



Oregon  
University  
System

## **REQUEST FOR PROPOSALS**

### **Construction Related Services Retainer Contract**

**ISSUE DATE:** April 16, 2012

**CLOSING DATE:** June 8, 2012

**CLOSING TIME:** 5:00 PM Pacific Time

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# Oregon University System

## Section I – RETAINER CONTRACT INTRODUCTION

### INTRODUCTION

The Oregon University System (“OUS”), on behalf of its seven member institutions (Eastern Oregon University, Oregon Institute of Technology, Oregon State University, Portland State University, Southern Oregon University, University of Oregon, and Western Oregon University, each an “Institution” and, collectively, the “Institutions”), is seeking proposals from qualified contractors (“Proposers”) to enter into Retainer Contracts with OUS to provide construction related services to OUS and its Institutions (“Proposals”). Successful Proposers (each a “Contractor”) must be able to furnish the labor, materials, equipment, components, supplies, and supervision necessary to provide construction related services for future, and currently undetermined, renovation and improvement projects (“Work”).

Contractors will be eligible to bid on Work contracted through the OUS Retainer Program for Construction Related Services (“Retainer Program”). Retainer Contracts will be maintained electronically (in the Retainer Program database) for the duration of the Contract term and will remain available for use by the Institutions in accordance with the terms of this RFP. Certain contracting opportunities for construction related services are only available to Contractors in the Retainer Program.

For any Work valued at \$1,000,000 or less, the OUS or an Institution may contact Contractors from the Retainer Contract database to quickly execute a supplementary agreement to the Retainer Contract stating the scope of Work and price term (“Supplement”). Prior to the execution of any Supplement, Contractors will be asked to demonstrate that they have complied with the insurance and bonding sections of the OUS General Conditions for Retainer Contracts (Attachment II) and this RFP. Each Supplement may contain additional terms specific to the Work, be modified through the use of Supplemental Retainer Contract General Conditions, or be altered through use of an amendment (“Amendment”). Contractors may be awarded multiple Supplements during the Contract term. **However, Contractors are not guaranteed Work and may not be issued a Supplement as participants in the Retainer Program.**

Capitalized terms used, but not defined, in this RFP or the OUS General Conditions for Retainer Contracts, have the meanings set forth in Oregon Administrative Rule (“OAR”) Chapter 580, Divisions 61 and 63.

### SERVICES SOUGHT

Service categories sought are listed on Appendix A. Proposals will be accepted online as set forth in Section III. Proposers must check only those service categories in the online Required Information Form that the Proposer contracts to perform directly. Sub-contracting of Work performed pursuant to a Retainer Contract will only be allowed if a Contractor is awarded a contract which is classified under the category of “General Contracting.” At the discretion of OUS, Contractors may be removed from inclusion in the Retainer Program for service categories that they do not directly perform.

## **Section II –RETAINER CONTRACT INFORMATION**

### **CONTRACT TERM**

Successful Proposers will be eligible to sign a Retainer Contract, stating the terms and conditions between OUS and the Contractor. Retainer Contracts will become effective on the date which is the latter of July 1, 2012 or the date a Retainer Contract is fully executed by the parties (the “Effective Date”), and shall remain effective through June 30, 2014. The period of time between the Effective Date and the Termination Date constitutes the term of the Retainer Contract (the “Term”).

### **SELECTION TO PROVIDE WORK**

Contractors will be selected to perform Work in accordance with OUS rules. Factors for selection include: price, experience, past performance, insurance capacity, bonding capacity, personnel assigned to the project, availability, and ability to meet the Institution’s schedule for completion of the Work. The following procedures will be utilized to select Contractors for Work based on the total anticipated project price, which includes all contemplated Supplements and Amendments:

- a) **Projects \$50,000 or less** – Institutions may contact and negotiate directly with Contractors who have executed Retainer Contracts.
- b) **Projects \$50,000.01 to \$500,000** – Institutions shall invite a minimum of three Contractors who have executed Retainer Contracts to submit a bid. Institutions may also post a solicitation document on the OUS Business Opportunities website (<http://secure.ous.edu/bid>) as a subcontractor bidding opportunity. This solicitation document shall contain the list of selected Contractors, with contact information, that are bidding on the Work. Contractor selection will be based on the invited Contractors’ responses to criteria included in the solicitation document.
- c) **Projects \$500,000.01 - \$1,000,000** – Institutions will post a solicitation document on the OUS Business Opportunities website (<https://secure.ous.edu/bid/>). All Contractors with valid Retainer Contracts are welcome to bid. Selection shall be based on the criteria described in the solicitation document.

At their discretion, Institutions may solicit bids from more Contractors than indicated above or at a lower threshold than stated above.

### **PROOF OF INSURANCE REQUIRED PRIOR TO SUPPLEMENT EXECUTION**

Contractors will not be required to furnish proof of insurance upon execution of Retainer Contracts. However, it shall be a condition precedent to the effectiveness of each Supplement awarded that Contractor provide proof of insurance in accordance with the OUS General Conditions for Retainer Contracts (unless modified by Retainer Supplemental General Conditions). Insurance requirements pertaining to any specific Supplement may be adjusted at the Institution’s sole discretion, but any such adjustments pertain only to that Supplement and do not modify the requirements of the Retainer Contract with regard to any other Supplement.

### **PROOF OF PERFORMANCE AND PAYMENT BOND PRIOR TO SUPPLEMENT EXECUTION**

Performance and payment bonds shall be required for Supplements valued at \$100,000 or greater. Institutions, at their sole discretion, may require performance and payment bonds for Supplements where the value of the Work is \$100,000 or less. The bonds must be purchased for the specific project and proof

of purchase must be provided on the form furnished by the Institution prior to commencement of any Work and as a condition precedent to any payment due by the Institution to the Contractor.

## **LICENSING REQUIREMENTS**

Contractors must be licensed with the Construction Contractor's Board ("CCB") at the time of Proposal submission and for the Term of the Retainer Contract. Landscape Contractors may provide a Landscape Contractor's Board ("LCB") license number in lieu of a CCB license number at the time of Proposal submission. LCB licenses must also remain effective for the Term of the Retainer Contract. If Contractor's CCB or LCB license becomes inactive during the Term of the Retainer Contract, Institutions may suspend Work according to the terms of the OUS General Conditions for Retainer Contracts. Further, Contractors with inactive CCB or LCB licenses cannot be awarded a Supplement until the CCB or LCB restores the active status of the license. Proposers seeking to perform asbestos abatement Work must provide in their Proposal, and maintain for the Term of the Retainer Contract, a valid license number issued by the Oregon Department of Environmental Quality under ORS 468A.720. All Work shall be performed by appropriately licensed and certified workers and technicians.

## **LEGAL REQUIREMENTS**

Contractors must be registered to transact business in the State of Oregon and hold valid State of Oregon Business Registry Number at the time of Proposal submission and for the Term of the Retainer Contract. Contractors will be expected to perform Work in conformance with all applicable laws and regulatory requirements, state and local building codes, and National Fire Protection Association Rules and Regulations. Contractors must comply with the prevailing wage rates set by the Bureau of Labor and Industries, when applicable. All Work will require appropriate plan reviews and permits from local permitting authorities having jurisdiction over the Work.

## **PROJECT DESIGN**

Projects may be designed by the Institution or by design consultants retained by the Institution. Drawings and specifications for each project will be available prior to any project solicitation request. In some situations, it will be the Contractor's responsibility to complete the design. In such cases, the Contractor will provide drawings and specifications for review and approval, and obtain proper authorization from the Institution prior to commencing any Work.

## **PARTICIPATING AGENCIES**

Units of local or state government ("Participating Agencies") may enter into an agreement with OUS to utilize OUS Retainer Contracts. Where applicable, the term "Institution" shall include Participating Agencies. Contractors must indicate whether they are willing to provide Construction Related Services to Participating Agencies on the Required Information Form. The same terms and conditions of the Retainer Contract will apply when used by Participating Agencies, except as detailed in Section 6 of the Retainer Contract (attached to this RFP as Exhibit A).

## **MWESB**

OUS encourages Proposals from Minority, Women and Emerging Small Business enterprises, as such terms are defined in ORS 200.005 and certified pursuant to ORS 200.055 ("MWESB"). Any Contractor certified by the State of Oregon as MWESB that includes their valid certification number in the RIF will be noted as such within the Retainer Program database. OUS policies require Institutions to conduct outreach specifically targeted to MWESB firms.

## Section III – PROPOSAL SUBMISSION

### INSTRUCTIONS

Proposers must read this RFP, including the accompanying documents attached in Section VI, carefully. By submitting a Proposal in response to this RFP, Proposer acknowledges that they have read, understand and agree to comply with all the provisions of this RFP.

After reading the RFP, Proposers must complete the online Required Information Form here: <https://secure.ous.edu/retainer/ContractorRIF>. At the conclusion of the Required Information Form, Proposers will be presented with the option to electronically sign the Proposer Signature Page or manually sign and upload a hard copy of the Proposer Signature Page. Proposals are not complete until the Proposer Signature Page has been signed electronically or manually signed and uploaded and the Proposer has received an email from OUS confirming receipt. No hard-copy Proposals or promotional materials will be accepted. Incomplete proposals will be rejected.

### PROPOSAL DUE DATE

OUS will accept Proposals online until the Closing Date and Time. Any Proposal received by the Closing Date and Time will be evaluated, and if accepted, will have a Retainer Contract with an Effective Date of July 1, 2012. Contractors are not able to bid on Work until the Effective Date of their Retainer Contract.

### QUESTIONS AND INQUIRIES

The OUS Department of Contracting and Purchasing will be your sole point of contact during this RFP process. Responses to inquiries are for clarification purposes only and in no way alter or amend this RFP. All correspondence pertaining to this RFP should be appropriately addressed to the OUS per the contact information below:

**Ian Best, OUS Contracts Manager**  
Telephone: (503) 725-5770  
Email: [RetianerProgram@ous.edu](mailto:RetianerProgram@ous.edu) \*Email preferred

*[Intentionally left blank.]*

## Section IV – EVALUATION CRITERIA

Proposals will be evaluated for completeness, clarity, and compliance with this RFP. Complete Proposals will be evaluated to determine if they comply with the administrative, contractual, and technical requirements of the RFP. If the Proposal is unclear, Proposers may be asked to provide written clarification. **Proposers will be awarded Retainer Contracts if their Proposals meet the following requirements of this RFP:**

- a) Complete Proposal. Proposers must comply fully with the instructions provided in this RFP. Proposers must provide complete and accurate information on the Required Information Form and submit a signed Proposer Signature Page (electronically signed or signed and uploaded).
- b) Insurance Coverage. Proposers must answer all insurance questions on the Required Information Form and agree that, upon issuance of a Supplement, they shall maintain the insurance required by the OUS General Conditions for Retainer Contracts (unless modified by Retainer Supplemental General Conditions). Proof of insurance coverage is not required until a Supplement is awarded.
- c) Bonding. Proposers must verify on the Required Information Form that, upon issuance of a Supplement for a project valued over \$100,000, or upon Institution request for projects valued at less than \$100,000, they shall obtain both a performance bond and a payment bond.
- d) Licensing and Legal Compliance.  
Each successful Proposal must furnish the following:
  - (1) A valid CCB license number at the time of Proposal submission (those Proposers seeking to provide landscape services may provide a LCB license number in lieu of a CCB license number); and
  - (2) A valid Oregon Business Registry Number demonstrating Proposer is registered to transact business in the State of Oregon; and
  - (3) A valid Federal Tax Identification Number; and
  - (4) A valid Oregon Department of Environmental Quality license number for those Proposers seeking to perform asbestos abatement Work.Additionally, each successful Proposer must agree to:
  - (5) Comply with the prevailing wage rates set by the Bureau of Labor and Industries, when applicable; and
  - (6) Adhere to all Federal and state regulatory requirements, state and local building codes, and National Fire Protection Association Rules and regulations.
- e) Contractor Experience. Proposer's completed Required Information Form must indicate that Proposer has been in business for a minimum of 5 years prior to Proposal submission, or demonstrate that the principals/owners of Proposer's company have a minimum of five consecutive years of experience providing services in the service categories indicated in Proposer's completed Required Information Form. Proposals with fewer than five years of experience will be considered at the sole and absolute discretion of OUS.
- f) References. Proposer's completed Required Information Form must include no fewer than four commercial projects completed within the past two years. Proposals with fewer than four commercial projects will be considered at the sole and absolute discretion of OUS.
- g) Ability to respond. Proposers must verify their willingness to respond to a request for services within a reasonable time, generally one to two weeks.

## **Section V – RETAINER CONTRACT AWARD AND PROPOSAL REJECTION**

### **PROPOSAL EVALUATION**

An OUS representative will evaluate each Proposal to determine whether it satisfies the criteria set forth in Section IV of this RFP.

### **CONTRACT AWARD**

OUS will name the apparent successful Proposers in a “Notice of Intent to Award” email sent to successful Proposers. The Notice of Intent to award email will include a Retainer Contract for signature as an attachment.

### **ACCEPTANCE OF CONTRACTUAL REQUIREMENTS**

The terms of the Retainer Contract are not negotiable. Proposers must sign and return the Retainer Contract with no alterations. Failure of selected Proposers to sign and return a Retainer Contract within ten calendar days of receipt may result in cancellation of the award. This time period may be extended at the sole and absolute discretion of OUS.

### **REJECTION OF PROPOSALS**

OUS reserves the right to reject any Proposal that does not comply with the administrative, contractual, or technical requirements of this RFP. If a Proposal is unclear, Proposers may be asked to provide written clarification or the Proposal may be rejected. Proposals that do not include all required Proposal content may be rejected at the sole and absolute discretion of OUS. OUS reserves the right to reject any or all Proposals, if such rejection would be in the public interest as determined by OUS.

### **REJECTION; APPEAL**

Rejected Proposers shall be notified in a “Rejection of Proposal” letter emailed to Proposer and shall be given seven calendar days from the date on the “Rejection of Proposal” letter to file a written protest of award, pursuant to OAR 580-061-0145. Any protest must be emailed to the Director of Contracting and Purchasing at: [RetainerProgram@ous.edu](mailto:RetainerProgram@ous.edu). A decision will be issued by OUS within a reasonable time from the date of receipt. The decision of the OUS Director of Contracting and Purchasing shall be final.

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## Section VI – GENERAL RFP PROVISIONS

OAR Chapter 580, Divisions 61 and 63 govern the OUS capital construction procurement processes.

**1. Modification or Withdrawal of Proposal:** Any Proposal may be modified or withdrawn at any time prior to the Closing Date and Time, provided that a written request is received by the OUS Department of Contracting and Purchasing prior to the Closing Date. The withdrawal of a Proposal will not prejudice the right of a Proposer to submit a new proposal.

**2. Protests of Specifications:** Protests or requests for changes to RFP terms must be received in writing via email to [RetainerProgram@ous.edu](mailto:RetainerProgram@ous.edu) by April 30, 2012. Protests or requests for changes may not be faxed. Protests or requests for changes to RFP terms shall include the reason for the protest or request for change and any proposed changes to the terms. The purpose of this requirement is to permit OUS to correct, prior to Proposers' submission of Proposals, RFP terms or technical requirements that may be unlawful or improvident or which might unjustifiably restrict competition. OUS will consider all requested changes and, if appropriate, amend this RFP.

**3. Addenda:** If any part of this RFP is amended, addenda will be provided on the OUS Current Business and Bidding Opportunities website (<https://secure.ous.edu/bid/>). Proposers are exclusively responsible for checking the OUS Current Business and Bidding Opportunities website to determine whether any addenda have been issued. **By submitting a Proposal, each Proposer thereby agrees that it accepts all risks and waives all claims associated with or related to its failure to obtain any addendum or addendum information.** Responses to inquiries are for clarification purposes only and in no way alter or amend this RFP. Only addenda issued by OUS shall modify this RFP.

**4. Public Records:** If a Proposal contains any information that is considered a trade secret under ORS 192.501(2), each sheet of such information must be marked with the following (bold) legend: **"This information constitutes a trade secret under ORS 192.501(2), and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192."** The Oregon Public Records Law exempts from disclosure only bona fide trade secrets, and the exemptions from disclosure apply "unless the public interest requires disclosure in the particular instance." However, non-disclosure of documents or any portion of a document submitted as part of a Proposal may depend upon official or judicial determination made pursuant to Oregon Public Records Law.

**5. Investigation of References:** The OUS reserves the right to investigate all references in addition to supplied references and investigate past performance of any Proposer with respect to its successful performance of similar services, compliance with specifications and contractual obligations, completion or delivery of a project on schedule, and lawful payment of subcontractors and employees.

Despite its right to investigate all Proposer references, the OUS is not obligated to utilize references as part of its evaluation criteria and may decline to investigate or consider references. Any decision made by the OUS in regards to the use of references, will not be considered grounds for protest.

**6. RFP Preparation Costs:** OUS will not be liable for costs incurred by Proposers in preparation of their Proposals.

**7. Clarification and Clarity:** The OUS reserves the right to seek clarification of each Proposal or to make an award without further discussion of Proposals received. Therefore, it is important that each Proposal initially be submitted in the most complete, clear, and favorable manner possible.

**8. Cancellation:** The OUS reserves the right to cancel or postpone this RFP at any time or to award no Retainer Contract.

**9. Communication Blackout Period.** Except as called for in this RFP, no Proposer may communicate with any OUS employee or representative outside of the OUS Contracting and Purchasing Office regarding this RFP until evaluation of the Proposals are complete. No records will be available for public examination and no information or opinions concerning the ultimate outcome of this RFP will be released to anyone outside OUS during Proposal evaluation. Additional information may be requested by the OUS during Proposal evaluation.

**10. Clerical Errors in Awards.** The OUS reserves the right to correct inaccurate awards resulting from its clerical errors.

**11. Rejection of Qualified Proposals.** Proposals may be rejected in whole or in part if they limit or modify any of the terms and conditions and/or specifications of the RFP. Any terms contained in Proposals that conflict with or modify the terms of this RFP and sample contract are expressly rejected.

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## **Section VII – ADDITIONAL CONTRACT DOCUMENTS AND TERMS**

### **ATTACHMENT I**

The Construction Related Services online Required Information Form including the Proposer Signature Page (Attachment I) are available online here:

<https://secure.ous.edu/bid/opportunities/177>.

### **ATTACHMENT II**

The OUS General Conditions for Retainer Contracts and Supplemental Retainer General Conditions (Attachment II) are posted online here: <https://secure.ous.edu/bid/opportunities/177>.

*[Intentionally left blank, Exhibit A on next page.]*

**Exhibit A  
OUS RETAINER CONTRACT  
FOR CONSTRUCTION RELATED SERVICES**

This Retainer Contract, effective upon the last signature of a party to it, is between:

“Contractor”:

and “Owner”:

**The State of Oregon, acting by and through the State  
Board of Higher Education, on behalf of the Oregon  
University System  
PO Box 751  
Portland, Oregon 97207-0751  
(p) 503-725-5770  
[RetainerProgram@ous.edu](mailto:RetainerProgram@ous.edu)**

(each, a “Party” and collectively, the “Parties”).

**RECITALS**

WHEREAS, Owner issued certain Solicitation Documents inviting construction firms to provide construction related services to Owner or its seven member institutions (Eastern Oregon University, Oregon Institute of Technology, Oregon State University, Portland State University, Southern Oregon University, University of Oregon, and Western Oregon University, each an “Institution” and, collectively, the “Institutions”) ; and

WHEREAS, Owner having received and evaluated the responses to the Solicitation Documents, now desires to award a Retainer Contract to Contractor;

WHEREAS, Contractor desires to provide construction related services to Owner; and

WHEREAS, Contractor is willing and able to directly perform the types of construction related services stated in Contractor's response to the Solicitation Documents;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound agree as follows:

**AGREEMENT**

**1. INCORPORATION OF TERMS AND DOCUMENTS**

Contractor agrees to provide construction related services (“Work”) to Owner in accordance with Contractor’s completed Construction Related Services Required Information Form and signed Proposer Signature Page included as Attachment I; and with OUS General Conditions for Retainer Contracts (the “OUS Retainer General Conditions”), dated as of [REDACTED] and included as Attachment II, all attached hereto and incorporated herein by this reference. Capitalized terms

not otherwise defined in this Retainer Contract shall have the meanings ascribed to them in the OUS Retainer General Conditions.

## **2. WORK**

Owner may request Work of Contractor pursuant to Contract Documents for specific projects (each, a “Project”) throughout the Term (as defined below) of the Contract. Upon receipt of such a request (each such request, a “Request”), Contractor may respond to the Request for specific Work, as defined in the Request. Contractor’s response shall state fixed-price or a maximum not-to-exceed price for the Work, in accordance with the Request, this Retainer Contract and the conditions of the Project.

Upon Owner’s election to award a Project to Contractor, the scope and cost of the Work with regard to each such specific Project will be specified in a written Retainer Contract Supplement (each, a “Supplement”) and a Notice to Proceed may be issued. Each such Supplement shall be incorporated into the Contract Documents upon full execution thereof. From time to time, Owner and Contractor may elect to amend a Supplement by way of an amendment to the Supplement (each such amendment, an “Amendment”). Each such Amendment shall be incorporated into the Contract Documents upon full execution thereof.

Contractor’s Work shall comply with the Contract Documents and Applicable Laws and shall be performed in accordance with the professional skill, care, and standards of other professionals performing similar work under similar conditions.

## **3. OWNER DOES NOT GUARANTEE THAT WORK WILL BE REQUESTED**

Contractor acknowledges and agrees that Owner does not warrant or guarantee that any Work will be requested or authorized under this Retainer Contract. No Work shall be undertaken by Contractor pursuant to this Retainer Contract without a fully executed Retainer Contract Supplement, detailing the specific Work associated with a Project.

## **4. COMPENSATION**

Owner agrees to compensate Contractor for Work in accordance with the Contract Documents. If Contractor is to be compensated on a time and materials basis, Contractor shall provide Owner with a listing of wage rates, material unit costs, and overhead charges for the Project in Contractor’s response to Owner’s Request for Work.

Maximum compensation for all Work, including professional fees, subcontractor fees and reimbursable expenses, under any Retainer Contract Supplement to this Retainer Contract shall not exceed the greater of \$1,000,000 or the maximum allowable under OAR 580-063-0030.

Pursuant to ORS 305.385 and OAR 150-305-100 and as a condition precedent to Owner’s obligation to make any payment due Contractor under this Retainer Contract, Contractor shall provide Owner with its Social Security or federal employer identification number, as applicable.

## **5. TERM AND TERMINATION**

The term of this Retainer Contract (the “Term”) shall commence on the full execution hereof and shall expire on June 30, 2014. In addition to Owner’s rights provided in the OUS Retainer General Conditions, Owner may terminate this Retainer Contract immediately upon discovery that information set forth in Attachment I is no longer true or is false or misleading.

## **6. PARTICIPATING AGENCIES**

Pursuant to ORS 190.110, units of local or state government (“Participating Agencies”) may enter into an agreement with Owner to utilize OUS Retainer Contracts. If Contractor agrees to perform services for Participating Agencies in Attachment I, the same terms and conditions of the Retainer Contract shall apply when used by Participating Agencies except:

- 1) The Participating Agency shall be solely liable to Contractor for payment for Work performed;
- 2) In the event a dispute arises between the Participating Agency and Contractor, the Participating Agency and Contractor shall agree that Owner is not a party to the dispute and shall not be named as a party unless required by law.
- 3) Owner shall not be liable in the event that Participating Agencies fail to follow applicable procurement procedures.
- 4) Participating Agencies shall issue “Participating Agency Retainer Contract Supplements” and “Participating Agency Retainer Contract Supplement Amendments” using forms provided by Owner and in compliance with terms of this Retainer Contract. The term “Supplement” in this Retainer Contract shall also refer to any Participating Agency Retainer Contract Supplement.
- 5) The Participating Agencies may require additional terms and conditions. Any additional terms and conditions proposed by the Participating Agency shall be included in the Supplement, and shall be subject to approval by OUS, in its sole and absolute discretion.
- 6) To the extent required by Applicable Laws, a Participating Agency shall substitute the State of Oregon General Conditions for Public Improvement Contracts (the “State General Conditions”) for the OUS Retainer General Conditions as one of its Contract Documents. Regardless of whether the OUS General Retainer General Conditions or the State General Conditions apply to a Supplement, the term “Owner” in the applicable general conditions shall mean the Participating Agency, and those Contract Documents shall be subject to approval by OUS, in its sole and absolute discretion.

## **7. PERFORMANCE AND PAYMENT BONDS**

Contractor shall provide to Owner a performance bond and a separate payment bond in accordance with the OUS Retainer General Conditions for each separate scope of Work, pursuant to a Supplement in the amount of the Contract Price. Receipt of such bonds by Owner shall be a condition precedent to the effectiveness of any Supplement and to any payment due Contractor under such Supplement.

## **8. PAYMENTS**

Contractor shall submit applications for payment and Owner shall make payments for Work completed by Contractor in accordance with the OUS Retainer General Conditions.

## **9. INSURANCE**

For each Retainer Contract Supplement executed under this Retainer Contract, Contractor shall maintain in full force, at its own expense, and for the duration of the Project, any and all insurance required by the Contract Documents.

## **10. OWNERSHIP OF WORK PRODUCT**

Any Plans, Specifications, reports, or other materials required to be delivered by Contractor pursuant to a Retainer Contract Supplement, whether completed, partially completed or in draft form (the "Work Product") shall be the exclusive property of Owner. Owner and Contractor intend that such Work Product be deemed "work made for hire" under 17 U.S.C. §101, as amended, of which Owner will be deemed the author. If, for any reason, the Work Product is not deemed "work made for hire," Contractor hereby irrevocably assigns to Owner all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as Owner may reasonably request or require in order to fully vest such rights in Owner. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC Sec. 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

If applicable, Contractor will comply with Applicable Laws governing patents, copyrights, licenses and trademarks and will pay all required fees to the holders thereof. Contractor shall indemnify, defend (with counsel acceptable to Owner) and hold harmless the State of Oregon, Owner, Institutions, and their respective members, agents and employees of and from any and all claims, demands, losses, causes of action, damages, lawsuits, judgments, including attorneys' fees and costs, arising out of or relating to patent, license, copyright, and trademark infringements arising out of the actions of Contractor, its subcontractors, agents, and employees.

## **11. AMENDMENTS**

Any change to the terms and conditions of this Retainer Contract shall be made only upon a fully executed written Supplement or Amendment.

## **12. NOTICES**

Except as otherwise expressly provided in this Retainer Contract, any notice required or permitted to be given under this Retainer Contract shall be given in writing and shall be delivered (a) by personal delivery, (b) by email, or (c) by mail (postage paid) to Contractor or Owner at the address or number set forth on the first page of this Retainer Contract or to such other address as either Party may from time to time specify in writing to the other Party. To be

effective against Owner, such email transmission must be confirmed by telephone at the number set forth in the first page of this Retainer Contract. Any communication or notice so addressed and mailed will be deemed to be given five (5) days after mailing. Any communication or notice by personal delivery will be deemed to be given when actually delivered.

### **13. LICENSING; LEGAL CAPACITY TO CONDUCT BUSINESS**

Contractor shall be licensed to do business in the State of Oregon and shall continuously maintain all licenses required by Applicable Laws for the operation of its business or performance of the Work under this Retainer Contract throughout the Term. Contractor shall demonstrate its legal capacity to do business and perform the Work in the State of Oregon before entering into any Retainer Contract Supplement.

### **14. APPLICABLE LAW; JURISDICTION AND VENUE**

This Retainer Contract, as it may from time to time be amended, shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between Owner and Contractor that arises out of or relates to performance of this Retainer Contract shall be brought and conducted solely and exclusively within the Circuit Court for Marion County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought only a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no way shall this Section 14 be construed as a waiver by Owner of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States, or otherwise, from any claim or from the jurisdiction of any court. CONTRACTOR, BY EXECUTION OF THIS RETAINER CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

### **15. TAX LAW COMPLIANCE**

Contractor hereby certifies and affirms, under penalty of perjury as provided in ORS 305.385(6), that, to the best of Contractor's knowledge, Contractor 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.

### **16. EXECUTION AND COUNTERPARTS**

This Retainer Contract and any Supplement or Amendment hereto may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

### **17. SEVERABILITY**

If any term or provision of the Contract Documents is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and



provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Contract Documents did not contain the particular term or provision held to be invalid.

**18. MERGER CLAUSE**

THIS RETAINER CONTRACT, TOGETHER WITH THE OTHER CONTRACT DOCUMENTS, CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS RETAINER CONTRACT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS RETAINER CONTRACT WILL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY THE PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER WILL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. CONTRACTOR, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS RETAINER CONTRACT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

IN WITNESS HEREOF, the Parties have duly executed this Retainer Contract as of the dates indicated below.

\_\_\_\_\_, Contractor

State of Oregon, acting by and through the  
State Board of Higher Education, on behalf of  
the Oregon University System, Owner

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Hillary Bounds,  
Director of Contracting and Purchasing

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

**Exhibit B**  
**RETAINER CONTRACT SUPPLEMENT**  
**OUS RETAINER CONTRACT FOR CONSTRUCTION**  
**RELATED SERVICES**

Supplement No.  
Project Name  
Owner's Project  
Manager

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

"Contractor":

Federal Tax ID No.

and "Owner":

The State of Oregon, acting by and through the State  
Board of Higher Education, on behalf of:

(collectively, the "Parties") pursuant to the Retainer Contract for Construction Related Services between the Parties terminating June 30, 2014 (the "Retainer Contract"). Capitalized terms have the meaning defined in the OUS Retainer General Conditions unless otherwise defined in the Retainer Contract or herein.

- 1. DESCRIPTION OF THE PROJECT.** The project to which this Supplement pertains is described as follows: \_\_\_\_\_ (the "Project").
- 2. WORK TO BE PERFORMED.** Contractor shall perform the following work on the Project : \_\_\_\_\_ (the "Work"). Contractor will perform the Work according to the terms and conditions of this Supplement and the Contract Documents, which are incorporated herein by this reference.
- 3. SCHEDULE.** Contractor shall perform the Work according to the following schedule: \_\_\_\_\_ (the "Schedule").
- 4. COMPENSATION.** Owner shall compensate Contractor for Work  (a) in the firm, fixed-price amount of \$ \_\_\_\_\_; or  (b) on a time and materials basis subject to a maximum not-to-exceed price of \$ \_\_\_\_\_; in accordance with the requirements of the OUS Retainer General Conditions. If the Work is performed on a time and materials basis, Contractor's listing of wage rates, material unit costs and overhead charges for the Work is attached to this Supplement.

The cost of the Work under this Supplement, even if this Supplement is later amended to include

additional work, must not exceed the greater of \$1,000,000 or the maximum allowable under OAR 580-063-0030.

**5. TERM.** This Supplement is effective on the date it has been signed by every Party hereto and all approvals required by Applicable Law have been obtained (the “Effective Date”). No Work shall be performed or payment made prior to the Effective Date. Contractor shall perform its obligations in accordance with the Contract Documents, unless this Supplement is earlier terminated or suspended.

**6. PERFORMANCE AND PAYMENT BONDS.** The performance and payment bond requirements for this Project are as follows (check one of the following):

As a condition precedent to the effectiveness of this Supplement and to Owner’s obligation to make payment for the Work, Contractor shall provide the Owner with a performance bond and a separate payment bond in a sum equal to the Contract Price stated in Section 4 of this Supplement.

This Project has a Contract price of \$100,000 or less, and Owner has determined that performance and payment bonds will not be required for this Project.

**7. MINIMUM WAGE RATES.**

Prevailing Wage Rates requirements do not apply to this Project because the maximum compensation for all Owner-contracted Work does not exceed \$50,000.

Prevailing Wage Rates requirements apply to this Project because the maximum compensation for all Owner-contracted Work is more than \$50,000. Contractor and all subcontractors shall comply with the provisions of ORS 279C.800 through 279C.870, relative to Prevailing Wage Rates and the required public works bond, as outlined in Sections C.1, C.2 and G.2.3 of the OUS Retainer General Conditions. The Bureau of Labor and Industries (BOLI) wage rates and requirements set forth in the following BOLI booklet (and any listed amendments to that booklet), which are incorporated herein by reference, apply to the Work authorized under this Supplement:

PREVAILING WAGE RATES for Public Works Contracts in Oregon, \_\_\_\_, 20\_\_, as amended \_\_\_\_, 20\_\_ [~~delete “as amended \_\_\_\_, 20\_\_” if there have been no amendments since last rate change~~], which can be downloaded at the following web address:

[[http://www.boli.state.or.us/BOLI/WHD/PWR/pwr\\_book.shtml](http://www.boli.state.or.us/BOLI/WHD/PWR/pwr_book.shtml)]

The Work will take place in \_\_\_\_\_ County, Oregon.

**8. TAX COMPLIANCE CERTIFICATION.** Contractor hereby certifies and affirms, under penalty of perjury as provided in ORS 305.385(6), that, to the best of Contractor’s knowledge, Contractor 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.

**9. INSURANCE REQUIREMENTS.**

Contractor shall comply with and obtain the insurance coverage amounts stated in the OUS Retainer General Conditions.

The Owner has determined that the Contractor shall obtain insurance in the amount described in the Retainer Supplemental General Conditions, attached hereto.

**10. KEY PERSONS.**  If checked here, the following provision is incorporated into this Supplement:

The Parties agree that certain Contractor personnel are specifically valuable to the Project (“Key Persons”). Key Persons shall not be replaced during the Project without the written consent of Owner, which shall not be unreasonably withheld. If Contractor intends to substitute personnel, Owner shall receive the request at least 15 days prior to the effective date of substitution. When replacements have been approved by Owner, Contractor shall provide a transition period of at least 10 working days during which the original and replacement personnel shall be working on the Project concurrently. Upon authorization for the replacement of a Key Person, all subsequent substitutions of that Key Person shall require Owner’s written consent in accordance with this Section. The Key Persons for this Project are the following:

**Project Executive:** \_\_\_\_\_ shall be Contractor’s Project Executive, and will provide oversight and guidance throughout the Project term.

**Project Manager:** \_\_\_\_\_ shall be Contractor’s Project Manager and will participate in all meetings throughout the Project term.

**Job Superintendent:** \_\_\_\_\_ shall be Contractor’s on-site Job Superintendent throughout the Project term.

**Project Engineer:** \_\_\_\_\_ shall be Contractor’s Project Engineer, providing assistance to the Project Manager, and subcontractor and supplier coordination throughout the Project term.

**11. OTHER TERMS.** Except as specifically modified by this Supplement, all terms of the Retainer Contract remain unchanged.

**12. EXECUTION AND COUNTERPARTS.** This Supplement may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

**Contractor 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 as of the dates indicated below.

, Contractor

The State of Oregon, acting by and through  
the State Board of Higher Education, on  
behalf of \_\_\_\_\_, Owner

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

SAMPLE

**Exhibit C**  
**RETAINER CONTRACT SUPPLEMENT AMENDMENT**  
**OUS RETAINER CONTRACT FOR CONSTRUCTION**  
**RELATED SERVICES**

Supplement No.:  
Amendment No.:  
Project Name:

This Amendment dated \_\_\_\_\_ to the Retainer Contract Supplement is entered into between:

“Contractor”:

Federal Tax ID No.

and “Owner”:

The State of Oregon, acting by and through the State  
Board of Higher Education, on behalf of:

(collectively the “Parties”) pursuant to the Retainer Contract for Construction Related Services between the Parties expiring June 30, 2014 (the “Retainer Contract”). Capitalized terms have the meaning defined in the OUS Retainer General Conditions unless otherwise defined in the Contract Documents.

- 1. SERVICES:** The Work described in the Retainer Contract Supplement is being amended as follows: \_\_\_\_\_.
- 2. SCHEDULE.** The schedule contained in Section 3 of the Retainer Contract Supplement is hereby replaced in its entirety with the following schedule: \_\_\_\_\_.
- 3. COMPENSATION.** Section 4 of the Retainer Contract Supplement, is hereby replaced in its entirety with the following:

“Owner will compensate Contractor for Work  (a) in the firm, fixed-price amount of \$ \_\_\_\_\_ ; or  (b) on a time and materials basis subject to a maximum not-to-exceed price of \$ \_\_\_\_\_; in accordance with the requirements of the OUS Retainer General Conditions. If the Project is done on a time and materials basis, Contractor’s listing of wage rates, material unit costs and overhead charges for the Work is attached to this Supplement.

The total cost of Work including the original amount contemplated in the Supplement and the additional amount contemplated in this Amendment, must not exceed the greater of \$1,000,000 or the maximum allowable under OAR 580-063-0030.”

**4. TERM.** This Amendment is effective on the date it has been executed by the Parties and all required approvals have been obtained (the “Effective Date”). No Work will be performed or payment made prior to the Effective Date.

**5. TAX COMPLIANCE CERTIFICATION.** Contractor hereby certifies and affirms, under penalty of perjury as provided in ORS 305.385(6), that, to the best of Contractor’s knowledge, Contractor 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.

**6. EXECUTION AND COUNTERPARTS.** This Amendment may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

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

IN WITNESS HEREOF, the Parties have duly executed this Amendment as of the dates indicated below.

\_\_\_\_\_, Contractor

The State of Oregon, acting by and through  
the State Board of Higher Education, on  
behalf of \_\_\_\_\_, Owner

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Exhibit D**  
**PARTICIPATING AGENCY RETAINER CONTRACT SUPPLEMENT**  
**OUS RETAINER CONTRACT FOR CONSTRUCTION RELATED SERVICES**

Supplement No.  
Project Name

This Participating Agency Retainer Contract Supplement dated \_\_\_\_\_ (the “Supplement”) is entered into between:

“Contractor”:

Federal Tax ID No.

and “Participating Agency” :

(collectively, the “Parties”) and is subject to the terms and conditions of the Retainer Contract between Contractor and the Oregon University System (“OUS”) terminating June 30, 2014 (the “Retainer Contract”). Capitalized terms have the meaning defined in the OUS Retainer General Conditions unless otherwise defined in the Contract Documents.

**1. DESCRIPTION OF THE PROJECT.** The project to which this Supplement pertains is described as follows: \_\_\_\_\_ (the “Project”).

**2. WORK TO BE PERFORMED.** Contractor shall perform the following work on the Project : \_\_\_\_\_ (the “Work”). Contractor will perform the Work according to the terms and conditions of this Supplement and the Contract Documents, which are incorporated herein by this reference.

If checked here, the Participating Agency has elected to incorporate the State of Oregon General Conditions for Public Improvement Contracts in the Retainer Contract and this Participating Agency Retainer Contract Supplement in lieu of the OUS Retainer General Conditions as permitted under Section 3 of the Retainer Contract, and the Work shall be performed in accordance with the State of Oregon General Conditions for Public Improvement Contracts.

**3. SCHEDULE.** Contractor will perform the Work according to the following schedule: \_\_\_\_\_ (the “Schedule”).

**4. COMPENSATION.** The Participating Agency shall compensate Contractor for Work  (a) in the firm, fixed-price amount of \$ \_\_\_\_\_ ; or  (b) on a time and materials basis subject to a maximum not-to-exceed price of \$ \_\_\_\_\_ ; in accordance with the requirements of the



OUS Retainer General Conditions. If the Work is performed on a time and materials basis, Contractor's listing of wage rates, material unit costs and overhead charges for the Work is attached to this Supplement.

The Participating Agency shall be solely responsible for payment for Work performed under this Supplement. In the event a dispute arises between the Participating Agency and Contractor, the Participating Agency and Contractor agree that OUS is not a party to the dispute and will not be included in the dispute in any way, unless required by law. OUS is not a party to this Supplement and shall not be responsible for ensuring that the Participating Agency follows applicable procurement procedures.

The cost of the Work under this Supplement, even if this Supplement is later amended to include additional work, must not exceed the greater of \$1,000,000 or the maximum allowable under OAR 580-063-0030.

**5. TERM.** This Supplement is effective on the date it has been signed by every Party hereto and all approvals required by Applicable Law have been obtained (the "Effective Date"). No Work shall be performed or payment made prior to the Effective Date. Contractor shall perform its obligations in accordance with the Contract Documents, unless this Supplement is earlier terminated or suspended.

**6. PERFORMANCE AND PAYMENT BONDS.** The performance and payment bond requirements for this Project are as follows (check one of the following):

As a condition precedent to the effectiveness of this Supplement and to Participating Agency's obligation to make payment for the Work, Contractor shall provide the Participating Agency with a performance bond and a separate payment bond in a sum equal to the Contract Price stated in Section 4 of this Supplement.

This Project has a Contract price of \$100,000 or less, and the Participating Agency has determined that performance and payment bonds will not be required for this Project.

**7. MINIMUM WAGE RATES.**

Prevailing Wage Rates requirements do not apply to this Project because the maximum compensation for all Participating Agency-contracted Work does not exceed \$50,000.

Prevailing Wage Rates requirements apply to this Project because the maximum compensation for all Participating Agency-contracted Work is more than \$50,000. Contractor and all subcontractors shall comply with the provisions of ORS 279C.800 through 279C.870, relative to Prevailing Wage Rates and the required public works bond, as outlined in Sections C.1, C.2 and G.2.3 of the OUS Retainer General Conditions. The Bureau of Labor and Industries (BOLI) wage rates and requirements set forth in the following BOLI booklet (and any listed amendments to that booklet), which are incorporated herein by reference, apply to the Work authorized under this Supplement:

PREVAILING WAGE RATES for Public Works Contracts in Oregon, \_\_\_\_\_, 20\_\_\_\_, as amended \_\_\_\_\_, 20\_\_\_\_ [~~delete "as amended \_\_\_\_\_, 20\_\_\_\_" if there have been no amendments since last~~

rate change], which can be downloaded at the following web address:

[[http://www.boli.state.or.us/BOLI/WHD/PWR/pwr\\_book.shtml](http://www.boli.state.or.us/BOLI/WHD/PWR/pwr_book.shtml)]

The Work will take place in \_\_\_\_\_ County, Oregon.

**8. TAX COMPLIANCE CERTIFICATION.** Contractor hereby certifies and affirms, under penalty of perjury as provided in ORS 305.385(6), that, to the best of Contractor’s knowledge, Contractor 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.

**9. INSURANCE REQUIREMENTS.**

Contractor shall comply with and obtain the insurance coverage amounts stated in the OUS Retainer General Conditions.

The Participating Agency has determined that the Contractor shall obtain insurance in the amount described in the Retainer Supplemental General Conditions, attached hereto.

**10. KEY PERSONS.**  If checked here, the following provision is incorporated into this Supplement:

The Parties agree that certain Contractor personnel are specifically valuable to the Project (“Key Persons”). Key Persons shall not be replaced during the Project without the written consent of Participating Agency, which shall not be unreasonably withheld. If Contractor intends to substitute personnel, Participating Agency shall receive the request at least 15 days prior to the effective date of substitution. When replacements have been approved by Participating Agency, Contractor shall provide a transition period of at least 10 working days during which the original and replacement personnel shall be working on the Project concurrently. Upon authorization for the replacement of a Key Person, all subsequent substitutions of that Key Person shall require Participating Agency’s written consent in accordance with this Section. The Key Persons for this Project are the following:

**Project Executive:** \_\_\_\_\_ shall be Contractor’s Project Executive, and will provide oversight and guidance throughout the Project term.

**Project Manager:** \_\_\_\_\_ shall be Contractor’s Project Manager and will participate in all meetings throughout the Project term.

**Job Superintendent:** \_\_\_\_\_ shall be Contractor’s on-site Job Superintendent throughout the Project term.

**Project Engineer:** \_\_\_\_\_ shall be Contractor’s Project Engineer, providing assistance to the Project Manager, and subcontractor and supplier coordination throughout the Project term.

**11. OTHER TERMS.** Except as specifically modified by this Supplement, all terms of the

Retainer Contract remain unchanged and apply to the Work.

**12. EXECUTION AND COUNTERPARTS.** This Supplement may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

**Contractor 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.

\_\_\_\_\_, Contractor

\_\_\_\_\_, the Participating Agency

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

SAMPLE

**Exhibit E**  
**PARTICIPATING AGENCY**  
**RETAINER CONTRACT SUPPLEMENT AMENDMENT**  
**OUS RETAINER CONTRACT FOR CONSTRUCTION**  
**RELATED SERVICES**

Supplement No.  
Amendment No.  
Project Name

This Amendment dated \_\_\_\_\_ to the Participating Agency Retainer Contract Supplement is entered into between:

the “Contractor”:

Federal Tax ID No.

and the “Participating Agency”:

(collectively, the “Parties”) pursuant to the Retainer Contract between the Parties expiring June 30, 2014 (the “Retainer Contract”). Capitalized terms have the meaning defined in the OUS Retainer General Conditions unless otherwise defined in the Contract Documents.

**1. ADDITIONAL WORK:** The Work described in the Retainer Contract Supplement is being amended as follows: \_\_\_\_\_.

**2. SCHEDULE.** The schedule contained in Section 3 of the Participating Agency Retainer Contract Supplement is hereby replaced in its entirety with the following schedule: \_\_\_\_\_.

**3. COMPENSATION.** Section 4, Compensation, of the Participating Agency Retainer Contract Supplement, is replaced with the following:

“Participating Agency will compensate Contractor for Work  (a) in the firm, fixed-price amount of \$ \_\_\_\_\_; or  (b) on a time and materials basis subject to a maximum not-to-exceed price of \$ \_\_\_\_\_; in accordance with the requirements of the OUS Retainer General Conditions. If the Project is done on a time and materials basis, Contractor’s listing of wage rates, material unit costs and overhead charges for the Work is attached to this Supplement.

The total cost of Work including the original amount contemplated in the Supplement and the additional amount contemplated in this Amendment, must not exceed the greater of \$1,000,000 or the maximum allowable under OAR 580-063-0030.”

The Participating Agency shall be solely responsible for payment for Work performed under this Amendment. In the event a dispute arises between the Participating Agency and the Contractor, the Participating Agency and the Contractor agree that OUS is not a party to the dispute and will not be included in the dispute in any way, unless required by law. OUS is not a party to this Supplement and shall not be responsible for ensuring that the Participating Agency follows applicable procurement procedures.

**4. TERM.** This Amendment is effective on the date it has been executed by the Parties and all required approvals have been obtained (the “Effective Date”). No Work will be performed or payment made prior to the Effective Date.

**5. TAX COMPLIANCE CERTIFICATION.** Contractor hereby certifies and affirms, under penalty of perjury as provided in ORS 305.385(6), that, to the best of Contractor’s knowledge, Contractor 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.

**6. EXECUTION AND COUNTERPARTS.** This Amendment may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

**The Contractor hereby confirms and certifies that the representations, warranties and certifications contained in the Retainer Contract and the Participating Agency Retainer Contract Supplement remain true and correct as of the Effective Date of this Amendment.**

IN WITNESS HEREOF, the Parties have duly executed this Amendment as of the dates indicated below.

\_\_\_\_\_, the Contractor

\_\_\_\_\_, the Participating Agency

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## Appendix A

### Service Categories Sought

<p><b><u>Abatement Services</u></b></p> <input type="checkbox"/> Asbestos, <input type="checkbox"/> Lead, <input type="checkbox"/> Mold <input type="checkbox"/> Silica Abatement	<p><b><u>Site Work</u></b></p> <input type="checkbox"/> Demolition <input type="checkbox"/> Site Preparation & Excavation <input type="checkbox"/> Paving & Surfacing <input type="checkbox"/> Underground Utilities <input type="checkbox"/> Landscaping <input type="checkbox"/> Traffic Coatings <input type="checkbox"/> Site Furnishings	<p><b><u>Electrical</u></b></p> <input type="checkbox"/> Lighting <input type="checkbox"/> Electric <input type="checkbox"/> Electrical Equipment/Gear <input type="checkbox"/> Fire Alarm Systems <input type="checkbox"/> Access Controls <input type="checkbox"/> Security/Intrusion Systems <input type="checkbox"/> Data/Telephone Communications Systems <input type="checkbox"/> Building Controls
<p><b><u>Concrete</u></b></p> <input type="checkbox"/> Concrete Formwork <input type="checkbox"/> Concrete Reinforcement <input type="checkbox"/> Cast-In-Place Concrete <input type="checkbox"/> Pre-cast Concrete <input type="checkbox"/> Flatwork/sidewalks/slabs <input type="checkbox"/> Concrete Finishing (Grinding, Polishing, Sealing, etc.)	<p><b><u>Metals</u></b></p> <input type="checkbox"/> Metal Fabrications <input type="checkbox"/> Flashing & Sheet Metal <input type="checkbox"/> Miscellaneous Metals <input type="checkbox"/> Metal Framing (Heavy Gauge Framing)	<p><b><u>Special Construction</u></b></p> <input type="checkbox"/> Pre-Eng. Structures, Tanks, Tank Covers, Filtration Equipment <input type="checkbox"/> Utility Control Systems <input type="checkbox"/> Security Access & Surveillance <input type="checkbox"/> Renewable Energy Systems
<p><b><u>Wood &amp; Plastics</u></b></p> <input type="checkbox"/> Rough Carpentry <input type="checkbox"/> Finish Carpentry <input type="checkbox"/> Casework	<p><b><u>Doors &amp; Windows</u></b></p> <input type="checkbox"/> Metal Doors & Frames <input type="checkbox"/> Wood & Plastic Doors <input type="checkbox"/> Entrances & Storefronts <input type="checkbox"/> Metal Windows <input type="checkbox"/> Wood & Plastic Windows <input type="checkbox"/> Hardware <input type="checkbox"/> Glazing <input type="checkbox"/> Louvers <input type="checkbox"/> Skylights <input type="checkbox"/> Curtain Wall Systems	<p><b><u>Specialties</u></b></p> <input type="checkbox"/> Visual Display Boards, Compartments & Cubicles <input type="checkbox"/> Louvers & Access Flooring <input type="checkbox"/> Lockers, Partitions & Storage Shelving <input type="checkbox"/> Seismic Upgrade Applications
<p><b><u>Finishes</u></b></p> <input type="checkbox"/> Lath, Plaster & Gypsum Board <input type="checkbox"/> Tile <input type="checkbox"/> Terrazzo <input type="checkbox"/> Acoustical Treatment <input type="checkbox"/> Wood Flooring <input type="checkbox"/> Resilient Flooring/Carpet <input type="checkbox"/> Painting & Wall Coverings <input type="checkbox"/> Ceilings <input type="checkbox"/> High Performance Coatings	<p><b><u>Equipment</u></b></p> <input type="checkbox"/> Food Services <input type="checkbox"/> Industrial & Process Equipment <input type="checkbox"/> Laboratory Equipment <input type="checkbox"/> Medical Equipment <input type="checkbox"/> Audio/Visual Equipment	<p><b><u>Thermal &amp; Moisture Protection</u></b></p> <input type="checkbox"/> Waterproofing & Dampproofing <input type="checkbox"/> Insulation & Fireproofing <input type="checkbox"/> Shingles & Roofing Tiles <input type="checkbox"/> Membrane Roofing <input type="checkbox"/> Metal Roofing & Siding
<p><b><u>Furnishings</u></b></p> <input type="checkbox"/> Manufactured Casework <input type="checkbox"/> Window Treatments <input type="checkbox"/> Furniture & Accessories <input type="checkbox"/> Multiple Seating	<p><b><u>Conveying Systems</u></b></p> <input type="checkbox"/> Dumbwaiters <input type="checkbox"/> Elevators <input type="checkbox"/> Lifts <input type="checkbox"/> Material Handling Systems <input type="checkbox"/> Hoists & Cranes	<p><b><u>Masonry</u></b></p> <input type="checkbox"/> Unit Masonry <input type="checkbox"/> Stone <input type="checkbox"/> Masonry Restoration
<p><b><u>Mechanical</u></b></p> <input type="checkbox"/> Pipe & Plumbing <input type="checkbox"/> Fire Protection <input type="checkbox"/> Heating <input type="checkbox"/> HVAC	<p><b><u>Incidental Services</u></b></p> <input type="checkbox"/> Scaffolding <input type="checkbox"/> Signage	<p><b><u>Other</u></b></p> <input type="checkbox"/> _____ <input type="checkbox"/> General Contracting