

RETAINER CONTRACT SUPPLEMENT
OUS RETAINER CONTRACT FOR PROFESSIONAL CONSULTANTS
SUPPLEMENT NO. OSU-xxx-P-13-xx
[PROJECT NAME]

This Retainer Contract Supplement dated _____ (the "Supplement") is entered into between:

"Consultant":

and "Owner": the State of Oregon, acting by and through the State Board of Higher Education, on behalf of:
Oregon State University
Construction Contract Services, Facilities Services
3015 SW Western Blvd
Corvallis, OR 97331

(each a "Party" and collectively, the "Parties") pursuant to that certain Retainer Contract entered into between the Parties terminating on January 31, 2015 (the "Retainer Contract"). Capitalized terms have the meaning defined in the Retainer Contract unless further defined in this Supplement.

1. DESCRIPTION OF THE PROJECT: The project to which this Supplement pertains is described as follows: _____ (the "**Project**").

2. SERVICES TO BE PERFORMED: The Consultant shall perform the following services on the Project: _____ (the "**Services**").

The Consultant shall perform its Services according to the terms and conditions of this Supplement, the Retainer Contract, and Attachment 1, which are each incorporated herein by this reference.

All design Services will be performed in compliance with the Oregon State University Design Criteria in effect as of the date of this Supplement.

The Project description, scope of Services, and the fee breakdown are outlined in the proposal dated _____, and signed by _____ (attached hereto and incorporated by this reference as "Exhibit 1").

3. SCHEDULE. Consultant shall perform its Services according to the schedule developed in cooperation with the Owner in order to meet Project needs: _____ (the "Schedule").

4. INCORPORATED DOCUMENTS. This Supplement, the Retainer Contract and Exhibit 1 are all intended to be complementary. However, any conflicts or discrepancies will be resolved utilizing the following descending order of precedence: 1) this Supplement excluding the

Retainer Contract and Exhibit 1, 2) the Retainer Contract excluding this Supplement and Exhibit 1, and 3) Exhibit 1 excluding this Supplement and Retainer Contract.

5. COMPENSATION.

Owner shall compensate Consultant for Services and Reimbursable Expenses incurred by the Consultant in the performance of the Services on a Time and Materials basis in accordance with the Schedule of Charges and the provisions of this Supplement.

The Maximum Compensation for the Consultant's Services including the Reimbursable Expenses is \$_____. This amount includes \$_____ for Services and \$_____ for Reimbursable Expenses.

Total Maximum Compensation, including the cost of any Additional Services that may the Parties may agree to through subsequent execution of a Supplement Amendment, shall not exceed the greater of \$1,000,000 or the maximum allowable under OAR 580-063-0025.

6. TERM. This Supplement is effective on the date it has been signed by every Party hereto and all required approvals have been obtained (the "Effective Date"). No Services shall be performed, or payment made, prior to the Effective Date.

Unless earlier terminated or suspended, Consultant shall perform its obligations according to this Supplement until Consultant's Services are completed and accepted by Owner. Consultant hereby agrees that the Services set forth in this Supplement may continue beyond the Term of the Retainer Contract and will be performed through final completion of Consultant's Services, including completion of all warranty work. The Parties expressly agree that they may execute a Supplement Amendment and extend the date which Consultant's Services may be completed, which may include a date beyond the Term of the Retainer Contract.

Termination or suspension does not extinguish or prejudice Owner's right to enforce the Supplement with respect to any breach by the Consultant that has not been cured.

7. TAX COMPLIANCE CERTIFICATION. The Consultant hereby affirms, under penalty of perjury as provided in ORS 305.385(6), that, to the best of the Consultant's knowledge, the Consultant is not in violation of any of the tax laws described in ORS 305.380(4). For purposes of this certification, "tax laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250, ORS Chapters 118, 314, 316, 317, 318, 321 and 323; the elderly rental assistance program under ORS 310.630 to 310.706; and local taxes administered by the Oregon Department of Revenue under ORS 305.620.

8. INSURANCE REQUIREMENTS.

Prior to the effectiveness of this Supplement, Consultant shall provide Owner with Certificates of insurance maintained in full force and effect at Consultant's expense. Further, each insurance for which a Certificate is required shall be maintained for the duration of the Term of this Supplement including any extensions or Supplement Amendments that may extend the Term of this Supplement. Insurance purchased by Consultant must be consistent with the following:

- A. **Workers' Compensation** – The Consultant, its Sub-consultants, if any, and any other employers providing work, labor or materials under the Supplement are subject

employers under the Oregon Workers' Compensation Law and shall either comply with ORS 656.017, which requires such employers to provide Oregon Workers' Compensation coverage for all their subject workers working in Oregon or shall comply with the exemption in ORS 656.126.

- B. **Commercial General Liability** - The Consultant shall obtain, at the Consultant's expense, Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to Owner. This insurance shall include personal injury, products and completed operations, contractual liability, premises liability, and coverage for the indemnity provided under the Retainer Contract and is made on an occurrence basis. Consultant shall provide proof of insurance of not less than \$1,000,000.00 per occurrence and \$1,000,000.00 in aggregate.
- C. **Automobile Liability** - The Consultant shall obtain, at the Consultant's expense, Automobile Liability Insurance covering all owned, leased, or hired vehicles, as applicable. This coverage may be written in combination with the Commercial General Liability Insurance. Consultant shall provide proof of insurance of not less than \$1,000,000 combined single limit.
- D. **Professional Liability/Errors & Omissions** - The Consultant shall provide Owner with proof of coverage for Professional Liability/Errors & Omissions insurance covering any damages caused by negligent error, omission, or any act in regard to the Project, its plans, drawings, specifications and project manual, and all related work products of the Consultant. The policy may be either a practice-based policy or a policy pertaining to the specific Project. The Consultant shall provide proof of insurance of not less than \$1,000,000.00 per occurrence and \$1,000,000.00 in aggregate.

9. NOTICE. Notices specific to the Services described on this Supplement will be given in writing by personal delivery, email, or mail (postage prepaid) to the Consultant or Owner at the address or email set forth above. Any notice so addressed and mailed (postage prepaid) will be deemed to be given five (5) calendar days after the date of mailing. To be effective against Owner, email transmission must be confirmed by telephone notice to Owner and will be deemed to be given upon such confirmation. Any notice by personal delivery will be deemed to be given when actually delivered. Regular, day-to-day communications between the Parties may be transmitted through one of the methods set forth above, in person, by telephone, by e-mail, or by other similar electronic transmission.

10. OTHER TERMS. Except as specifically modified by the Supplement, all terms of the Retainer Contract remain unchanged and apply to the Project and the Services.

11. EXECUTION AND COUNTERPARTS. The Supplement may be executed in several counterparts, each of which will be an original, all of which will constitute the same instrument.

Consultant hereby confirms and certifies that the representations, warranties and certifications contained in the Retainer Contract remain true and correct as of the Effective Date of this Supplement.

IN WITNESS HEREOF, the Parties have duly executed this Supplement on the dates indicated below.

Consultant

STATE OF OREGON, ACTING BY AND
THROUGH THE STATE BOARD OF HIGHER
EDUCATION, on behalf of Oregon State University

Print Name: _____

Print Name: _____

Signature: _____

Signature: _____

Title: _____

Title: _____

Date: _____

Date: _____