

.4 In the event that the Design-Builder elects to utilize a Contractor Controlled Insurance Program (CCIP), the maximum to be considered reimbursable costs under this contract will be 2% of the final agreed upon GMP of this contract. This 2% cost factor will cover all insurance required to be carried by the prime contractor and all applicable Subcontractors covered by this Agreement (specifically workers' compensation insurance, general liability insurance, excess liability insurance, umbrella liability insurance). Any Design-Builder costs incurred in connection with the Design-Builder's elected CCIP program that exceeds the amount reimbursed by the Owner under the formula in this paragraph will be considered to be included in and covered by the Design-Builder's Fee.

§ B.6.2.5.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Design-Builder is liable; but does not include commercial activity tax or gross receipts tax. The Owner, a tax exempt entity, shall provide the Design-Builder with a tax exemption certificate for any taxes for which the Design-Builder may claim an exemption.

§ B.6.2.5.3 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 shall be reimbursed at actual cost imposed by the issuing authority.

§ B.6.2.5.4 Upon prior written approval of the Owner, Fees of laboratories for tests required by the Design-Build Documents; except those related to defective or nonconforming ~~Construction~~ Work for which reimbursement is excluded under Article 12 of the Agreement or by other provisions of the Design-Build Documents, ~~and which do not fall within the scope of Section B.6.2.6.3.~~

§ B.6.2.5.5 ~~Royalties and license fees paid for the use of~~ Permit fees, licenses, tests, royalties, damages for infringement on patents and costs of defending suits thereof, and deposits lost for causes other than the Design-Builder's negligence. If royalties or losses and damages, including the cost of defense, are incurred which arise from a particular design, process, or the product, required by the Design-Build Documents, of a particular manufacturer or manufacturers specified by the Owner or Architect, and the Design-Builder has no reason to believe there will be an infringement of patent rights, such royalties, losses and damages shall be paid by the Owner and not considered as within the GMP.

§ B.6.2.5.5.1 ~~The cost of defending suits or claims for infringement of patent rights arising from Owner imposed requirements in the Design-Build Documents, 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, unless the Design-Builder had reason to believe that the required design, process, or product was an infringement of a copyright or a patent, and the Design-Builder failed to promptly furnish such information to the Owner as required by Article 3 of AIA Document A141-2024. The costs of legal defenses, judgments, and settlements shall not be included in the Cost of the Work used to calculate the Design-Builder's Fee or subject to the Guaranteed Maximum Price.~~

§ B.6.2.5.6 With the Owner's prior written approval, Costs for ~~communications services,~~ electronic equipment, and software,

directly related to the Work ~~and located at the site, with the Owner's prior approval.~~

~~§ B.6.2.5.7 Costs of document reproductions and delivery charges.~~

~~§ B.6.2.5.8 Deposits lost for causes other than the Design-Builder's negligence or failure to fulfill a specific responsibility in the Design-Build Documents.~~

~~§ B.6.2.5.9 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 this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.~~

~~§ B.6.2.5.10~~ § 5.7 Expenses incurred in accordance with the Design-Builder's standard written personnel policy for relocation and for temporary living allowances of the Design-Builder's but only with the Owner's prior written approval and a Not-To-Exceed basis for the cost of personnel required for the Work, with the Owner's prior approval in case it is necessary to temporarily relocate such personnel from distant locations.

~~§ B.6.2.5.11 That portion of the reasonable expenses of the Design-Builder's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.~~

§ B.6.2.6.6 Other Costs and Emergencies

~~§ B.6.2.6.1~~ Other costs incurred in the performance of the Work if, with and only to the Owner's prior extent, approved in advance in writing by the Owner.

~~§ B.6.2.6.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A141-2024.~~

~~§ B.6.2.6.3 Costs of repairing or correcting damaged or nonconforming Construction Work executed by the Design-Builder, Subcontractors, or suppliers, provided that such damaged or nonconforming Construction Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, 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, Subcontractors, suppliers, or others.~~

~~§ B.6.2.6.4 Costs of implementation of, and compliance with, protective safeguards that may be required under the Design-Builder's or Owner's builder's risk policy.~~

§ B.6.2.7.7 Related Party Transactions

~~§ B.6.2.7.1 For purposes of this Section B.6.2.7, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Design-Builder; (2) any entity in which any stockholder in, or management employee of, the Design-Builder holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Design-Builder; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Design-Builder.~~

~~§ B.6.2.7.2~~ § 7.1 If any of the costs to be reimbursed arise from a transaction between the Design-Builder and a related party (as defined in Section 5.17 of the Agreement), 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, in its sole discretion, after such notification, authorizes the proposed transaction in writing, 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 Subcontractor, according to the terms of Section B.6.5.4. If the Owner, in its sole discretion, fails to authorize the transaction in writing, 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 B.6.5.4.

§ B.6.3.8 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 B.6.2.1 ~~or as may be provided elsewhere in the Agreement;~~
- ~~2~~ Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Design-Builder or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- 3 Expenses of the Design-Builder's principal office and offices other than the site office;
- 4 Overhead and general expenses, except as may be expressly included in Section B.6.2; Costs of the Design-Builder's home office computer services or other outside computer processing services shall be considered overhead and general expense. Accordingly the Design-Builder should not plan to perform any such computer related services or alternatives at the field office when such services or functions can be performed at the

Design-Builder's home or branch offices, or other outside service locations;

- ~~.54~~ The Design-Builder's capital expenses, including interest on the Design-Builder's capital employed for the Work;
- ~~.6~~ ~~Except as provided in Section B.6.2.6.3 of this Amendment,~~ 5 ~~e~~Costs due to the negligence of, or failure to fulfill a specific responsibility of the Agreement by, the of the Design-Builder, ~~C~~Subcontractors, ~~and the~~ Architect, Consultants, or 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;
- ~~.76~~ Any cost not specifically and expressly described in Sections B.6.2 through B.6.6; ~~and~~
- ~~.87~~ Costs, other than costs included in ~~Modifications~~ Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- ~~.8~~ Costs for services incurred during the Preconstruction Phase.

§ B.6.49 Discounts, Rebates, and Refunds

§ B.6.49.1 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 the m ~~amount to be paid, less such discount,~~ 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.

.1 Cost of the Work will be credited with all insurance policy discounts, performance and payment bond rebates or refunds, refunds or return premiums from any Subcontractor default insurance, refunds or rebates from any Design-Builder controlled insurance programs applicable to the project, merchandise rebates of any nature, refunds of any nature, insurance dividends; and a portion of any volume rebates or free material credits earned with purchase of material or other goods and services charged to the job.

.2 "Cash" discounts which may accrue to the Design-Builder will be limited to a maximum of 1% of indirect cost. All "Cash" discounts greater than 1% shall automatically accrue to the Owner if the Design-Builder is eligible to take advantage of the discounts.

§ B.6.49.2 Amounts that accrue to the Owner in accordance with Section B.6.49.1 shall be credited to the Owner as a deduction from the Cost of the Work.

§ B.6.56.10 Other Agreements

~~§ B.6.5.1 These portions of the Construction Work that the Design Builder does not customarily perform with the Design-Builder's own personnel shall be performed under subcontracts or other appropriate agreements with the Design Builder. The Owner may designate specific persons from whom, or entities from which, the Design-Builder shall obtain bids. The Design-Builder shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Construction Work, who are qualified to perform that portion of the Construction Work in accordance with the requirements of the Design-Build Documents. The Design-Builder shall deliver such bids to the Owner with an indication as to which bids the Design-Builder intends to accept. The Owner then has the right to review the Design-Builder's list of proposed Subcontractors and suppliers and, subject to Section 5.9.1.1 of the Agreement, to object to any Subcontractor or supplier. Any approval or objection by the Owner shall not relieve the Design-Builder of its responsibility to perform the Construction Work in accordance with the Design-Build Documents. The Design-Builder shall not be required to contract with anyone to whom the Design-Builder has reasonable objection.~~

~~§ B.6.5.1.1 When~~ **6.10.1** When the Design-Builder has provided a Guaranteed Maximum Price, and a specific ~~Subcontractor or supplier~~ bidder (1) is recommended to the Owner by the Design-Builder; (2) is qualified to perform that portion of the ~~Construction~~ 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 ~~S~~ subcontract or other agreement actually signed with the person or entity designated by the Owner.

~~§ B.6.5.26.10.2~~ Agreements between the Design-Builder, Subcontractors or other agreements, the Architect, and Consultants 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 without the ~~Owner's prior written approval. If~~ consent of the Owner. If an agreement between the Design

Builder, a sSubcontractor, the Architect, or a Consultant is awarded on ~~the basis of a~~ cost plus a fee basis, the Design-Builder shall provide in the Subcontract agreement for the Owner to receive the same audit rights with regard to the Cost of the Work performed by the Subcontractor, the Architect, or Consultant, as applicable, as the Owner receives with regard to the Design-Builder in ~~this Amendment~~Section B.6.11, below.

§ B.6.10.3 The agreements between the Design-Builder and Architect and other Subcontractors and Consultants identified in the Agreement shall be in writing. These agreements shall be promptly provided to the Owner upon the Owner’s written request.

§ B.6.66.11 Accounting Records

The Design-Builder shall keep full and detailed books, records and accounts related to the ~~C~~cost of the Work and exercise such controls, as may be necessary for proper financial management under the AgreementContract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The ~~Owner and the~~ Owner’s accountants and project management and internal auditors ~~staff~~ 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, ~~job cost reports~~, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor’s proposals, ~~Subcontractor invoices~~, purchase orders, vouchers, memoranda, and other data relating to ~~this Agreement~~the Contract, for any proper purpose, including verification of the Design-Builder’s compliance with Contract requirements and provisions for pricing change orders and evaluating invoices or claims. The Design-Builder shall preserve these records for a period of ~~three~~ten (10) years after final payment, or for such longer period as may be required by law.

§ B.6.76.12 Relationship of the Parties

~~If the basis of payment to the Design-Builder is the Cost of the Work plus a Fee without a Guaranteed Maximum Price or the Cost of the Work plus a Fee with a Guaranteed Maximum Price, the~~ Design-Builder accepts the relationship of trust and confidence established by ~~the~~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 businessconstruction 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. ~~The Owner agrees to furnish and approve, in a timely manner, information required by the Design-Builder and to make payments to the Design-Builder in accordance with the requirements of the Design-Build Documents.~~

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

CASE WESTERN RESERVE UNIVERSITY,

OWNER (Signature)

(Printed name and title)

DESIGN-BUILDER (Signature)

(Printed name and title)

And

(Printed name and title)