#### MEMORANDUM



#### EUGENE WATER & ELECTRIC BOARD



TO: Commissioners Brown, Mital, Helgeson, Manning and Simpson

FROM: Cathy Bloom, Finance Manager

Gail Murray, Purchasing/Risk Manager

DATE: December 18, 2014

SUBJECT: Protest of award – RFP 050-2014

OBJECTIVE: Board Action–Affirm or deny protest

#### **Issue**

Following the notice of intent to award a contract from RFP 050-2014 to Wright Tree Service, Inc., Trees, Inc. filed a protest of award to the Purchasing Manager.

#### **Background**

Staff issued RFP 050-2014 for Utility Line Clearance, Tree pruning and removal along EWEB transmission and distribution power lines in October 2014. Four responses were received and evaluated according to the stated criteria in the RFP document. Wright Tree Service, Inc. was deemed to be the highest ranked proposer. Staff issued a notice of intent to award on November 21, 2014. On November 25, 2014 Trees, Inc submitted a letter of protest to the Purchasing Manager stating bias as the reason for their protest. On December 3, 2014 the Purchasing Manager, after a thorough review of the documents and processes followed, denied the protest of bias as unfounded. On December 5<sup>th</sup>, staff received a request for appeal to the General Manager. The General Manager reviewed the documents and responded on December 10<sup>th</sup> upholding the Purchasing Manager's denial of the protest.

On December 12<sup>th</sup>, Trees, Inc filed a Protest of Award Appeal to the Board.

#### Discussion

Attached for the Board's review and clarification are the following documents to assist with your decision process:

- Memo from General Counsel outlining background and process
- Copies of protest letters and responses
- Copy of score sheet with scores redacted
- Copy of Public Records Request received from Trees, Inc which details the cost breakdown of each respondent
- Copy of the original RFP document which includes the evaluation criteria and formula used in the evaluation process

#### Recommendation

Management recommends the LCRB fully review the record on protest for compliance with EWEB contracting rules.

#### **Requested Board Action**

Management requests Board decision as the LCRB of affirmation or denial of the protest.

If the board requires additional information, please contact the Purchasing Manager

#### References

EWEB Contracting Rule 6-0130 Board Appointed Consultants and Retained Professionals EWEB designates the following classes of contracts as personal services contracts which are not subject to competitive bidding and proposal requirements.

- (1) Board Appointed Consultants, including Attorneys, Auditors, Board appointed Engineering, Architectural, Land Surveying and Related Services subject to Division 4 of these EWEB Rules, and other Consultants who may be appointed through a direct appointment by the Board.
- (2) Non-Board Appointed Consultants providing Engineering, Architectural, Land Surveying and Related Services, to the extent provided for in Division 4 of these EWEB rules.

Stat. Auth: ORS 279A.065, 279A.070

Stat. Implemented: ORS 279A.055, 279A.065, 279B.085, 279C.100-.125

#### Statute Authority:

279A.025(2)(d)(q)(s) and (3)(j); 279A.055(2); 279A.060; 279A.065(5); 279A.070; 279A.075(1); and any and all applicable statutes, whether or not referenced herein, that support EWEB's actions.

#### EWEB Rule:

2-0150(3)(a), 6-0110, 6-0130, 6-0270, and any and all applicable rules, whether or not referenced herein, that support EWEB's actions.

#### **MEMORANDUM**

TO: Gail Murray, EWEB Purchasing Manager

FROM: Eric S. DeFreest, Luvaas Cobb

**DATE:** December 19, 2014

**RE:** Assembly as the Local Contract Review Board

This memorandum is intended to address the scope of the duties and responsibilities of the Eugene Water & Electric Board, Board of Commissioners when sitting as the Local Contract Review Board. This memorandum is not an exhaustive statement of the functions and responsibilities of the Local Contract Review Board and may be supplemented by general discussion with General Counsel.

#### Board's Role As the Local Contract Review Board (LCRB)

Each county, and any local public agency having a governing body, may elect to form a Local Contract Review Board pursuant to ORS 279A.060. ORS 279A.065(6) authorizes every LCRB to make rules to carry out the powers and duties of the Board relating to competitive bidding requirements for all public contracts. The legislative authority allowing agencies to establish their own Local Contract Review Boards in lieu of the State Board was made in recognition of the home rule powers of cities, counties, EWEB and Springfield Utility Board. Scope and Limitation of the LCRB Review

Historically, the Contract Review Board scope of review is to ensure agency policy and procedures were followed, all requirements were met and all proposers or bidders were treated equally and fairly.

On January 4, 2005, the Eugene Water & Electric Board duly adopted Resolution No. 0501 reappointing itself as the Public Contract Review Board for the Eugene Water & Electric Board, attached for reference. At that time, the resolution included revision of EWEB's Division 2 Rule 2-0280 relating to protests and disputes generally. In accordance with Rule 2-0280(7), it states:

"The Board, in considering the protest, shall review the documentation presented to the Purchasing Manager and the General Manager on or before the next regularly scheduled board meeting, but in no event shall the board be required to review in less than ten (10) business days. The Contract Review Board will not review evaluation scores. The review by the Contract Review Board shall be based upon the documentation presented to the Purchasing Manager and the General Manager and shall be limited to the evaluation of a matter of bias, discrimination or conflict of interest, or noncompliance with procedures described in this solicitation document, or noncompliance with state law or the EWEB Public Contracting Rules. The Contract Review Board's determination shall be EWEB's final decision."

#### Rule 2-0280(2) further provides:

"All protests must be in writing, signed by the protesting party or an authorized agent, and submitted to EWEB's Purchasing Manger. The protest must state all facts and arguments upon which the protesting party is basing their protest. EWEB will only consider protests identifying an issue of fact concerning a matter of bias, discrimination or conflict of interest, or noncompliance with the procedures described in the solicitation documents, or noncompliance with state law or the EWEB Rules."

At the next regular board meeting (ten days or more after appeal), the LCRB shall review the documentation presented to the Purchasing Manager. EWEB's Division 2 Rules do not require a hearing which would permit any protesting adversely or aggrieved proposer to appear in person, verbally address the LCRB or to supplement the record.

#### Record for review:

Pursuant to the general protest procedure, and absent other requirement of law, the Board acting as the Contract Review Board "shall review the documentation presented to the Purchasing Manager and the General Manager" but the provision explicitly states that the "Contract Review Board will not review evaluation scores." All submitted materials of the selected proposer and the protesting proposer are included for the record on review; however, the evaluation score numbers (individual and cumulative) will have been redacted in accordance with Rule 2-0280(7). The proposals as submitted by other potential contractors are not included for review as part of the protest record.

The LCRB shall base its decision on such written materials. The LCRB may then evaluate whether the protestor establishes a matter of bias, matter of discrimination, conflict of

interest, noncompliance with solicitation procedures expressed in the document, noncompliance with state law, or noncompliance with EWEB Public Contracting Rules.

#### Scope of review:

In order to qualify for review under protest within the scope of Rule 3-0740, the reason for the protest must be that:

- (a) all higher ranked proposals are nonresponsive;
- (b) EWEB has failed to conduct the evaluation of proposals in accordance with the criteria or processes described in the solicitation materials;
- (c) EWEB has abused its discretion in rejecting the protestor's bid or proposal as nonresponsive; or
- (d) EWEB's evaluation of proposals or EWEB's subsequent determination of award is otherwise in violation of EWEB rules.

A post-deadline protest may challenge whether the criteria and process stated in the solicitation was followed. In contrast, the rules do not anticipate LCRB review of the stated criteria or process themselves unless a protest had been made before the time of the RFP closure date. Neither subsection (a) or (c) would come into play unless there was a determination of a party being nonresponsive. A viable protest under either subsection (b) or (d) would require a finding of violation of the process stated in the solicitation or violation of contracting rule.

As stated in 2-0280(2), the LCRB will "only consider protests identifying an issue of fact concerning a matter of bias, discrimination or conflict of interest, or non-compliance with procedures described in the Solicitation Documents, or non-compliance with state law or the EWEB Rules." The LCRB's review is "limited to evaluation of a matter of bias, discrimination or conflict of interest, or noncompliance with procedures described in the solicitation document, or noncompliance with state law or the EWEB Public Contracting Rules." Rule 2-0280(7).

A protest to the LCRB is for the purpose of determining whether the public contracting process conformed to the rules as designed to provide a fair and equitable opportunity under the RFP. The board members are in position to contemplate whether the process was properly carried out, whether there are errors of fact or law inherent in the intent to award, and whether there is any factual basis for alleged bias - aside from the evaluation scores of the panel. As

mandated by the adopted rule, the LCRB is not permitted to review the underlying evaluation scores of the evaluation panel. Mere numbers on a score sheet do not necessarily establish bias, whether positive or negative. The presumption is that the evaluation panelists each conducted their review in a fair and unbiased manner. Variation in scores among panelists may be an expected and inherent aspect of the process. Under the adopted contracting rules, the record as presented is considered for the existence of any material violation of rules or process. The LCRB is neither directed nor authorized to conduct a separate re-evaluation of only the top two candidates anew.



#### Trees, Inc.

650 N. Sam Houston Pkwy. Suite 130 Houston, Texas 77060 Office 281-447-1327 866-865-9617

Fax 281-260-0728

December 12, 2014

Via email (GeneralManager@eweb.org) and overnight mail

Roger Gray General Manager Eugene Water and Electric Board 500 East 4<sup>th</sup> Avenue P.O. Box 10148 Eugene, OR 97440-2148

Re: Protest of Award Appeal/Utility Line Clearance EWEB RFP No. 050-2014

Dear Mr. Gray,

Thank you for your correspondence of December 10, 2014.

I have read your letter in great detail, but feel that it misses the points and bases of Trees Inc.'s ("Trees") protest. As has been stated in the preceding correspondence, it is Trees' position that the Eugene Water and Electric Board's ("EWEB") process, applied in this matter, resulted in a predominately subjective evaluation which turned out to be substantially biased in favor of the incumbent provider. This is evident in at least the following observations:

- 1. As was stated in prior correspondence, the incumbent was given the high score in out of 6 subjective criteria, and the highest score in the remaining criteria. Given 4 bidders, it is clear that there is bias, particularly when it is evident that the ability and past experience of the bidders is very similar, the bidding entities are similarly situated and the equipment used by all bidding entities is nearly the same (all aspects of the review).
- 2. The lack of standard evaluation criteria and a resultant bias is also evident by a review of the individual evaluator scores in each criteria, sometimes varying by nearly % of the points awarded. For example, in Trees' summary chart (provided in response to its first informational request) on line 7.2.2 (proposer's past experience), Evaluator 1 gave Trees points, while Evaluator 2 awarded points, or nearly the score. Clearly Trees' past experience hadn't changed, nor were standard criteria applied. Similarly, in line 7.2.3 (proposer's supervisory past experience), Evaluator 3 gave Trees an , while Evaluator 4 gave Trees an or a % lower evaluation resulting from a review of the identical submitted information. Again, this is not indicative of a standard and uniform, unbiased review, but is instead the epitome of arbitrary and capricious.

Additionally, while I appreciate your position that Trees' protest is "untimely", such is not the case, as the biased evaluation obviously did not occur until after submission and review of all bids, and was not apparent until after Trees' data request.

The purpose of this letter is to formally request that Trees' protest be forwarded to the EWEB Board of Commissioners, pursuant to Section 8.10(g) of EWEB's protest procedure. Trees looks forward to the opportunity to discuss this with the EWEB board. In that regard, Trees is being represented in this matter by Sandra Bishop, who I understand has likely been in contact with you.

Sincerely,

Scott Huffmaster

Vice President



#### **Eugene Water & Electric Board**

500 East 4th Avenue/Post Office Box 10148 Eugene, Oregon 97440-2148 541-685-7000 www.eweb.org

December 10, 2014

Mr. Scott Huffmaster Trees, Inc. 650 N. Sam Houston Pkwy, Ste 130 Houston, TX 77060

RE: Protest of Award Appeal/Utility Line Clearance

EWEB RFP No. 050-2014

Dear Mr. Huffmaster:

EWEB is in receipt of your appeal to the denial of your protest of intent to award letter, dated December 4th, 2014 (received via email December 5, 2014), for the solicitation referenced above. Based upon my review of the RFP 050-2014 and appeal documentation presented by your office, I respectfully deny your protest.

#### **Procedural protest:**

To the extent that Trees, Inc. held concern with the evaluation and scoring procedures prior to the closing deadline, Section 1.3 of the RFP provided in pertinent part:

Proposers may submit a written protest of any provision, specification or contract term contained in an RFP and may request a change to any provision, specification or contract term contained in an RFP, no later than 5 p.m. on October 28, 2014. Each protest and request for change must include the reasons for the protest or request, and any proposed changes to the RFP provisions, specifications or contract terms.

Protest of technical or contractual requirements shall include the reason for protest, any and all evidence and documented factual information that supports proposer's protest, and any proposed changes to the requirements.

The appropriate time for Trees, Inc to have addressed any concerns with the evaluation or scoring procedures passed on October 28, 2014. A current protest on this basis is untimely.

#### Assertions of bias:

The RFP document states in section 8.10(c) **Protests and Judicial Review of competitive Bidding and Proposals** 

c) Only protests <u>stipulating an issue of fact</u> concerning a matter of bias, discrimination or conflict of interest, non-compliance with procedures described in the procurement documents, or EWEB policy shall be considered. Protests based on procedural matters will not be considered.

I have reviewed your claims documentation in context of the RFP record and find no issue of fact established by your protest letters to prove bias.

Relyonus.



Tk. \_S, INC. 650 N. Sam Houston Parkway E. Suite 130 Houston, TX 77060 866-865-9617 (office) 281-260-0728 (fax)

#### Via email (Gail.MURRAY@eweb.org) and overnight mail

December 4, 2014

Ms. Gail Murray
Purchasing/Risk Manager
Eugene Water & Electric Board
500 East 4<sup>th</sup> Avenue
P.O. Box 10148
Eugene, OR 97440-2148

Re: Protest of Award/Utility Line Clearance, EWEB RFP No. 050-2014

Dear Ms. Murray,

Thank you for your letter of December 3, 2014, responding to Trees, Inc.'s ("Trees") above-referenced protest. The purpose of this letter is to formally appeal such decision to the Eugene Water & Electric Board's ("EWEB") General Manager, pursuant to Section 8.10(e) of the EWEB bid protest process.

While I appreciate your acknowledgement in paragraph 3 of your letter that the incumbent does enjoy a bias in the process, I do not understand the rest of that paragraph that seems to infer that bidders are somehow put on notice of that fact, or have an opportunity to object based on a prebid review of the evaluation criteria. Obviously, the bias does not occur until the criteria are interpreted to material favor the incumbent to the exclusion of all other bidders.

Additionally, your response does not address how such criteria are used to justify EWEB's acceptance of the <u>highest bid submitted</u>. Not only does this result demonstrate the lack of appropriate weighting and objectivity of the criteria, it is also indicative of a failure of the process to fulfill EWEB's fiduciary obligation to its rate-payers.

Thank you for your attention to this matter. Trees looks forward to an evaluation of this matter by the EWEB General Manager pursuant to the protest process, and an award of the contract to Trees pursuant to an objective evaluation of the bid submissions.

Sincerely

Trees, Inc.
Scott Huffmaster

Vice President

Cc: Christopher D. Hein, General Counsel



#### **Eugene Water & Electric Board**

500 East 4th Avenue/Post Office Box 10148 Eugene, Oregon 97440-2148 541-685-7000 www.eweb.org

December 3, 2014

Mr. Scott Huffmaster Trees, Inc. 650 N. Sam Houston Pkwy, Ste 130 Houston, TX 77060

RE: Protest of Award/Utility Line Clearance

EWEB RFP No. 050-2014

Dear Mr. Huffmaster:

EWEB is in receipt of your protest of intent to award letter, dated November 25, 2014 (received via email on November 26, 2014), for the solicitation referenced above. I have reviewed the documentation and provide you with the following response:

In your protest you state, "...the incumbent is rated disproportionately higher across the scoring, as is evidenced by the incumbent receiving the highest score of all bidders in four out of the six criteria... clearly the subjective criteria has been designed and is generally interpreted to create material bias in favor of the incumbent". Additionally you have taken issue with the scoring method of the pricing criteria.

I recognize that an incumbent service provider may have some advantage, because they have provided the services for the contracting agency. However, the evaluation criteria are not and were not designed to create a material bias in favor of any particular proposer. EWEB provided the evaluation criteria and provided a Protest of Specifications process that would allow Trees, Inc. the ability to ask questions or to examine public records related to the past provision of these services or to protest the formula used to score the proposed pricing. Trees, Inc. did not avail themselves of this opportunity.

The request for proposal process was clearly outlined and the evaluation was conducted in accordance with the criteria specified. The proposals were fairly evaluated and scored on their own merit according to the process outlined in the RFP document.

As the scores awarded are consistent with the Request for Proposal documents, I must, therefore, uphold the Evaluation Team's scoring and award decision, and reject your protest of award. EWEB appreciates Trees, Inc.'s participation in this solicitation and evaluation process.

Sincerely,

Gáil Murray

EWEB Purchasing/Risk Manager

cc: Cheryl Golbek EWEB Bid file

Relyonus.



#### Trees, Inc.

650 N. Sam Houston Pkwy. Suite 130 Houston, Texas 77060 Office 281-447-1327

866-865-9617 Fax 281-260-0728

November 25, 2014

Via email (Cheryl.golbek@eweb.org) and overnight mail

Ms. Cheryl Golbek
Purchasing Agent
Eugene Water & Electric Board
Purchasing Office
4200 Roosevelt Blvd.
Eugene, OR 97402

Re: Utility Line Clearance, RFP No. 050-2014

Dear Ms. Golbek,

Please accept this letter as Trees Inc.'s ("Trees") formal protest of the Eugene Water and Electric Board's ("EWEB") Notice of Intent to Award the above-reference contract to Wright Tree Service Inc., dated November 21, 2014 (the "Notice"). Pursuant to the Notice, Trees received the second highest bid scoring, and therefore has standing to file this protest pursuant to the EWEB's formal protest procedures.

Within the Request for Proposals (the "RFP") referenced above, EWEB provides several criteria by which it states that it will judge all Proposals submitted in response to the RFP. "Maximum" point values are provided for each of seven criteria, with a maximum total point potential of 200 points. Of the seven stated criteria, only one (Proposed Pricing) contains an objective, calculated approach, meaning that 6 of the 7 criteria are subjectively arrived at by the EWEB evaluators.

Trees made an information request on November 24, 2014, upon receiving the Notice, and in response thereto received a two page Written Proposal Scoring, a copy of which is attached hereto. It is apparent from a review of the scoring that the EWEB's decision is based <u>almost exclusively</u> on the six "subjective" criteria. Additionally, the incumbent is rated disproportionately higher across the scoring, as is evidenced by the incumbent receiving the highest score of all bidders in four out of the six criteria, with the incumbent's score on the remaining two categories being only one point lower than the highest awarded score. Clearly, the subjective criteria has been designed and is generally interpreted to create material bias in favor of the incumbent.

In the only "objective" pricing criteria, the bidders' scores range from a low of 47 to a high of 50 points, with the incumbent receiving the lowest score of all bidders. This is noteworthy for at least two reasons. First, if EWEB were to deduct the lowest score from the highest, the difference is only three points, meaning that the entire economic portion of the bidding process is reduced to just 1.5% of the total potential score. This is further evidence that the scoring process

is not equal, but is instead biased in favor of the incumbent. Secondly, given that the incumbent received the lowest score of all bidders, it is apparent *that EWEB* is using the biased subjective ratings to award the bid to the highest bidder, clearly not what is intended by the bidding process or in the best interests of its ratepayers.

For at least the foregoing reasons, Trees hereby protests the Notice as being in violation of the requirements of Section 8.10(c).

Sincerely,

Trees, Inc.

Scott Huffmaster

Vice President

Cc: Christopher D. Hein, Esquire



### PUBLIC RECORDS REQUEST Eugene Water & Electric Board

The Requestor asks to inspect the records indicated below: Requestor: Name: Scott Huffmaster / Trees, Inc. Address: 650 N. Sam Houston Parkway East, Suite 130, Houston TX 77060 Telephone: 530-632-6507 Specific Records Requested: [Attach additional pages if necessary] Trees, Inc. is requesting information from RFP No.: 050-2014. The information request is for all public records regarding the award of this contract including, but not limited to the detailed pricing proposals broken down by bidder, as referenced in section 7.2.6 from the bid evaluation criteria. Requestor agrees to pay EWEB for all fees reasonably calculated to reimburse EWEB for its actual costs in making the above records available, including costs of locating, reviewing, segregating, copying, summarizing, compiling or tailoring records, either in organization or media, to meet this request. EWEB estimates the cost of the records search to be \$\_\_\_\_ (to be completed by an EWEB employee). Requestor does not ask to be notified if it is determined that the actual search fees will exceed the estimate by more than \$ Requestor asks \_\_\_\_ does not ask \_\_\_\_ \_\_ that EWEB waive such costs. If Requestor asks for waiver of costs, state the basis of such waiver: 11/25/2014 Denied in whole or in part (see attached) Requesting more information (see attached) FOR EWEB USE: IF CUSTOMER OR CONTRACTOR SIGNATURE IS REQUESTED BEFORE RELEASE OF RECORD(S): Customer/Contractor: Name: Address: Please complete and return this form on or before . If EWEB's Records Custodian does not receive this form by that date, the Custodian will proceed to respond to the above records request. Customer/Contractor claims \_\_\_\_ does not \_\_\_ claim confidentiality of any of the information covered by the above request for records. If customer claims confidentiality, state what information is claimed to be confidential and the basis of such claim under public records exemptions, ORS 192.445, .496, .501, .502, or other law:

Signature of Customer or Contractor

		e de la companya de La companya de la co	tageof <b>eris</b> en te mes Ma		de de coccas de coccas	
1.	Supervisor	2000	1	\$44.17	\$63.60	\$88,340.00
2.	Assistant Supervisor	2000	1	\$42.73	\$61.53	\$85,460.00
3.	Crew Leader	2000	10	\$46.00	\$66.24	\$920,000.00
4.	Journey Level Trimmer	2000	10	\$42.38	\$61.03	\$847,600.00
5.	Utility Person	2000	2	\$32.39	\$46.64	\$129,560.00
6.	Apprentice Trimmer	2000	1	\$39.98	\$57.57	\$79,960.00

		(1994) (1992) (1994)		Stouriy State	17 (2.4.12) 17 (2.4.12)
7.	55' Aerial Lift	2000	4	\$15.65	\$125,200.00
8.	60' Aerial Lift	2000	1	\$15.65	\$31,300.00
9.	65'-70' Aerial Lift	2000	5	\$17.42	\$174,200.00
10.	100' Aerial Lift (As needed basis)	500	1	\$45.57	\$22,785.00
11.	Chipper	2000	11	\$5.78	\$127,160.00
12.	4x4 Dump Truck	2000	2	\$12.50	\$50,000.00
13.	4x4 Supervisor's Pickup w/ extra cab	2000	2	\$11.51	\$46,040.00
14.	43' Squirt Boom	2000	1	\$16.90	\$33,800.00
15.	4x4 ATV & Trailer	1000	1	\$7.60	\$7,600.00
16.	Stump Grinder	2000	1	\$49.49	\$98,980.00
17.	Mower	1000	1	\$36.58	\$36,580.00
18.	Small Saws	2000	21	\$0.20	\$8,400.00
19.	Large Saws (20" min. bar)	2000	. 11	\$0.30	\$6,600.00
20.	Stick Saws	2000	8	\$0.30	\$4,800.00
21.	Herbicides and othe	er materials sha	ll be billed at cost p	olus 6%	Not included in Grand Total below.

<sup>\*</sup> Grand Total (sum of all extended totals, Items 1-20)

#### 7.2.6 Proposed Pricing (Maximum 50 Points Available) Identify the billing rate per hour proposer will bill EWEB for the proposed services.

Indicate if any function will be subcontracted. Include all Subcontractor(s) name, address, phone number, and function they will be performing under this potential contract. All Subcontractors shall be approved by EWEB in accordance with Attachment A, Section A.24.

ltem :	Description	*Estimated Hours	*Estimated Staff Required	Hourly Rate	**Overtime Rate (do not include in extended total)	Extended Total (estimated hours x estimated staff x hourly rate)
1.	Supervisor	2000	1	44.49	64.17	88,98D,00
2.	Assistant Supervisor	2000	1	41.69	60,12	83,380,00
3.	Crew Leader	2000	10	46.12	64.07	922,400,00
4.	Journey Level Trimmer	2000	10	42.75		855,000,00
<b>5</b> .	Utility Person	2000	2	33.50	4532	134,000,00
6.	Apprentice Trimmer	2000	1	40.54	55.77	81.080.00



The Requestor asks to inspect the records indicated below:

### PUBLIC RECORDS REQUEST Eugene Water & Electric Board

Requestor: Name:	Scott Huffmaster / Trees, Inc.
Address	
Telepho	
•	equested: [Attach additional pages if necessary]
information re not limited to	requesting information from RFP No.: 050-2014 - Utility Line Clearance. The equest is for all public records regarding the award of this contract including, but all detailed breakdowns, by bidder, of the individual scores for each scoring ch make up the total evaluation score.
above records availa	o pay EWEB for all fees reasonably calculated to reimburse EWEB for its actual costs in making the able, including costs of locating, reviewing, segregating, copying, summarizing, compiling or tailoring ganization or media, to meet this request.
	e cost of the records search to be \$ (to be completed by an EWEB employee). Requestor of ask to be notified if it is determined that the actual search fees will exceed the estimate by
Requestor asks basis of such waived Dated:11/24/20	
Granted	Signature of Requestor     Denied in whole or in part (see attached)     Requesting more information (see attached)
FOR EWEB USE: IF CUSTOMER OR Customer/Contracto	CONTRACTOR SIGNATURE IS REQUESTED BEFORE RELEASE OF RECORD(S):  OUT   Name:
	Address:
Please complete an receive this form by	d return this form on or before If EWEB's Records Custodian does not that date, the Custodian will proceed to respond to the above records request.
request for records.	or claims does not claim confidentiality of any of the information covered by the above If customer claims confidentiality, state what information is claimed to be confidential and the basis of iblic records exemptions, ORS 192.445, .496, .501, .502, or other law:
Dated:	Signature of Customer or Contractor
	Signature of Customer or Contractor

# RFP 050-2014 Utility Line Clearance Written Proposal Scoring

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	TOTAL POINTS AWARDED	TAL POINT	70				200	
0	0						10	7.2.1 Sustainability Questionnaire
0	0						50	7.2.6 Proposed Pricing
0	0						20	7.0.0 Equipment
0	0						20	7.9.5 Equipment
0	0						20	7.2.4 Quality Assurance/Safety
							30	Experience
  -								7.2.3 Proposer's Supervisor(s) and Assistant Supervisor(s) Doct
o	o l					,	50	7.2.2 Proposer's Past Experience
0	0						30	Services
							*	7.2.1 Proposers Ability and Capability to Perform the Requested
Score	Scored	Ċ'n	4	ယ	2	_	Points	Criteria
Average	Possible   Evaluator   Evaluator   Evaluator   Evaluator   Total Points   Average	Evaluator	Evaluator	Evaluator	Evaluator	Evaluator	Possible	
								Utility Tree Service, Inc.
			•					

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	TOTAL POINTS AWARDED	AL POINTS	TOT				200	TOTAL PUSSIBLE POINTS
0	0				·		10	7.2.1 Sustainability Questionnaire
0	0						50	7.2.6 Proposed Pricing
0	0						20	7.2.5 Equipment
0	0						20	7.2.4 Quality Assurance/Safety
0	0						20	Experience
								7.2.3 Proposer's Supervisor(s) and Assistant Supervisor(s) Past
0	0						50	7.2.2 Proposer's Past Experience
<u>o</u>	0						30	Services
					į			7.2.1 Proposers Ability and Capability to Perform the Requested
Score	Scored	СЛ	4	ယ	2	1	Points	Criteria
Average	Possible   Evaluator   Evaluator   Evaluator   Evaluator   Evaluator   Total Points   Average	Evaluator	Evaluator	Evaluator	Evaluator	Evaluator	Possible	
								Wright Tree Service, Inc.
							•	

# RFP 050-2014 Utility Line Clearance Written Proposal Scoring

Asplundh Tree Expert Co.								
Po Criteria P	ossible Points	Evaluator 1	Evaluator 2	Evaluator 3	Evaluator 4	Evaluator 5	Possible Evaluator Evaluator Evaluator Evaluator Total Points Average Points 1 2 3 4 5 Scored Score	Average Score
7.2.1 Proposers Ability and Capability to Perform the Requested Services	30	,					0	0
7.2.2 Proposer's Past Experience	50						0	0
7.2.3 Proposer's Supervisor(s) and Assistant Supervisor(s) Past Experience	20							0
7.2.4 Quality Assurance/Safety	20						0	0
7.2.5 Equipment	20		,				0	0
7.2.6 Proposed Pricing	. 09						0	0
7.2.1 Sustainability Questionnaire	10						0	0
TOTAL POSSIBLE POINTS	200				10	TAL POINT	TOTAL POINTS AWARDED	

Trees, Inc.					•			
	Possible	Evaluator	Evaluator	Evaluator	Evaluator	Evaluator	Possible   Evaluator   Evaluator   Evaluator   Evaluator   Evaluator   Total Points   Average	Average
Criteria	Points	, 1	2	က	4	S.	Scored	Score
7.2.1 Proposers Ability and Capability to Perform the Requested								
Services	30						0	0
7.2.2 Proposer's Past Experience	90						0	0
7.2.3 Proposer's Supervisor(s) and Assistant Supervisor(s) Past								
Experience	20						0	0
7.2.4 Quality Assurance/Safety	20						0	0
7.2.5 Equipment	20						0	0
7.2.6 Proposed Pricing	50						0	0
7.2.1 Sustainability Questionnaire	10						0	0
TOTAL POSSIBLE POINTS	200				TO	TAL POINT	TOTAL POINTS AWARDED	



#### **Eugene Water & Electric Board**

500 East 4th Avenue/Post Office Box 10148 Eugene, Oregon 97440-2148 541-685-7000 www.eweb.org

#### **ADDENDUM 3**

Wednesday, October 29, 2014

Utility Line Clearance RFP No. 050-2014

This addendum modifies the bidding document(s) for work only to the extent indicated herein. All other areas not specifically mentioned or affected by this addendum shall remain in full force. This addendum shall be added as a part of the original bidding document and shall become part of the work required.

Description of Change:

1. ADD the following to Section 6.9.5.5 of RFP 050-2014:

"6.9.5.5.1 Stump grinding operator rates shall be included with stumping grinding rate."

CLOSING DATE AND TIME: Remains unchanged.

This addendum constitutes a MATERIAL CHANGE to the bid. ITS RECEIPT BY THE BIDDER IS TO BE ACKNOWLEDGED BY A SIGNATURE AND RETURNING A COPY OF THE ADDENDUM WITH ITS RESPONSE OR BY CIRCLING THE ADDENDUM NUMBER IN THE APPROPRIATE AREA ON THE BID FORM.

Addendum prepared by:

Cheryl Golbek Purchasing Analyst

The undersigned hereby acknowledges receipt of this Addendum 3 and agrees to be bound by the conditions therein.

Company Name:		
Signature:	Date	

End of Addendum 3

## EWEB

#### **Eugene Water & Electric Board**

500 East 4th Avenue/Post Office Box 10148 Eugene, Oregon 97440-2148 541-685-7000 www.eweb.org

#### **ADDENDUM 2**

Monday, October 20, 2014

Utility Line Clearance RFP No. 050-2014

This addendum modifies the bidding document(s) for work only to the extent indicated herein. All other areas not specifically mentioned or affected by this addendum shall remain in full force. This addendum shall be added as a part of the original bidding document and shall become part of the work required.

- Revise Addendum 1 for RFP No. 050-2014 as follows:
  - a. **DELETE** the following: "Two (2) 4x4 Dump Trucks, 1 Ton, 5-10 yard dump box size" and **REPLACE** it with: "Two (2) 4x4 Dump Trucks with bins carrying ladder, pole saws and other needed tools, and capable of hauling 8-10 yards of chip debris."

**CLOSING DATE AND TIME:** Remains unchanged.

This addendum constitutes a MATERIAL CHANGE to the bid. ITS RECEIPT BY THE PROPOSER IS TO BE ACKNOWLEDGED BY A SIGNATURE AND RETURNING A COPY OF THE ADDENDUM WITH ITS RESPONSE OR BY CIRCLING THE ADDENDUM NUMBER IN THE APPROPRIATE AREA ON THE PROPOSAL FORM.

Addendum prepared by:

Cheryl Golbek
Purchasing Analyst

The undersigned hereby a	cknowledges receipt of this Addendum 2 and agrees to be bound by tl	he conditions
therein.		

Company Name:		
· · · · · · · · · · · · · · · · · · ·		
Signature:	 Date	

End of Addendum 2



#### **Eugene Water & Electric Board**

500 East 4th Avenue/Post Office Box 10148 Eugene, Oregon 97440-2148 541-685-7000 www.eweb.org

#### **ADDENDUM 1**

Wednesday, October 15, 2014

Utility Line Clearance RFP No. 050-2014

This addendum modifies the bidding document(s) for work only to the extent indicated herein. All other areas not specifically mentioned or affected by this addendum shall remain in full force. This addendum shall be added as a part of the original bidding document and shall become part of the work required.

#### Description of Changes:

- 1. ADD the following equipment to Section 6.10 Equipment:
  - "Contractor shall furnish, at a minimum, the following equipment:
    - Two (2) 4x4 Dump Trucks, 1 Ton, 5-10 yard dump box size
    - Mower with a Fecon mower head or equal"
- 2. ADD the following to Section 2 Special Terms and Conditions:
  - "2.8 USE OF BRAND OR TRADE NAMES

Any brand or trade names used by EWEB in bid specifications are for the purpose of describing and establishing the standard of quality, performance and characteristics desired and are not intended to limit or restrict competition. Bidders may submit bids for substantially equivalent products to those designated unless the Invitation to Bid provides that a specific brand is necessary because of compatibility requirements, etc. All such brand substitutions shall be at the sole discretion of EWEB."

3. ADD the following to Section 7.2.6 Proposed Pricing:

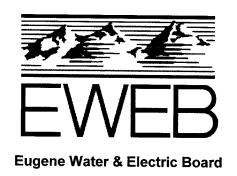
"Equipment hourly rates shall include expenses to get the equipment to and from the work site (such as, trailer and extra truck) and supplies to run the equipment used to perform work under this Contract."

**CLOSING DATE AND TIME:** Remains unchanged.

This addendum constitutes a MATERIAL CHANGE to the bid. ITS RECEIPT BY THE PROPOSER IS TO BE ACKNOWLEDGED BY A SIGNATURE AND RETURNING A COPY OF THE ADDENDUM WITH ITS RESPONSE OR BY CIRCLING THE ADDENDUM NUMBER IN THE APPROPRIATE AREA ON THE PROPOSAL FORM.

·
um 1 and agrees to be bound by the conditions
Date

End of Addendum 1



## REQUEST FOR PROPOSALS for UTILITY LINE CLEARANCE

**RFP No.:** 050-2014

Closing Date: November 6, 2014

Time: 2:00 PM PT

Description: Utility Line Clearance - Tree Pruning and Removal, Stump Grinding and Row Mowing

along EWEB transmission and distribution power lines on an ongoing regular basis.

Purchasing Analyst: Cheryl Golbek

**Phone:** (541) 685-7389

Fax: (541) 685-7501

Purchasing Analyst email: <a href="mailto:cheryl.golbek@eweb.org">cheryl.golbek@eweb.org</a>

SEALED PROPOSALS will be received until the closing date and time noted above by the EWEB PURCHASING OFFICE at:

EUGENE WATER & ELECTRIC BOARD PURCHASING OFFICE 4200 ROOSEVELT BLVD EUGENE, OREGON 97402

US Postal Service is not accepted at this location. Submit via Commercial Carrier such as UPS or FED EX, or in person by appointment with Purchasing Analyst.

**SINGLE POINT OF CONTACT:** There will be only one point of contact for the entire Request for Proposal process. The contact point is the EWEB Purchasing Office, and the contact person is the Purchasing Analyst listed above, unless otherwise stated in Part 2 "Special Terms and Conditions". Any questions or issues that may arise regarding the specifications, the bidding process, and/or the award process shall be directed to the Purchasing Analyst listed above. EWEB's official response to any questions or requests will be in writing through direct letters or the Addendum process.

FOR MORE INFORMATION please refer to Part 1 "Instructions to Proposers"

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#### LEGAL ADVERTISEMENT

#### RFP #050-2014 Utility Line Clearance

The Eugene Water & Electric Board (EWEB) requests proposals from contractors interested in providing Utility Line Clearance Tree Pruning and Removal, Stump Grinding and Row Mowing along EWEB transmission and distribution power lines on an ongoing regular basis. The Contract resulting from this solicitation will be for a period of one (1) year, with the option to renew annually for maximum of five (5) years. It is anticipated that the contract shall commence on or about February 1, 2015.

Proposals shall be submitted to Cheryl Golbek, Purchasing Analyst, Purchasing Office, 2nd Floor, Roosevelt Operations Center, 4200 Roosevelt Blvd, PO Box 10148, Eugene, OR 97402, before, 2:00 PM Pacific Time, November 6, 2014. Proposals will not be accepted after this hour and date.

RFP documents may be obtained from the Purchasing Department at the address above, by calling (541) 685-7500, or you may download the RFP documents from the EWEB Purchasing website: <a href="www.eweb.org/bids">www.eweb.org/bids</a>

All proposals shall be submitted as set forth in Section 1 - Instructions to Proposers. EWEB is not responsible for proposals submitted in any manner, format or to any delivery point other than as required by the Solicitation Document.

No proposal may be withdrawn after the hour set for the opening thereof until the elapse of ninety (90) days from the date and time set for opening.

EWEB reserves the right to waive any or all informalities and irregularities; may cancel the Request for Proposals; and may reject any or all proposals pursuant to EWEB Rule 3-0640.

Dated this 07 day of October, 2014

Cheryl Golbek Purchasing Analyst

#### 1. INSTRUCTIONS TO PROPOSERS

All proposals and contracts are subject to the provisions and requirements of the Oregon Revised Statutes 279A and 279B and EWEB Public Contracting Rules Divisions 1, 2, 3 and 6.

#### PROPOSAL PREPARATION

The Eugene Water & Electric Board's environmental policy directs the utility to conduct its business in an environmentally sensitive, sustainable and responsible way. Pursuant to this policy, EWEB encourages the proposer to submit their proposal using materials (i.e. paper, dividers, binders, brochures, supplemental information, etc.) that contain postconsumer recycled content and are readily recyclable. Use of materials that cannot be readily recycled, such as PVC (vinyl) binders, spiral bindings, plastic or glossy covers and/or dividers is discouraged. Further, proposers are strongly encouraged to duplex print whenever possible. Color printing is acceptable, but not required unless content will not display correctly.

#### 1.1 PROPOSAL FORMAT

Proposals shall be typewritten or prepared in ink and shall be submitted on the form provided in the Request for Proposals. No oral, telegraphic, telephone or facsimile proposals shall be accepted.

#### 1.2 CONFORMANCE TO SOLICITATION REQUIREMENTS

Proposals shall conform to the requirements of the Request for Proposals. All necessary attachments (Bidder Residency Information, Sustainability Questionnaire, etc.) shall be submitted with the proposal and in the required format. Failure to comply with all requirements may result in proposal rejection.

#### 1.3 PROTEST OF REQUIREMENTS OR CONTRACT TERMS / REQUEST FOR CHANGE

Proposers may submit a written protest of any provision, specification or contract term contained in an RFP and may request a change to any provision, specification or contract term contained in an RFP, **no later than 5 p.m. on October 28, 2014.** Each protest and request for change must include the reasons for the protest or request, and any proposed changes to the RFP provisions, specifications or contract terms. EWEB will not consider any protest or request for change that is received at any time after the deadline. A Proposer may submit a protest, in writing, to: Eugene Water & Electric Board, Cheryl Golbek, Purchasing Analyst, 4200 Roosevelt Blvd, Eugene, Oregon 97402; via email at <a href="mailto:cheryl.golbek@eweb.org">cheryl.golbek@eweb.org</a>; or via fax to (541) 685-7501.

Envelopes, email, or faxes containing proposal protests shall be marked as follows:

RFP REQUIREMENTS PROTEST RFP 050-2014, CLOSING DATE

Protest of technical or contractual requirements shall include the reason for protest, any and all evidence and documented, factual information that supports proposer's protest, and any proposed changes to the requirements.

Proposers must exhaust all administrative remedies before seeking judicial review.

#### 1.4 SIGNATURE ON PROPOSAL

Proposals shall be signed in ink by an authorized representative of the Proposer. Signature on a proposal certifies that the proposal is made without connection with any person, firm or corporation making a proposal for the same goods and/or services and is in all respects fair and made without collusion or fraud. Signature on a proposal also certifies that the Proposer has read, fully understands and agrees with all solicitation requirements, terms and conditions. No consideration will be given to any claim resulting from bidding without fully comprehending all requirements of the Request for Proposals.

Proposers shall only enter information within the bid document where it is requested or required. Proposers shall NOT make any alterations to the Original Solicitation Document. Any bid that has been altered may be rejected.

#### 1.5 PREPARATION COSTS

Pursuant to Rule 3-0640, EWEB may cancel, reject in whole or in any part any bids or proposals, without liability incurred by EWEB at any time after issuing an RFP or RFQ, if EWEB believes it is in EWEB's interest to do so. Proposers responding to either RFPs or RFQs are responsible for all costs they may incur in connection with submitting Proposals and responses to RFPs and RFQs, which includes, but is not limited to: submittal preparation, submittal, travel, expenses, interviews, presentations, or evaluation of any proposal.

#### 1.6 NOT USED

#### PROPOSAL SUBMISSION

#### 1.7 PROPOSAL SUBMISSION

(A) SEALED proposals, containing a minimum of one (1) original signed proposal response including any addenda which require signature, and five (5) copies, shall be received and date and time-stamped by the EWEB Purchasing department prior to bid closing. No proposal received after RFP closing date and time shall be considered. To ensure that your proposal receives priority treatment within our mailing system, your proposal should be labeled with the following information:

RFP #050-2014, November 6, 2014, 2:00 PM PT

EUGENE WATER & ELECTRIC BOARD PURCHASING 4200 ROOSEVELT BLVD EUGENE, OREGON 97402

US Postal Service is not accepted at this location. Submit via Commercial Carrier such as UPS or FED EX, or in person by appointment with Purchasing Analyst.

EWEB is not responsible for proposals submitted in any manner, format or to any delivery point other than as required by the Solicitation Document

#### (B) REQUIRED PAGES & CONTENT OF PROPOSAL

Proposer MUST complete, sign, and return the following pages with their RFP response:

- SECTION 9 Proposal Form
- ATTACHMENT B Bidder Residency Information
- ATTACHMENT D Sustainability Questionnaire
- RESPONSE TO ALL EVALUATION CRITERIA listed in Section 7
- CONTRACTUAL ACCEPTANCE: Statement accepting ALL terms and conditions contained in this solicitation. (Include in cover letter)
- TERMINATION FOR DEFAULT: (Include in cover letter)

Proposers shall indicate if they have <u>or</u> have not had a contract terminated for default in the last five years. Termination for default is defined as notice to stop performance that was delivered to the Proposer due to the Proposer's non-performance or poor performance and the issue of performance was either (a) not litigated due to inaction on the part of the Proposer, or (b) litigated and determined that the Proposer was in default.

NOTE: If a Proposer has had a contract terminated for default in this period, then the Proposer shall submit full details including the other party's name, address and phone number. EWEB will evaluate the facts and may, at its sole discretion, reject the proposal on the grounds of proposers past performance.

#### 1.8 ADDENDA

Any VERBAL communication cannot and shall not be construed as approval of the acceptability of any deviation to any requirement. All changes to requirements and/or the solicitation documents will be made in the form of Addenda. The Proposer is responsible for ensuring that all addenda have been received and are acknowledged in their RFP Response. All addenda can be obtained electronically at <a href="https://www.eweb.org/bids">www.eweb.org/bids</a>. As a courtesy, EWEB may send addenda to registered Proposers either by fax or e-mail.

#### 1.9 PROPOSAL MODIFICATION

Modifications or erasures made before proposal submission shall be initialed in ink by the person signing the proposal. Proposals, once submitted, may be modified in writing before the time and date set for proposal closing. Any modification shall be prepared on company letterhead, shall be signed by an authorized representative, and shall state that the new document supersedes or modifies prior proposal submissions and any other prior proposal modifications. Proposal modifications shall be submitted in a sealed envelope clearly marked "Proposal Modification," identifying the RFP number and closing date and time. Proposers may not modify proposals after bid closing date and time.

- 1.10 <a href="PROPOSAL WITHDRAWALS">PROPOSAL WITHDRAWALS</a>: Proposals may be withdrawn in writing on company letterhead signed by an authorized representative and received by the EWEB Purchasing Office prior to RFP closing time. Proposals may also be withdrawn in person before RFP closing time upon presentation of appropriate identification.
- 1.11 <a href="PROPOSAL OPENING">PROPOSAL OPENING</a>: Unless otherwise provided by Law or Rule, proposals received in response to this Request for Proposals shall be publicly opened at the scheduled closing date and time at the EWEB Purchasing department located at 4200 Roosevelt BLVD., Eugene, Oregon 97402. Proposers who attend the RFP opening shall be informed only of the names of Proposers submitting proposals. No other information shall be available at that time. Award decisions will NOT be made at the opening.

#### 1.12 EXCEPTIONS

Any exceptions to the requirements of this solicitation MUST be submitted in accordance with Item 1.3 PROTEST OF REQUIREMENTS OR CONTRACT TERMS / REQUEST FOR CHANGE. Exceptions submitted with your proposal, or in any manner other than the process provided herein, may cause your proposal to be ruled non-responsive and rejected.

#### 1.13 ALTERNATE PROPOSALS

Proposers may submit more than one proposal. All proposals must comply with the requirements of the RFP except that additional proposals may incorporate, by reference, repetitive information which is provided in the complete proposal.

#### 1.14 PROPRIETARY DATA/PUBLIC RECORD

This Request for Proposal, together with copies of all documents pertaining to the award of a contract, shall be kept by EWEB and made a part of a file or record which shall be open to public inspection. If a proposal contains any information that is considered a trade secret under ORS 192.501(2), each sheet of such information shall be marked with the following legend:

"This data 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 disclosures only bona fide trade secrets, and the exemption from disclosure applies only "unless the public interest requires disclosure in the particular instance" ORS 192.501(2). Therefore, non-disclosure of documents or any portion of a document submitted as part of a proposal may depend upon official or judicial determinations made pursuant to the Public Records Law.

The above restriction may not include cost or price information, which shall be open to public inspection.

#### SCHEDULE OF EVENTS

#### 1.15

The schedule of events set out herein represent Eugene Water & Electric Board's best estimate of the schedule that will be followed. If a component of this schedule, such as the opening date, is delayed, the rest of the schedule will be shifted by the same number of days.

The approximate contract schedule is as follows:

Request for Proposal Released	October 7, 2014		
Last Date for Request for Changes/Protests of Specifications/Terms and Conditions	5:00 PM PT October 28, 2014		
Closing Date (last day to submit proposals to EWEB)	2:00 PM PT November 6, 2014		
Responses Evaluated	November 20, 2014		
Intent to Award Announcement	November 21, 2014		
Contract Award	January 7, 2015		
ANTICIPATED PROJECT SCHEDULE:			
Begin work/Start Date	February 1, 2015		

#### 2. SPECIAL TERMS AND CONDITIONS

#### 2.1 PRICE ADJUSTMENTS

Price increases may be considered by EWEB annually 30 to 90 days prior to the beginning of the following term. Contractor is responsible for submitting their request for any price increase during this 30 to 90 period. Contractor must provide a positive means of substantiating any price increase by providing supporting documentation within this 30 to 90 day period. EWEB may not consider requested price increases submitted less than 30 days prior to the expiration of the current term. EWEB shall determine what constitutes acceptable documentation.

Upon receipt of request, EWEB reserves the right to (1) accept the requested price increase and extend the Contract or (2) reject the price increase and allow the Contract to expire.

EWEB shall be given the immediate benefit of any price decrease. Contractor shall promptly notify EWEB's Purchasing Department of the amount and effective date of each decrease. Decreases shall apply to services performed on or after the effective date of the decrease.

#### 2.2 CONTRACT TERM / RENEWAL

This Agreement may be renewed for additional period(s), in accordance with EWEB Rule 3-0850, Contract Amendments, subject to agreement by the Parties prior to the expiration of the current term. The maximum term for this Agreement shall not exceed five (5) years.

#### 2.3 AMENDMENTS TO THE CONTRACT

EWEB may, in accordance with Rule 3-0850, by amendment to this contract, agree to appropriate increases in the maximum consideration payable under this contract should any substantial approved increase occur in the scope, character, schedule or complexity of services as outlined in the Statement of Work. The Contractor may petition EWEB for such an amendment, or EWEB may initiate the action on its

own. Any amendment must have received all necessary approvals, and be executed by EWEB prior to commencement of any such work by the Contractor.

#### 2.4 **DISPUTES**

In case of any doubt or differences of opinions as to the items or services to be furnished hereunder, or the interpretation of the provisions of the RFP, the decision of EWEB shall be final and binding upon the parties.

#### 2.5 SURVIVAL

Termination or expiration of this Contract does not extinguish or prejudice EWEB's right to enforce the access to records, indemnification, governing law, and remedies provisions contained within this Contact, its attachments, exhibits, and any and all subsequent addenda or amendments.

#### 2.6 PROPOSER'S PROPOSED TERMS AND CONDITIONS Rule 3-0230(7)(b)

Proposers may include in their response, proposed contractual terms and conditions that relate to the subject matter reasonably identified in the RFP. EWEB reserves the right to negotiate the proposed terms and/or conditions with Proposer, and either accept or reject the proposed terms and/or conditions. NO PROPOSED TERMS OR CONDITIONS SHALL BECOME A PART OF THE AWARDED CONTRACT UNLESS ACCEPTED BY EWEB AND INCORPORATED INTO THE CONTRACT IN WRITING.

#### 2.7 NO GUARANTEE OF WORK

By executing a Contract with Contractor, EWEB is not guaranteeing any amount of work or contact from its staff for any work during the term of this contract.

#### 3. INSURANCE REQUIREMENTS

#### 3.1 CERTIFICATES OF INSURANCE

As evidence of the insurance coverage required by this contract, the Contractor shall furnish Certificate(s) of insurance to the EWEB Purchasing Department, before final award can be authorized. The insurance coverage required under this contract shall be obtained from acceptable insurance companies or entities. The contractor shall be financially responsible for all deductibles, self-insured retention and/or self-insurance included hereunder.

#### 3.2 COMMERCIAL / GENERAL LIABILITY

Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this contract, Commercial General Liability Insurance covering bodily injury and property damage. This insurance shall include personal injury coverage, contractual liability coverage and products/completed operations liability. Combined single limit per occurrence shall not be less than \$1,000,000. Each annual aggregate limit shall not be less than \$2,000,000.

#### 3.3 AUTOMOBILE LIABILITY

Contractor shall obtain, at contractor's expense, and keep in effect during the term of this contract, Automobile Liability Insurance. This coverage may be written in combination with the Commercial General Liability Insurance. Combined single limit per occurrence shall not be less than \$1,000,000, or the equivalent.

#### 3.4 WORKERS' COMPENSATION

All subject employers working under this contract are either employers that will comply with ORS 656.017 which requires them to provide Oregon workers' compensation coverage that satisfies Oregon law for all their subject workers, or employers that are exempt under ORS 656.126. [2003 c.794 §76c] In addition, Contractor will obtain, at contractor's expense, and keep in effect during the term of this contract, Employers Liability insurance with a limit of not less than \$1,000,000.

#### 3.5 INDEMNIFICATION

Contractor shall defend, save, hold harmless, and indemnify EWEB, its officer, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses resulting from, arising out of, or relating to any error, omission, breach of contractual duty, or negligent act of the Contractor or its officers, employees, subcontractors, or agents in the performance of services under this Contract.

#### 3.6 ADDITIONAL INSURED

The Commercial General Liability and Automobile Liability insurance coverage required for performance of the contract shall include EWEB, its' divisions, officers, and employees as Additional Insured but only with respect to the Contractor's activities to be performed under this contract.

#### 3.7 NOTICE OF CANCELLATION OR CHANGE

There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without 30 days' written notice from Contractor or its insurer(s) to EWEB. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of Contract and shall be grounds for immediate termination of this Contract by EWEB.

#### 3.8 WAIVER OF INSURANCE REQUIREMENTS

Contractor's failure to provide certificates of insurance as specified herein and/or in the manner specified herein does not constitute a waiver of the insurance requirements. Any waiver of the insurance requirements will only be made in writing.

#### 4. SUSTAINABILITY

EWEB is interested in products and services that have a reduced impact on human health and the environment, make the most efficient use of natural resources, and that more fully support communities and economies when compared to competing products and services serving the same purpose. For more information regarding sustainability in procurement and related EWEB policy and plans, please contact EWEB's Purchasing Office at 541-685-7500. The awarded offeror will be expected to support EWEB's goals by implementing the following strategies where applicable.

#### 4.1 WASTE REDUCTION

Pursuant to EWEB's Zero Waste efforts, EWEB aims to prevent waste where possible. In order to increase efficient use of resources, the awarded offeror shall adhere to the following items as applicable.

- 4.1.1 Packaging for goods that is unnecessary beyond packaging compliance or practical safe shipping methods shall be reduced. Offeror to ship goods using one or more of the following methods:
  - a. Ship products in reusable, refillable, or returnable containers. For example, reusable trays or totes, which can be stored and returned;
  - b. Minimal packaging material used inside containers. This includes eliminating or reducing the amount of non-recyclable bubble wrap, foam pellets or other like material;
  - c. Eliminate non-essential parts of packaging, such as individual wrapping of components;
  - d. Use packaging made with recycled content, biodegradable, and/or non-toxic materials.
  - e. No point of purchase material or promotional literature.
- 4.1.2 The awarded offeror is to duplex all paper materials that are prepared for EWEB under the contract, whether such materials are printed or copied, except when impracticable to do so due to the nature of the product being produced.

#### 4.2 FUEL REDUCTION

- 4.2.1 EWEB expects suppliers to review the manufacturing process for increased efficiency overtime. Shipping should be routed efficiently with efforts made to ship in the shortest and most efficient route. EWEB prefers to receive shipments in full rather than receiving multiple shipments.
- 4.2.2 In the interest of reducing air and noise pollution, greenhouse gas emissions and promoting energy conservation, all gasoline and diesel powered vehicles and equipment shall be idled only as necessary to perform the required duties, including delivery, and for the essential function(s) of the equipment. A driver of a vehicle must turn off the engine upon stopping at the destination, and must not cause or allow an engine to idle at any location for more than 20 seconds. This idling policy applies except in the following situations:

- a. The health and safety of employees, sub-contractors or public is compromised by turning off the vehicle.
- b. The engine is required to power auxiliary equipment (e.g. hoist, lift platforms, hydraulic tools, inverters, compactors, medical equipment, specialized public safety radio communication and computer systems, etc.)
- c. Vehicle/equipment manufacturer requires additional idle time for warm up or cool down for efficient and proper mechanical or functional operation of the unit.

#### 4.3 ENVIRONMENTALLY PREFERRED PRODUCTS

To promote and encourage environmentally sustainable practices for companies doing business with EWEB, EWEB requests vendors under EWEB contract use environmentally preferable products in production of EWEB work products.

- 4.3.1 The awarded offeror should use environmentally preferable materials that meet performance requirements wherever practical in the fulfillment of this agreement. Environmentally preferable products and services have characteristics that include but are not limited to the following:
  - Energy efficient
  - Non-toxic, non-bioaccumulative
  - Reusable or upgradeable
  - Recyclable
  - · Contain post-consumer recycled materials
  - Produce fewer polluting by-products and/or safety hazards during manufacture, use or disposal, and/or
  - Are certified by an independent accredited third party program such as EcoLogo or ENERGY STAR.
- 4.3.2 EWEB desires the use of post-consumer recycled content, chlorine-free paper to encourage environmentally preferable practices for EWEB business wherever practical in the fulfillment of the scope of work

#### 4.4 SOCIAL EQUITY

- 4.4.1 EWEB supports the use of Minority, Women, Emerging Small Businesses (M/W/ESB), local businesses, Disadvantaged Business Enterprises and Qualified Rehabilitation Facilities (QRF) at both a prime and subcontracting and/or supply chain level. EWEB encourages the awarded offeror to use the following voluntary practices to promote open competitive opportunities for disadvantaged businesses as applicable:
  - a. Access lists of certified minority, women, emerging small business or disadvantaged business enterprises from the Oregon State Office of Minority, Women and Emerging Small Business (OMWESB) by visiting their website at: <a href="http://www4.cbs.state.or.us/ex/dir/omwesb/">http://www4.cbs.state.or.us/ex/dir/omwesb/</a>
  - b. Visit the Oregon State Qualified Rehabilitation Facilities Program website at <a href="http://dasapp.oregon.gov/qrf/index.aspx">http://dasapp.oregon.gov/qrf/index.aspx</a> to search for Qualified Rehabilitation Facilities from whom to procure products or services.
- 4.4.2 EWEB supports the use of safe products to protect the lives of the contractor, sub-contractors, and EWEB employees. Suppliers of products must meet local fire, EPA, and OSHA requirements.

# 5. BACKGROUND / OBJECTIVES

#### 5.1 BACKGROUND INFORMATION

EWEB is the largest publicly owned municipal utility in the State of Oregon. The area work is to be performed, completed, and managed is within the Eugene/Springfield area, out to Walterville, and up the McKenzie River (Hwy 126) to Carmen-Smith Hydro Project.

EWEB requires the services of qualified utility line clearance tree pruning and removal, stump grinding and row mowing contractors to maintain the area around energized power lines.

## 5.2 **OBJECTIVES**

Maximize public safety, electric reliability and tree health along EWEB transmission and distribution power lines.

#### 5.3 LENGTH OF CONTRACT

The length of the CONTRACT for tree pruning and removal, stump grinding and row mowing will be for one year from the date of award, approximately January 7, 2015, with options to renew for four (4) additional one (1) year periods.

## 5.4 START WORK DATE

Contractor shall **start work on February 1, 2015** or on the date this Contract has been signed by every party hereto and when executed by EWEB's Purchasing/Risk Manager, <u>whichever date</u> is the later.

## 6. SCOPE OF WORK

#### 6.1 GENERAL

#### **ESTIMATES NOT BINDING**

Any estimates or other information provided by EWEB regarding this purchase is for informational purposes only and shall not be relied upon by any bidder.

By submitting a bid, bidder assumes all risk of personally investigating the conditions relating to the performance of this contract. EWEB neither represents nor warrants the accuracy of any estimate or information; and bidders agree to bear exclusive responsibility for, and to accept all risk associated with their estimates of the reasonable cost of the performance of this contract.

#### 6.2 SCOPE OF WORK

EWEB requires the services of qualified utility line clearance tree pruning and removal, stump grinding and row mowing contractors to maintain the area around energized power lines. The Contractor shall provide all travel, labor, material, equipment, and any and all associated cost to perform the work as specified in this RFP.

#### 6.3 WORK REQUIREMENTS

- 6.3.1 Perform eight or ten hours of safe and efficient tree trimming daily. Be available to work extended hours in emergency situations. Be available to work extended hours if work load or work conditions require such work.
- 6.3.2 All tree work shall be performed in accordance with the attached Exhibit A "Right of Way Vegetation Management Program: Procedures, Clearances, and Technical Specifications, Rev. 2011".
- 6.3.3 All City of Eugene trees shall be pruned in accordance with the attached Exhibit B Intergovernmental Agreement.
- 6.3.4 All pruning shall be performed in accordance with the standards set forth in ANSI A300 and the techniques described in the International Society of Arboriculture "Best Management Practices, Utility Pruning of Trees".
- 6.3.5 Improper pruning and unsatisfactory work as determined by EWEB shall be corrected by the Contractor at no additional charge to EWEB and outside of the regularly scheduled EWEB work hours.

6.3.6 All claims for damages shall be handled promptly with due diligence and respect of EWEB customers and the public.

#### 6.4 CREW REQUIREMENTS

- Work force shall be managed to match the steady progress of meeting EWEB work plans and assigned tree work and direction. EWEB estimates that 8 bucket and 2 climb will be needed to perform this work. Crew composition shall be determined by EWEB and shall comply with all OR-OSHA regulations and ANSI Z133.1 standards.
- 6.4.2 Contractor shall supply adequate supervision to ensure that all work is performed in accordance with EWEB specifications and the Contract. Contractor will also supply one person to act in capacity of an assistant to the Supervisor.
- 6.4.3 Supervision requirements, one person in the capacity of Supervisor, shall be required to supervise up to approximately eight (8) crews. One person in the capacity of Assistant to the Supervisor shall assist in the supervision of approximately (2) crews for a total of ten (10) crews.
- 6.4.4 Actual staffing composition will be coordinated between EWEB and Contractor after award of Contract and prior to start of work and shall comply with all OR-OSHA regulations. Crew composition shall be approved by EWEB Contract Administrator.

#### 6.5 PERSONNEL QUALIFICATIONS

6.5.1 All personnel shall be fully qualified to perform the work for which they are assigned. EWEB may require documentation which verifies qualifications.

#### 6.6 GENERAL PERSONNEL REQUIREMENTS

- 6.6.1 All personnel must be clean and neat in appearance, at the start of each workday. No obvious tears in clothing.
- 6.6.2 All personnel shall wear the appropriate safety clothing and footwear, and shall use all necessary safety equipment (including, but not limited to gloves, eye and ear protection, hard hats with reflective stickers, safety boots, high visibility shirt or vest, and raingear, etc.)
- 6.6.3 All personnel shall be polite, respectful and show the utmost courtesy to EWEB customers. All complaints shall be given immediate attention.
- 6.6.4 All personnel shall refrain from using profane or inappropriate language that might be overheard by any customer.
- 6.6.5 All personnel shall obey applicable State of Oregon rules, including road signs.

#### 6.7 PROGRAM REQUIREMENTS

- 6.7.1 Drug Testing: Contractor shall furnish evidence of an on-going drug testing program.
- 6.7.2 OSHA Compliance: contractor shall provide documentation of training and certification meeting the requirements of Oregon OSHA including but not limited to OAR 437, Division 2, Subdivision R.
- 6.7.3 Quality Assurance: Contractor shall provide evidence of a Quality Assurance Plan that incorporates standards that address at a minimum:
  - the customer's quality requirements, and
  - applicable regulatory requirements, while aiming to
  - enhance customer satisfaction, and
  - achieve continual improvement of its performance in pursuit of these objectives. (copied from www.iso.org)
- 6.7.4 Employee Line Clearance Training and Certification Program, contractor shall provide documentation of their training and certification program and any required testing, including the results of tests or certifications for each employee.
- 6.7.5 Documentation of testing and certifications, documentation of testing and certifications shall be provided within 30 days of any required testing or certification.

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#### 6.8 WORKSITE CONDITIONS

- 6.8.1 Contractor shall remove all waste and debris from job site upon completion. Job site condition shall be left in an as clean or cleaner condition than it was in prior to the work.
- 6.8.2 Contractor shall comply with all required state and federal regulations pertaining to liquid spills.
- 6.8.3 Pursuant to ORS 279B.225 and EWEB Rule 3-0800, Contractor shall salvage, recycle, compost or mulch yard waste material at an approved site, if feasible and cost-effective.

# 6.9 WORK TYPE SPECIFICATIONS

#### 6.9.1 TRIMS

- 6.9.1.1 Includes pruning the prescribed radial clearance from facilities on all limbs on trees = or >4" at Diameter Breast Height (DBH). Clearances shall be derived from the Line Clearance Procedures and Specifications, rev. 2004 (see Exhibit A, attached). A tree is defined as any limbs that are attached to stems that originate from a common root system and have no visible soil between the stems at the base. If there is soil between the stems at the base they will be counted as separate trees.
- 6.9.1.2 Pruned vegetation (live/green and dead/dry) that is <4" in diameter shall be removed from the site unless an agreement has been made with the customer in advance.
- 6.9.1.3 Wood shall be left on site so as not to create a hazard for road or pedestrian traffic. Wood shall be cut into 18-20" lengths unless other arrangements are made between EWEB and the owner of the tree. EWEB may request the removal of wood from sites. The Hourly Rates will be paid for this wood removal work.
- 6.9.2 Overhang Trim-Removal of all overhanging limbs that are = or <15' above primaries back to the parent stem. Dead Overhang Trim-Removal of all dead overhanging limbs >15' above the conductors to the tops of the tree.
- 6.9.3 Facility Protection Trees For trees that are being only partially removed to protect EWEB facilities the work shall be categorized as a removal based on the size of the largest cut made.

# 6.9.4 BRUSH CUT/REMOVAL

- 6.9.4.1 Includes the pruning or removal of trees that are less than 4" DBH. One unit of brush shall consist of 10 cubic yards of standing plant material. For unit calculations on work reports and invoices, brush units will be identified in 1/10 increments.
- 6.9.4.2 Brush (live/green and dead/dry) shall be removed from the site unless an agreement has been made with the customer in advance.

#### 6.9.5 REMOVALS

- 6.9.5.1 Includes the falling of the entire tree, which shall be measured at 4.5' above ground level. Ground level is wherever the ground is highest at the base of the tree. Multi-stemmed trees that branch below 4.5' above ground level will be counted as separate trees.
- 6.9.5.2 Pruned vegetation (live/green and dead/dry) that is <4" in diameter shall be removed from the site unless an agreement has been made between EWEB and the owner of the tree in advance.
- 6.9.5.3 Wood >4" in diameter shall be left on site so as not to create a hazard for road or pedestrian traffic. Wood shall be cut into 14-18" length unless other arrangements are made between EWEB and the owner of the tree. EWEB may request the removal of wood from sites. The Hourly Rate will be paid for this wood removal work.
- 6.9.5.4 Stumps shall be cut as low to the ground as possible without the chain contacting soil.
- 6.9.5.5 Stump grinding shall consist of mechanically grinding stumps and roots. All stumps shall be ground down to 18 inches below the grade. The grinding shall be done in a manner so that any mounding of the ground due to the stump and roots will be completely eliminated and the resulting grade will be level. Any exposed roots shall be ground and chased up to 5 feet from the center of the stump and 6 inches below the grade. Any wood chips that are left

- over or blown into the adjacent area shall be cleaned up and removed from the site and the site shall be left in as good or better condition.
- 6.9.5.6 EWEB may elect to have contractor treat with herbicide any cut deciduous tree stumps.
- 6.9.5.7 Contractor will utilize herbicide applicators qualified under the Oregon Department of Agriculture for cut stump herbicide treatment.
- 6.9.5.8 Contractor will be responsible for any required herbicide use reporting per Oregon Department of Agriculture regulations.

#### 6.9.6 MOWING

- 6.9.6.1 Chainsaws, hand tools and climbing gear necessary to perform right of way clearing, to be included in crew labor rates.
- 6.9.6.2 Equipment operator rates shall be included with equipment rate.
- 6.9.6.3 Different types of mowers may be utilized depending on the type of vegetation and terrain. Crew compositions shall comply with all OR-PSHA regulations and ANSI Z133.1 standards.

# 6.9.7 COMMUNICATION FACILITY PRUNING:

6.9.7.1 EWEB may require the pruning of trees that are impacting communication wires. The hourly rates shall be paid for this work. It shall be invoiced separately from other work.

#### 6.10 EQUIPMENT

Contractor shall furnish, at a minimum, the following equipment:

- Cell phone with texting;
- 2-Climb crew's equipment shall consist of a ten--yard dump box, chip truck;
- 4 Bucket crew's equipment shall consist of a 60'-70' minimum height, insulated, articulated, overcenter type, operationally reliable bucket truck which includes a 10 to 15 yard chip box;
- 4 Bucket Crew's equipment shall consist of a 55' minimum height, insulated, articulated over-center type, operationally reliable bucket truck which includes a 10-15 yard chip box;
- · 43' Squirt Boom with chip box;
- 4x4 ATV & Trailer;
- 11 Chippers: 12" size minimum, trailer type, diesel fueled, self-feed;
- · Complete set of climbing gear per trimmer;
- · Two small chain saws;
- One large chain saw, 20' minimum bar length;
- · Pole pruners, 10' minimum length;
- Telescoping style Chain saw "stick saw";
- · Leaf blower, hand-held style, gas powered; and
- · Push broom.
- 6.10.1 All equipment shall be reliable, well maintained, and clean in appearance.
- 6.10.2 Each truck shall have all approved work signs, cones, and other tools and devices necessary to perform the work required, in a safe and efficient manner. Each crew truck will carry adequate signage and cones to perform lane closures and shall comply with state and local requirements.
- 6.10.3 Each truck shall be clearly marked with company name.
- 6.10.4 Each truck shall be clearly marked with" EWEB Contractor" signs, furnished by EWEB.
- 6.10.5 There may be a need to utilize specialized equipment in certain circumstances. EWEB and the Contractor must both agree that specialized equipment is required. EWEB shall bear the cost of specialized equipment when it is required to perform such work.
- 6.10.6 Flaggers will be provided by EWEB whenever flagging is necessary to perform work safely and in compliance with ODOT and OR-OSHA regulations. Scheduling and requesting of flagging services shall be the responsibility of the contractor.

- 6.10.7 EWEB will not provide any on-site storage for the Contractor. Any storage required by the contractor will be coordinated by the Contractor and at the Contractor's expense.
- 6.10.8 EWEB may inspect contractor's equipment at any time to determine, condition, safety and to ensure that each crew is properly equipped with all required equipment.

#### 6.11 TIME OF WORK

- 6.11.1 Work shall be provided year round. The Contractor shall give crew locations to the EWEB representative on a daily basis. Representative will be designated by EWEB.
- 6.11.2 All work shall be performed during regular working hours; Monday through Friday, between 6:00 a.m. to 5:30 p.m. (Pacific Time). Contractor's personnel shall be available to work extended hours during storm situations or as workload and scheduling needs require. Contractor will compile and maintain current crew member telephone contact list for overtime call out purposes, list shall be updated and provided to contract administrator when personnel changes or telephone number changes occur.
- 6.11.3 All crews shall make all reasonable efforts to leave the designated equipment staging area within 15 minutes of starting time and not return to the designated equipment staging area more than 15 minutes prior to the regularly scheduled work stopping time.
- 6.11.4 Crew staging area(s) and the composition of crews working out of those staging area(s) will be approved by the contract administrator.
- 6.11.5 The contractor will be responsible for locating acceptable crew staging areas and will be responsible for any required rent or payment for crew staging areas.
- 6.11.6 Normal work start and stop times will be coordinated with the contract administrator.

#### 6.12 REPORTING/SUMMARY STATEMENTS

- 6.12.1 Submit time tickets to EWEB Tree/Vegetation office every Monday morning for work done in the previous week. Payment of invoices will be matched with time tickets: unsubstantiated work will not be paid.
- 6.12.2 Time tickets shall include the minimum following information; date, name of crew leader, name of crew members, work location, type of crew, hours worked by each crew member at site, unit quantity and type completed at site
- 6.12.3 Each contracted crew will provide a tree work report using the "EWEB Weekly Tree Work Report" form. The form will be submitted weekly to the contract administrator and attached to the weekly time sheet.
- 6.12.4 Contractor shall provide a current crew roster of all employees, their job title and their rate of pay and billing rate to the contract administrator. This roster shall be updated when any changes occur.

#### 6.13 INCENTIVES AND PENALTIES

6.13.1 After evaluation of the initial one-year term of the resulting Contract, EWEB may elect to implement incentives and penalties based on the number of units worked. Unit prices will be negotiated between EWEB and the Contractor if EWEB initiates penalties and incentives.

#### 6.14 SAFETY REQUIREMENTS

- 6.14.1 Contractor and contractor's employees will comply with all applicable City, County, State, Federal, OSHA regulations and ANSI Z133.1-2000.
- 6.14.2 Contractor shall provide copies of any and all OROSHA reporting certificates and reportable/recordable accidents within the last 5 years.
- 6.14.3 Contractor shall be aware of current Industrial Fire Precaution Levels and shall also be responsible for providing any fire fighting tools required by EWEB, or the appropriate regulatory agency(s) for the site(s) where work is being performed.

## 7. EVALUATION CRITERIA

# 7.1 PROPOSAL COVER LETTER

Proposer shall include the following items in their proposal cover letter:

- Provide the address of the primary office that would likely serve to direct the work.
- Acknowledge that your firm accepts ALL terms and conditions contained in this solicitation as required by Section 1.7(B).
- Proposers shall indicate if they have <u>or</u> have not had a contract terminated for default in the last five years in accordance with Section 1.7(B).
- 7.2 SCORABLE CRITERIA: Scorable criteria specify additional criterion that will further improve the Services to be provided under this Contract. Points will be awarded based on how well the Proposer's Proposal meets each scorable criteria, Proposers qualifications and experience, and its value to EWEB. Maximum point values are assigned to indicate the relative importance of each category. All final scores will be rounded to the nearest whole number.

## This is a Single-Step Evaluation Process

Written Proposals will be evaluated and scoring and contract award will be based on Proposers qualifications and experience as described below:

Each scorable criteria requires an organized, concise written response. Proposers are to retype the scorable criteria and respond directly below.

# 7.2.1 Proposers Ability and Capability to Perform the Requested Services (Maximum 30 Points Possible)

Demonstrate Proposer's ability and capability to perform the requested services as described in this RFP. Response should address the following:

- a) Provide information regarding your resources; include staffing and equipment levels that demonstrate your company's ability to perform the work as outlined in this RFP.
- b) Years in business.

# 7.2.2 Proposer's Past Experience (Maximum 50 Points Available)

Indicate the experience, if any, the Proposer has had in providing UTILITY LINE CLEARANCE TREE PRUNING AND REMOVAL, STUMP GRINDING AND ROW MOWING. Include years of experience.

Indicate the experience, if any, Proposer has in providing the requested services for projects similar in size and scope, and include a client reference.

Describe any other experience that indicates the qualifications of the Proposer for the performance of the potential contract.

Proposer must supply names, address, and telephone numbers of three (3) client references and briefly describe the type of service provided to these clients. The Proposer must grant permission to EWEB to contact all references provided.

# 7.2.3 Proposer's Supervisor(s) and Assistant Supervisor(s) Past Experience (Maximum 20 Points Available)

List the Supervisor(s) and Assistant Supervisor(s) performing work under this potential contract and indicate the experience each has had in providing UTILITY LINE CLEARANCE TREE PRUNING AND REMOVAL, STUMP GRINDING AND ROW MOWING, supervision experience, or other experience that indicates their qualifications, certifications, and training.

#### 7.2.4 Quality Assurance/Safety (Maximum 20 Points Available)

a) Drug Testing: Proposer shall furnish evidence of an on-going drug testing program.

- b) OSHA Compliance: Proposer shall provide documentation of training and certification meeting requirements of Oregon OSHA including but not limited to OAR 437, Division 2, and Subdivision R.
- c) Quality Assurance: Proposer shall provide evidence of a Quality Assurance Plan that incorporates standards that address at a minimum:
  - The customer's quality requirements, and
  - · applicable regulatory requirements, while aiming to
  - enhance customer satisfaction, and
  - achieve continual improvement of its performance in pursuit of these objectives (copied from <a href="https://www.iso.org">www.iso.org</a>).
- d) Employee Line Clearance Training and Certification Program: Proposer shall provide documentation of their training and certification program and any required testing, including the results of the tests or certifications for each position.
- e) Provide copies of any and all OROSHA reporting certificates and reportable/recordable accidents within the last 5 years.

# 7.2.5 Equipment (Maximum 20 Points Available)

Newer vehicles and equipment are desirable to EWEB throughout this contract based on reliability, performance and emissions output. Please describe age (Model Year) and specifications (include Make/Model) of below listed equipment to be used to perform work under this potential Contract. See Section 6.10 for description of required equipment. Indicate if any equipment will be used by subcontractor to perform work under this potential Contract or if any equipment will be rented.

- 4 each 55' Aerial Lift
- 1 each 60' Aerial Lift
- 5 each 65'-70' Aerial Lift
- 1 each 100' Aerial Lift (As needed basis)
- 11 each Chipper
- 2 each 4x4 Dump Truck
- 2 each 4x4 Supervisor's Pickup w/extra cab
- 1 each 43' Squirt Boom
- 1 each 4x4 ATV & Trailer
- 1 each Stump Grinder
- 1 each Mower

# 7.2.6 Proposed Pricing (Maximum 50 Points Available)

Identify the billing rate per hour proposer will bill EWEB for the proposed services.

Indicate if any function will be subcontracted. Include all Subcontractor(s) name, address, phone number, and function they will be performing under this potential contract. All Subcontractors shall be approved by EWEB in accordance with Attachment A, Section A.24.

	( constant					
1.	Supervisor	2000	1			
2.	Assistant Supervisor	2000	1			
3.	Crew Leader	2000	10			
4.	Journey Level Trimmer	2000	10		-	
5.	Utility Person	2000	2			·
6.	Apprentice Trimmer	2000	1			

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7.	55' Aerial Lift	2000	4		
8.	60' Aerial Lift	2000	· 1		
9.	65'-70' Aerial Lift	2000	5		
10.	100' Aerial Lift (As needed basis)	500	1	<del></del>	
11.	Chipper	2000	11		
12.	4x4 Dump Truck	2000	2		
13.	4x4 Supervisor's Pickup w/extra cab	2000	2		
14.	43' Squirt Boom	2000	1		·
15.	4x4 ATV & Trailer	1000	1		
16.	Stump Grinder	2000	1		
17.	Mower	1000	1		
18.	Small Saws	2000	21		
19.	Large Saws (20" min. bar)	2000	11		,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,
20.	Stick Saws	2000	8		
21.	Herbicides and oth	ner materials s	hall be billed at cost plu	s%	Not included in Grand Total below.

\*Grand Total (Sum of all extended totals, Items 1-20) \$

Total points for cost will be determined according to the following formula:

A = Total Possible points = xx

L = Lowest cost proposed

X = Cost being scored

B = Awarded Score

Formula: "L" divided by "X" times "A" = "B"

**Example:** If A = 50 Points, L = \$50,000; X = \$75,000; then: \$50,000 / \$75,000 x 50 = 33.34 points

# 7.2.7 Sustainability Questionnaire (Maximum 10 Points Possible)

Proposers should complete the attached Sustainability Questionnaire providing information on any programs or procedures they have that help decrease environmental and social impacts of the services they provide.

# 8. EVALUATION PROCESS & CONTRACTOR SELECTION

The Total Number of Points Possible for Written Proposals is 200.

# 8.1 Review and Acknowledgment of Defective Proposals

Due to limited resources, EWEB generally will not completely review or analyze proposals that on their faces fail to comply with the minimum mandatory requirements of the solicitation documents nor will EWEB generally investigate the references or qualifications of such proposals. Therefore, EWEB will not acknowledge whether or not an unsuccessful proposal was complete, responsive, responsible, sufficient, or lawful in any respect. This is a public solicitation, the processes and procedures which are established and required by Oregon law and EWEB adopted rules. Proposers are advised to strictly follow the process, procedures, and requirements as set forth in the RFP documents and not anticipate or rely on any opportunity to negotiate, beyond such limitations that are identified herein.

#### 8.2 Right of Rejection

Proposers must comply with all of the terms of the RFP, EWEB Rules, and all applicable local, state, and federal laws, administrative rules, and regulations. The Purchasing Analyst may reject any proposal that does not comply with all of the material and substantial terms, conditions, and performance requirements of the RFP.

Proposers may not make stipulations or restrict the rights of EWEB. If an Proposer does so, the Purchasing Analyst may determine the proposal to be a non-responsive counter-offer and the proposal may be rejected.

Minor informalities that:

- · do not affect responsiveness,
- · are merely a matter of form or format,
- do not change the relative standing or otherwise prejudice other offers,
- do not change the meaning or scope of the RFQ/RFP.
- are trivial, negligible, or immaterial in nature.
- do not reflect a material change in the work, or,
- do not constitute a substantial reservation against a requirement or provision,

may be waived by the Purchasing Analyst.

EWEB reserves the right to refrain from making an award if it determines that to be in its best interest.

A proposal from a debarred or suspended Proposer shall be rejected.

#### 8.3 References

EWEB reserves the right to investigate any and all references and the past performance information provided in the proposal with respect to Respondent's successful performance of similar projects, compliance with specifications and contractual obligations, completion or delivery of a project on schedule, and lawful payment of employees and workers.

EWEB reserves the right to check any and all sources for information and to include sources other than the references provided in the Proposer's proposal. EWEB may consider information available from any such source including government bodies and regulatory authorities in evaluating respondents.

#### 8.4 Responsibility

EWEB reserves the right to investigate and evaluate, at any time prior to award and execution of the Contract, the apparent successful Proposer's responsibility for performing the Contract, as defined in Rule 3-0500. Submission of a signed proposal shall constitute approval for EWEB to obtain any information EWEB deems necessary to conduct the evaluation. EWEB reserves the right to request additional information or documentation from the successful Proposer prior to award of a contract. Such information may include, but is not limited to, current and recent balance sheets, income statements, cash flow

statements, or a performance bond from an acceptable surety. Failure to provide this information will result in the rescission of EWEB's Intent to Award.

EWEB may postpone the award of the Contract after announcement of the apparent successful Proposer in order to complete its investigation and evaluation. Failure of the apparent successful Proposer to demonstrate responsibility shall render the Proposer non-responsible and shall constitute grounds for rejection of the proposal.

#### 8.5 Clarification of Response

EWEB reserves the right to request clarification of any item in any proposal, or to request additional information necessary to properly evaluate a particular proposal. All requests for clarification and responses shall be in writing.

During the evaluation of Proposals, Proposers must respond to any request for clarification from the Evaluation Committee within 24 hours of request (Monday through Friday). Inability of the Evaluation Committee to reach a Proposer for clarification and/or failure of a Proposer to respond within the time stated may result in rejection of that Proposer's Proposal.

#### 8.6 Evaluation Process

Written Statements of Proposal (SOPs) will be evaluated, scoring and contract award will be based on Proposers qualifications and experience as described in Section 6 and/or Section 7.

Pursuant to Rule 3-0230(14)(d), EWEB may employ methods of contractor selection that include without limitation:

- (A) An award or awards based solely on the ranking of proposals;
- (B) Discussions leading to best and final offers, in which EWEB may not disclose private discussions leading to best and final offers;
- (C) Discussions leading to best and final offers, in which EWEB may not disclose information derived from proposals submitted by competing proposers;
- (D) Serial negotiations, beginning with the highest ranked proposer;
- (E) Multiple-tiered competition designed to identify, at each level, a class of proposers that fall within a competitive range or to otherwise eliminate from consideration a class of lower ranked proposers;
- (G) A multi-step request for proposals that require additional information designated in Rule 3-0232; or
- (H) Any combination of methods described in this Section.

#### 8.7 Contractor Selection

If a contract is awarded, EWEB shall award the contract to the responsible proposer whose proposal EWEB determines in writing to be the most advantageous to EWEB based on:

- a) The evaluation process and evaluation factors described in this request for proposal;
- b) Any applicable preferences allowed by EWEB Rules, Division 2; and when applicable,
- c) The outcome of any negotiations authorized by this request for proposal.
- 8.7.1 The firm with the highest total score as a result of written proposal scoring will be awarded the Contract.

#### 8.8 Notice of Intent to Award

After the completion of the evaluation and ranking, the Purchasing Analyst will issue a written Notice of Intent to Award and send copies to all Proposers. The notice will set out the names of all Proposers and identify the Contractor selected for award.

#### 8.9 Contract Negotiation

EWEB will begin negotiating a Contract with the highest ranked Proposer as defined in Section 8.7. EWEB shall direct negotiations toward obtaining written agreement on:

- a) The statement of work;
- b) The contract price as it is affected by negotiating the statement of work; and.
- c) Any other terms and conditions reasonable related to those expressly authorized for negotiation in the Request for Proposal, Section 2.6.

At any time during discussions or negotiations EWEB may terminate discussions or negotiations with the highest-ranked proposer if it reasonably believes that:

a) The proposer is not discussing or negotiating in good faith; or

b) Further discussions or negotiations with the proposer will not result in the parties agreeing to the terms and conditions of a final contract in a timely manner.

If EWEB terminates negotiations, EWEB may then commence negotiations with the next highest scoring proposer, and continue the process until EWEB has determined to award the contract to the proposer with whom it is currently discussing or negotiating.

# 8.10 Protests and Judicial Review of competitive Bidding and Proposals

Pursuant to Rule 3-0740, a bidder or proposer may protest the award of a public contract or a notice of intent to award a public contract, whichever occurs first, if the bidder or proposer is adversely affected because the bidder or proposer would be eligible to be awarded the public contract in the event that the protest were successful; and the reason for the protest is that all higher ranked proposals are nonresponsive; EWEB has failed to conduct the evaluation of proposals in accordance with the criteria or processes described in the solicitation materials; EWEB has abused its discretion in rejecting the protestor's bid or proposal as nonresponsive; or EWEB's evaluation of proposals or EWEB's subsequent determination of award is otherwise in violation of EWEB Rules.

Eligible proposers protesting award shall follow the procedures described herein. Protests that do not follow these procedures will not be considered. This protest procedure constitutes the sole administrative remedy available to proposers.

- a) Protests must be received within seven (7) days after issuance of the notice of intent to award the Contract. EWEB will not consider late protests.
- b) All protests must be in writing, signed by the protesting party or an authorized Agent and submitted to the EWEB Purchasing Analyst listed on page 1. The protest must state all facts and arguments on which the protesting party is basing the protest.
- c) Only protests stipulating an issue of fact concerning a matter of bias, discrimination or conflict of interest, non-compliance with procedures described in the procurement documents, or EWEB policy shall be considered. Protests based on procedural matters will not be considered.
- d) EWEB's Purchasing Manager will review the protest and will fax and mail the protesting party a written response within three (3) business days of receipt of the written protest to the fax number and address provided in the bid or proposal. Any written response may be comprised of a determination of the protest, a notice to the protesting party of the need for additional time in which to evaluate the matter, or other notice to the protesting party.
- e) If the Purchasing Manager's determination (response) is adverse to the protester, any further appeal of the Purchasing Manager's determination by the party must be submitted in writing to EWEB's General Manager within three (3) business days of issuance of the Purchasing Manager's determination (response).
- f) EWEB's General Manager will review any appeal of the Purchasing Manager's determination and shall fax and mail, in accordance with the fax number and address provided in the bid, the protesting party a written response within three (3) business days of receipt of written appeal.
- g) If the determination of the General Manager is adverse to the protesting party's interest, the protesting party may only appeal to EWEB's Board of Commissioners by filing a written notice of appeal to the Board with the General Manager within two (2) business days of issuance of the General Manager's written determination.
- h) The Contract Review Board, in considering the protest, shall review the documentation presented to the Purchasing Manager and the General Manager on or before the next regularly scheduled Board Meeting, but in no event shall they be required to review in less than ten (10) business days, and

thereafter, base their decision on such material. The Board review will be limited to the evaluation of compliance with EWEB's policies and procedures, requirements of the RFP or ITB and the equal and fair application of EWEB's contracting rules. The contract Review Board's determination shall be EWEB's final decision.

An adversely affected or aggrieved bidder must exhaust all avenues of administrative review procedures and relief before seeking judicial review of EWEB's Contractor selection or Contract Award decision.

# 9. PROPOSAL FORM

Proposals should be prepared and organized in a clear and concise manner, and must include all information required by this RFP. Headers, Titles or Tabs should be used to identify required information. Responses to the Evaluation Criteria found in Section 7 shall be organized in the order listed in Section 7, preferably by re-stating the Criteria, then responding below.

FOLLOWING INFORMATION MUST BE RETURNED WITH YOUR RESPONSE:  e a check in front of the item indicating inclusion in your response)
CONTRACTUAL ACCEPTANCE: Statement accepting ALL terms and conditions contained in this solicitation. Statement may include request for negotiation of proposed
terms and conditions as allowed per Section 2.6. <b>TERMINATION FOR DEFAULT:</b> Proposers shall indicate if they have had a contract terminated for default in the last five years. (See Section 1.7 (B))
RESPONSE TO ALL EVALUATION CRITERIA listed in Section 7 SECTION 9 - Proposal Form ATTACHMENT B - Bidder Residency Information
NOWLEDGMENT OF RECEIPT OF ADDENDA TO BID DOCUMENTS: user acknowledges receipt of Addenda and agrees to be bound by the their contents.
Circle each RFP addendum received: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10  Check if not applicable or no addenda were received:

# **CONTRACT SIGNATURE / EXECUTION**

#### ASSURANCES:

The undersigned attests that:

- S/he has read and understands all instructions, requirements, addenda, site conditions, and terms and conditions contained herein (including the attachments and Exhibits listed in this solicitation).
- S/he has the authority and/or responsibility to submit a proposal and to bind her/his organization in all phases of this RFP process.
- The information provided is true and accurate to the best of her/his knowledge.
- S/he understands that any false statement may disqualify this offer from further consideration or may be cause for contract termination.
- S/he has not and will not discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a disadvantaged minority, women or emerging small business enterprise certified under ORS 200 055
- S/he represents and warrants to EWEB that S/he has the power and authority to enter into and perform this Contract and that this Contract, when executed by EWEB, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms.
- S/he has arrived at the specifics of the proposal, including price and amounts, independently and without communication or agreement with another Proposer, except as disclosed in a separately attached statement;
- S/he has not directly or indirectly induced or solicited another Proposer, in order to benefit a third person, to submit a false or sham bid, to refrain from bidding or to change a bid;
- S/he has not directly or indirectly disclosed the Proposer's bid price, a breakdown of the price, the contents of the price or information or data related to the price to another Proposer;
- S/he has not sought through communication or agreement with a person to fix the bid price of the Proposer or another Proposer, to fix an overhead, profit or cost element of the bid price of the Proposer or another Proposer or to secure any advantage against the contracting agency or any other person interested in the public contract:
- S/he has not directly or indirectly expressed an interest or lack of interest in the public contract, or paid or offered to pay a fee to a person, to cause a collusive or sham bid;
- Contractor by signing this contract represents and warrants that contractor's performance under this contract creates
  no potential or actual conflict of interest, including but not limited to conflicts of interest as defined in ORS 244.020.
   Contractor further warrants that no state or federal law or EWEB rule prevents contractor's lawful performance of the
  contract. If contractor is currently performing work for EWEB or another governmental entity, Contractor's
  participation in other public contracts does not create a potential or actual conflict of interest in performance of this
  contract.

PROPOSER INFORMATION:		
Proposer Company Name		
Company Address (from which	work will be performed)	·
Telephone Number	Fax Number	FEDERAL ID NUMBER
Pornon Signing DED		T-11
Person Signing RFPPlease	print or type Name	Title
Signature:		
Email Address:		
	(This Section to be com	pleted by EWEB)
Proposers offer (interpreted in the Purchasing & Risk Manager (in	e provided order of precedence) the space provided below) and c e of a Notice to Proceed, additiona	enda, all EWEB contractual terms and conditions, and the become the final contract once executed by the EWEB onstitute the entire agreement between the parties, and I amendments and/or change orders may be added to the
The Eugene Water and Electric B service(s) designated on the bid in	oard (EWEB) hereby awards a con ovitation as:	tract to the above Proposer for the item(s) and/or
	ANCE TREE PRUNING AND Fall requirements, Terms and Co	REMOVAL, STUMP GRINDING AND ROW nditions of RFP #050-2014.
Contract Administrator		Date
LT Manager		Date
Purchasing / Risk Manager		Date
Term of Contract:		
PO No		

## **ATTACHMENT A**

# STANDARD TERMS & CONDITIONS FOR THE PURCHASE OF SERVICES

#### A.1 DEFINITIONS:

"Architect" means a person who is registered and holds a valid certificate in the practice of architecture in the State of Oregon, as provided under ORS 671.010 to 671.220, and includes without limitation the terms "architect," "licensed architect," and "registered architect." (See ORS 279C.100(1))

"Architectural, engineering and land surveying services" or "Architectural, engineering or land surveying services" means professional services that are required to be performed by an architect, engineer or land surveyor. (See ORS 279C.100(2))

"Consultant," for purposes of EWEB Rules, Division 4, means an architect, engineer, land surveyor, or provider of related services. A Consultant includes a business entity that employs Architects, Engineers, Land Surveyors, or providers of related services, or any combination of the foregoing. (See ORS 279C.115(1))

"Contract" or "Contracts" means the Written agreement(s), resulting from the Solicitation Document that sets forth the rights and obligations of the parties.

"Contractor" means the Person with whom EWEB enters into a Contract.

"Engineer" means a person who is registered and holds a valid certificate in the practice of engineering in the State of Oregon, as provided under ORS 672.002 to 672.325, and includes all terms listed in ORS 672.002(2). (See ORS 279C.100(3))

"Goods and services" or "Goods or services" means supplies, equipment, materials and services other than personal services designated under ORS 279A.055 and any personal property, including any tangible, intangible and intellectual property and rights and licenses in relation thereto, that EWEB or another contracting agency is authorized by law to procure. "Goods and services" or "Goods or services" includes combinations of any of the items identified in this Rule. (See ORS 279B.005(1)(b))

"Person" means a natural person capable of being legally bound, a sole proprietorship, a corporation, a partnership, a limited liability company or partnership, a limited partnership, a for-profit or nonprofit unincorporated association, a business trust, two or more persons having a joint or common economic interest, any other person with legal capacity to contract or a public body.

"Personal services" mean the services of a person or persons that are designated by the Board as personal services, and includes architectural, engineering and land surveying services, and related services, for purposes of EWEB Rules, Division 4. (See ORS 279C 100(5))

"Personal Services Contract" or "Contract for Personal Services," for purposes of EWEB Rules, Division 3, means a contract, or member of a class of contracts, other than a contract for the services of an Architect, Engineer, Land Surveyor or Provider of Related Services, and other than a contract for services not designated by the Board as personal services (see EWEB Rules, Division 6), whose primary purpose is to acquire specialized skills, knowledge and resources in the application of technical or scientific expertise, or the exercise of professional, artistic or management discretion or judgment, including, without limitation, a contract for the services of an accountant, physician or dentist, educator, information technology consultant, broadcaster, artist (including a photographer. filmmaker, painter, weaver or sculptor), or consultant (excluding an Architect, Engineer, Land Surveyor, or Provider of Related Services).

"Rule" means a Rule within the EWEB Public Contracting Rules.

"Work" means the furnishing of all materials, equipment, labor, and incidentals necessary to successfully complete any individual item or the entire Contract and successful completion of all duties and obligations imposed by the Contract.

"Working hours" means EWEB's regular business hours, which currently are Monday through Friday, 9 a.m. to 5 p.m., excluding EWEB recognized holidays.

All other terms not expressly identified above shall have the meanings as set forth in EWEB Public Contracting Rules, Division 1 - Definitions.

#### A.2 HEADINGS:

The section headings in this Contract are included for convenience only; they do not give full notice of any portion of the terms of this Contract.

If these Terms and Conditions are attached to a Request for Proposals (RFP) solicitation, then "ITB", whenever stated herein, shall mean "RFP".

# A.3 <u>STANDARD AND SPECIAL TERMS AND CONDITIONS; ORDER OF PRECEDENCE:</u>

These printed Terms and Conditions are the Standard Terms and Conditions for EWEB contracts for the purchase of Services. EWEB may also provide "Special Terms and Conditions" elsewhere in the Contract which apply only to this Contract. Whenever possible, all terms and conditions are to be harmonized. In the event of a conflict between the standard and "special terms and conditions", the "special terms and conditions" take precedence, unless the standard term(s) in question is/are required by law. In the event of any other conflict, 1) the special terms and conditions, 2) these Standard Terms and Conditions, 3) the Invitation to Bid or Request for Proposal, and 4) the bid or response thereto shall be interpreted in the foregoing order of precedence. By

signing this Contract, Contractor agrees that, in the event of a conflict, all the terms and conditions of this Contract supersedes all preprinted terms and conditions on any forms used by the Contractor.

#### A.4 INDEPENDENT CONTRACTOR:

Any service or services to be rendered by Contractor under this Contract are those of an independent contractor. Contractor, its Subcontractors, Agents, Officers or Representatives are not officers, employee, or agents of EWEB as those terms are used in ORS 30.265. Contractor is responsible for all federal and state taxes or other payments or withholdings applicable to compensation or payments paid to Contractor under this Contract.

#### A.5 CONTRACTOR REPRESENTATIONS:

Contractor represents to EWEB that (1) Contractor has the power and authority to enter into and perform this Contract, (2) this Contract, when executed and delivered shall be a valid and binding obligation of Contractor, enforceable in accordance with its terms, (3) the Work under this Contract will be performed in accordance with the professional standards of skill and care ordinarily exercised by members of that profession under similar conditions and circumstances, (4) Contractor shall, at all times during the term of this Contract be duly licensed to perform the Work, and if there is no licensing requirement for the profession or work, be duly qualified and professionally competent.

#### A.6 SECURITY OF DOCUMENTS AND PROPERTY:

All EWEB property, materials and documents and all personal property of EWEB employees are to be left undisturbed and are not to be handled, read or otherwise used by Contractor or Contractor's employees, except to the extent required by the Contract. Contractor shall consider all documents confidential. Any disclosure of confidential information or removal of EWEB property by Contractor or Contractor's employees shall be cause for immediate contract termination. Any liability, including but not limited to, attorney fees, arising from any action or suit brought against EWEB because of Contractor's willful or negligent release of information, documents or property shall be borne by Contractor.

#### A.7 COMMENCEMENT OF WORK:

Contractor shall commence no work under this contract until all insurance requirements have been met and a Purchase Order or Notice to Proceed has been issued by EWEB.

#### A.8 <u>NON INTERFERENCE WITH WORK SITE:</u>

Contractor shall perform its work activities in such a manner that they will not interfere with the normal work activities of EWEB. Contractor shall not block access to any work areas, and shall maintain a safe passage for normal EWEB business activities.

#### A.9 NOTICE:

Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to Contractor or EWEB at the address or number set forth on the signature page of this Contract, or to such other

addresses or numbers as either party may hereafter indicate pursuant to this Section. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. To be effective against EWEB, such facsimile transmission shall be confirmed by telephone notice to the EWEB's Contract Administrator. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

#### A.10 INVOICING AND PAYMENT.

Contractor shall invoice at the expiration of each month for services performed during that month. Invoices shall include itemization of all work performed during the billing period. EWEB reserves the right to withhold payment for services not performed. EWEB will make payment to Contractor for undisputed amounts in accordance with its regular payment terms: Net 30 days after acceptance of services and receipt of a valid invoice.

#### A.11 SAFETY AND HEALTH REQUIREMENTS:

Contractor warrants goods and services provided under this Contract comply with all applicable federal Occupational Safety and Health Administration (OSHA) requirements and with all applicable Oregon safety and health requirements, including those of the State Workers' Compensation Division. Contractor shall take every precaution to instruct employees about and otherwise safeguard them against any possible injuries associated with chemicals or equipment as well as other potential hazards within the facility.

# A.12 HAZARD COMMUNICATION:

Products which contain hazardous chemicals, as defined by Oregon Administrative Rules Chapter 437, must be labeled, tagged or marked with the following information:

- 1) Identity of the hazardous chemical(s);
- 2) Appropriate hazard warning; and
- Name and address of the chemical manufacturer, importer or other responsible party.

The Contractor shall keep Material Safety Data Sheets (MSDS) on file at the location where such chemicals are stored, as required by OAR 437-155-025, for the products listed above.

#### A.13 EWEB PAYMENT OF CONTRACTOR CLAIMS:

- a. Contractor shall make payment promptly, as due, to all persons supplying Contractor labor, equipment or material for work under this Contract; pay all contributions or amounts due the Industrial Accident Fund from Contractor or any subcontractor incurred in the performance of the Contract; not permit any lien or claim to be filed or prosecuted against EWEB on account of any labor or material furnished; and pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- b. If Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, EWEB may, but is not obligated to pay such claim to the person

furnishing the labor or services and charge the amount of the payment against funds due or to become due Contractor by reason of this Contract. The payment of a claim under this section shall not relieve Contractor or Contractor's surety from any obligation with respect to any unpaid claims. ORS 279B.220.

#### A.14 PAYMENT FOR MEDICAL CARE:

Contractor agrees to make payment promptly, as due, to any person, copartnership, association or corporation furnishing medical, surgical, hospital or other needed medical care to Contractor's employees. Such payment shall be made from all sums which Contractor has agreed to pay for such services and from all sums which Contractor has collected or deducted from the wage of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

All subject employers working under this contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126. [2003 c.794 §76c]

# A.15 PERFORMANCE:

Contractor shall perform all services required by this contract within the time specified in this contract, including extensions. All services shall be performed in highest professional manner, and in accordance with the utmost industry standards. Unless the means or methods of performing a task is specified elsewhere in this contract, Contractor shall employ methods that are generally accepted and used by the industry. Failure to meet the performance requirements of this contract shall constitute breach of contract. EWEB, by written notice to Contractor, may cancel the whole or any part of this contract:

- If Contractor fails to provide the services required by this contract within the time specified, or fails to perform any other provision of this contract; and
- b If Contractor, after receipt of written notice from EWEB, fails to correct such failures within the number of days specified in the written notice.

The rights and remedies of EWEB provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

#### A.16 EARLY TERMINATION:

This Contract may be terminated as follows:

- a. EWEB and Contractor, by mutual written agreement, may terminate this Contract at any time.
- EWEB in its sole discretion may terminate this Contract for any reason on 30 days written notice to Contractor.
- EWEB's Right to Terminate For Cause and/or nonappropriation of funds.

EWEB may terminate this Contract, in whole or in part, immediately upon notice to Contractor, or at such later date as EWEB may establish in such notice, upon the occurrence of any of the following events:

 EWEB fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for Contractor's Work:

- (ii) Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Work under this Contract is prohibited or EWEB is prohibited from paying for such Work from the planned funding source;
- (iii) Contractor no longer holds any license or certificate that is required to perform the Work
- (iv) Contractor commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform the Work under this Contract within the time specified herein or any extension thereof, or so fails to pursue the Work as to endanger Contractor's performance under this Contract in accordance with its terms, and such breach, default or failure is not cured within 15 business days after delivery of EWEB's notice, or such longer period as EWEB may specify in such notice.

d. Contractor's Right to Terminate for Cause.

- (i) If EWEB fails to pay Contractor pursuant to the terms of this Contract, Contractor may terminate this Contract by giving notice to EWEB, and EWEB fails to cure within 15 business days after receipt of Contractor's notice, or such longer period of cure as Contractor may specify in such notice. EWEB shall pay Contractor for all work performed in accordance with the terms of the Contract prior to termination date, if Contractor is not otherwise in default.
- (ii) Contractor may terminate this Contract, for reasons other than nonpayment, if EWEB commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform under the Contract within the times specified, or so fails to perform as to endanger Contractor's performance under this Contract, and such breach, default or failure is not cured within 15 business days after delivery of Contractor's notice, or such longer period as Contractor may specify in such notice."

#### A.17 PAYMENT ON EARLY TERMINATION:

Upon termination pursuant to paragraph A.16, payment shall be made as follows:

- a. If terminated under A.16a or A.16b for the convenience of EWEB, EWEB shall pay Contractor for work performed prior to the termination date if such work was performed in accordance with the Contract. EWEB shall not be liable for direct, indirect, special, or consequential damages. Termination shall not result in a waiver of any other claim EWEB may have against Contractor.
- b. If terminated under A.16c by EWEB due to a breach by the Contractor, then EWEB shall pay the Contractor for work performed prior to the termination date provided such work was performed in

- accordance with the Contract less any setoff to which EWEB is entitled.
- c. If terminated under A.16d by the Contractor due to a breach by EWEB, then EWEB shall pay the Contractor for work performed prior to the termination date if such work was performed in accordance with the Contract.
- d. If terminated under A.16c(i) or (ii) by EWEB for non-appropriation of funds, then EWEB shall pay the Contractor for work performed prior to the termination date no later than 30 days after EWEB's approval of its next year's budget, if such work was performed in accordance with the Contract.

#### A.18 REMEDIES:

In the event of breach of this Contract the parties shall have the following remedies:

- a. If terminated under A.16c by EWEB due to a breach by the Contractor, EWEB may complete the work either itself, by agreement with another Contractor, or by a combination thereof. If the cost of completing the work exceeds the remaining unpaid balance of the total compensation provided under this Contract, then the Contractor shall pay to EWEB the amount of the reasonable excess.
- b. In addition to the remedies in paragraphs A.16 and A.17 for a breach by the Contractor, EWEB also shall be entitled to any other equitable and legal remedies that are available.
- c. If EWEB breaches this Contract, Contractor's remedy shall be limited to termination of the Contract and receipt of Contract payments to which Contractor is entitled.

#### A.19 HOURS OF LABOR:

Contractor shall pay employees for overtime work performed under the public contract in accordance with ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

#### A.20 RECYCLABLE PRODUCTS:

Contractor shall use recycled and recyclable products to the maximum extent economically feasible in the performance of the Contract work set forth in this document. Contractor shall specify the minimum percentage of recycled product in the goods provided under this Contract. Contractor agrees to abide by all covenants contained in ORS 279B.270, which is incorporated by reference.

#### A.21 <u>TIME IS OF THE ESSENCE</u>:

Time is of the essence in the performance of this Contract.

# A.22 FORCE MAJEURE:

Unless this contract is executed to remedy an act(s), occurrence(s), or event(s) stated herein, neither Party shall be liable for delays in the execution of its obligations due to causes beyond its reasonable control including but not limited to acts of God, fires, strikes, labor disturbances, floods, epidemics, quarantine restrictions, war, insurrection or riot, acts of a civil or military authority, compliance with priority orders or preference ratings issued by the federal Government, acts of Government authorities with respect to revocation of export or re-export permits/licenses, wrecks, or unusually severe weather. The Party shall, however, make all reasonable efforts to

remove or eliminate such cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.

In the event of any such delay, the required date of services will be extended for a period of time equal to the period of the delay, or as short a period as is reasonably possible.

EWEB may terminate this Contract upon written notice after reasonably determining that such delay or default will likely prevent successful performance of this Contract.

# A.23 <u>LIMITATION OF LIABILITIES:</u>

NEITHER PARTY SHALL BE LIABLE FOR (i) ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES UNDER THE CONTRACT OR (ii) ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS CONTRACT IN ACCORDANCE WITH ITS TERMS.

# A.24 SUBCONTRACTS AND ASSIGNMENT:

Contractor shall not subcontract any of the work required by this Contract or assign or transfer any of its interest in this Contract, without the prior written consent of EWEB. No such written approval shall relieve Contractor of any obligations under this Contract, and any transferee or subcontractor shall be considered the agent of Contractor. Contractor shall remain liable to EWEB under the Contract as if no such transfer or subcontract had occurred.

#### A.25 SUCCESSORS IN INTEREST:

The provisions of this Contract shall be binding upon and inure to the benefit of the parties and their successors and approved assigns, if any.

#### A.26 NO THIRD PARTY BENEFICIARIES:

EWEB and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives or provides any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

#### A.27 FOREIGN CONTRACTOR:

If the Contract includes services and the amount of those services exceeds \$10,000 and if Contractor is not domiciled in or registered to do business in the state of Oregon, Contractor shall promptly provide the Oregon Department of Revenue all information required by that Department relative to this Contract. EWEB may withhold final payment under this Contract until Contractor has met this requirement.

#### A.28 ACCESS TO RECORDS:

Contractor shall maintain fiscal records and all other records pertinent to this Contract. Records shall be maintained pursuant to generally accepted accounting standards, and other records shall be maintained to the extent necessary to clearly reflect actions taken in the provision of the products required herein. All such records shall be retained and kept accessible for at least three years following final payment. EWEB's authorized representatives shall have the right to direct access to documents, papers and records related to this Contract

for the purpose of conducting audits and examinations and making copies, excerpts and transcripts. EWEB shall reimburse Contractor for Contractor's cost of preparing copies.

#### A.29 COMPLIANCE WITH APPLICABLE LAW:

Contractor shall comply with all federal, state, and local laws applicable to the work under this Contract, and all regulations and administrative rules established pursuant to those laws.

Contractor shall maintain in effect all licenses, permits and certifications required for the performance of the work. Contractor shall notify EWEB immediately if any license, permit, or certification required for performance of this Contract ceases to be in effect for any reason.

#### A.30 WAIVER:

Waiver of any default under this Contract by EWEB shall not be deemed to be a waiver of any subsequent default or a modification of the provisions of this Contract.

#### A.31 GOVERNING LAW:

The provisions of this Contract shall be construed in accordance with the laws of the State of Oregon and ordinances of Lane County, Oregon. Any legal action involving any question arising under this Contract must be brought in Lane County, Oregon. If the claim must be brought in a federal forum, then it shall be brought and conducted in the United States District Court for the District of Oregon.

#### A.32 SEVERABILITY:

If any term or provision of this Contract 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 did not contain the particular term or provision held invalid.

# A.33 ANTI-DISCRIMINATION:

Contractor shall not discriminate based on race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, source of income, or political affiliation in programs, activities, services, benefits or employment. Contractor shall not discriminate against minority-owned, womenowned or emerging small businesses.

# A.34 EQUAL OPPORTUNITY EMPLOYER:

EWEB is an Equal Employment Opportunity and Affirmative Action employer and requires contractors and their subcontractors to follow EEO/AA practices in their performance of this Contract.

#### A.35 NON-APPROPRIATION CLAUSE:

If payment for work under this Contract extends into EWEB's next fiscal year, EWEB's obligation to pay for such work is subject to approval of future appropriations to fund this Contract by the EWEB Board of Commissioners. If such future appropriations are not approved, EWEB shall terminate the contract and pay Contractor for work performed in accordance with paragraph's A.17 and A18.

#### A.36 TAXES:

EWEB is a tax-exempt municipal corporation. TIN #93-6001483; Tax exempt #93-880393K.

#### A.37 COOPERATIVE PURCHASING:

Other public agencies may utilize the results of this solicitation in accordance with ORS 279A.215 and Rule 2-0210. If utilized, EWEB assumes no liability or responsibilities for the actions of the utilizing parties, or as may pertain to the resulting contract established by and between the utilizing agency and the Contractor. The utilizing agency and the Contractor assume full responsibility for any and all agreements established between the parties.

#### A.38 PUBLICITY:

Any publicity giving reference to this solicitation, whether in the form of press releases, brochures, photographic coverage, or verbal announcement, shall be done only after prior approval of EWEB.

# ATTACHMENT B BIDDER RESIDENCY INFORMATION

ORS 279A.120 states, "For the purposes of awarding a public contract, a contracting agency shall":

- (a) Give preference to goods or services that have been manufactured or produced in this state if price, fitness, availability and quality are otherwise equal; and
- (b) Add a percent increase to the bid of a nonresident bidder equal to the percent, if any, of the preference given to the bidder in the state in which the bidder resides.

"Resident bidder" means a bidder that has paid unemployment taxes or income taxes in this state during the 12 calendar months immediately preceding submission of the bid, has a business address in this state and has stated in the bid whether the bidder is a "resident bidder" under this paragraph.

"Non-resident Bidder" means a Bidder who is not a "resident Bidder" as defined above

a. CHECK ONE: Bidder is a ( ) RESIDENT Bidder ( ) NON-RESIDENT Bidder.

b. If resident Bidder, enter your Oregon business address: (physical and mailing address)

c. If a non-resident Bidder, enter state of residency:

If a non-resident	Bidder, enter s	tate of res	idency:				
If a non-resident any preference is bodies in your sta	n award of co	or your C	ompany th your	receive, or a state's gove	are you or you rnment or wit	r Company eligibl h other governme	e fo enta
CHECK ONE: (	) YES	(	) NO				•
If YES, state the I	oreference per	centage:			%		
If YES, but not a	percentage of	bid price, d	lescribe t	he preferen	ce:		

# ATTACHMENT D Sustainability Questionnaire

Со	mpany Name:	Date:	
que	e Supplier Sustainability Questionnaire must be completed and ret estionnaire is applicable to firms that provide services and/or estionnaire should not exceed four (4) pages, excluding attachments a	goods. Responses to this	s
1.	What policies or plans does your company have in place to help de impacts from the services your company provides (such as hazardous products, efficient use of natural resources, reducing gre reduction, and worker health and safety)? Please provide the doc links to the documents. How does your company monitor and mana environmental and social issues?	decreasing use of toxic openhouse gas emissions, waste cuments in electronic format of	or e or
2.	Does your company have a Zero Waste Plan or Waste Minimiza progress your company has made to implement the plan. If you dor the ways you are working to decrease solid and hazardous waste facility.	n't have a plan please describe	е
3.	Does your company have transportation strategies to reduce freduction), maintain local warehouses to shorten shipping distance shipments to receive economies of scale? If so, please include a link	es and lead times, or combine	9
4.	Has your company been cited in the last 5 years for non-compli- regulations pertaining to environmental, health and/or safety? If yes outcome of the citation including a description of the steps taken I problem.	s, please state the reason, and	d
5.	What programs do you have in place, or are planned for to increar reducing use of electric, water, labor or material resources?	se resource efficiency such a	S
6.	Have the services that you are proposing been certified by a thi Green Seal, ecobiz, or ENERGY STAR. If yes, detail which one certification?	rd-party organization, such as s and the relevant third part	s y



**Eugene Water & Electric Board** 

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# Right of Way Vegetation Management Program: Procedures, Clearances, and Technical Specifications

Document (	Owner:
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Right of Way Vegetation Program Supervisor

**Authoring Department:** 

Distribution Reliability Department

Resides with:

Systems Engineering & Substation Reliability

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**Technical Specifications.docx** 

Approval	Signature	Date
Document Owner	Ron Dyer	6/1/11
Electric Operations Manager	Jodd Simmons	06/01/11

# **DOCUMENT CHANGE LOG**

A history of changes made to this document is shown below. The current document supersedes all previous procedure versions, understandings, agreements, and written or oral guidelines. Documents are effective the date they are approved and until superseded or determined obsolete.

Date Rev		Change Description	Entry First Initial, Last Name	Check A Column	
	,			Major Change	Minor Change
02/2010	00	Procedure written.	R. Dyer	Х	
03/25/2010	00	Put program document in Electric Division document management format.	T. Richardson		Х
09/19/2010	01	Changed authorizing department	R. Dyer		Х
09/19/2010	01	Changed wording on Page 10, Section 21	R. Dyer		Х
05/31/2011	02	Revised clearances in Table 1 and 3, Page 6 and 7	R. Dyer		X
		•			

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# **Summary**

The purpose of this document is to provide clear direction by EWEB to contractors engaged in utility line clearance activity on the EWEB electrical system.

Trees that grow on or adjacent to power line rights-of-ways are a common cause of outages, damage to facilities, fires, injury, or damage to public and private property. EWEB has an obligation to maintain those electrical facilities to minimize interruptions of service and to provide a safe and continual supply of electricity to our customers. This includes not only the maintenance of hardware, conductors and poles, but trees and other vegetation that encroaches or threatens to fall onto or grow into our electrical conductors.

Beyond this obligation, EWEB is required by the Oregon Public Utilities Commission Safety Rules which means the National Electric Safety Code as supplemented by the rules in the Oregon Administrative Rules (OAR), Chapter 860-024. This rule requires utilities to keep trees from damaging ungrounded electric supply conductors and has specific limits of separation that should be maintained between electrical conductors and trees.

For primary distribution voltages, vegetation must be kept at least 3 ft. from conductors and 5 ft. for climbable trees. For 115 kV transmission lines, the regulations state that the utility must maintain at least 7.5 ft. between trees and vegetation and the conductors. Further, the rule states that some intrusion is allowable for small branches into this minimum clearance zone, as long as the vegetation does not come closer than 6 inches to the conductor. OPUC has defined this as applying to trees that are on circuits that are toward the end of the scheduled cycle pruning.

Performance of vegetation management work is further addressed by the following industry standards:

- American National Standard ANSI Z133.1 (2000) the Safety Requirements
- American National Standard ANSI A300 Part 1 (2001) Pruning (Part 7 2006)
   Integrated Vegetation Management for Electric Utility Rights-of-ways
- OSHA 1910.269 Regulations (Standards 29 CFR)

# CLEARANCE GUIDELINES

The following are guidelines for use in determining proper clearances for utility line clearance on the EWEB system.

- 1. Industry Standards and Training Each tree is unique in its structure, form, growth rate, and position with respect to the electrical conductors. Therefore, these clearance specifications can only be used as a guideline to the electric utility and their arborists. Training of the arborists on tree species, understanding tree vigor and tree growth rates must accompany training on these clearance guidelines. Best management practice (BMP) guides have been developed by the International Society of Arboriculture for utility tree pruning and Integrated Vegetation Management<sup>2</sup>, and were published as companion publications to the ANSI A300 that is listed above. New and experienced arborists must study and achieve an understanding of the clearance guidelines and BMP's for utility vegetation management.
- 2. Clearance Specifications The distribution clearance guidelines are designed to prevent tree-conductor conflict on the EWEB system on a 4-year vegetation management cycle. They are designed to serve only as a guideline to achieve adequate clearances for a 4 year cycle, unless otherwise indicated by EWEB. When achieving these guidelines, utility tree crews and contract crews must consider the impact of tree sway in storms and line sag during periods of high energy usage. The following table describes which trees to include when pruning. Trees that fall within the pruning thresholds shall be pruned to the listed clearances. Those that fall outside the thresholds shall be left until the following cycle.

Table 1: Specification Clearances by Growth Rate-Primary Distribution

Primary Distribution	Non-clim	bable Trees	Climbable Trees	
			51.38	
Side Clearance	4 feet	8 feet	6 feet	8 feet
Under Clearance	8 feet	10 feet	8 feet	10 feet
				3.7
Side Clearance	8 feet	10 feet	8 feet	10 feet
Under Clearance	10 feet	12 feet	10 feet	12 feet
Side Clearance	10 feet	12 feet	10 feet	12 feet
Under Clearance	12 feet	14 feet	12 feet	14 feet
			War kuri	
Side Clearance	10 feet	12 feet	12 feet	14 feet
Under Clearance	12 feet	14 feet	14 feet	*16 feet

<sup>\*</sup>this clearance should be obtained if the tree cannot be made non-climbable (see item 6 below) or removed.

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<sup>&</sup>lt;sup>1</sup> Kempter, Geoff. 2004. Best Management Practices: Utility Pruning of Trees. International Society of Arboriculture. Champaign, IL.

<sup>&</sup>lt;sup>2</sup> Miller, Randall H. 2007. Best Management Practices: Integrated Vegetation Management. International Society of Arboriculture. Champaign, IL.

Table 2: Specification Clearances by Growth Rate- Urban Transmission

	internal	
Side Clearance	11 feet	14 feet
Under Clearance	12 feet	15 feet
	Comment of the	
Side Clearance	13 feet	16 feet
Under Clearance	14 feet	17 feet
	a	76. :
Side Clearance	15 feet	18 feet
Under Clearance	17 feet	20 feet

- 3. Tree Growth Rates Tree clearance is determined by the growth rate of the species, with minimum distances for all sizes of trees.
  - a. Slow growing trees grow an average of less than 1 ft. per year.
  - b. Moderately fast growing trees grow 1 ft. to 3 ft. per year.
  - c. Fast growing trees average 3-5 ft. of growth per year.
  - d. Extra fast growing trees average over 5 ft. of growth per year.

**Note:** Irrigated trees may exceed these guidelines and should be classified individually or treated as fast growing trees. Table 1 below, provides a classification of tree species growth rates on the EWEB system.

Table 3: Tree growth rates\* for trees on the EWEB system.

			11 - 12 - 12 - 12 - 12 - 12 - 12 - 12 -	
Alaska-Yellow Cedar	Apple	London Plane	Birch spp.	Ailanthus
Colorado Blue Spruce	Ash spp.	Mimosa	Black Walnut	Bigleaf Maple
Giant Sequoia	Blue Atlas Cedar	Northern Red Oak	Boxelder	Black Cottonwood
Incense Cedar	Callery Pear	Norway Maple	Catalpa spp.	Black Locust
Juniperus spp.	Cherry spp.	Pacific Madrone	Empress (Paulownia)	Lombardy Poplar
Lodgepole pine	Dawn Redwood	Ponderosa Pine	Flowering Plum	Silver Maple
Magnolia spp.	Deodar Cedar	Quaking Aspen	Leyland Cypress	Silver Poplar
Mt. Hemlock	Douglas-fir	Raywood Ash	Oregon Ash	
Noble Fir	English Walnut	Red Alder	Pin Oak	
Oregon White Oak	Filbert	Sitka Spruce	Red Maple	
Pt. Orford Cedar	Grand Fir	Sweetgum	Siberian elm	
Scotch Pine	Honeylocust	Tuliptree	Willow spp.	
Shore Pine	Horsechestnut	Western Hemlock		
Western Red Cedar	Littleleaf Linden	Western White Pine		

<sup>\*</sup>Individual tree growth rates may vary due to soils, site, vigor, and presence of irrigation systems.

- 4. **Mid-cycle Clearing** Some species of trees grow too fast to prune to a point where they will be clear for an entire cycle. If for whatever reason, these trees cannot be removed, they must be maintained to stay clear of the lines until the next scheduled cycle. This is accomplished by pruning them half way between regularly scheduled cycles. An inspection of all circuits will be performed at this half way point to identify cycle-busters so that they can be pruned. No other pruning will be performed on these circuits such as pruning for guy wires and neutrals and clearing poles.
- 5. Trees and Brush Defined A tree is defined as a woody plant with a stem diameter of 4 inches and larger measured at DBH (4.5 feet above the ground line). Trees smaller than 4 inches DBH are considered to be brush. Brush is normally measured in units for inventory purposes. A 'unit' of brush is a patch of brush 10' x 10'. It may include one stem or stems may fully stock the 10' x 10' area.
- 6. **Readily Climbable Trees** Trees with tree houses, swings, or lower branches that make them readily climbable should be removed or have their branches pruned to a height of 8 ft. above the ground line to prevent climbing. This is required by Oregon Administrative Rules (OAR), Chapter 860-024-0016.
- 7. Low Vigor Trees These are trees that are mature, over mature, or damaged and may be growing at a very slow rate. In some cases, pruning the terminal branches of these trees may stimulate growth that otherwise may not reach the clearance zone for many years. In these cases, it is appropriate to skip pruning, leaving the clearance slightly less that required in the clearance guidelines. Dead trees or very low vigor/diseased/declining trees below the conductors and that do not threaten EWEB facilities are the responsibility of the landowner.
- 8. Tree Removal The priority for removal is:
  - Hazard trees,
  - b. Fast growing trees under the conductors that will grow into the 3 ft. separation prior to the next maintenance cycle in 4 years (cycle-busters).
  - c. Fast growing trees beside the conductors, and
  - d. Other tall growing tree species under the conductors that meet the removal standard when weighed against the pruning cost. Removal should be pursued on small diameter trees 12" DBH or less for these species. For larger diameters, EWEB tree program staff will determine the size of removals as opposed to pruning recommended for each cycle.
- 9. Trees Beside Conductors Minimum clearances are specified for slow, moderate, and fast growing tree species. These range from 8 to 14 ft. for distribution, and 14- to 18 ft. for roadside/urban transmission with underbuild. Brush should be removed 3 ft. beyond the maximum side clearances. That is 17 ft. for distribution and 21 ft. for transmission conductors. All hazard trees should be removed from both sides of the conductors. For defined width transmission rights-of-ways, the minimum side clearance is 30 ft. between the conductor and the rooted tree stem. The goal is to minimize the need to side prune trees on defined width (cross-country) corridors.

- 10. Overhanging Branches Branches should be removed for a height of 15' over all distribution conductors. All overhanging branches should be removed over all transmission. The lower whorl of overhanging branches may require tipping to lighten the end weight. This pruning should be done to lateral branches and should not remove more than 50% of the live foliage from the branch, or the branch should be removed.
- 11. Hazard Trees Defined as any trees that are dead, dying, diseased, damaged or structurally defective and the arborist determines that their direction of failure is reasonably expected to occur within 4 years and be toward the conductors, guy wire, or other facilities. These trees should be removed or pruned/topped to eliminate risk to EWEB facilities. If the call is marginal, the arborists should error on the aggressive side and mitigate the potential risk by removing the hazard. Trees on opposite side of the road of the conductors also need to be evaluated to identify potential hazard trees. Removal of hazardous trees is seen as a partnership between EWEB and the land owner or agent. Typically the role of EWEB is to mitigate the hazard to EWEB facilities. Cleanup is the responsibility of the land owner or agent.
- 12. Exceptions for Major Woody Stems There are large conifer trees and possibly some deciduous trees that are situated very close to the conductors. They have been side pruned to the stem and overhang has been pruned to 15 feet. In many cases the bark has thickened on these trees and little or no lateral branch or epicormic regrowth is occurring. Little benefit to reliability may be gained by removal of these types of trees. The following are the guidelines for Major Woody Stems:
  - a. A 19" plus DBH tree that is sound and healthy can occur up to 4 ft. of the conductor. There also may be a few healthy trees that are closer than 4 ft. that could be left. Note these trees and notify EWEB tree program staff to approve this variance from the clearance guidelines.
  - b. A 13" to 19" DBH tree that is sound and healthy can occur up to 6 ft. from the conductor. There may be a few healthy trees that are closer than 6 ft. that could be left. Note these trees and notify the EWEB system arborist to approve this variance from the clearance guidelines.
- 13. Other Clearance Exceptions Any other exceptions to the clearance guidelines must be approved by the EWEB Tree Program Staff.
- 14. Young Tree Training Young trees of a tall-growing species that have been inappropriately planted under the power lines, but that cannot be removed and replaced should be pruned early (when terminal bud is nearing phone lines) to direct the top growth around the power lines. A few cuts (or less) should be all that is necessary to start redirecting this growth. Future directional pruning will be much easier and less damaging, and will appear to deform the tree less.
- 15. **Pole Clearing** A 3 ft. diameter area around EWEB poles shall be cleared of vegetation that would prevent the pole from being safely accessed and climbed.

- 16. Open Wire Secondary Conductors Trees near open wire secondary should be pruned to provide a minimum of 3 feet of clearance.
- 17. **Insulated Secondary Wire Clearances** Service wires or other secondary wires should be pruned to eliminate strain or abrasion only. They shall not be pruned to eliminate future issues or for contact with the wire.
- 18. **EWEB Fiber-optic lines** Shall be pruned to a minimum clearance of 2' on regularly scheduled cycle maintenance.
- 19. Neutral Conductors and Other Facilities Large branches threatening conductors or trees laying on or applying pressure to guy wires, poles, or other EWEB facilities should be pruned or removed. Neutral conductors shall be pruned to a minimum clearance of 2' on regularly scheduled cycle maintenance. Neutral conductors in the primary position shall be pruned to primary clearances.

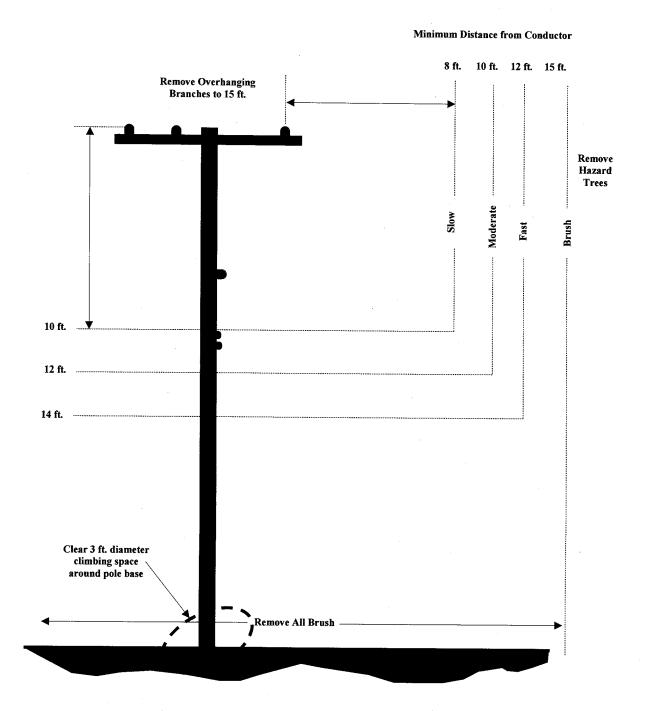
Vines should be removed and treated with an approved herbicide. Unless directed by EWEB, no pruning should be done for:

- a. Cable television,
- b. Telephone cable,
- c. Fiber-optic lines (except EWEB owned fiber optic lines),
- d. Private electrical facilities, or
- e. To improve the illumination of streetlights.
- 20. "Tag"/Ticket Work Work that is not on circuits that are scheduled for regular cycle maintenance should be avoided as much as possible. Attempts should be made to have customers wait for requested tree work to be accomplished on the next scheduled cycle unless a hazard exists. Other exceptions to off-cycle work are:
  - a. Work that needs to be completed in association with EWEB capital work
  - b. Trees that are hazardous
  - c. Pruning associated with private tree work; providing 10' of clearance from high voltage to allow private tree work to be completed safely and that cannot be postponed until the next scheduled cycle
- 21. Stump Treating All deciduous stumps shall be treated with an approved herbicide according to the herbicide label, Integrated Pest Management practices, local, state and federal regulations, EWEB guidelines, and best management practices. The EWEB herbicide guidelines are provided in document DR 400 PRC 03-00 Herbicide Implementing Procedure.
- 22. Customer Relations At no time during interpretation or implementation of these guidelines should customer service be compromised. The general public and the tree owners have more than a casual interest in the appearance of trees located upon the rights-of-way. Therefore, it is important that EWEB and its contractors conduct themselves in a professional manner at all times, and that all work performed be in accordance with these guidelines and

- industry standards. Proper cuts and professional work to provide adequate clearances and to protect tree health can be supported in the face of customer concerns.
- 23. Customer Notification It is common knowledge across the U.S. that utility customers receive more face-to-face contacts from the vegetation management department than any other aspect of utility operations. It is very important that the notifiers, tree crews, and their supervisors present a professional appearance, friendly attitude, and be well-trained in modern utility arboriculture. Trees shall not be pruned without prior notification. 3 business days should elapse prior to pruning if the customer is notified with a door hanger.
- 24. Tree Crew Customer Courtesy Knock At the time of work, the contract tree crew shall knock on the door of the tree owner just prior to work. This is simply a courtesy to the customer, and should not be a rehash of the notification process or a renegotiation of the previous agreements between the notifier and customer for pruning or removal. If a customer reneges on permitted removals, pull off of the property and inform the EWEB system arborist. The notifier should return to the property to discuss the necessary work. Often the person at the door is not the owner or agent that entered into the tree removal agreement for the tree work. If there is nobody home, proceed with the work as prescribed by the notifier.
- 25. Customer Concerns The notifier shall make every effort to defuse customer concerns in the field. If they are unable to answer all of customer's questions, or abate their concerns, then the notifier shall turn in the information to EWEB tree program staff. If the concern arises at time of pruning, the tree crew shall notify the general foreman. The general foreman shall make every effort to defuse the customer's concerns. If they are unable to answer all of customer's questions, or abate their concerns, then the general foreman shall turn in the information to EWEB tree program staff. It may be necessary to interrupt work on that customer's property until their concerns are addressed.
- 26. Cutting Big Wood Sometimes pruning to EWEB specifications will require cutting beyond cuts that have been made on the tree in the past. The notifier shall notify EWEB tree program staff if making these deeper cuts has the potential to be a concern to customers or the public.
- 27. Tree Replacement Vouchers These vouchers are to be used by the notifiers as a tool to achieve removal and replacement of fast growing trees under the power lines. They should not be offered initially, but should be kept as a tool to help achieve necessary removals. Occasionally these vouchers could be used with a concerned customer if all did not go as expected.
- 28. Customer Surveys Customer surveys are another tool to help gauge customer perception of the notifications, tree work, and overall vegetation program success. Surveys should be conducted on a quarterly basis, with surveys randomly distributed to a sample of property owners with recent tree work.
- 29. **Local Regulations** Local regulations, ordinances, or other agreements with cities and towns should be carefully observed.

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Figure 1. EWEB Distribution Clearance Guidelines- Non-climbable trees



- 1. Remove slow growing tree species to 10 ft. from conductor.
- 2. Remove moderately fast growing tree species to 13 ft. from conductor.
- 3. Remove fast growing tree species to 17 ft. from conductor.
- 4. Remove all brush under and beside the line to a distance of 15 ft. on rural or cross-country lines.

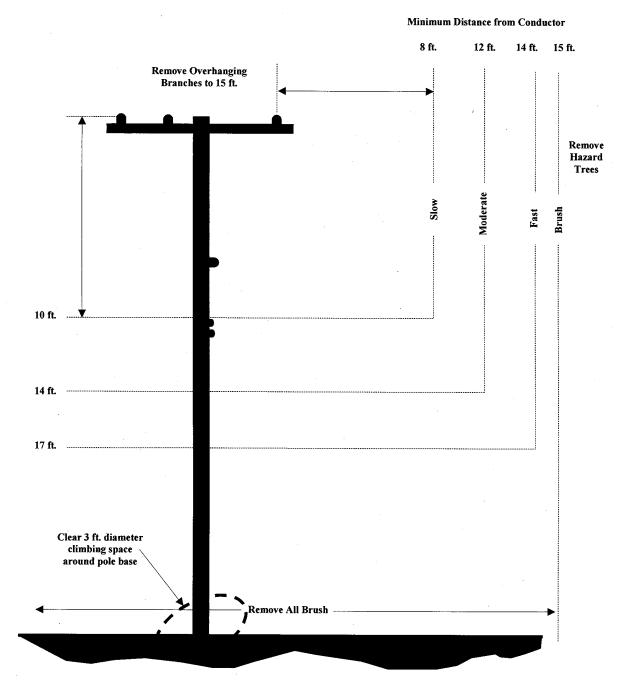


Figure 2. EWEB Distribution Clearance Guidelines- Climbable trees

- 1. Remove slow growing tree species to 10 ft. from conductor.
- 2. Remove moderately fast growing tree species to 13 ft. from conductor.
- 3. Remove fast growing tree species to 17 ft. from conductor.
- 4. Remove all brush under and beside the line to a distance of 15 ft. on rural or cross-country lines.

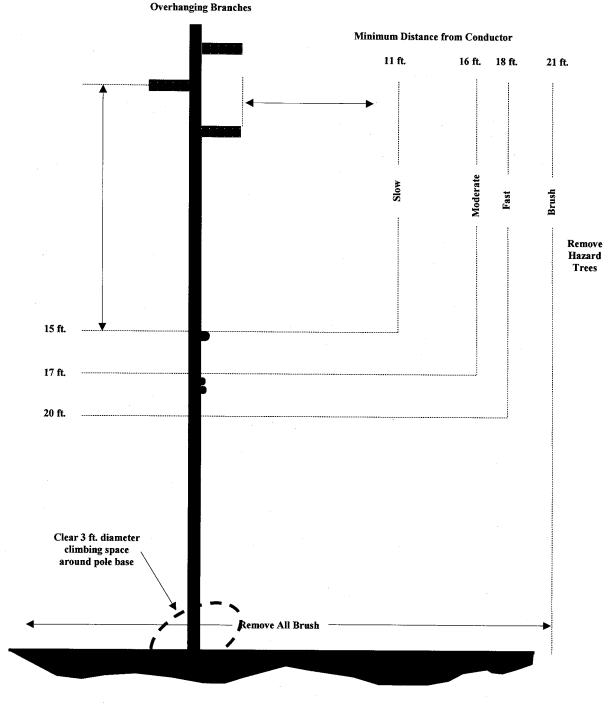
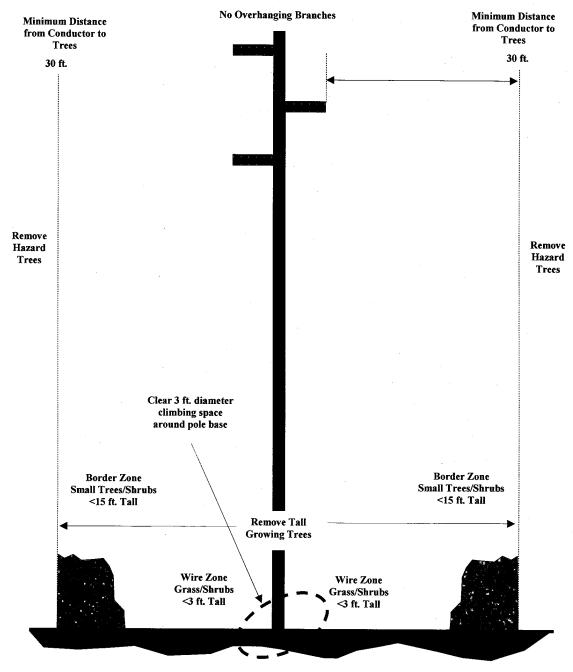


Figure 3. EWEB Urban Transmission Clearance Guidelines

Remove All

- 1. Remove slow growing tree species to 9 ft. from transmission conductor.
- 2. Remove moderately fast growing tree species to 13 ft. from transmission conductor.
- 3. Remove fast growing tree species to 15 ft. from transmission conductor.
- 4. Remove all brush under and beside the line to a distance of 18 ft. from trn conductor.

Figure 4. EWEB Transmission – Defined Width Rights-of-Way Clearance Guidelines



# **TECHNICAL GUIDELINES**

## 1. Modern Utility Arboriculture

Tree Pruning shall be governed by principles of modern arboriculture. Performance of vegetation management work on EWEB's system is addressed by the following industry standards:

- American National Standard ANSI Z133.1 (2000) the Safety Requirements
- American National Standard ANSI A300 Part 1 (2001) Pruning
- Utility Pruning of Trees: Special companion publication to the ANSI A300 Part 1(2004)
- American National Standard (Part 7 2006) Integrated Vegetation Management for Electric Utility Rights-of-ways
- Pruning Trees near Electric Utility Lines (Shigo-1990).

Best management practices (BMP) guides have been developed by the International Society of Arboriculture for utility tree pruning<sup>3</sup> and Integrated Vegetation Management<sup>4</sup>, and were published as companion publications to the ANSI A300 that is listed above.

## 2. Proper Cuts

Proper utility tree pruning techniques include:

- Making cuts at the branch bark collar, and
- Directional pruning to lateral branches.

Proper pruning for utility line clearance should direct tree growth away from electrical conductors, provide for longer periods of clearance, and reduce future work on that tree.

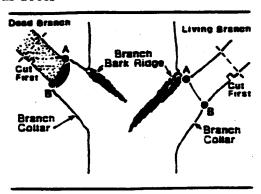
The collar cut is the cutting of a branch just beyond the point of intersection with the trunk of the tree or another branch, at the branch collar. The lateral branch used to prune back to should be at least 1/3 the size of the parent branch.

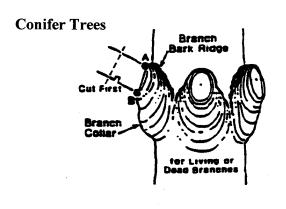
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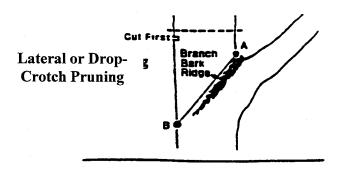
<sup>&</sup>lt;sup>3</sup> Kempter, Geoff. 2004. Best Management Practices: Utility Pruning of Trees. International Society of Arboriculture. Champaign, IL.

<sup>&</sup>lt;sup>4</sup> Miller, Randall H. 2007. Best Management Practices: Integrated Vegetation Management. International Society of Arboriculture. Champaign, IL.

#### **Deciduous Trees**



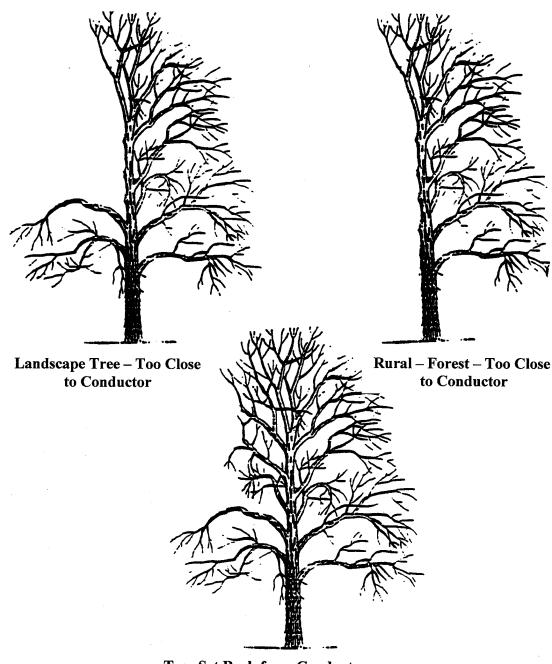




Tree pruning shall be performed using the collar cut method, making cuts at the branch bark collar or ridge. Properly made cuts will help the tree form callus tissue that will roll over and seal the pruning wound. Topping and flush cuts are unacceptable and shall not be utilized. Ripping or peeling of the bark below the cut branch is not acceptable. Tipping and heading should be avoided.

## 3. Directional (Natural) Pruning

When trees are under or nearly under the conductors this directional pruning is called natural or drop-crotch pruning. Directional pruning is a technique that forces future tree growth to a desired direction. When pruning trees under facilities, the branches growing upward should be cut back to branches growing away from the conductors. This is called 'pruning to laterals'. Drop crotch or natural pruning often leaves a 'V' appearance in the top of the tree. It is also sometimes also called 'through pruning'.



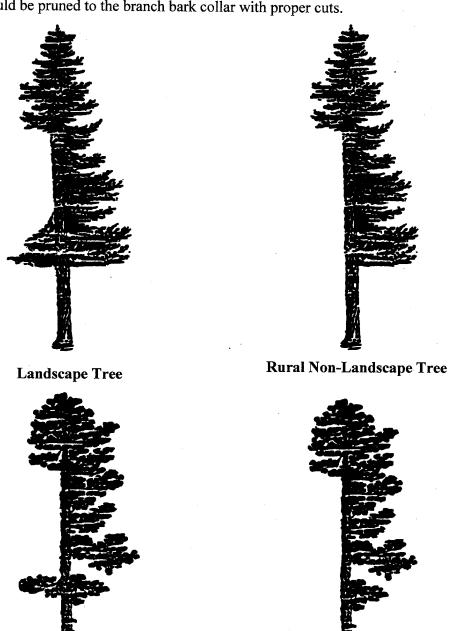
**Tree Set Back from Conductors** 

As few as possible cuts should be made to achieve this clearance. This involves making fewer cuts and on larger branches. This will increase clearances while reducing the number of pieces to dispose of. When pruning trees to the side of facilities, the branches growing outward should be cut back to branches growing vertical, parallel to the lines, or in a downward direction. This technique will promote future tree growth away from facilities, thereby reducing future work. Rounding over or topping trees for aesthetics is not allowed or desirable since it simply promotes more buds to break and more sprout growth in the tree. Every effort should be made to protect as many existing terminal buds in the tree being pruned as possible.

Some small (pencil size or smaller) limbs or suckers should be left when pruning back to bare wood. This can discourage rapid epicormic sprouting and also protect trees from sun scald.

# 4. Side Pruning

Often trees must be pruned back to the main stem to achieve acceptable clearances. In all cases branches should be pruned to the branch bark collar with proper cuts.



**Landscape Tree** 

Rural Non-Landscape Tree

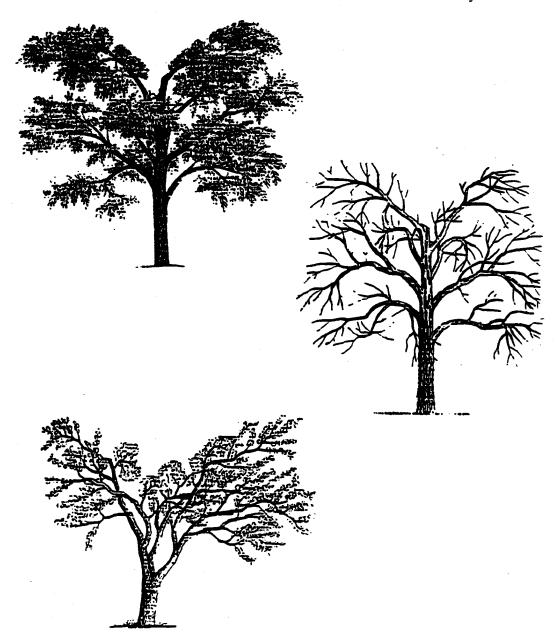
# 4.1. Tipping ("Green Pruning") Conifers

Tipping of conifer branches is the removal of only the ends of a conifer branch. This should be avoided in general. However, some tree owners may request that their trees are not pruned back to the stem. In these cases, and with western red cedar, conifer branches may be tipped, but do not remove more than 50% of the live foliage on a branch. This will help to insure that the branches live and do not become unsightly. If adequate clearances cannot be achieved while meeting this minimum foliage requirement, then the branch must be removed to the stem.

In rural settings, remove all side branches below the conductor — in residential settings, the lower branches can be left on, though clearances around the conductors must be to minimum clearance guidelines. Anything less must be approved by EWEB tree program staff.

#### 5. Crown Reduction

When conifers under the power lines cannot be removed, the crown reduction pruning should be utilized. Clearance is determined utilizing Table 1 based on the anticipated growth rate of the tree. The main stem cut should be made just above a whorl of branches. Any upright live branches should be pruned back to the parent branches to achieve the necessary clearance.



In some cases crown reduction pruning is applied to deciduous trees as well, instead of natural or drop crotch pruning. In all cases, cuts are made to proper lateral branches to achieve necessary clearances.

The difference between topping and performing crown reduction pruning on a conifer tree is the placement of the cut. Topping cuts are made indiscriminately (internodally) leaving stubs on branches or the main stem. Proper crown reduction cuts are made to appropriate lateral branches or the main stem.

Heading cuts are similar to topping cuts, but the terminology generally refers to cuts on smaller trees or large shrubs. Generally heading cuts are considered to be the same as topping cuts and are not acceptable unless pruning a species such as English Laurel or Hawthorne.

#### 6. Tree Removal

Tree removal is an important element of EWEB's vegetation management program. Tree removal eliminates cyclebuster trees, hazard trees, and other tall growing trees under the power lines, improving access to facilities, and reducing future work. Tree removals that fit guidelines will be pursued wherever feasible.

#### 6.1. Tree Removal Candidates:

The following is a prioritization scheme for determining which trees should be removed from EWEB's distribution and transmission system rights-of-ways. This is a meant to be a guideline only. Decisions should be made on an individual tree basis and should consider cost, access, difficulty of removal, flagging, and customer issues. The following is a listing of good removals, listed in order of priority/risk:

- 6.1.1. Hazard trees. All dead, dying, diseased, or structurally defective trees that are reasonably expected to fail within the next 4 years. The tree or parts of the tree will fall toward and reach the power line, guy wire, or other electrical facilities. Trees that are expected to fall away from the lines, or cannot reach the lines are not hazardous to EWEB facilities. Hazard trees can be mitigated by topping the tree to a height where it no longer threatens EWEB facilities or by removing the tree, whichever is most cost effective. Situations that arise when trees may become a hazard after pruning should be discussed with the customer and EWEB tree program staff.
- 6.1.2. Climbable trees under or within 10' to the side of the lines that cannot be made safe by pruning.
- 6.1.3. Trees with tree houses from which the tree houses cannot be removed; or the structure of the tree will permit entry into close proximity of the power lines; or reconstruction of the tree house will likely occur.
- 6.1.4. Trees under or within 12' of the lines that have been disfigured by repeated pruning, and are aesthetically unattractive, but still vigorous.
- 6.1.5. Trees that cannot be side pruned for 4 years of clearance.
- 6.1.6. Cyclebuster trees under the wires that allow less than 4 years of clearance by pruning. These species are likely to include:
  - Lombardy poplar
  - Black cottonwood

- Black locust
- All walnut species
- Boxelder
- Catalpa
- Tree of heaven
- Silver maple
- Siberian elm
- Silver Poplar
- 6.1.1. Other species: look at vigor, past growth, and presence of irrigation.
- 6.1.2. Small trees under the wires that are less than 12" DBH especially in rural areas or on rural rights-of-ways. In town look at the tree, species, and ability to prune to look good.
- 6.1.3. All seedlings and saplings of any tall growing tree species within 15' of the conductors.
- 6.1.4. Trees that can be removed that are within the size defined by EWEB tree program staff for the given cycle.
- 6.1.5. Other trees that common sense and knowledge of utilities dictates removal.

Be more aggressive in seeking necessary removals on higher priority lines such as:

- Transmission higher voltages are higher priority.
- Distribution -3 phase lines are higher priority than single phase.
- Lines feeding hospitals, medical office complexes, life-support systems, or sensitive industry such as micro-chip producers.
- Higher customer load lines are higher priority than lines with lower numbers of customers.

#### 6.2. Tree Removal Conditions:

- 6.2.1. Generally, the time to remove a tree should be limited to five times the time it would take to trim the tree. Exceptions would be hazard trees or cycle-buster trees.
- 6.2.2. Rule of Thumb If greater than 1/3 of a tree or 50% of branches foliage must be removed to achieve clearance then the entire tree (or branch) should be removed.
- 6.2.3. Tree removals should be limited to 15 feet on either side of primary conductors and within rights of way. Exceptions would be hazard trees and brush, and defined width transmission corridors.
- 6.2.4. Stumps shall be cut as close to the ground as practical in urban areas. Cut flat; do not leave pongee sticks (angled cuts on brush).
- 6.2.5. Tree removal requires signed permission from the property owner. Right of way easements or permits may have already granted permission for tree removal, in which case notification to the property owner is required.
- **6.2.6.** Trees will not be removed for secondary lines. Customers that need trees removed that are targeting secondaries should be referred to EWEB to schedule a disconnect.

#### 7. Climbing Hooks

Climbing hooks injure thin barked trees and should only be used on removals, or where the tree cannot be reached by a lift or climbed safely without hooks.

#### 8. Brush Disposal

Tree crews should be creative in disposing of branches from line clearance operations. In residential or maintained areas, tree branches resulting from crew activities should be chipped and removed from the site.

Proper planning shall be utilized when taking chips to dumping facilities. A facility shall be selected that will take the shortest amount of time to travel to and discard the chips. Mid-day trips to the facility shall be avoided. If one is necessary it should be performed by one person, not the entire crew is possible.

Occasionally customers will call and ask for chips. This should be accommodated as much as possible provided that the site is either near the work site, near the crew shop location or near the route between. No partial loads shall be provided so the customer must be able to take the full load.

Tree branches should not be left overnight unless the crew has notified the property owner. Large tree branches and logs greater than four inches in diameter should be cut into manageable lengths and left for the property owner. Work sites will be left in a safe and orderly condition. This means that wood from the trees and branches are piled at the base of the tree or stump, smaller branches are properly disposed of, and yards, sidewalks, street, and driveways are raked or cleaned to the same or better condition than before work was started. No wood is to be cut in firewood lengths or stumps ground unless directed by EWEB tree program staff.

In rural or unmaintained areas, tree branches, other brush, and logs resulting from crew activities should be disposed of on the site. If brush is chipped, it should be blown on site in a manner that does not create chip piles deeper than 6 inches or block water drainage. Any brush not chipped should be lopped and scattered in lengths not to exceed three feet. Brush that is lopped and scattered should be in contact with the ground, but no deeper than twelve inches. If the property owner requests the brush and logs be piled, it should not be highly visible to the public, create access limitations to the right of way, or create fire hazards. Burning of brush is not allowed. Work sites will be left in a safe and orderly condition.

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# **INTERGOVERNMENTAL AGREEMENT**

BETWEEN: The City of Eugene,

an Oregon Municipal Corporation

(City)

AND:

**Eugene Water and Electric Board** 

an Oregon Municipal Corporation

(EWEB)

CITY CONTRACT NO.:

2013-05321

This Agreement is entered into by and between the Eugene Water & Electric Board, a municipal corporation, hereinafter referred to as EWEB, and the City of Eugene, a municipal corporation, hereinafter referred to as CITY.

#### **RECITALS**

- CITY and EWEB recognize a need to safeguard public welfare and increase efficiencies in public facility maintenance.
- 2. EWEB recognizes CITY is responsible to maintain the trees within the street right-of-way.
- CITY recognizes that EWEB has a need to perform aerial line clearance activities to ANSI A300 standards, EWEB Specifications, and Oregon Public Utility Commission Rules.
- 4. EWEB and CITY recognize that healthy and aesthetically pleasing trees have a beneficial impact on the livability of our area.
- 5. CITY and EWEB recognize it is in the best interest of the community to coordinate the work each performs on trees; to conduct joint training opportunities for arborists, foresters and all tree care professionals; to coordinate public information efforts; and to cooperate in ways that will advance the goals of both organizations and develop public awareness of tree-related issues.
- 6. EWEB and CITY recognize it is in the best interest of Eugene's urban forest and each agency to ensure trees are not planted that, when reaching maturity, will conflict with power lines.
- 7. CITY and EWEB are committed to the earliest replacement that is practical for trees that have been removed due to conflict with overhead lines.

## **AGREEMENT**

#### 1. Scope of Agreement

The provisions of this agreement only pertain to those trees located on street rights-of-way under the jurisdiction of the CITY. Trees on other property under the jurisdiction of CITY where EWEB has a need to perform aerial line clearance activities shall be managed by mutual agreement of EWEB and CITY. Trees impacted by new construction or construction or maintenance of underground equipment or facilities shall be managed by mutual agreement of EWEB and CITY and/or through the City's utility permitting program.

## 2. Contact and Coordination

Where the on-going maintenance activities of EWEB in providing mandated clearances to electrical lines impact trees under the jurisdiction of CITY, the parties hereby agree as follows:

- A. Prior to performing pruning that is outside of the normal specifications or any tree removals within the street right-of-way or on other property under the jurisdiction of the CITY, EWEB shall notify CITY of its intent to perform this work.
- B. CITY shall not require prior notice from EWEB for isolated trouble-related trimming or removals required for restoration of service, immediate threats to service reliability or trimming done in response to immediate public safety concerns.
- C. Once prior notice is given, CITY staff shall evaluate the impact this work will have on the specific trees and communicate back to EWEB to reach an agreement on the extent of work to be performed.
- D. Residents living adjacent to trees that require pruning shall be notified by EWEB representatives either in person or with a door hanger. This will normally occur 4-6 weeks ahead of regularly scheduled work and with a minimum of 72 hours prior to work being conducted. The door hanger shall include a description of the work to be performed and a contact name and number that can be called for questions, concerns or further discussion. Removals shall be posted following CITY's tree removal process. If CITY and/or EWEB deems it necessary based on the scope of work to be performed, one or all of the following processes may be utilized:
  - 1. Notice to interested EWEB Board/City Council members
  - 2. Notice to Neighborhood Organization(s)
  - 3. News release

E. In the case of emergency where EWEB needs to perform work that impacts trees under CITY jurisdiction to eliminate an immediate threat to life or property, CITY waives the requirements of Sections 2A, 2C, AND 2D. Where EWEB has impacted trees under this provision, EWEB shall notify CITY of work performed within two working days of the incident.

## 3. Power Line Clearance Pruning

EWEB and CITY agree that the method of pruning has impacts on both the health of the tree and the public perception of its aesthetic value. Therefore, both parties agree to the following:

- A. Directional Pruning- Cuts made that comply with ANSI A300 Part 1 shall be the preferred method of power line clearance pruning for use on street trees because of its minimal detrimental effect on the health of the tree.
- B. Whenever EWEB or CITY is performing pruning on young trees, directional pruning methods shall be used to "train" the tree to grow away from the lines to minimize future power line clearance problems.
- C. Where EWEB finds trees that cannot be directionally pruned due to previous pruning that used other methods, storm or other branch failure, or a tree's structural inadequacy, then removal by EWEB shall be considered.
- D. If a nearby resident feels the aesthetic appearance of a tree is unacceptable, a request may be made for its removal. The CITY shall evaluate the tree for removal as described in Section 4 "Tree Removal".
- E. When, during the course of performing maintenance pruning, EWEB discovers trees with excessive decay or other severe problems that suggest the tree poses a significant threat to life or property damage, such tree will be immediately reported to the CITY for evaluation and possible removal as described in Section 4, "Tree Removal."

### 4. Tree Removal

Upon the joint determination of EWEB and CITY that a tree is in conflict with utility lines or will become so and needs to be removed, the following process will be used.

- A. A tree may be a candidate for removal if it meets one or more of the following criteria:
  - 1. The tree is structurally unsound and poses a hazard.
  - 2. The health of the tree is in significant decline.
  - 3. Past maintenance has damaged the tree beyond its ability to

recover and assume a natural form.

- 4. The tree is on the list of trees prohibited in the Eugene Code for use in street rights-of-way (EC 7.640).
- 5. The tree is a fast-growing species that will grow into the wire zone prior to EWEB returning to it on EWEB's normal pruning cycle.
- B. If the tree is less than 12 inches in diameter at breast height (dbh), EWEB will contact CITY and request the tree's removal. If EWEB and CITY agree, EWEB then may remove the tree and grind the stump without further processing. If CITY believes the removal is desirable but would be controversial, then the process outlined in section 2, "Contact and Coordination" shall be used.
- C. If the tree is 12 inches dbh or greater, the standard CITY process of public posting shall be followed. Upon completion of the posting period, EWEB shall remove the tree and grind the stump.

## 5. Tree Planting

CITY and EWEB agree that whenever a tree has been removed, it is in the best interest of the community to have replacement trees planted. When a tree has been removed at EWEB's request, due to conflict with utility lines, the following replacement criteria will be used:

- A. At least one replacement tree shall be planted for each mature street tree removed. Replacement trees shall be planted by CITY with compensation to be made by EWEB at the rate of \$100 per tree removed. CITY shall select the replacement trees from CITY's or EWEB's approved list. If trees that do not meet this criterion are mistakenly planted by CITY, those trees will be removed and replaced by CITY.
- B. Replacement trees shall be planted within the right-of-way abutting the same tax lot where the mature tree was removed unless deemed impractical by CITY. If such is the case, CITY will make every reasonable attempt to plant the replacement trees within the local neighborhood.

#### 6. **Duration of Agreement**

This agreement shall become effective on signature by both parties below and shall remain in effect until terminated by one of the parties.

CITY and EWEB agree to meet annually to review the provisions of this agreement and discuss modifications.

## 7. Termination

In 30 days after written notice delivered to the office of the CITY Parks Planning Section Manager or EWEB Right-of-Way Vegetation Program Supervisor, either party, without cause, may terminate its participation in this agreement.

## 8. Indemnification

Each of the parties hereto agrees to indemnify and hold harmless the other party hereto from any claim, liability or damage resulting from any error or omission and/or negligence of the indemnifying party, its officers, agents or employees relative to the responsibilities of the indemnifying party under this agreement.

## 9. Notices

Any written notices permitted or required by this contract shall be deemed given when personally delivered, or five days after deposit in the United States mail, postage fully prepaid, certified, return receipt requested, addressed to the representatives of the parties as set forth below or when delivered by electronically confirmed facsimile transmission to the FAX address and attention of the representatives of the parties set for below:

#### EWEB:

Right-of-Way Vegetation Program Supervisor, EWEB P.O. Box 10148

Eugene, OR 97440-2148 Phone: 541-685-7000

#### City:

Parks Planning Section Manager, Public Works Department, City of Eugene 1820 Roosevelt Blvd., Eugene OR 97402-4159 Phone: 541-682-4909 Fax: 541-682-4882

or such other address as either party may provide to the other by notice given in accordance with this provision.

CITY OF EUGENE:	EUGENE WATER & ELECTRIC BOARD:
BY: Jon R. Ruiz Eugene City Manager	BY: Julie Nuttall EWEB Right-of-Way Vegetation Program Supervisor
DATE:	DATE: