

**REQUEST FOR INFORMAL PROPOSALS FOR  
STREAM ASSESSMENT SERVICES  
FOR THE EPA STREAMS PROJECT NO. 6565  
CLEAN WATER SERVICES**

**INTRODUCTION**

Clean Water Services (District) acting on behalf of the Willamette Partnership intends to hire a consultant to provide Stream Assessment services for the EPA Streams Project No. 6565 (Project). Interested consultants must submit proposals. Proposal requirements are contained in this document. Proposals are due at 4:00 p.m. on February 17, 2012. The consultant selected by District shall enter into a Contract for Professional Services with District.

District, Willamette Partnership, Oregon Department of State Lands, U.S. Army Corps of Engineers Portland District, and the Environmental Protection Agency Region 10 (Project Partners) are working jointly to develop a watershed-based approach to stream mitigation for Oregon. Implementation of stream mitigation requires the ability to assess the impact of proposed and permitted actions (Debit) to stream functions and values, as well as the replacement (predicted and actual) of compensatory mitigation benefits (Credit). Stream function assessment provides a mechanism to better quantify these activities within a watershed, and can serve as the basis for accounting of Debits and Credits in a mitigation framework.

A stream classification system is being developed for Oregon that will be used to identify, or index, stream types that exhibit similar characteristics. This classification will serve as the foundation for a more function-based assessment of streams in Oregon. The classification system will cover both basin and stream reach scale hydrologic and geologic characteristics that are drivers of many stream functions. Development of the function-based methodology to facilitate site level assessment is the focus of the current work.

**PROJECT DESCRIPTION**

This project will develop a stream functions assessment methodology (Assessment Methodology) for statewide application in Oregon to assess the site/reach scale impact of Debits to functions and values, as well as the replacement by Credits. The Assessment Methodology will allow users to calculate baseline stream function and calculate predicted changes in function resulting from Debit or Credit projects. The Assessment Methodology will include an instruction manual and datasheets, so that a stream professional with two days of training can apply the Assessment Methodology. The budgeted maximum amount for this Project is \$100,000.

**SCOPE OF WORK**

The scope of work is described in Exhibit A, attached hereto and incorporated herein.

## QUALIFICATIONS

District is seeking the services of a consultant or team of consultants with substantial experience in performing the particular service to be provided. The successful consultant must have the local capability, including staff and equipment, to perform the services and will have demonstrated experience performing this level of work as a regular part of their business.

## PROPOSAL INSTRUCTIONS

### 1. **Submission of Proposals**

Consultants shall submit one original and one copy of its proposal on CD to District addressed as follows:

Bobby Cochran  
Willamette Partnership Executive Director  
2550 SW Hillsboro Hwy  
Hillsboro, OR 97123

All copies of the proposal must be in a sealed envelope or appropriate packaging, with the proposer's name and address on the outside of the package. Place the Request for Informal Proposals (RFIP) title, the due date and time in the lower left-hand corner.

### 2. **Deadline**

Proposals are due on or before Friday, February 17, 2012 at 4:00 p.m., local time. Postmarks are not acceptable. Proposals postmarked before the deadline but received afterward will not be considered. Late proposals and faxed or e-mailed proposals will be kept by District but not considered. Proposals will not be opened publicly nor read aloud.

### 3. **Pre-Proposal Conference**

A pre-proposal webinar conference will be held on Friday, January 27 at 8:00 a.m. Please contact Joni Elteto at [eltetoj@willamettepartnership.org](mailto:eltetoj@willamettepartnership.org) or (503) 681-5112 to receive information about the webinar. Attendance is voluntary for firms planning to submit a proposal. The objective of the pre-proposal conference is to provide an informal meeting to discuss the contents of the RFIP in detail and clarify any questions potential proposers may have. In addition, this conference will give proposers an opportunity to meet key staff.

To assist in the productivity of the meeting, it is requested that questions or areas of clarification be submitted, in writing, as soon as possible to Bobby Cochran. Statements made by staff are not binding unless confirmed in a written addendum.

### 4. **Proposal Form and Contents**

Proposals will be limited to 20 pages of material, (excluding front and back covers, divider tabs, the Certification Form, and the Appendix to the proposal). Use 12-point,

Times New Roman type, double-sided 8.5" X 11" paper, single-spacing and one-inch margins. Each side of the paper constitutes one page (blank pages do not count). To maintain the fairness and integrity of the selection process, it is important that proposals conform to the requirements of this section. Do not include any information that is not specifically requested. Elaborate artwork, expensive paper or bindings, and expensive visual or other presentations are neither necessary nor desired. The proposal should provide all information in the order requested. Failure to submit any of the required items may be grounds for rejection of the proposal.

The proposal will consist of the following elements:

Section 1 Letter of Introduction (one page maximum) that contains:

- a. Name, telephone number, fax number and e-mail address of a contact person and project manager for your proposal.
- b. Primary business experience, length of time in business, ownership, location of offices, and other introductory information.
- c. A statement that your proposal will be valid for a period of 90 days.
- d. Have the letter signed by an authorized representative of your firm that is legally authorized to bind the firm to its proposal and cost schedule and can participate in contract negotiations.

Section 2 Team (4 pages maximum)

- a. Identify the team you are proposing to work on the Project. Your team may consist of internal staff, subconsultants, subconsultant personnel or other partners. Describe the direct qualifications and similar experience of each proposed team member including any subconsultants and their staff. Provide the locations of all team members and their role on the Project.
- b. Include a description of each team member's education, certificates or licenses, professional background, experience, skills, expertise and training for the type of services required.

Section 3 Experience of Team or Firm (3 pages maximum)

- a. Proposers shall provide a narrative description of the proposer's relevant, direct experience on projects of similar size, scope and complexity for three local clients in the past 3 years. Provide client references for those projects including the contact names and phone numbers for each client. Include only projects where the key staff identified in the Team Section had a significant role. Proposers shall describe relevant experience working with federal, state, and/or local agencies. Proposers shall demonstrate a standard for timely responses to requests and have a record of past successful projects.

Section 4      Work Plan (5 pages maximum)

Provide the following information.

- a.      A detailed explanation of proposer’s approach to the Scope of Work and the techniques the proposer expects to use. This should include an explanation of any modifications of work items in the Scope of Work presented in this RFIP.
- b.      Describe how you would propose to use Project Partner personnel, if at all, to assist you during the Project and indicate the approximate time requirement.
- c.      Please provide any additional information about proposer’s Project approach that would be beneficial to the selection committee.
- d.      Outline a work plan and related time schedule for each significant segment of the work.
- e.      Include an estimate of the level of effort in the following format:

Tasks	Staff 1	Staff 2	Staff 3	Total Hours
Task 1	1			1
Task 2		1		1
Task 3			1	1
Task 4	1	1	1	3
Project Total	2	2	2	6

Section 5      Approach to Work and Project Understanding (5 pages maximum)

The proposer shall describe how it would organize and perform the Scope of Work (included in Exhibit A). List and describe any additional Scope of Work elements or tasks that you believe would improve the quality of your services.

Section 6      Cost Schedule (2 pages maximum)

All costs are to be contained in this section. The cost schedule shall include: The hourly billing rate for each person who would be assigned to the Project. Clearly tie cost and personnel to Project specific tasks.

- a. A list of the kinds of expenses for which reimbursement would be sought. State the rate for any expenses, such as photocopies or mileage that would be billed on a flat-rate basis.
- b. A description of your policy for billing for travel to work sites, including trip charges, mileage rates, labor rates during travel and any minimum charges for site visits.
- c. A description of how overhead, support and administrative charges are billed as part of the services.
- d. Provide a cost for each major Scope element and a total cost to perform the Scope of Work.
- e. The method used to charge for any special requests, reports, or broadening of the scope of the work beyond that described in this RFIP.

Section 7 Additional Information (1 pages maximum)

Any other information that the proposer feels applicable to the evaluation of the Proposal or of their qualification for accomplishing the Project should be included in this section. You may use this section to address those aspects of your services that distinguish your firm from other firms. Additional information shall be considered when evaluating the proposer's Approach to the Project and Schedule.

If there is no additional information to present, state, "There is no additional information we wish to present."

Section 8 Appendix (This section does not count toward the total page count above.)

- a. Fill out and enclose the attached Certification Form with your proposal.
- b. If any requirements or provisions contained in the RFIP are unfair or prejudicial or limit competition, please explain your position.

## **EVALUATION OF PROPOSALS**

District will evaluate those proposals which conform to the proposal instructions and meet the stated qualifications. The evaluation process will begin with an analysis of each proposal using the evaluation criteria identified below.

### **1. Evaluation Criteria**

District's selection committee will review all proposals based on the following criteria. Each evaluation criteria has been weighted based on its relative value to the Contract as a whole. The criteria and the associated weights are listed in the table below.

<u>Criterion</u>	<u>Weight</u>
Team	20
Experience of Team or Firm	20
Work Plan	20
Approach to Work and Project	20
Cost Schedule	20

**2. Interviews**

District may conduct interviews, ask proposers to submit references and contact those references or ask for additional information. If District decides to hold interviews, it will notify all proposers of the following: a) proposers to be interviewed, b) criteria used to evaluate the interview and c) effect of the interview on the proposal score.

**3. Negotiations**

District may enter into contract negotiations with the highest ranked proposer. In the event contract negotiations are unsuccessful, District will terminate the negotiations and will begin negotiations with the second highest ranked proposer.

**4. Clarification**

District reserves the right to seek clarification of each proposal submitted. District also reserves the right to require other evidence of technical, managerial, financial, or other abilities prior to selection.

**5. Notice of Intent to Award**

Upon completion of the evaluation process, District will advise the proposers of its number one selection.

**6. Contract Award**

District will award the Contract to the proposer submitting the most advantageous and responsive proposal. The Contract award will be subject to the approval of the District's General Manager and its Board of Directors.

**GENERAL INFORMATION**

**1. Communication Procedures**

The requirements of this section are intended to ensure the fair and equal treatment of all proposing consultants. Until the District has decided who to award the Contract to, consultants are prohibited from contacting the District, its Board or its employees for marketing or solicitation purposes related to this proposal. Disregard of the requirements of this section will result in the disqualification of the consultant.

## 2. Acceptance, Rejection or Cancellation of Award

- A. This RFIP does not constitute an offer to contract and does not commit the District to the award of a Contract to anyone, or to pay any costs incurred in the preparation, submission or presentation of proposals. All costs of the proposal process, interviews, contract negotiations, and related expenses are the responsibility of the proposer.
- B. The District reserves the right to accept or reject any or all proposals received as a result of this RFIP and to negotiate with any qualified proposer(s) for all or part of the requested services. District reserves the right to waive any non-material informality or irregularity in any proposal or proposals.
- C. District also reserves the right to delay, suspend or cancel all or part of this RFIP at any time before execution of the Contract for any reason determined by District to be in the public interest.
- D. Acceptance of a proposal is subject to budget approval, appropriation or budgetary constraints.

## 3. Contract

The consultant selected will be required to execute the Contract attached hereto as written. Except for terms that concern compensation and Scope of Work which will be placed in an exhibit to the Contract, the Contract is not negotiable. Submission of a proposal constitutes acceptance of the terms of the Contract. You do not need to submit a signed copy of the Contract with your proposal.

## 4. Interpretations and Addenda

If necessary, interpretations or clarifications that are deemed in District's discretion to be pertinent to all parties in response to questions received will be posted on Willamette Partnership's website at <http://willamettepartnership.org/news-and-publications/request-for-informal-proposals-rfip>. All questions should be addressed to **Bobby Cochran (503 681-4435)** or by email at [cochran@willamettepartnership.org](mailto:cochran@willamettepartnership.org). Questions received less than seven (7) business days before the proposal due date may not be answered unless District determines, in its sole discretion, that it is in the public interest to do so. Oral and other interpretations or clarifications will be without legal effect.

District may modify the RFIP at any time prior to the RFIP due date, by issuing a written Addendum to all proposers who are participating in the process at the time the Addendum is issued. Addenda will be numbered consecutively.

District will post Addenda on Willamette Partnership website at <http://willamettepartnership.org/news-and-publications/request-for-informal-proposals-rfip>. It is the proposer's responsibility to check for and obtain any Addenda that have been issued from Willamette Partnership's Website.

**5. Anticipated Solicitation Schedule**

Schedule of RFIP Events:

RFIP Distributed	January 23, 2012
Pre-Proposal Conference	January 27, 2012, 8:00 a.m.
Proposals Due	February 17, 2012, 4:00 p.m.
Interviews**	Week of February 27, 2012
Notice of Intent to Award	March 5, 2012
Board of Directors Approval	March 9, 2012
Contract Finalized	March 12, 2012
Commencement of Services	March 13, 2012

\*\* The need for interviews will be determined by District.

These dates are approximate and District reserves the right to change them.

**6. Proposal Withdrawal**

Any proposal may be withdrawn at any time before the “Proposal Due” date and time, by providing a written request for the withdrawal of the proposal to Bobby Cochran. A duly authorized representative of the proposer’s firm shall execute the request. Withdrawal of a proposal will not prejudice the right of the proposer to file a new proposal.

**7. Ownership of Documents/Inspection of Proposals/Proprietary Information**

- A. Any material submitted by a proposer shall become the property of District. Subject to the provisions of the Oregon Public Records Law, all proposals received will be available for public inspection after the Notice of Intent to award has been issued. Copies of material from or review of the proposals may be obtained from the District by submitting a Public Records Request form (form available on [www.cleanwaterservices.org](http://www.cleanwaterservices.org) under forms) and payment of the appropriate charges pursuant to the District’s Rates and Charges in effect at the time of the request. Prepayment is required for all copies requested to be mailed.
- B. Following District’s issuance of its Notice of Intent to Award, responses to this RFIP are subject to release as public information unless the response or specific information contained therein is identified as exempt from public disclosure. Proposer is advised to consult with legal counsel regarding disclosure issues.
- C. If a proposer believes that any portion of its proposal contains any information that is considered a trade secret or otherwise is exempt from disclosure under Oregon Public Records Law, the proposer must include the following on each page containing such information:

“This data is exempt from disclosure under Oregon Public Records Law pursuant to ORS 192, and is not to be disclosed except in accordance with the Oregon Public Records Law, ORS 192.410 through 192.505.”

Identifying the proposal, in whole, as exempt from disclosure is not acceptable. Proposer is cautioned that cost information submitted in response to a RFIP is generally not considered a trade secret under Oregon Public Records Law. By signing the Certification Form as part of your proposal, you are certifying that you have designated any data that is considered a trade secret or confidential information and should be exempt from disclosure. Undesignated data may be released to any person submitting a public records request.

## CERTIFICATION FORM

The undersigned acknowledges, attests and certifies individually and on behalf of Proposer that:

1. He/she is a duly authorized representative of Consultant, has been authorized by Consultant to make all representations, attestations, and certifications contained in this Proposal and all Addendum or Addenda, if any are issued, and has the power and authority to enter into and perform the Contract and that the Contract, when executed and delivered, shall be a valid and binding obligation of Consultant and enforceable in accordance with its terms.
2. Consultant, acting through its authorized representatives, has read and understands all Request for Informal Proposal (RFIP) instructions; Scope of Work and Special Terms and Conditions contained in this RFIP document, and has received, read and understood Addenda Nos. \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_. If no Addenda were received, write "None Received" in the first blank provided.
3. The Proposal submitted is in response to the specific language of the RFIP and Consultant has made no assumptions based upon either (a) verbal or written statements not contained in the RFIP or any Addenda.
4. District shall not be liable to Consultant for any expenses incurred by Consultant in preparing and submitting its Proposal or in participating in the Proposal evaluation/selection process.
5. Consultant will furnish the designated item(s) and/or service(s) in accordance with the Proposal Scope of Work and Special Terms and Conditions and requirements, and will comply in all respects with the terms of the resulting Contract upon award.
6. Consultant certifies that Consultant has not discriminated and will not discriminate, in violation of ORS 279A.110(1) against any minority, women or emerging small business enterprises certified under ORS 200.055, or against a business enterprise that is owned or controlled by or that employs a disabled veteran, as defined in ORS 408.225, in obtaining any required subcontracts.
7. Neither he/she nor any principals of Consultant are presently debarred, suspended, proposed for debarment, or declared ineligible from submitting quotes or proposals by any federal, state or local entity, department or agency.
8. Consultant has not been convicted or had a civil judgment rendered against them within a three-year period preceding the date of this Certification Form for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performance of a public (federal, state or local) contract or subcontract; violation of federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making a false statement, tax evasion, or receiving stolen property.

9. Consultant is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph 8 of this Certification Form.
10. Consultant has not had one or more contracts terminated for default by any federal, state or local public agency within a three-year period preceding the date of this Certification Form.
11. This Proposal has been arrived at independently and has been submitted without any collusion designed to limit independent bidding or competition. Consultant and its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last four years been convicted of or found liable for any act prohibited by state or federal law in any jurisdiction, involving conspiracy or collusion with respect to submitting a proposal on any public contract.
12. Consultant certifies that it has designated any trade secret or confidential information, as these terms are defined in ORS Chapter 192, in its Proposal as required by the RFIP. If the Proposal contains no designations, then Consultant is stating its Proposal does not contain any trade secret or confidential information and District may release the entire Proposal to any person submitting a public records request.

I state that \_\_\_\_\_ (Name of Firm) understands and acknowledges that the above representations are material and important, and will be relied on by Clean Water Services in awarding the contract(s) for which this Proposal is submitted. I understand and this firm understands that any misstatement in this Certification Form is and shall be treated as fraudulent concealment from Clean Water Services of the true facts relating to the submission of proposals for this Contract.

\_\_\_\_\_  
 Consultant Firm Name, if applicable

\_\_\_\_\_  
 Signature of Consultant's Duly Authorized Representative

Printed Name: \_\_\_\_\_

Title, if applicable: \_\_\_\_\_

Date of Certification Form: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

## CONTRACT FOR PROFESSIONAL SERVICES

This Contract for Professional Services (Contract), dated \_\_\_\_\_, is between Clean Water Services (District) acting on behalf of Willamette Partnership and *to be determined* (Consultant).

### RECITALS

1. District is in need of professional services.
2. Consultant represents that Consultant has sufficient experience and expertise to perform the services under this Contract.
3. District and Consultant wish to enter into a Contract for Consultant to provide these services.

### GENERAL TERMS AND CONDITIONS

#### 1. Services to be Provided

Consultant shall provide the services described in Exhibit A, Scope of Work and Special Terms and Conditions, attached hereto and incorporated herein. Consultant's services shall be performed with the same degree of care, skill, diligence, competency, and knowledge that is ordinarily exhibited and possessed by other professionals in good standing in the same or similar field and community as Consultant.

In performing the services, Consultant shall be an independent contractor and not an employee of District. District shall have the right to verify that Consultant's performance meets the requirements of this Contract but shall not have the right to control the manner of Consultant's or Consultant's subconsultants' performance.

No provision of this Contract shall be construed to create a partnership, joint venture, employer-employee, landlord-tenant or principal-agent relationship.

#### 2. Cost of Services

District shall pay Consultant for Consultant's services as specified in Exhibit B attached hereto and incorporated herein.

Interest shall not begin to accrue on Consultant's invoices until after the due date for payment set forth herein.

In the event of a dispute concerning the amount due under any invoice, District may withhold the disputed amount without incurring interest or other charges pending the outcome of the dispute.

District shall have the right to examine Consultant's business records to verify the accuracy of Consultant's billing statements. The right of inspection shall extend to all documents necessary to permit adequate evaluation of the billing data submitted.

### **3. Interference with Performance**

If at any time Consultant believes that District is in any way hindering, delaying or interfering with Consultant's performance, Consultant shall promptly inform District in writing and shall describe in detail the way in which Consultant believes that such hindrance, delay or interference is occurring. Consultant's failure to promptly inform District in writing shall operate as a waiver of Consultant's right to assert claims or defenses based upon the hindrance, delay or interference. The terms of this paragraph shall not apply to District's suspension of the work pursuant to Paragraph 7 herein.

### **4. Changes in Work**

Subject to the requirements of this section, District shall have the right to request work outside the scope of this Contract and to cancel a portion of the work at any time. District shall pay Consultant an amount to be agreed upon by the parties for all additional work. District shall pay Consultant a reduced amount to be agreed upon by the parties in the event District cancels work. District shall not be liable for profits lost due to cancelled work.

Consultant shall perform no work outside the scope of this Contract until the parties have signed an amendment that describes the work and contains the terms of payment. Consultant shall not be entitled to payment for work outside the scope of this Contract unless the parties signed such an amendment before Consultant performed the work. All work performed in the absence of such an amendment shall be considered within the scope of the Contract.

### **5. Time of Performance**

Time is of the essence in the performance of this Contract. Consultant shall complete all work in accordance with the schedule contained in Exhibit A.

### **6. Excusable Delays**

Neither District nor Consultant shall be responsible for or liable for damages resulting from delays due to causes beyond their reasonable control, including, but not limited to, acts of God, acts or omissions of governmental authorities, strikes, lockouts, acts of the public enemy, wars, blockades or civil disturbances. In the event of such a delay, the completion date for Consultant's services shall be extended for a period equal to the length of the delay. Consultant shall notify District in writing not more than ten days after the occurrence of any event that Consultant believes will result in such a delay. The failure of Consultant to provide such notice shall result in a waiver of Consultant's right to claim that the delay is excusable.

### **7. Suspension of Work**

District may suspend the work at any time by delivering written notice to Consultant. In the event District suspends the work for reasons that are not the fault of Consultant, Consultant shall be allowed an increase in the amount payable to Consultant that is equal to the increase in Consultant's expenses resulting from the suspension. Such expenses must be reasonable, customary and actually incurred. District shall not be liable for profits lost due to suspension of work.

## **8. Rejected Work**

District shall have the right to reject Consultant's defective work. Consultant shall promptly eliminate all defects free of charge. If Consultant fails to eliminate all defects within a reasonable time, District may eliminate the defects, or hire another consultant to eliminate the defects and charge the expense of eliminating the defects to Consultant. If District deems it inexpedient to correct a defect, District may reduce the fee payable to Consultant by an amount that in District's sole judgment reflects the diminished value of the work represented by the defect. District's rights under this paragraph shall be in addition to and not in lieu of all rights District may otherwise have in the event Consultant produces defective work.

## **9. Intellectual Property**

All right, title, and interest in all intellectual property conceived or developed in the course of Consultant's work for District under this Contract shall be works made for hire and the property of District. As used herein, the term "intellectual property" includes, but is not limited to, all inventions, patents, copyrightable subject matter, copyrights, test data, trade secrets, studies, reports, designs, plans, maps and specifications, and other confidential information and software. District understands that Consultant's proprietary and copyrighted data remains the property of Consultant and no copyright or work for hire rights or right, title or interest will transfer to District.

## **10. Publications**

Consultant may not disclose, publish or otherwise distribute any information, materials, documentation, reports or work product (collectively, Work Product) that Consultant may acquire, develop or produce in performing services pursuant to this Contract or any amendment thereto, or that Consultant may receive from District, directly or indirectly, without first obtaining District's prior written consent, which consent may be withheld in District's sole discretion. If Consultant requests permission to disclose, publish, present or otherwise distribute any Work Product, Consultant must provide District with the entire publication, presentation or distribution, including summaries, editorial comments or other explanatory information and materials that will accompany the Work Product.

## **11. Indemnification**

To the fullest extent permitted by law, Consultant shall indemnify, hold harmless, reimburse and defend District and the officers, directors, partners, members, employees, agents, consultants, and subconsultants of District, and the successors in interest of the foregoing, from, for and against suits, actions, claims, damages, penalties, liabilities, losses and expenses (including but not limited to all fees and related costs, disbursements and expenses of engineers, architects, attorneys and expert witness' fees) arising out of or resulting from Consultant's performance of the Contract, but only to the extent caused by a breach of this Contract by Consultant or the negligent acts, errors or omissions of Consultant, any subconsultant, subcontractor, any supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the work described in the Contract or anyone for whose acts any of them may be liable.

## **12. Insurance**

Neither Consultant nor any subconsultant shall commence work under this Contract until Consultant has obtained all the insurance required herein and submitted a certificate of insurance to District. Consultant shall maintain the insurance for the duration of this Contract. Review of the insurance by District shall not relieve or decrease the liability of Consultant. The insurance certificate shall provide for thirty days advance written notice to District's Project Manager prior to cancellation. District must be listed as an additional insured on any policy satisfying the requirements of items B and C below. The following minimum insurance is required:

- A. Workers compensation in the amount required by Oregon law, and employers liability insurance in the amount of \$500,000.
- B. Business automobile liability insurance in the amount of \$500,000 per occurrence.
- C. Commercial general liability in the amount of \$500,000 combined single limit per occurrence and a \$1,000,000 Annual Aggregate limit. If Consultant's primary Commercial General Liability and Automobile coverages do not meet the minimum limits required above, Consultant shall maintain during the life of this Contract, Excess or Umbrella Liability over the primary policies sufficient to meet the total aggregate limits required by this Contract.
- D. Professional liability insurance in the amount of \$1,000,000.

## **13. Termination**

District may terminate this Contract without cause at any time upon the delivery of written notice. In the event of such termination, District shall pay Consultant for all work performed in accordance with the requirements of this Contract prior to the date of termination. District shall not be liable for lost profits on uncompleted work or damages as a result of District's termination.

The termination of this Contract shall not relieve or release Consultant from any liability to District for damages sustained by District by virtue of any breach of this Contract by Consultant or Consultant's negligence or other conduct, and District may withhold all or any part of any payment due to Consultant upon such termination as a set-off against the amount of any such damages until such time as the exact amount of damages due District from Consultant is determined.

In the event of the termination of this Contract for any reason allowed herein or allowed by law, Consultant shall promptly deliver all work in progress to District. District shall not be obligated to pay Consultant's final invoice until District has received the work in progress.

## **14. Arbitration**

All disputes arising out of or relating to the project or this Contract shall be subject to arbitration in accordance with the American Arbitration Association rules then in effect. Written notice of demand for arbitration shall be filed with the American Arbitration Association within a

reasonable time after the dispute has arisen, but in no event shall be made after the date when institution of legal or equitable proceedings based on such claim would be barred by the applicable contractual provision or statute of limitations. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

In any arbitration proceedings brought under this section or any legal proceedings arising out of or relating to this Contract, the prevailing party shall be entitled to reasonable attorney fees, together with all reasonable investigation, expert and other costs incurred, in addition to any other relief to which any party may otherwise be entitled.

Consultant's agreement to arbitrate is not a waiver of its lien rights or bond claim rights otherwise provided by law, which rights are fully reserved.

**15. Change Orders, Amendments, Waivers**

This Contract, all change orders, modifications, amendments and any waiver of any portion of the Contract shall not be effective unless in writing and approved by District's General Manager or the General Manager's designee and, when required by applicable District rules, District's Board of Directors.

**16. Compliance With Statutory Requirements**

Consultant shall comply with all applicable obligations as required by Exhibit C attached hereto and incorporated herein.

**17. Third Party Beneficiaries**

No provision of this Contract shall in any way inure to the benefit of any third person so as to constitute any such person a third party beneficiary of this Contract or of any one or more of the terms of this Contract, or otherwise give rise to any cause of action in any person not a party to this Contract.

**18. No Contingent Fees**

Consultant warrants that Consultant has not employed or retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Contract, and that Consultant has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Consultant any fee or consideration of any kind, contingent upon or resulting from the award or making of this Contract. In the event Consultant breaches the warranty contained in this paragraph, District shall have the right to deduct from the Contract price or otherwise recover the full amount of such fee or consideration.

**19. Waiver of OTCA Rights**

Consultant hereby waives all indemnity rights Consultant may have under the Oregon Tort Claims Act which arise as a result of an agency or alleged agency relationship between the parties.

**20. Conflicts of Interest**

Consultant shall remain free of conflicts of interest at all times. Conflicts of interest shall include, but not be limited to, the following:

When Consultant's services include recommending products or services for District's purchase, a significant financial interest held by Consultant in any manufacturer or seller of products or services so recommended. District shall have the exclusive right to determine what constitutes a significant financial interest.

**21. Assignment**

Consultant shall not assign Consultant's rights or duties pursuant to this Contract without first obtaining District's written consent.

**22. Project Management**

Each party shall assign a project manager to this Contract. The project managers shall be authorized to act on behalf of their respective employers concerning all matters related to this Contract, except, however that Contract amendments shall not be effective unless approved pursuant to Paragraph 15 herein.

**23. Interpretation of Contract**

This Contract shall not be construed for or against any party by reason of the authorship or alleged authorship of any provision. The paragraph headings contained in this Contract are for ease of reference only and shall not be used in construing or interpreting this Contract.

**24. Severability/Survival**

If any of the provisions contained in this Contract are held illegal, invalid or unenforceable, the enforceability of the remaining provisions shall not be impaired. All provisions concerning the limitation of liability, indemnity and conflicts of interest shall survive the termination of this Contract for any cause.

**25. Choice of Law/Venue**

This Contract and all rights, obligations and disputes arising out of the Contract shall be governed by Oregon law. All disputes and litigation arising out of this Contract shall be decided by the state courts in Oregon. Venue for all disputes and litigation shall be in Washington County, Oregon.

**26. Integration**

This document constitutes the entire agreement between the parties on the subject matter hereof and supersedes all prior or contemporaneous written or oral understandings, representations or communications of every kind on the subject. No course of dealing between the parties and no usage of trade shall be relevant to supplement any term used in this Contract. Acceptance or

acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this Contract and no waiver by a party of any right under this Contract shall prejudice the waiving party's exercise of the right in the future.

TO BE DETERMINED

CLEAN WATER SERVICES

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

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

General Manager or Designee

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

APPROVED AS TO FORM

\_\_\_\_\_  
District Counsel

**EXHIBIT A**  
**SCOPE OF WORK AND SPECIAL TERMS AND CONDITIONS**

**STREAM ASSESSMENT SERVICES**

**FOR EPA STREAMS PROJECT No. 6565**

**I. PROJECT DESCRIPTION**

Introduction

Willamette Partnership, Oregon Department of State Lands (ODSL), U.S. Army Corps of Engineers Portland District (USACE), and the Environmental Protection Agency Region 10 (USEPA) (collectively, Project Partners) are working jointly to develop a function-based stream mitigation framework for Oregon to effectively implement stream mitigation policy under the Federal Compensatory Mitigation Rule (USEPA/USACE, 2008<sup>1</sup>). The rule stresses mitigation of impacts in a watershed context.

This Project will develop a stream functions assessment methodology (Assessment Methodology) for statewide application in Oregon to assess the site/reach scale impact of proposed and permitted actions (Debit) to functions, as well as the replacement (predicted and actual) of unavoidable impacts and compensatory mitigation (Credit). Stream function assessment provides a mechanism to better quantify these activities within a watershed, and can serve as the basis for accounting of Debits and Credits in a mitigation framework or for tracking the environmental outcomes from other restoration efforts. The Assessment Methodology will allow users to calculate baseline stream function and calculate predicted changes in function resulting from Debit or Credit projects. The Assessment Methodology will include an instruction manual and datasheets, so that a stream professional with two days of training can apply the Assessment Methodology.

Project Partners have spent the last three years scoping target stream functions, developing tools to identify streamflow duration and jurisdictional streams, developing a statewide stream classification system, and mapping the path toward inter-agency adoption of a watershed-based stream mitigation framework. The Project will also link closely with existing work from the Willamette Partnership's Counting on the Environment process that bridges regulatory jurisdictions and Project Partners' efforts to transition Oregon's wetland mitigation program into a more functions-based approach that considers the watershed context. By the end of 2014, there will be a tested, watershed-based approach to mitigation that treats all waters in the state consistently.

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<sup>1</sup> EPA/USACE. 2008. Compensatory Mitigation for Losses of Aquatic Resources: Final Rule. Federal Register 73(70) 2008. [www.epa.gov/owow/.../wetlands\\_mitigation\\_final\\_rule\\_4\\_10\\_08.pdf](http://www.epa.gov/owow/.../wetlands_mitigation_final_rule_4_10_08.pdf)

### Assessment of Stream Functions

*Stream functions* are the processes that create and support a stream ecosystem, which is different than condition—the qualities and structure of a stream ecosystem at a given point in time. Stream functions are dynamic and interrelated physical, chemical and biological processes that create and maintain the character of a stream and the associated riparian system and determine the flux of energy, materials, and organisms through or within a stream system.

Recognizing that different types of streams perform different functions, the Assessment Methodology shall use the stream classification system that is currently being developed specifically for Oregon by USEPA, ODSL and USACE. The classification system will identify stream types that exhibit similar characteristics. Each stream type will be defined by basic hydrological and physical characteristics and determinants of flow regime, and reflect broad functional expectations. This classification will serve as the foundation for a more function-based assessment of streams in Oregon. The classification system will cover both watershed and stream reach scale hydrologic and geologic characteristics that are drivers of many stream functions. The classification system shall be made available once work is begun on the development of the function-based methodology to facilitate site level assessment.

### Assessment of Stream Values

In addition to stream functions, Oregon Removal-Fill Law requires that loss and compensatory mitigation of *stream values* be considered. DSL defines functions and values as: “those ecological characteristics or processes associated with a water of this state and the societal benefits derived from those characteristics”. The ecological characteristics are “functions” whereas the associated societal benefits are “values.” Values include the opportunity for a stream to provide a particular function, and the local significance of that function. Refer to the Oregon Rapid Wetland Assessment Protocol introduction (Adamus et al. 2010)<sup>2</sup> for a more detailed explanation of functions and values, and the distinction between these. An assessment methodology of streams developed for this Project shall include a separate values assessment that is distinct from the assessment of stream functions.

## **II. ASSESSMENT METHODOLOGY SPECIFICATIONS**

### Background

Consultant shall build upon the Draft Functional Assessment Framework drafted for EPA (USEPA 2012<sup>3</sup> – See Exhibit D). A suite of ten stream functions, grouped into four functional groups (see Exhibit D, Table 1 – Functions Defined, page 13), has been proposed as the basis for proposed function-based assessment. The ten functions were modified from a list of functions developed through an expert workshop and literature review (Fischenich 2006<sup>4</sup>).

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<sup>2</sup> Adamus, P., J. Morlan, and K. Verble. 2010. Oregon Rapid Wetland Assessment Protocol (ORWAP): calculator spreadsheet, databases, and data forms. Oregon Dept. of State Lands, Salem, OR.

<sup>3</sup> USEPA 2012. Draft Functional Assessment Framework Excerpt: Attributes, Considerations, Criteria. U.S. Environmental Protection Agency, Region 10, Portland, OR.

<sup>4</sup> Fischenich, J.C. 2006. Functional Objectives for Stream Restoration. ERDC TN-EMRPP SR-55. USAE Research and Development Center, 3909 Halls Ferry Rd., Vicksburg, MS 39180. [el.ercd.usace.army.mil/elpubs/pdf/sr52.pdf](http://el.ercd.usace.army.mil/elpubs/pdf/sr52.pdf)

In this Project, functions shall be quantified by *function attributes*. Function attributes are specific features that are a characteristic or inherent part of the function and may indicate the extent to which a particular function is active. Individual functions may be quantified with multiple attributes, and some attributes may be linked to multiple functions. Attributes should provide a direct measurement of the function to the extent possible. Where direct measures are impractical, attributes may include indicators or proxies for the function (Sandin and Solimini 2009<sup>5</sup>). In the Draft Functional Assessment Framework, attributes have been proposed for each function (see Exhibit D, Table 2 – Function Attributes, page 14). Practical definitions for each attribute as well as a short explanation of the reasoning behind inclusion of the attribute are provided in Exhibit D (see Table 3 – Attribute Definitions and Intent, page 15).

The Project shall also include an approach to assessing stream values in a way that meets the requirements of Oregon Removal-Fill Law as discussed above. The approach should follow the structure of the Oregon Rapid Wetland Assessment Procedure (Adamus et al, 2010).

#### Description of how the Assessment Methodology will work

The Assessment Methodology shall be applied to both Debit and Credit sites to allow users to calculate predicted changes in stream function resulting from Debit or Credit projects. Recognizing that different types of streams perform different functions, the Assessment Methodology shall use the stream classification system being developed for Oregon to A) identify all or a subset of the ten stream functions to be assessed for a given site, and B) select a weighting system for indicators, attributes and/or functions by stream type.

Each stream function identified as relevant at a given site will be assessed for both its function and its value.

The Assessment Methodology shall include data collection protocols for function attributes. Each measure of an attribute shall include answer options that cover the range of possible responses. Mathematical scoring models will transform user inputs from collected data on attributes into function assessment scores. Individual function scores should be aggregated to arrive at a function subscore for each of the four functional groups. Functional group subscores should then be aggregated into an overall score for the site. The subscores and overall score should represent how well a site is functioning on a numerical scale (i.e., 0 to 10 or 0% to 100%).

The Assessment Methodology should also include data collection protocols for assessing values. Each measure of a value shall include answer options that cover the range of possible responses. Mathematical scoring models will transform user inputs from collected data on attributes into value assessment scores. Individual value scores should be aggregated to arrive at a value subscore for each of the four functional groups. Functional group subscore should then be aggregated into an overall score for the site. The subscores and overall score should represent how much of an opportunity a stream has to provide a particular group of functions on a

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<sup>5</sup> Sandin, L. and Solimini, A. G. 2009. Freshwater ecosystem structure–function relationships: from theory to application. *Freshwater Biology*, 54: 2017–2024

numerical scale (i.e., 0 to 10 or 0% to 100%).

Criteria of the Assessment Methodology

The Assessment Methodology shall be:

A) **Science-based-** Integrating the best available science using ecological functions applied in a watershed context;

B) **Rapid-** Two trained conservation professionals should be able to complete the field assessment at any time of year for a typical 30-acre site/ 2,000 foot reach in 1 day. Total time for completing all work (including all office work, data entry and score calculations) could take 2 days;

C) **Credible-** Sensitive to year-over-year changes within a site and to differences among sites, and repeatable, so that any two assessment teams would arrive at a similar answer for the same site;

D) **Transparent-** Where all indicators, formulae, etc. can be easily accessed and understood by a variety of stakeholders, not just the trained professionals applying the Assessment Methodology; and

E) **User friendly-** Manuals, documentation, and tools will need to be available online and easy to use. The functions “calculator” shall be created in Excel.

### **III. SPECIFIC TASKS FOR ASSESSMENT METHODOLOGY**

The Assessment Methodology shall build upon and complement work that has been done to date or is underway (i.e., the stream classification system for Oregon and the identification of stream functions and attributes described above).

Consultant(s) shall be responsible for the following project tasks:

#### **Task 1. Attend project kick-off meeting with Project Partners**

Within 10 business days of the Project start date, Consultant shall attend, in person, a Project kick-off meeting with the Project Partners to review and discuss existing material and any information that is relevant to the Project.

Consultant shall allocate up to 4 hours of time to participate in this meeting.

#### **Task 2. Complete conceptual framework for Assessment Methodology**

By August 15, 2012, Consultant shall complete a conceptual framework for the Assessment Methodology. The framework shall build upon the USEPA 2012 analysis and other sources and include:

1. A complete set of stream functions and functional groups with definitions and rationale for selection;
2. A complete set of attributes, measures for those attributes, and linkages from attributes to the functions they inform with definitions and rationale for their selection (value ranges for attributes shall be defined in Task 3);
3. A draft weighting system based on the stream classification system for Oregon that can be used to assign different weights to different attributes, functions, and functional groups;
4. A complete set of stream values linked to each stream function with definitions and rationale for selection;
5. A complete set of attributes, measures for those attributes, and linkages from attributes to the values they inform with definitions and rationale for their selection (value ranges for attributes shall be defined in Task 3); and
6. An 8.5 by 11 inch or 11 by 17 inch diagram or schematic that allows stakeholders to visualize the conceptual framework.

Consultant shall submit the conceptual framework to Bobby Cochran, District's Project Manager, in a written Technical Memo. The Project Partners will present the findings to the Stream Technical Working Group of stakeholders (Technical Working Group). This group will be made up of government agency, permittee, Consultant, and conservation representatives. Consultant shall prepare the Project Partners to make the presentation to the Technical Working Group, attend and participate in the Technical Working Group meeting, and review the comments and feedback received on the conceptual framework and make the necessary revisions. Consultant shall budget up to 4 hours for the preparation of the Project Partners, up to 4 hours for its participation in the Technical Working Group meeting and up to 8 hours to review and incorporate the feedback and comments into a revised conceptual framework.

**Deliverables:** Consultant shall prepare and submit to District draft and final Conceptual Framework Technical Memos documenting all elements of the conceptual framework.

### **Task 3. Develop a Draft Assessment Methodology**

By December 31, 2012, Consultant shall prepare a Draft Assessment Methodology incorporating comments on the conceptual framework from Project Partners and the Technical Working Group. At a minimum, the Draft Assessment Methodology shall include:

1. A final set of attributes, functions, and functional groups;
2. For the Functions Assessment:
  - a. For each attribute, a draft set of indicators/measures with value ranges defined for each indicator/measure;
  - b. Draft mathematical models that use collected data to produce a 0-100% score for each function, aggregates functions into functional group subscores (approximately 4 groups), and aggregates functional groups into an overall score from 0-100% for the site;
3. For the Values Assessment:
  - a. Value categories that correspond to the final set of stream functions developed for this task;
  - b. For each value category, a draft set of indicators/measures with value ranges or a quantitative scale defined for each indicator/measure;
  - c. Draft mathematical models that use collected data to produce a 0-100% score for each value, and aggregate value scores into an overall score from 0-100% for the site;
4. Draft mathematical scoring models developed for each stream classification type (approximately 10-15 types) that identifies weights for attributes, functions, and functional groups as needed;
5. Draft Excel “calculator” that allows users to enter collected data and produce the scores described above. There shall be separate Excel worksheets for functions assessment and values assessment. Excel workbook shall be modeled on Willamette Partnership’s existing Upland Prairie calculator (<http://willamettepartnership.org/ecosystem-credit-accounting/prairie/Copy%20of%20Upland%20Prairie%20Calculator%20rev%20Nov19-2010.xls/view>);
6. Draft data collection sheets, including 8.5 x 11 inch printable formatting, for collection of required field or office data;
7. Draft Assessment Methodology Manual that includes data collection instructions and protocols for each indicator, data entry instructions, and other necessary information to understand and apply the methodology. Manual shall be modeled on Willamette Partnership’s existing Upland Prairie calculator manual ([http://willamettepartnership.org/ecosystem-credit-accounting/prairie/UplandPrairieMetricProcedure\\_071409.pdf/view](http://willamettepartnership.org/ecosystem-credit-accounting/prairie/UplandPrairieMetricProcedure_071409.pdf/view)) and Oregon Rapid Wetlands Assessment Protocol Manual ([http://willamettepartnership.org/ecosystem-credit-accounting/orwap/orwap\\_manual\\_v2.pdf/view](http://willamettepartnership.org/ecosystem-credit-accounting/orwap/orwap_manual_v2.pdf/view)).

Consultant shall submit the Draft Methodology to District’s Project Manager in an Excel Workbook and editable versions of the datasheets and manual. The Project Partners will present

the findings to the Technical Working Group. Consultant shall prepare the Project Partners to make the presentation to the Technical Working Group, attend and participate in the Technical Working Group meeting, review comments and feedback on the Draft Assessment Methodology Manual and make the necessary revisions. Consultant shall allocate up to 4 hours of time to prepare the Project Partners, up to 4 hours for its participation in the Technical Working Group meeting and up to 8 hours to review and incorporate the feedback and comments into a revised Draft Assessment Methodology Manual.

**Deliverables:**

Consultant shall prepare and submit to District:

1. An Excel Workbook containing the Draft Assessment Methodology (including data entry worksheets, weighting schemes by stream classification type, and score summary worksheet), and
2. Word versions, or other editable forms, of data collection sheets and instruction manuals.

**Task 4. Prepare Draft Assessment Methodology for Field Testing**

By February 28, 2013, Consultant shall incorporate Project Partner and Technical Working Group comments on Draft Functions Assessment Methodology into versions ready for field testing. This includes revised versions of the Excel calculator workbook, data collection sheets, and instructional manual(s). Consultant shall work cooperatively with the field testing contractor to design and guide a protocol to field test the draft functions Assessment Methodology.

**Deliverables:**

Consultant shall prepare and submit to District revised drafts of the Excel calculator workbook with the Draft Assessment Methodology (including data entry worksheets, weighting schemes by stream classification type, and score summary worksheet), and revised Word or other editable forms of data collection sheets and instruction manuals prepared in Task 3.

**Task 5. Prepare Final Draft Assessment Methodology**

By November 30, 2013, Consultant shall participate in up to 8 hours of debrief with Project Partners to assess implications of field testing results, and 3 to 4 hours to participate in a Working Group meeting to discuss field testing results and receive final sets of comments on the Draft Assessment Methodology. Results from field testing shall be available by October 1, 2013. By January 31, 2014, Consultant shall prepare final drafts of Assessment Methodology, Excel calculator workbook and documentation ready for public review process from Project Partners.

**Deliverables:**

Consultant shall submit the following documentation in both print and editable electronic format to District's Project Manager for review and sign-off:

1. Excel calculator workbook
2. Assessment Methodology Manual (written description) including
  - a. list of functions and associated attributes
  - b. methods to collect data on indicators
  - c. description of equations to translate data into score of overall stream function

- d. detailed instructions on how to use the methodology, including examples and reference photos/diagrams that would help users interpret written descriptions
3. Associated data sheets and any supplementary databases/information required for using them
4. Any other companion materials related to the development and use of the methodology.

#### **IV. SCHEDULE**

Consultant shall complete all work by September 30, 2014.

**EXHIBIT B  
PAYMENT**

1. District shall pay Consultant on an hourly basis and shall reimburse Consultant for the reasonable expenses directly incurred by Consultant in performing Consultant's services. District shall pay Consultant at the labor and expense reimbursement rates contained in Exhibit B(1), attached hereto and incorporated herein. District shall reimburse Consultant at cost for all expenses, including subconsultant fees, not listed herein. Consultant shall not add markups or administrative fees to Consultant's expense reimbursement requests. District's total payment to Consultant, including expense reimbursement, shall not exceed \$ *amount to be determined*.
  
2. Consultant shall invoice District monthly. Consultant's invoices shall contain a description of the tasks performed during the billing period, the hourly rates applicable to each task, the hours spent on each task, an itemized description of the expenses incurred during the billing period, and the total amount billed. Consultant shall indicate the total amount of the Contract, the total of the invoice, the total invoiced to date and the remaining Contract balance. District shall have thirty (30) days after the receipt of Consultant's invoice in which to make payment.

**EXHIBIT B(1)**

**RATES**

Rates to be provided by consultant.

## EXHIBIT C

### COMPLIANCE WITH LAWS AND REGULATIONS GOVERNING PUBLIC CONTRACTS

#### **1. Generally**

Consultant shall keep itself fully informed of and shall fully comply with all federal, state, regional, and local laws, rules, regulations, ordinances, and orders pertaining in any manner to this Contract and the rules, regulations and orders of any agency or authority having jurisdiction over the work under this Contract or persons employed or engaged therein. Consultant shall pay all taxes, including federal, state, regional, county, and city taxes, and taxes of any other governmental entity, applicable to the services performed or materials provided under this Contract. All permits, licenses, and fees necessary for prosecution and completion of the Work shall be secured and paid for by Consultant, unless otherwise specified by District.

The following paragraphs include, without limitation, the standard contract clauses that are required in every public contract in accordance with the Oregon Revised Statutes. As such these paragraphs are applicable, to the extent they apply, to this Contract. The term Contractor shall refer to Consultant as used in this Exhibit C. This Contract shall include by reference any other standard contract clauses required by federal, state, and local laws, ordinances, and regulations.

#### **2. Prompt Payment**

Contractor shall promptly pay as due all of its obligations arising out of or in connection with the Work, including, but not limited to, payments (1) to all persons supplying to Contractor labor, equipment, services, or materials for the performance of the Work; (2) of all contributions or amounts due the Industrial Accident Fund from Contractor or any subcontractor incurred in the performance of the Work; and (3) to the Department of Revenue of all sums withheld from employees under ORS 316.167.

#### **3. Hours of Labor**

Contractor shall pay employees at least time and a half pay for all overtime in excess of 40 hours in any one week, except for individuals who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201 to 209 from receiving overtime.

#### **4. Workers' Compensation**

All employers, including Contractor, that employ subject workers who work under this Contract in the state of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its subcontractors complies with these requirements.

#### **5. Prompt Payment for Medical Services**

Contractor shall promptly make payment, as due, to any person, co-partnership, association, or corporation furnishing medical, surgical, or hospital care services or other needed care and attention, incident to sickness or injury, to the employees of Contractor, of all sums that Contractor agrees to pay for the services and all moneys and sums that Contractor collected or

deducted from the wages of employees under any law, contract, or agreement for the purpose of providing or paying for the services.

**6. Compliance with Laws/Tax Laws**

Contractor shall comply with all applicable federal, state, and local laws, statutes, codes, regulations, rules, orders, and rulings including, without limitation, those governing labor, materials, equipment, construction procedures, safety, health, sanitation, and the environment. Contractor agrees to indemnify, hold harmless, reimburse, and defend District from and against any penalties or liabilities arising out of violations of such obligations by Contractor or its subcontractors or suppliers at any tier. Contractor must also comply with all Oregon Tax Laws.

**7. Recycled Materials**

Contractor, in performance of the work under this Contract, shall use recycled paper as defined in ORS 279A.010(1)(gg), recycled PETE products as defined in ORS 279A.010(1)(hh), and other recycled plastic resin products to the maximum extent economically feasible.

**8. Liens**

Contractor shall not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation, or subdivision thereof on account of any labor or materials furnished.

**EXHIBIT D**

***Draft Functional Assessment Framework Excerpt:  
Attributes, Considerations, Criteria***

**U.S. Environmental Protection Agency, Region 10**

**January 2012**