

# DRAFT AIA® Document A141™ – 2014

## Exhibit B

### Insurance and Bonds

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

« »

THE OWNER:  
(Name, legal status and address)

« [Southcentral Foundation](#)  
[4501 Diplomacy Drive](#)  
[Anchorage, Alaska 99508](#) »

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

« »  
« »

#### THE AGREEMENT

This Insurance Exhibit is part of the accompanying agreement for the Project, between the Owner and the Design-Builder (hereinafter, the Agreement), dated the « » day of « » in the year « ».

(In words, indicate day, month and year.)

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#### ARTICLE B.1 GENERAL

The Owner and Design-Builder shall purchase and maintain insurance and provide bonds as set forth in this Exhibit B. Where a provision in this Exhibit conflicts with a provision in the Agreement into which this Exhibit is incorporated, the provision in this Exhibit will prevail.

#### ARTICLE B.2 DESIGN BUILDER'S INSURANCE AND BONDS

§ B.2.1 The Design-Builder shall purchase and maintain the following types and limits of insurance from a company or companies lawfully authorized to do business in the jurisdiction where the Project is located. The Design-Builder shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 11.2.2.1 of the Agreement, unless a different duration is stated below:  
(If the Design-Builder is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

#### ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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



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« [Ten years as per the Statute of Repose for Alaska \(AS 09.10.055\).](#)  
For Bonds Refer to § B.2.2.3 »

§ B.2.1.1 Commercial General Liability with policy limits of not less than « [one million dollars](#) » (\$ « [1,000,000](#) » ) for each occurrence and « [two million dollars](#) » (\$ « [2,000,000](#) » ) in the aggregate providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal injury;
- .3 damages because of injury to or destruction of tangible property;
- .4 bodily injury or property damage arising out of completed operations; and
- .5 contractual liability applicable to the Design-Builder's obligations under Section 3.1.14 of the Agreement.

§ B.2.1.2 Automobile Liability covering vehicles owned by the Design-Builder; [hired](#), and non-owned vehicles used by the Design-Builder with policy limits of not less than « [one million dollars](#) » (\$ « [1,000,000](#) » ) per claim and « [two million dollars](#) » (\$ « [2,000,000](#) » ) in the aggregate for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles specified in this Section B.2.1.2, along with any other statutorily required automobile coverage.

§ B.2.1.3 The Design-Builder may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess liability insurance, provided such primary and excess insurance policies result in the same or greater coverage as those required under Sections B.2.1.1 and B.2.1.2.

§ B.2.1.4 Workers' Compensation at statutory limits.

§ B.2.1.5 Employers' Liability with policy limits as provided below:

« [Employer Liability at not less than one million dollars \(\\$1,000,000\) for bodily injury, one million dollars \(\\$1,000,000\) per accident for bodily injury, and one million dollars \(\\$1,000,000\) for injury by disease.](#) »

§ B.2.1.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than « [one million dollars](#) » (\$ « [1,000,000](#) » ) per claim and « [two million dollars](#) » (\$ « [2,000,000](#) » ) in the aggregate.

§ B.2.1.7 [Property Insurance](#) ~~Pollution Liability covering performance of the Work, with policy limits of not less than « » (\$ « » ) per claim and « » (\$ « » ) in the aggregate.~~

§ B.2.1.7.1 ~~The Design-Builder may obtain a combined Professional Liability and Pollution Liability policy to satisfy the requirements set forth in Sections B.2.1.6 and B.2.1.7, with combined policy limits that are not less than « » (\$ « » ) per claim and « » (\$ « » ) in the aggregate.~~

[The Design-Builder shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus the value of subsequent Modifications and cost of materials supplied or installed by others, comprising the total value for the entire Project at the site on a replacement cost basis without optional deductibles. If any construction that is part of the Work shall commence prior to execution of the Design-Build Amendment, the Design-Builder shall, prior to commencement of construction, purchase and maintain property insurance as described above in an amount sufficient to cover the total value of the Work at the site on a replacement cost basis without optional deductibles. The insurance required under this section shall include interests of the Owner, Design-Builder, Architect, Consultants, Contractors, and Subcontractors in the Project. The property insurance shall be maintained, unless otherwise provided in the Design-Build Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of the insurance, until the Owner has issued a Certificate of Substantial Completion in accordance with Section 9.8 of the Agreement. Unless the parties agree otherwise, upon issuance of a Certificate of Substantial Completion, the Owner shall replace the insurance policy required under this Section B.2.1.7.1 with another property insurance policy written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 11.2.2 of the Agreement.](#)

§ B.2.1.7.2 The insurance required under Section B.2.1.7.1 shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for the Design-Builder's services and expenses required as a result of such insured loss.

§ B.2.1.7.3 If the insurance required under Section B.2.1.7.1 requires deductibles, the Owner shall pay costs not covered because of such deductibles.

§ B.2.1.7.4 The insurance required under Section B.2.1.7.1 shall cover portions of the Work stored off the site, and also portions of the Work in transit.

§ B.2.1.7.5 Partial occupancy or use in accordance with Section 9.9 of the Agreement shall not commence until the insurance company or companies providing the insurance required under Section B. 2.1.7.1 have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Design-Builder shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

§ B.2.1.7.6 A loss insured under the Design-Builder's property insurance shall be adjusted by the Design-Builder as fiduciary and made payable to the Design-Builder as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section B.2.1.7.8. The Design-Builder shall pay the Architect, Consultants and Contractors their just shares of insurance proceeds received by the Design-Builder, and by appropriate agreements, written where legally required for validity, the Design-Builder shall require the Architect, Consultants and Contractors to make payments to their consultants and subcontractors in similar manner.

§ B.2.1.7.7 If required in writing by a party in interest, the Design-Builder as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Design-Builder's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Design-Builder shall deposit in a separate account proceeds so received, which the Design-Builder shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Design-Builder. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Design-Builder after notification of a Change in the Work in accordance with Article 6 of the Agreement.

§ B.2.1.7.8 The Design-Builder as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of a loss to the Design-Builder's exercise of this power. If an objection is made, the dispute shall be resolved in the manner selected by the Owner and Design-Builder as the method of binding dispute resolution in the Agreement. If the Owner and Design-Builder have selected arbitration as the method of binding dispute resolution, the Design-Builder as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.

§ B.2.1.8 Cyber Liability with policy limits of not less than « five hundred thousand dollars » (\$ « 500,000 » ) per claim and « one million dollars » (\$ « 1,000,000 » ) in the aggregate.

§ B.2.1.9 The Design-Builder shall provide written notification to the Owner of the cancellation or expiration of any insurance required by this Article B.2. The Design-Builder shall provide such written notice within five (5) business days of the date the Design-Builder is first aware of the cancellation or expiration, or is first aware that the cancellation or expiration is threatened or otherwise may occur, whichever comes first.

§ B.2.1.109 Additional Insured Obligations and Waiver of Subrogation. The Owner and its consultants and contractors shall be additional insureds on the Design-Builder's primary and excess insurance policies for Commercial General Liability; and Automobile Liability and Pollution Liability. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies. The additional insured coverage shall apply to both ongoing operations and completed operations. The policy limits applicable to the additional insureds shall be the same amount applicable to the named insured or, if the policy provides otherwise, policy limits not less than the amounts required under this Agreement.

Design-Builder shall cause their insurers to waive all rights against Owner and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the commercial, general liability, business auto liability, workers compensation and employers' liability, professional, pollution liability or commercial umbrella liability insurance maintained pursuant to this agreement. Design-Builder shall obtain an endorsement to each policy to affect this waiver.

**§ B.2.1.10. Subcontractors' Insurance.** Except for the Builders Risk and, unless providing professional services, Professional Liability, Design-Builder shall cause each subcontractor employed by Design-Builder to purchase and maintain insurance of the type specified above and these policies will be endorsed to include Owner as Additional Insured including completed Operations and Waiver Rights of Subrogation against Owner. When requested by – Owner, Design-Builder shall furnish copies of certificates of insurance evidencing coverage for each subcontractor, including Professional Liability for any and all Architectural and Engineering firms employed by Design-Builder for this Project.

**§ B.2.1.12. Certificates of Insurance.** The Design-Builder shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article B.2, including copies of additional insured and waiver of subrogation endorsements: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon Owner's written request. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations and professional liability, shall be submitted with the final Application for Payment as required by Section 9.10.2 of the Agreement and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section B.2.1. The certificates will show the Owner and its consultants and contractors as additional insureds on the Design-Builder's primary and excess insurance policies for Commercial General Liability, and Automobile Liability, and Pollution Liability. Information concerning reduction of coverage on account of revised limits, claims paid under the General Aggregate or both, shall be furnished by the Design-Builder with reasonable promptness.

## **§ B.2.2 Performance Bond and Payment Bond**

The Design-Builder shall provide surety bonds as follows:

*(Specify type and penal sum of bonds.)*

Type	Penal Sum (\$0.00)
<u>Payment Bond</u>	<u>100% of Contract Price</u>
<u>Performance Bond</u>	<u>100% of Contract Price</u>

**§ B.2.2.1** Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Agreement, the Design-Builder shall promptly furnish a copy of the bonds or shall permit a copy to be made.

**§ B.2.2.2** Payment and Performance Bonds are required immediately upon execution of Phase 2-Construction unless the Owner approves any Early Release Work Authorization(s) to be executed during Phase 1, prior to an overall Guaranteed Maximum Price (GMP) for the entire project. Should any Early Release Work Authorization(s) be executed prior to execution of the GMP, as permitted in AIA A141-2014 Section 5.1.2, Payment and Performance Bonds with penal sums equal to the authorized dollar amount of each Early Release Work shall be provided and documented on an "Early Release Work Authorization" form containing penal sum and other necessary information for the Owner to review prior to approval.

**§ B.2.2.3** Without limiting other requirements or obligations of the surety, the Performance Bond shall cover the Design-Builder's warranty obligations for a period of not less than one (1) year after the Date of Substantial Completion of the Work or designated portion thereof or after the date of the commencement of warranties established under Section 9.9.1 or by terms of an applicable special warranty required by the Design-Build Documents, and shall include coverage for any liquidated damages for which Design-Builder may be liable under this Agreement.

## **ARTICLE B.3 OWNER'S INSURANCE**

### **§ B.3.1 Owner's Liability Insurance**

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

### **§ B.3.2 Property Insurance**

~~§ B.3.2.1 Unless otherwise provided, at the time of execution of the Design-Build Amendment, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus the value of subsequent Modifications and cost of materials supplied or installed by others, comprising the total value for the entire Project at the site on a replacement cost basis without optional deductibles. If any construction that is part of the Work shall commence prior to execution of the Design-Build Amendment, the Owner shall, prior to commencement of construction, purchase and maintain property insurance as described above in an amount sufficient to cover the total value of the Work at the site on a replacement cost basis without optional deductibles. The insurance required under this section shall include interests of the Owner, Design-Builder, Architect, Consultants, Contractors, and Subcontractors in the Project. The property insurance shall be maintained, unless otherwise provided in the Design-Build Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of the insurance, until the Owner has issued a Certificate of Substantial Completion in accordance with Section 9.8 of the Agreement. Unless the parties agree otherwise, upon issuance of a Certificate of Substantial Completion, the Owner shall replace the insurance policy required under this Section B.3.2 with another property insurance policy written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 11.2.2 of the Agreement.~~

~~§ B.3.2.1.1 The insurance required under Section B.3.2.1 shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for the Design-Builder's services and expenses required as a result of such insured loss.~~

~~§ B.3.2.1.2 If the insurance required under Section B.3.2.1 requires deductibles, the shall pay costs not covered because of such deductibles.~~

~~§ B.3.2.1.3 The insurance required under Section B.3.2.1 shall cover portions of the Work stored off the site, and also portions of the Work in transit.~~

~~§ B.3.2.1.4 Partial occupancy or use in accordance with Section 9.9 of the Agreement shall not commence until the insurance company or companies providing the insurance required under Section B.3.2.1 have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Design-Builder shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.~~

~~§ B.3.2.2 Boiler and Machinery Insurance. The Owner shall purchase and maintain boiler and machinery insurance, which shall specifically cover commissioning, testing, or breakdown of equipment required by the Work, if not covered by the insurance required in Section B.3.2.1. This insurance shall include the interests of the Owner, Design-Builder, Architect, Consultants, Contractor and Subcontractors in the Work, and the Owner and Design-Builder shall be named insureds.~~

~~§ B.3.2.3 If the Owner does not intend to purchase the insurance required under Sections B.3.2.1 and B.3.2.2 with all of the coverages in the amounts described above, the Owner shall inform the Design-Builder in writing prior to any construction that is part of the Work. The Design-Builder may then obtain insurance that will protect the interests of the Owner, Design-Builder, Architect, Consultants, Contractors, and Subcontractors in the Work. The cost of the insurance shall be charged to the Owner by an appropriate Change Order. If the Owner does not provide written notice, and the Design-Builder is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, the Owner shall bear all reasonable costs and damages attributable thereto.~~

**§ B.3.2.4 Loss of Use Insurance.** At the Owner's option, the Owner may purchase and maintain insurance to insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Design-Builder for loss of use of the Owner's property, including consequential losses due to fire or other hazards covered under the property insurance required under this Exhibit B to the Agreement.

**§ B.3.2.51** If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those



insuring the Project during the construction period, the Owner shall waive all rights for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

~~§ B.3.2.6 Before an exposure to loss may occur, the Owner shall file with the Design Builder a copy of each policy that includes insurance coverages required by this Section B.3.2. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. The Owner shall provide written notification to the Design Builder of the cancellation or expiration of any insurance required by this Article B.3. The Owner shall provide such written notice within five (5) business days of the date the Owner is first aware of the cancellation or expiration, or is first aware that the cancellation or expiration is threatened or otherwise may occur, whichever comes first.~~

**§ B.3.2.27 Waivers of Subrogation.** The Owner and Design-Builder waive all rights against (1) each other and any of their consultants, subconsultants, contractors and subcontractors, agents and employees, each of the other, and (2) any separate contractors described in Section 5.13 of the Agreement, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to Section B.3.2 or other property insurance applicable to the Work and completed construction, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Design-Builder, as appropriate, shall require of the separate contractors described in Section 5.13 of the Agreement, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of the other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

~~§ B.3.2.8 A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section B.3.2.10. The Design Builder shall pay the Architect, Consultants and Contractors their just shares of insurance proceeds received by the Design Builder, and by appropriate agreements, written where legally required for validity, the Design Builder shall require the Architect, Consultants and Contractors to make payments to their consultants and subcontractors in similar manner.~~

~~§ B.3.2.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Design Builder. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Design Builder after notification of a Change in the Work in accordance with Article 6 of the Agreement.~~

~~§ B.3.2.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of a loss to the Owner's exercise of this power. If an objection is made, the dispute shall be resolved in the manner selected by the Owner and Design Builder as the method of binding dispute resolution in the Agreement. If the Owner and Design Builder have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.~~

## **ARTICLE B.4 SPECIAL TERMS AND CONDITIONS**

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

« Not applicable »