

EUGENE WATER & ELECTRIC BOARD  
EXECUTIVE SESSION  
EWEB BOARD ROOM  
500 EAST 4TH AVENUE  
OCTOBER 6, 2015  
4:15 P.M.

Commissioners Present: Steve Mital, President, John Simpson, Vice President, James Manning, John Brown and Dick Helgeson

**EXECUTIVE SESSION 1:**

**Pursuant to ORS 192.660(2)(h)**

**Pursuant to ORS 192.660(2)(f)**

The EWEB Board of Commissioners met in Executive Session to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed; and to consider information or records that are exempt by law from public inspection.

Others Present: General Manager Roger Gray, Lance Robertson, Dave Churchman and Anne Kah of EWEB staff and Eric DeFrest of Luvaas Cobb.

President Mital adjourned the Executive Session 1 meeting at 4:53 p.m.

**EXECUTIVE SESSION 2:**

**Pursuant to ORS 192.660(2)(d)**

The EWEB Board of Commissioners met in Executive Session to deliberate with persons designated by the governing body to carry on labor negotiations.

Others Present: General Manager Roger Gray, Lena Kostopulos, Susan Fahey, Todd Simmons, Brad Taylor, Mark Freeman, Mike McCann, Laurie Muggy and Anne Kah of EWEB Staff.

President Mital adjourned the Executive Session 2 meeting at 5:18 p.m.

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Assistant Secretary

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President

EUGENE WATER & ELECTRIC BOARD  
REGULAR SESSION  
EWEB BOARD ROOM  
OCTOBER 6, 2015  
5:30 P.M.

Commissioners Present: Steve Mital, President; John Simpson, Vice President; John Brown, Dick Helgeson and James Manning, Commissioners.

Others Present: Roger Gray, Erin Erben, Cathy Gray, Lena Kostopulos, Edward Yan, Adam Rue, Harvey Hall, Deborah Hart, Frank Lawson, Joe Harwood, Mark Freeman, Sue Fahey, Mike McCann, Steve Newcomb, Lance Robertson, Mel Damewood, Brad Taylor, Dave Churchman, Mark Zinniker, Roger Kline, Karl Morgenstern, Jeannine Parisi, Todd Simmons, Wally McCullough, Alan Fraser, Wendi Schultz-Kerns, Teresa Dingman, Janice Lee, Gene Austin, Jon Thomas, Marianne McElroy, Sarah Gorsegner, Nancy Toth and Anne Kah of the EWEB staff; Vicki Maxon, Recorder.

President Mital convened the Regular Session of the Eugene Water & Electric Board (EWEB) at 5:30 p.m.

**AGENDA CHECK**

There were no comments.

**ITEMS FROM BOARD MEMBERS**

Commissioner Manning noted that he presented an award for the Public Power Week poster contest today to Danna Cruz at Malabon Elementary School. He added that making school presentations brings him a lot of joy and he hopes that contests like this will be continued.

He then gave kudos to staff who organized the recent major customer luncheon.

Commissioner Helgeson stated that he too will present an award at Adams Elementary School this week. He stated that the quality of the presentations at this year's major customer event was unmatched in all he has been to, and that the customers who were present seemed to align with what EWEB is doing and asked good questions.

Vice President Simpson stated that as the Board's liaison to Lane Council of Governments (LCOG), he has been involved in their budget update and strategic planning process, and that his EWEB Board experience has been advantageous in that regard. He noted that he has been unanimously elected to serve as chair of the LCOG Board for the next two years and hopes that his fellow Commissioners will again vote for him as the Board's liaison to LCOG.

He stated that the recent EWEB Safety Expo was very well-run, and was a great way for staff to mix it up and converse with General Manager Gray, and that it was good to see former Assistant General Manager Debra Smith there as EWEB's guest.

He then related that the Board has discussed changing the way the Board minutes are recorded for quite some time, and that he has been working with staff on abbreviating and streamlining the process. In this regard, they have researched the method that the City of Eugene uses, which is referred to as "action minutes," a condensed form that seems to capture what the Board would need, and would also provide audio from the meeting which would be available to download from EWEB's website. While implementation of the audio feature would take 6-9 months to implement, a CD of the audio from a meeting will still be available on request. He asked for three head nods to put this item on the agenda for official consideration. Three head nods were received, and he asked Anne Kah, Executive Assistant to the Board and General Manager, to put together a proposal for the Consent Calendar.

Commissioner Brown noted that he will be going to Bertha Holt Elementary on Thursday to present an award. He also gave kudos to staff for the Safety Expo and major customer luncheon. Regarding the Board backgrounder about installing power lines over buildings for the Lane Transit District EmX project in order to accommodate cost measures, he hoped that this doesn't create a precedent for relocating power lines over existing buildings instead of installing underground service.

He then noted that Rosboro Lumber Company land in the Finn Rock area of Blue River is being auctioned and he hoped that EWEB will submit a bid, as it is an incredible opportunity for a legacy piece that should be preserved to contribute to watershed protection.

President Mital congratulated Vice President Simpson on being elected chair of the LCOG Board. He also recognized the transition from Taryn Johnson to Ms. Kah for the position of Executive Assistant to the Board/General Manager. He noted that Ms. Johnson was a fantastic assistant and contributed much to the Board's preparation for meetings, and added that the Board is lucky to have Ms. Kah transfer into that position. Ms. Kah asked for grace during the transition.

He noted that there are other groups who are also interested in the Rosboro Lumber Company land.

He will also be attending two schools this week to present awards.

He then stated that he attended the Drought Conference on the University of Oregon campus, which in part covered the Willamette 2100 conference and the issue of water scarcity, which will be largely offset by capacity in the existing water system. He also attended another conference hosted by Congressman Peter DeFazio regarding earthquake preparedness, which was attended by representatives from 10-15 state and federal agencies. He noted that he believes that EWEB's Willamette water treatment facility fits on that list. He asked for support from his fellow Commissioners to ask Mr. Gray to come up with a plan about how to seek internal or external support for this project.

Vice President Simpson and Commissioner Helgeson voiced their support. Commissioner Manning warned against broad support and stated that he wouldn't support asking an external agency for support.

Commissioner Manning then apologized for not including Rachael Chilton in his kudos for assistance with the Public Power Week presentations.

Commissioner Brown stated he supports President Mital's suggestion as long as the money doesn't come from the ratepayers. He noted that EWEB provides water to several federal institutions and that there is nothing wrong with asking other agencies for money.

President Mital noted 4-1 support for Mr. Gray to report back to the Board on the above.

President Mital then requested Board support for an update of EWEB's website over time and also noted that he is not receiving EWEB daily news items like he used to. He also asked for confirmation that a website update will allow the posting of audio files and e-mail archiving in order to be available to the public. He received three head nods for support of the above.

Mr. Gray noted that he sent an e-mail late this afternoon about e-mail archiving and that he will address the website request in Correspondence.

## **PUBLIC INPUT**

President Mital asked if there was anyone present who wished to testify regarding agenda item #6 (crane refurbishment project). There was not.

Webb Sussman (Ward 1) encouraged the Board to investigate cooperating with existing solar vendors to promote residential solar installation in order to possibly pre-empt organizations like Solar City from siphoning off the cream of the business, and possibly provide maintenance for those installations and perhaps receive some revenue for it. He also noted the recent sabotage of Bay Area utility infrastructure and stated that he would be comforted if EWEB had a plan to deal with a similar issue.

Peter Reppe (Ward 3) spoke to rate restructuring and instituting a balanced and fair approach as well as cross-subsidies. He noted that he saw no mention of reimbursement to net metered customers for excess. He also asked the Board to consider adding some kind of environmental externality charge (possibly ½ cent per kWhr) to the KW charge, as that would be consistent with EWEB's sustainability policy and would also enable EWEB to be a role model for other utilities in that regard.

Regarding revising the format of the Board minutes, Will Rutherford (Vida/McKenzie River resident and member of the McKenzie ClearWater Coalition) asked the Board to think about how a customer would retrieve that information. He noted that audio minutes of the Eugene Planning Commission that he has tried to research have been impossible to retrieve. He said that in his opinion, the current minutes appear to be more of a transcript, and that he would appreciate the audio file being accompanied with some type of written summary with salient high points.

He then stated that he was unable to attend the September upriver Board meeting, but had heard that there were only three Commissioners present and a very small audience. He wondered if a different type of community dialogue should happen and he asked for the Board's opinion on that. He also noted that he received the agenda for that meeting on very short notice and wondered if holding the meeting a week before the Labor Day holiday resulted in many residents being on vacation before school started.

He also related the details of a lengthy upriver power outage this morning which he reported, and that he had to call back twice to get an estimate of when power would be restored.

Commissioner Manning thanked Mr. Rutherford for his comments. He said that he was also disappointed in the turnout and that perhaps the upriver meeting could be held in a different month, as he doesn't like staff to take the time to travel upriver unless it's worthwhile to do so.

Regarding Mr. Reppe's comments about relationships with solar organizations, Commissioner Helgeson stated that he has sat in on sporadic meetings of a local solar advocate group, not in his capacity as an EWEB Commissioner, but because he has interest in that area and in aligning the two interests. He noted that EWEB already effectively has an externalities charge, and that as hydroelectric projects are relicensed and invested in, most work on that investment goes toward improving environmental conditions. He added that there's probably already ½ cent that relates to mitigation and that if EWEB added a surcharge, it would have to be deployed in some way other than to simply make a profit.

Commissioner Helgeson agreed that it is good for the Board to make an appearance upriver once a year but not necessarily in the context of the regular meeting format. He supported improving the format but wants to continue the relationship with upriver residents.

Vice President Simpson reassured Mr. Sussman that EWEB works closely with many other agencies and councils to install and maintain and train for systems for early detection and prevention of damage risk, and that they partner with industry peers and meet regularly to promote legislation which enhances EWEB's ability to communicate with the FBI and others. He invited Mr. Sussman to set up an appointment with him to meet with staff if he has any further concerns.

Regarding Mr. Reppe's testimony, he asked Erin Erben, Power & Strategic Planning Manager, to touch on that issue during her presentation later in the agenda.

He then stated that he is more than happy to meet with Mr. Rutherford regarding the upriver Board meeting format, and asked for Ms. Kah's assistance with that.

President Mital also noted that staff is working on the issue of cyber sabotage and is concerned about it.

He echoed Commissioner Helgeson's comments regarding Mr. Reppe's testimony, and also noted that the Board had asked the three residents who were present at the upriver Board meeting to ask questions of staff, and that the Board would be happy to do that again at future upriver meetings.

Regarding the upriver Board meeting, Commissioner Brown echoed the comments of his fellow Commissioners, and added that he believes that the Board owes it to upriver residents to hold a meeting there once a year, but maybe at a different time of year, and to give them several months to prepare questions in advance. He noted that the relicensing of Carmen-Smith and some other projects is drawing near, and he voiced support for an extra meeting only for that purpose, if required.

## **CONSENT CALENDAR**

### **MINUTES**

1. a. July 21, 2015 Regular Session
- b. September 1, 2015 Regular Session

### **CONTRACTS**

2. American Concrete Company - for asphalt and concrete cutting and core drilling services. \$125,000 (over five years). Water Operations, Contact Person is Brad Taylor.
3. Pacific Excavation - for construction of the Shasta 1150 Pump Station Replacement Project. \$662,000. Engineering, Contact Person is Mel Damewood.

### **RESOLUTIONS**

4. Resolution No. 1526 - Resolution Approving Revisions to Board Policy GP6, Contact Person is Roger Gray.
5. Resolution No. 1528 - Resolution Approving Amendment to Resolution No. 0908 - Service Provisions for the Shasta 1150 Service Area. Contact Person is Mel Damewood.
6. Resolution No. 1529 - Resolution Appointing Board Assistant Secretary, Contact Person is Roger Gray.

### **ITEMS REMOVED FROM CONSENT CALENDAR**

Vice President Simpson pulled item #6 (Resolution #1529) for approval before items #4 and #5 so that Ms. Kah can sign the following two resolutions. It was moved by Vice President Simpson, seconded by Commissioner Manning, to approve Resolution #1529. The motion passed unanimously (5-0).

It was then moved by Commissioner Brown, seconded by Commissioner Helgeson, to approve the remainder of the Consent Calendar. The motion passed unanimously (5-0).

### **SPECIAL PROCUREMENT PROCESS: CRANE REFURBISHMENT PROJECT**

Mel Damewood, Engineering Manager; Sarah Gorseger, Purchasing Manager, and Mark Zinniker, Generation Engineering Supervisor, gave a brief review of the project and answered clarifying questions and comments from the Board.

Commissioner Brown supported the project but voiced concern that two years passed before this issue was resolved.

Commissioner Helgeson asked if the special procurement process will be similar to a request for proposal. Ms. Gorsegrner, Purchasing Manager explained the process. Commissioner Helgeson also voiced support for the project but struggles with an outside vendor being used.

Vice President Simpson also supported the project. President Mital asked for an explanation of the reimbursement process (which is \$60,000 in crane services).

Regarding a previous concern from Commissioner Brown about the proximity of transformers to water supply, Mr. Damewood stated that the transformers will remain on the same deck but environmentally friendly oil will be used, and this process will save money.

Mr. Damewood then read staff's recommendation to the Board (two separate approvals). It was moved by Vice President Simpson and seconded by Commissioner Manning to proceed with the design/build process approach. The motion passed unanimously (5-0).

It was then moved by Vice President Simpson, seconded by Commissioner Manning, to approve the Resolution authorizing the General Manager to expedite the contract. The motion passed unanimously (5-0).

### **2015 STRATEGIC PLAN UPDATE AND BOARD POLICY SD1 REVISION, RESOLUTION #1527**

With the aid of overheads, Erin Erben, Power & Strategic Planning Manager, presented the strategic plan update and asked for Board feedback on the content and their priorities.

Commissioner Helgeson:

- Making progress on dials but never had a conversation about how to measure
- Objective of pilot work, outreach and focus group – tells me what customers want
- Will pass on the subject of risk tolerance
- Owning generation – a great long-term strategic question. Others have conspired against us over the last decade with regulatory changes, market dynamics and third party generation. Question if we can win that game but welcome a conversation to discuss more in depth.

Vice President Simpson:

- Clearly making progress on dials but aware of pressure that steers the vessel
- Partnership piece with customers – engaging differently?
- Time of use pilot promising, one of best bellwethers on whether program will be received well. It tells me people are willing to learn. Play a role in education.
- Struggle with the value of keeping things simple
- I retract my vote for comprehensive policy review

Commissioner Brown:

- Agree with Vice President Simpson
- Question about BPA allocation use, 8 MW below entitlement. With going to AMI, etc., load will go further down.
- Agree with Commissioner Helgeson's comment regarding generation

President Mital:

- Can comment on rate competitiveness but other issues much harder
- Utility cost as a percentage of disposable income is a good one. Providing metrics around it more important.
- Keep it affordable so we don't hear much from customers. Support a bigger strategic review of this issue in 2016.
- My statement about the retreat result may not be clear. The 5-6 Board priorities that I gave at the customer luncheon may be more accurate.
- Agree about generation issue (Commissioner Helgeson's comment) and the Carmen-Smith issue will probably dictate everywhere else
- Transparency should be on the list

Commissioner Manning:

- Agree with need to know how to measure dials and what is deliverable.
- Supports the Resolution.

A second round of feedback commenced.

Commissioner Helgeson:

- Comfortable with document and reporting of status.
- Spent a lot of time on budget and rates and have little time for conversation about the Strategic Plan
- Haven't really had an opportunity to sit down and ask higher-level questions. Look forward to agenda time or otherwise to have more conversation about some of those notions and discovery dialogue.
- Not hung up on language in the mission statement; support the changes.

Commissioner Manning:

- Short-term results missing as a measurement tool

Ms. Erben noted that what was discussed previously became the dashboard, and she will go back to make sure those linkages are clear. Mr. Gray noted that the dashboard is the linkage for how to measure.



President Mital:

- Desire to engage a bit deeper in strategic discussions
- Deeper dialogue regarding generation. Need to validate the direction we're in or validate change for a different destination. Want to make sure Board and staff are completely aligned on this.
- Sense deep alignment of customers with Board priorities

It was moved by Commissioner Manning, seconded by Commissioner Brown, to approve Resolution #1527. The motion passed unanimously (5-0).

### **2016 EWEB PRICING (RATE) DESIGN PROPOSAL**

With the aid of overheads, Ms. Erben, Mark Freeman, Customer Service & Energy Management Manager, and Adam Rue, Senior Energy Resource Analyst, presented the above proposal and addressed clarifying questions and comments from the Board.

Electric Utility Recommendations:

1. Basic Charge increase (low-income would receive a bill credit)  
Brown – supports \$5 charge (annually)  
Simpson – supports \$10 charge (recognize gradualism)  
Helgeson – supports one-time change, short-term mitigation – wrap continuation into budget discussion next year  
Manning – supports \$10 charge but wants to meet with staff about nuts and bolts  
Mital – supports \$5 charge – Option A (\$10 charge) impact on low-income too severe
2. Recommended commercial class price plan design changes – unanimous support.
3. Deferred (Simpson supports three-year implementation; Helgeson supports in general with suggestions for different presentation to customers; Mital supports more like a five-year implementation not three - seems dependent on new CIS).
4. Include OATT update and C-TOU pilot proposal in formal November proposal – unanimous support.

Water Utility:

1. Include proposed revenue requirement increase in fixed bill component for November proposal – unanimous support.
2. Return next year with end-state pricing objectives re: appropriate levels of fixed charge, conservation price signals and elevation charges – unanimous support.

President Mital called for a 10-minute recess.

## **PUBLIC HEARING ON 2016 DRAFT ELECTRIC AND WATER BUDGETS AND LONG-TERM FINANCIAL PLANS**

There was none.

### **2016 DRAFT BUDGET AND LONG-TERM FINANCIAL PLANS UPDATE**

Sue Fahey, Finance Manager, and Harvey Hall and Deborah Hart, Senior Financial Analysts, presented the above update and addressed clarifying questions and comments from the Board.

The entire Board supported staff's recommendation and the budget process in general. Vice President Simpson stated that it would be helpful to see more about alternative water supply reserves, how they are building, etc. Ms. Fahey explained how money is distributed to that reserve.

Commissioner Helgeson stated that it looks like EWEB's industrial rates are much lower than those at other utilities, and asked for a response off line.

In response to a question from Commissioner Brown, a brief discussion ensued regarding the transition from a 90% to 85% water year budget assumption.

### **WATER UTILITY EMERGENCY PREPAREDNESS PLANNING ACTIVITIES**

Brad Taylor, Water Operations Manager; Wally McCullough, Water Engineering Supervisor; and Mr. Damewood led a question and answer session and addressed clarifying comments from the Board.

President Mital stated that he believes the number of emergency water containers distributed to customers each year could be increased from the current 3,000. The Board supported increasing the number to 5,000.

Commissioner Manning stated that he appreciates EWEB's efforts but that EWEB can't solve this issue alone.

Commissioner Brown stated that he would like to see more outreach to neighborhood groups regarding the availability of water from school wells, etc.

## **WATERSHED PROTECTION PROGRAM OVERVIEW**

Steve Newcomb, Environmental Manager, and Karl Morgenstern, Environmental Management Supervisor, presented the above overview and asked for feedback, questions and comments from the Board.

Vice President Simpson would like to see a map of the watershed area that would affect EWEB.

President Mital voiced concern about how funding would be set up and stated that while he supports the forest management project, he doesn't support the portion regarding a woodland project. He also stated that continued EWEB funding for the Berggren Farm is problematic for him and that he would like to get community funding for it.

A brief discussion ensued about funding/under-funding projects. Mr. Morgenstern noted that there could be much more work done if more funding was available, but that would also require more staff.

Commissioner Brown stated that he would prefer to never run out of money for the septic tank program and would also like to put more money into urban runoff management. He noted that there will be a lot more to do for the Willamette River than the McKenzie River, i.e., the passing trains transporting oil, nearby dairies, etc.

Commissioner Helgeson would like to focus on what presents the most direct threat to water quality.

President Mital asked for updates on the various projects at a future Board meeting.

## **EMERGING ISSUES, CORRESPONDENCE AND BOARD AGENDAS**

Mr. Gray briefly reviewed the following:

1. Idaho generation project (tentative for November meeting)
2. EWEB interest in Rosboro Lumber property (Finn Rock)

## **BOARD WRAP-UP**

Commissioner Manning thanked Board and staff for a great strategic planning discussion and asked to meet with staff about a few specifics.

Commissioner Helgeson asked for an off-line update on the status of the residential time of use pilot program. It was noted that all five Commissioners are participating in the time of use pilot, and they asked for follow-up regarding their competition to see who has the best time of use habits.

Vice President Simpson thanked Board and staff for a good meeting, and reminded the Board that the second Tuesday of the month is always possible for a second meeting, even for higher level/no action items.

President Mital stated that he is happy to hear about the Oregon Department of Energy grant application.

He asked why it is projected to take approximately three years to implement the new Customer Information System (CIS) and wondered if that can't be sped up since there is so much hinging on it. Vice President Simpson asked to know more about the scope of it—i.e., how large of a system and what its features are. Mr. Gray suggested that this be addressed in Correspondence or as a future agenda item. President Mital asked staff to let the Board know if there's something they can do to expedite that process.

Commissioner Brown asked about the status of the headquarters property development negotiations. Mr. Gray replied that the current goal is to bring this before the City Council and Board in order for the City to take the lead on this project, possibly in December.

President Mital adjourned the Regular Session at 9:14 p.m.

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Assistant Secretary

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President

# EWEB Board Consent Calendar Request

For Contract Awards, Renewals, and Increases

The Board is being asked to approve a new contract with **ARCOS LLC** for a **hosted automated roster call-out system**.

Board Meeting Date: November 3, 2015

Project Name/Contract#: PSC 2454 Automated Call-out System

Primary Contact: Todd Simmons Ext. 7373

Purchasing Contact: Ramie Alkire Ext. 7413

### Contract Amount:

Original Contract Amount: \$ 240,000 (estimated over 5 years)

Additional \$ Previously Approved: \$ N/A

Invoices over last approval: \$ N/A

Percentage over last approval: N/A %

Amount this Request: \$ 240,000 (estimated over 5 years)

**Resulting Cumulative Total:** \$ **240,000 (estimated over 5 years)**

### Contracting Method:

Method of Solicitation: Sole Source exemption

If applicable, basis for exemption: ORS279B.075 and EWEB Rule 3-0275

Term of Agreement: November 4, 2015 – November 3, 2018

Option to Renew? Yes, for two additional years

Approval for purchases "as needed" for the life of the contract Yes

Narrative:

The Board is being asked to approve a new contract with **ARCOS LLC** for a **hosted automated roster call-out system and implementation services**.

EWEB's Dispatch department currently relies on a manual process to assemble its First Responders and Crews for after-hour outages. This process requires dispatchers to refer to numerous call lists based upon job classifications, training levels, availability for duty, on-call, and Collective Bargaining Agreement requirements. The completion of a crew call-out can take 45-60 minutes, increasing response and restoration time, and the complexity and differences in the lists can sometimes lead to errors in the process. Staff seeks a more expedient, reliable system of executing callouts, while complying with both labor rules and the unique needs of multiple departments.

In July of 2015, staff issued a Request for Information (RFI) to seek out companies capable of providing a hosted automated system that would meet EWEB's needs. Six software companies responded and upon further clarifying questions, only one company, ARCOS LLC of Columbus, OH, was determined to provide a product that met all of EWEB's specifications without costly customizations. ARCOS was the only call-out system that focuses exclusively on the utility industry with services provided to several nearby utilities, including Portland General Electric, PG&E, PacifiCorp, and Snohomish County PUD #1.

Staff has negotiated a contract with ARCOS, LLC. The contract is for three-years with the option to renew for two additional years. Fees include a onetime setup fee of \$28,000 and annual service fees of \$40,000 with escalation included in the five-year estimate. The implementation process is anticipated to take approximately 12 weeks.

### ACTION REQUESTED:

Management requests the Board approve a new contract with **ARCOS LLC** for a **hosted automated roster call-out system and implementation services**. Funds for this purchase were budgeted for 2015 and will be budgeted annually.

<b>Action Requested:</b>	
<input checked="" type="checkbox"/>	Contract Award
<input type="checkbox"/>	Contract Renewal
<input type="checkbox"/>	Contract Increase
<input type="checkbox"/>	Other
<b>Funding Source:</b>	
<input checked="" type="checkbox"/>	Budget
<input type="checkbox"/>	Reserves
<input type="checkbox"/>	New Revenue
<input type="checkbox"/>	Bonding
<input type="checkbox"/>	Other

<b>Form of Contract:</b>	
<input type="checkbox"/>	Single Purchase
<input checked="" type="checkbox"/>	Services
<input type="checkbox"/>	Personal Services
<input type="checkbox"/>	Construction
<input type="checkbox"/>	IGA
<input type="checkbox"/>	Price Agreement
<input type="checkbox"/>	Other

**SIGNATURES:**

Project Coordinator: \_\_\_\_\_

LT Manager: \_\_\_\_\_

Purchasing Manager: \_\_\_\_\_

General Manager: \_\_\_\_\_

Board Approval Date: \_\_\_\_\_

Secretary/Assistant Secretary verification: \_\_\_\_\_



# MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

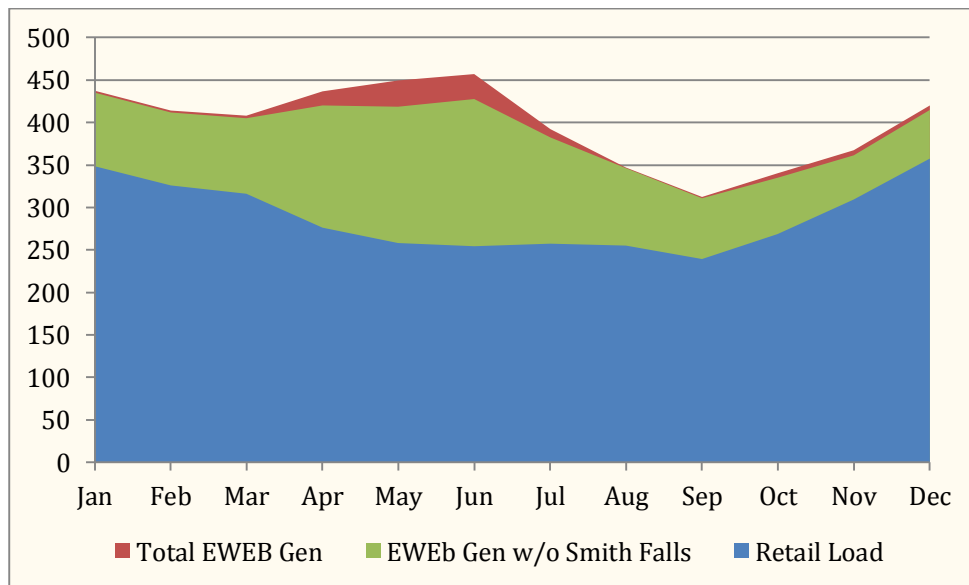
*Rely on us.*

**TO:** Commissioners Mital, Simpson, Helgeson, Manning and Brown  
**FROM:** Dave Churchman, Power Operations Manager, Erin Erben, Power & Strategic Planning Manager and Patty Boyle, Principal Project Manager  
**DATE:** November 3, 2015  
**SUBJECT:** Smith Creek Hydro Project Asset Sale  
**OBJECTIVE:** Board Authorization for the General Manager to execute Agreements finalizing the Sale of Smith Creek Hydro Project and enter a 3-year Power Purchase Agreement.

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## Issue

EWEB's power portfolio is approximately 35-40aMW surplus on an annual firm basis and up to 80-100 aMW surplus during periods of high-flow in the spring. Based on the current forecast, these volumes are in excess of what is required to meet EWEB's short and long term power needs as indicated in the chart below.



In an effort to reduce debt and to improve EWEB's financial metrics, the 2013 Operating Plan included an initiative to explore the sale of generation assets that are not required to meet forecasted load. Doing so will lower EWEB's debt service coverage ratio and will reduce market price risk inherent to managing surplus power. In absence of an asset sale, staff have determined that additional rate increases would be required to meet EWEB's minimum debt service coverage ratios.

Accordingly, EWEB conducted an RFP to facilitate a sale and now requests Board authorization for the General Manager to execute Agreements which will finalize the sale of The Smith Creek Hydro Project.

## **Background**

The Smith Creek Hydro Project is a 38 MW plant located on Smith Creek in the Kaniksu National Forest near the Canadian border in Idaho. The powerhouse was constructed in 1990. EWEB acquired the FERC license to operate the plant in 2000 and manages it predominately through contracted labor. It is a spring peaking resource that is operational between April and July and then again in the late fall until Smith Creek freezes. The remote location and generation profile of Smith Creek make it an ideal target for disposal given EWEB's operational and financial outlook.

EWEB participated in a BPA program that provided EWEB billing credits associated with Smith Creek. BPA confirmed in an October 1<sup>st</sup> email that all obligations were satisfied under the billing credit agreement and that if the asset was sold there would no ongoing liability.

Smith Creek is a Specified Resource under EWEB's Regional Dialogue Contract with Bonneville Power Administration. Under Section 5(b)(1)(B) of the Northwest Power Act of 1980, BPA is required to sell federal power to meet regional load obligations. Specifically, BPA provides federal power to meet EWEB's net requirement, which is calculated as total retail load less Dedicated Resources which may consist of both Specified and Unspecified Resources. The BPA Administrator granted consent to replace the Smith Creek Specified Resource with unspecified market purchases in a letter to EWEB on April 17<sup>th</sup>, 2014.

## **Discussion**

In 2014, EWEB created an RFP Evaluation Team consisting of employees from Power & Strategic Planning, Finance, Generation, Purchasing, and Power Operations. The RFP was posted on May 12<sup>th</sup>, 2014 and resulted in the registration of 30 potential proposers. Ultimately, six companies submitted proposals and on August 25<sup>th</sup>, 2014 EWEB announced a shortlist of four bidders.

During September each of the bidders were hosted by EWEB staff at the site. Subsequent to those visits, staff responded to questions and provided additional information to interested bidders. Shortly after visiting the facility, one of the bidders withdrew from the process. The remaining bidders were asked to red-line EWEB's proposed asset sale agreement so that specific terms could be included in the final evaluation. By February, 2015 EWEB had narrowed the selection to two bidders and began a parallel negotiation phase with each of the finalists. On February 26<sup>th</sup>, Best and Final offers were submitted by the remaining bidders. The submissions were competitive, and the Evaluation Team was satisfied with the results.

On the day of selection, an electric fault occurred in Generator #2 resulting in a fire at the facility and damaging the unit. Subsequently, EWEB talked with both bidders about the path forward and requested that each bidder resubmit proposals in light of the damage to the unit. On March 20<sup>th</sup>, the Evaluation Team submitted final scores and came to a unanimous decision to award the sale to Valtec Power, LLC. The bidders were notified and EWEB moved forward with final negotiations.

In the ensuing months, EWEB and Valtec have worked collaboratively to address needed repair



work, cost sharing, and necessary adjustments to the Agreements. Repair work has also been supported by two, third party consultation firms, HDR Engineering (HDR) and Hydro Consulting & Maintenance Services (HCMS). HDR was contracted to provide preliminary damage estimates and to create engineering specifications for the removal and inspection of Unit #2. HCMS performed a damage assessment and provided recommendations for bringing the unit back to full operation. On July 23, 2015, HCMS issued a report stating that the stator winding of unit #2 was damaged beyond economical repair and should be replaced.

EWEB and Valtec have negotiated an Asset Sales Agreement along with associated exhibits thereto. The Agreements will be executed by and between EWEB and Smith Creek Hydro, LLC, a newly established subsidiary of Valtec, but will continue to be contractually supported by the Parent. Once the agreements signed, there are a number of Conditions Precedent required prior to closing. EWEB anticipates clearing all of these conditions no later than Q1, 2016. Conditions Precedent include executing and assigning an interconnection agreement with the Bonneville Power Administration, finalizing an onsite environmental assessment, obtaining clear title for the transfer of real property and, executing a three year power purchase agreement. The power purchase agreement is intended to allow Valtec to take ownership of the plant and subsequently find a long-term buyer for the power.

Conditions Precedent will also include assignment of certain contracts to Valtec including a transmission contract with Northern Lights Electric Cooperative, and an emergency tap agreement with BPA. The longest lead time item is assignment of the FERC license which cannot begin until the Asset Sales Agreement is signed, which may take 90 days or more. EWEB staff have met with the principle stakeholders including the Forest Service, Dominion Services the contracted plant operator, Northern Lights Electric Co-op, and the City of Bonner's Ferry. There were no concerns raised at these meetings that would jeopardize the sale of the asset.

### **TBL Assessment**

The sale of the Smith Creek Project improves the economic outlook for EWEB and has no material impact on the social or environmental condition of EWEB or its customers.

Under Oregon's RPS rules, if exempt generation exceeds 100 percent of total retail sales than the RPS obligation is equal to zero. Although the sale of Smith Creek will reduce exempt generation eligible for RPS compliance, EWEB has access to other means to meet those obligations in the future including RECs sourced from EWEB's other renewable resources, or acquiring RECs in the wholesale market.

### **Recommendation and Requested Board Action**

Management recommends that the Board approve Resolutions No. 1507 and No. 1508 which will authorize the General Manager to execute Agreements required to sell the Smith Creek Hydro Project to Valtec Power and enter into a 3 year power purchase agreement. If you have any questions, please contact Dave Churchman, 541- 685-7598 or Patty Boyle at 541-685-7406.

**RESOLUTION NO. 1507**

**RESOLUTION OF THE EUGENE WATER & ELECTRIC BOARD  
AUTHORIZING GENERAL MANAGER IN  
SALE OF ASSETS**

WHEREAS, the Eugene Water & Electric Board (“EWEB”) has declared the Smith Creek Hydro-Generation Project surplus property by Resolution #1402, dated January 7, 2014,

WHEREAS, EWEB issued RFP 003-2014 seeking proposals to purchase all assets of the Smith Creek Hydro-Generation Project in its entirety by one buyer,

WHEREAS, the prospective purchaser has been identified and negotiation of the Asset Sales Agreement has proceeded in accordance with the provisions of RFP 003-2014 to present an offer of purchase subject to conditions of the Asset Sales Agreement, and

WHEREAS, the EWEB Commissioners have had the opportunity to be apprised of and address anticipated terms and conditions with those designated to negotiate the real property transaction during the course of executive session in accordance with ORS 192.660(2)(e).

NOW, THEREFORE, BE IT RESOLVED by the Eugene Water & Electric Board that:

The General Manager or his designee is directed to finalize the terms and conditions of the Asset Sales Agreement with the selected proposer, Smith Creek Hydro, LLC, as offering the best value to EWEB under the criteria of RFP 003-2014, and thereafter execute all necessary documents on behalf of EWEB to effect the transfer of all property rights and closing of the sale of the Smith Creek Hydro-Generation Project in accordance with Board policies.

DATED this 3 day of November, 2015.

THE CITY OF EUGENE, OREGON  
Acting by and through the  
Eugene Water & Electric Board

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President

I, ANNE M. KAH, the duly appointed, qualified and acting Assistance Secretary of the Eugene Water & Electric Board, do hereby certify that the above is true and exact copy of the Resolution adopted by the Board in its November 3<sup>rd</sup>, 2015 Regular Board Meeting.

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Assistant Secretary

**RESOLUTION NO. 1508**

**EUGENE WATER & ELECTRIC BOARD  
AUTHORIZING POWER PURCHASE TRANSACTION**

WHEREAS, the Board of Commissioners by Resolution has approved the sale of the surplus property and the concomitant generation known as the Smith Creek Hydro-Generation Project (“Project”),

WHEREAS, The Eugene Water & Electric Board (EWEB) maintains a Power Operations Department to manage power supply resources in order to deliver the best value for our customers through the purchase and sale of electricity required to serve EWEB's load requirements both in real-time and for the foreseeable future,

WHEREAS, EWEB Policy GP7 requires formal resolution of the Board of Commissioners to approve contracts for purchased power with a term of one year or more,

NOW, THEREFORE, BE IT RESOLVED, that the Eugene Water & Electric Board authorizes the General Manager or designee to enter into a single transaction for purchase of the Project generation consistent with the following terms:

- (i) Duration of term up to three (3) years from the closing date of the asset sale;
- (ii) Unit Contingent power purchase for up to the entire output of the Project, which bears a nameplate capacity of 38 MW.
- (iii) Transaction is consistent and in conformance with EWEB risk management policies; and
- (iv) Purchase Price shall be based upon the ICE Mid-Columbia Firm Daily Index for On-Peak and Off-Peak Hours for the duration of the transaction.

DATED this 3<sup>rd</sup> day of November, 2015.

THE CITY OF EUGENE, OREGON  
Acting by and through the  
Eugene Water & Electric Board

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President

I, ANNE M. KAH, the duly appointed, qualified and acting Assistant Secretary of the Eugene Water & Electric Board, do hereby certify that the above is true and exact copy of the Resolution adopted by the Board in its November 3<sup>rd</sup>, 2015 Regular Board Meeting.

---

Assistant Secretary



# MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

*Rely on us.*

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

FROM: Susan Eicher, General Accounting and Treasury Supervisor; Debbie Matheney, Accounting Analyst II

DATE: October 23, 2015

SUBJECT: Resolution No. 1531: 2016 Trojan Annual Operating Budget

OBJECTIVE: Board approval of Revised 2015 and Proposed 2016 Budgets for the Trojan Nuclear Plant

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## **Issue**

The Consent Calendar for the November 3, 2015 Board Meeting includes a recommendation for Board approval of the Proposed 2016 Budget for the Trojan Nuclear Plant. As described below, Bonneville Power Administration (BPA) pays all EWEB costs for Trojan and has indicated they will approve the 2016 budget, making the Board's action perfunctory, but necessary for compliance with policy.

## **Background**

The Trojan Nuclear Plant was constructed in the early 1970's by Portland General Electric (PGE), EWEB, and Pacific Power & Light Company with EWEB owning a 30 percent share. Trojan operated from 1976 until 1993 when the owners agreed to shut down and decommission the facility.

EWEB and BPA entered into an agreement whereby EWEB assigned its rights to power to the project in return for BPA paying all EWEB costs related to project operations, maintenance and decommissioning, as well as EWEB debt service and internal costs related to oversight. In 1981, EWEB assigned its rights to any future power from the project to BPA. BPA has been and will continue to pay EWEB's share of the costs in accordance with the EWEB-BPA Net Billing Agreement for Trojan.

At this point, almost all of the decommissioning of the project is complete. All of the spent fuel has been transferred to a long-term storage facility at the Trojan site and will remain there until it can be relocated to a federal waste repository. Remaining costs primarily relate to the spent fuel storage costs. There is certain remaining property owned by the project which is gradually being disposed of over time.

**Discussion**

Each year, the co-owners review and approve the Trojan Project operating budget as prepared and proposed by PGE. Part of that process includes review and approval by the EWEB Board. BPA is currently reviewing the Trojan Project budget as proposed by PGE and EWEB's share of that proposed budget. PGE's approval of the proposed budget is expected prior to the end of this year. In the Trojan budget, the largest single cost relates to the spent fuel storage. Of the \$1.6 million budgeted as EWEB's share of the expenses, almost all of that relates to spent fuel storage. As mentioned above, under the term of the Net Billing Agreement between BPA and EWEB, BPA will pay 100 percent of EWEB's share of the costs associated with Trojan.

In mid-2009, the Trojan owners were notified that the stay on the litigation concerning financial responsibility for the spent fuel storage was being lifted. In the litigation the Trojan owners sought to get the federal government to pay some or all of the costs of maintaining the spent fuel storage based on the federal government's failure to take responsibility for spent fuel storage at a central repository. The Court ruled in favor of payment by the federal government in July 2013. EWEB has received three pass through payments since then which were subsequently issued to BPA. The first pass through of \$24.4 million was received by EWEB and issued to BPA on September 10, 2013, the second payment of \$2.6 million for years 2010-2012 on August 11, 2014, and the third payment of \$946,000 for 2013 on December 5, 2014.

With the Trojan bonds now paid off and expenses at a relatively low level, BPA has been paying EWEB for Trojan expenses directly rather than using the net billing process.

**Recommendation and Requested Board Action**

Management recommends approval of, and requests that the Board approve, Resolution No. 1531 - Revised 2015 and Proposed 2016 Trojan Annual Operating Budgets.

**EUGENE WATER & ELECTRIC BOARD  
TROJAN NUCLEAR PLANT  
2015 ANNUAL OPERATING BUDGET - FINAL  
(In Thousands of Dollars)**

	<u>2015 Revised</u>	<u>2015 Proposed</u>	<u>Increase/ (Decrease)</u>
EWEB's share of operation costs	\$47	\$47	\$0
EWEB's share of decommissioning costs	1,350	1,347	3
EWEB's share of capital additions	0	0	0
<b>TOTAL EWEB SHARE OF PGE COSTS</b>	<u>1,397</u>	<u>1,394</u>	<u>3</u>
EWEB's direct costs	84	94	(10)
<b>TOTAL OTHER COSTS</b>	<u>84</u>	<u>94</u>	<u>(10)</u>
<b>TOTAL ANNUAL OPERATING COSTS</b>	<u>1,481</u>	<u>1,488</u>	<u>(7)</u>
LESS:			
Prior year general fund carry-over	(306)	(383)	77
General fund interest income	(1)	(2)	1
PLUS:			
Year end general fund balance	653	300	352
<b>TOTAL REQUIREMENT</b>	<u>1,827</u>	<u>1,403</u>	<u>424</u>
<b>TOTAL AMOUNT TO BE NET BILLED</b>	<u><u>1,827</u></u>	<u><u>1,403</u></u>	<u><u>424</u></u>
<b>ANNUAL FINANCING</b>			
Beginning general fund balance	306	383	(77)
Net billings	1,827	1,403	424
Interest earnings on gen fund invest	1	2	(1)
<b>TOTAL FUNDS AVAILABLE</b>	<u>2,134</u>	<u>1,788</u>	<u>346</u>
<b>TOTAL ANNUAL OPERATING COSTS</b>	<u>1,481</u>	<u>1,488</u>	<u>(7)</u>
<b>ENDING GENERAL FUND BALANCE</b>	<u><u>\$653</u></u>	<u><u>\$300</u></u>	<u><u>\$353</u></u>

**EUGENE WATER & ELECTRIC BOARD  
TROJAN NUCLEAR PLANT  
2015 ANNUAL OPERATING BUDGET - FINAL  
(In Thousands of Dollars)**

**DECOMMISSIONING COSTS**

	<u>2015 Revised</u>	<u>2015 Proposed</u>	<u>Increase/ (Decrease)</u>
USDOE Litigation Costs	\$20	\$50	(\$30)
ISFSI	<u>\$4,481</u>	<u>\$5,676</u>	<u>(\$1,195)</u>
DECOMMISSIONING COSTS	<u>4,501</u>	<u>5,726</u>	<u>(1,225)</u>
<b>EWEB'S SHARE OF DECOMMISSIONING COSTS</b>	<b><u>\$1,350</u></b>	<b><u>\$1,718</u></b>	<b><u>(\$368)</u></b>

**CAPITAL ADDITIONS**

	<u>2015 Revised</u>	<u>2015 Proposed</u>	<u>Increase/ (Decrease)</u>
Capital Jobs	<u>\$0</u>	<u>\$29</u>	<u>(\$29)</u>
<b>EWEB'S SHARE OF CAPITAL ADDITIONS</b>	<b><u>\$0</u></b>	<b><u>\$9</u></b>	<b><u>(\$9)</u></b>

**EUGENE WATER & ELECTRIC BOARD  
TROJAN NUCLEAR PLANT  
2015 ANNUAL OPERATING BUDGET - FINAL**

**EWEB DIRECT COSTS**

	<u>2015 Revised</u>	<u>2015 Proposed</u>	<u>Increase/ (Decrease)</u>
Labor	\$7,500	\$16,472	(\$8,972)
Overhead	750	1,647	(897)
<b>LABOR &amp; TRAVEL</b>	<u>8,250</u>	<u>18,119</u>	<u>(9,869)</u>
Legal	75,000	75,000	0
Trustee & Bank Fee	385	1,000	(615)
<b>OTHER</b>	<u>75,385</u>	<u>76,000</u>	<u>(615)</u>
<b>EWEB DIRECT COSTS</b>	<u><u>\$83,635</u></u>	<u><u>\$94,119</u></u>	<u><u>(\$10,484)</u></u>



**EUGENE WATER & ELECTRIC BOARD  
TROJAN NUCLEAR PLANT  
2016 ANNUAL OPERATING BUDGET- PRELIMINARY  
(In Thousands of Dollars)**

	<u>2016 Budget</u>	<u>2015 Revised</u>	<u>Increase/ (Decrease)</u>
EWEB's share of operation costs	\$39	\$47	(\$8)
EWEB's share of decommissioning costs	1,599	1,350	249
EWEB's share of capital additions	<u>1</u>	<u>0</u>	<u>1</u>
TOTAL EWEB SHARE OF PGE COSTS	<u>1,639</u>	<u>1,397</u>	<u>242</u>
EWEB's direct costs	<u>94</u>	<u>84</u>	<u>10</u>
TOTAL OTHER COSTS	<u>94</u>	<u>84</u>	<u>10</u>
TOTAL ANNUAL OPERATING COSTS	<u>1,733</u>	<u>1,481</u>	<u>252</u>
LESS:			
Prior year general fund carry-over	(653)	(306)	(347)
General fund interest income	(2)	(1)	(1)
PLUS:			
Year end general fund balance	<u>300</u>	<u>653</u>	<u>(353)</u>
TOTAL REQUIREMENT	<u>1,378</u>	<u>1,827</u>	<u>(449)</u>
TOTAL AMOUNT TO BE NET BILLED	<u><u>1,378</u></u>	<u><u>1,827</u></u>	<u><u>(449)</u></u>
ANNUAL FINANCING			
Beginning general fund balance	653	306	347
Net billings	1,378	1,827	(449)
Interest earnings on gen fund invest	<u>2</u>	<u>1</u>	<u>1</u>
TOTAL FUNDS AVAILABLE	<u>2,033</u>	<u>2,134</u>	<u>(101)</u>
TOTAL ANNUAL OPERATING COSTS	<u>1,733</u>	<u>1,481</u>	<u>252</u>
ENDING GENERAL FUND BALANCE	<u><u>\$300</u></u>	<u><u>\$653</u></u>	<u><u>(\$353)</u></u>

**EUGENE WATER & ELECTRIC BOARD  
TROJAN NUCLEAR PLANT  
2016 ANNUAL OPERATING BUDGET- PRELIMINARY  
(In Thousands of Dollars)**

**DECOMMISSIONING COSTS**

	<u>2016 Budget</u>	<u>2015 Revised</u>	<u>Increase/ (Decrease)</u>
USDOE Litigation Costs	\$20	\$20	\$0
ISFSI	<u>\$5,310</u>	<u>\$4,481</u>	<u>\$829</u>
DECOMMISSIONING COSTS	<u>5,330</u>	<u>4,501</u>	<u>829</u>
<b>EWEB'S SHARE OF DECOMMISSIONING COSTS</b>	<b><u>\$1,599</u></b>	<b><u>\$1,350</u></b>	<b><u>\$249</u></b>

**CAPITAL ADDITIONS**

	<u>2016 Budget</u>	<u>2015 Revised</u>	<u>Increase/ (Decrease)</u>
Capital Jobs	<u>\$4</u>	<u>\$0</u>	<u>\$4</u>
<b>EWEB'S SHARE OF CAPITAL ADDITIONS</b>	<b><u>\$1</u></b>	<b><u>\$0</u></b>	<b><u>\$1</u></b>

**EUGENE WATER & ELECTRIC BOARD  
TROJAN NUCLEAR PLANT  
2016 ANNUAL OPERATING BUDGET- PRELIMINARY  
(In Thousands of Dollars)**

**OPERATION & OTHER COSTS**

	<u>2016 Budget</u>	<u>2015 Revised</u>	<u>Increase/ (Decrease)</u>
Administrative & General	\$0	\$0	\$0
Property Insurance	9	9	(0)
Injuries and Damages	2	2	0
Employee Benefits	14	17	(3)
Misc. General Expenses	<u>110</u>	<u>131</u>	<u>(21)</u>
<i>OPERATIONS</i>	<u>136</u>	<u>159</u>	<u>(23)</u>
Payroll taxes	5	7	(1)
Other interest expense/Rental Revenue	<u>(10)</u>	<u>(9)</u>	<u>(1)</u>
<i>OTHER</i>	<u>(5)</u>	<u>(2)</u>	<u>(2)</u>
<i>OTHER WORKING CAPITAL CHANGE</i>	<u>0</u>	<u>1</u>	<u>(1)</u>
 TOTAL OPERATION & OTHER	 <u><u>131</u></u>	 <u><u>158</u></u>	 <u><u>(27)</u></u>
 <b>EWEB'S SHARE OF O &amp; M COSTS</b>	 <u><u>39</u></u>	 <u><u>47</u></u>	 <u><u>(8)</u></u>

**EUGENE WATER & ELECTRIC BOARD  
TROJAN NUCLEAR PLANT  
2016 ANNUAL OPERATING BUDGET- PRELIMINARY**

**EWEB DIRECT COSTS**

	<u>2016 Budget</u>	<u>2015 Revised</u>	<u>Increase/ (Decrease)</u>
Labor	\$16,472	\$7,500	\$8,972
Overhead	1,647	750	897
LABOR & TRAVEL	<u>18,119</u>	<u>8,250</u>	<u>9,869</u>
Legal	75,000	75,000	0
Trustee	1,000	385	615
OTHER	<u>76,000</u>	<u>75,385</u>	<u>615</u>
<b>EWEB DIRECT COSTS</b>	<b><u><u>\$94,119</u></u></b>	<b><u><u>\$83,635</u></u></b>	<b><u><u>\$10,484</u></u></b>

**RESOLUTION NO 1531**  
**November 2015**

**EUGENE WATER & ELECTRIC BOARD**  
**2015 Revised and 2016 Trojan Budgets**

**WHEREAS**, the Eugene Water & Electric Board is the body designated by the Eugene City Charter and City Code to administer the Electric and Water utilities of the City of Eugene;

**WHEREAS**, the Trojan nuclear plant was constructed in the early 1970's by Portland General Electric, EWEB and Pacific Power & Light Company with EWEB owning a 30 percent share;

**WHEREAS**, the owners agreed to shut down and decommission the facility after operating it from 1976 – 1993;

**WHEREAS**, EWEB and Bonneville Power Administration entered into an agreement whereby EWEB assigned its rights to power to the project in return for Bonneville Power Administration paying all EWEB costs related to project operation, maintenance and decommissioning as well as EWEB debt service and internal costs related to oversight;

**WHEREAS**, the co-owners review and approve the Trojan Project operating budget annually as prepared and proposed by Portland General Electric;

**NOW, THEREFORE, BE IT RESOLVED** by the Eugene Water & Electric Board that:

1. The Board hereby has reviewed and approves the 2015 revised and 2016 proposed Trojan Budgets.

DATED this 3rd day of November 2015.

THE CITY OF EUGENE, OREGON  
Acting by and through the  
Eugene Water & Electric Board

\_\_\_\_\_  
President

I, ANNE M. KAH, the duly appointed, qualified, and acting Assistant Secretary of the Eugene Water & Electric Board, do hereby certify that the above is a true and exact copy of the Resolution adopted by the Board at its November 3, 2015 Regular Board Meeting.

\_\_\_\_\_  
Assistant Secretary



# MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

*Rely on us.*

TO: Commissioners Mital, Simpson, Helgeson, Manning and Brown  
FROM: Steve Newcomb, Environmental Management Department Manager, and  
Karl Morgenstern, Environmental Management Supervisor  
DATE: October 23, 2015  
SUBJECT: Real Property Policy (SD-14) and Property Management Procedures  
OBJECTIVE: Board Action: Resolution No. 1532

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## **Issue**

Active management of EWEB-owned property assets requires established Board approved policies and adopted procedures to implement these policies. EWEB Property Management staff have updated current Board Policy SD-14 and developed a set of procedures to implement Board policy that provide a legally vetted and consistent approach to the various actions associated with the acquisition and disposition of property, encroachments, lease terms, easement and permit processes, and adds fees to cover EWEB staff costs associated with some of these activities. Management wants to apprise the Board of Property Management Procedures (PM.200.PRC.01-00) that will be adopted following approval of SD-14.

## **Background**

EWEB's Property Management portfolio includes: 244 parcels totaling approximately 1,500 acres; 41 leases with third parties to use EWEB property for cell towers, parking, building rental, storage, and other approved purposes; over 60 known encroachments on EWEB property by adjacent property owners (i.e., involving barns, sheds, stairs, decks, driveways, vegetation, fences, etc.); 7,983 easements; and, numerous revocable permits of various types. EWEB's Property Management group has been operating under a set of draft procedures dated October 1993 that were never adopted. These draft procedures are out-of-date and do not provide a process for addressing encroachments on EWEB-owned properties.

EWEB is currently working to increase the efficiency and effectiveness in managing fee owned property, easements, leases, permits and other actions associated with these assets. These efforts include: 1) the development of a Property Management Geographic Information System (GIS); 2) digitizing and migrating the nearly 8,000 easements and associated documentation from paper copies into the Property Management GIS system (approximately 1,200 have been mapped to date); 3) developing vegetation management plans for each fee-owned property that become part of the Property Management GIS system; and, 4) establishing Board-approved policy and procedures that govern active management of EWEB property assets.

## **Discussion**

Revisions to Real Property Policy SD-14 contains three minor change to update this policy (see Attachment A). These changes are as follows:

- Property Acquisition – added reference to “other products (i.e., telecommunications)” and deleted “steam products”.
- Easement Acquisition – added “and public” to include the fact that EWEB currently obtains easements for EWEB facilities on private *and public* property.
- Leases – added “Leadership Team Manager” approval and deleted “Division Director” to reflect new management structure at EWEB.

The Property Management Procedures (PM.200.PRC.01-00) provide the process and approach to implementing these policies. EWEB management will adopt these procedures following Board approval of the revised Real Property Policy SD-14. Section 6 (*Property Management*) of the Property Management Procedures (see attachment B) contains the majority of changes that significantly differ from how EWEB managed properties in the past. The main changes include:

1. Development of Vegetation Management Plans for each property that takes into account operational needs, surrounding land use, costs to perform activities, and adherence to Integrated Pest Management methods;
2. Instituting a Revocable Encroachment Permit process (Section 6.4.4); and
3. Charging fees for permits that EWEB issues to recover administrative costs (see Attachment C in Property Management Procedures).

Documenting and enforcing encroachments that currently exist on nearly 25% of EWEB-owned properties in support of water, electric and generation operational needs and priorities could expose EWEB to legal challenges and disgruntled customers. These new procedures provide staff a process for preventing future encroachments from happening, while documenting and addressing existing encroachments through a permit process that is recorded with Lane County Deeds and Records, which requires removal of the encroachment upon sale. The procedures provide a fee system that equates real costs with encroaching on EWEB property and requires annual permit renewal with EWEB inspection to prevent expansion of existing encroachments. This additional workload will impact Property Management’s limited resources, which will need to be addressed in future budget discussions once the magnitude of this added workload is better understood.

**Recommendation**

Management recommends the Board approve Resolution No. 1532 to incorporate the language found in Attachment A and following Board approval of Resolution No. 1532 Management adopts Property Management Procedures, PM.200.PRC.01-00, into the All Utilities section of the Customer Service Policies and Procedures.

*Attachment A – Revised Real Property Policy*

**Policy Number: SD14**

**Policy Type: Strategic Direction**

**Policy Title: Real Property Policies**

**Effective Date: November 3, 2015**

The following property policies shall govern the acquisition, management, and disposal of EWEB property and property rights.

1. Property Acquisition – To ensure that facilities are available for the production and distribution of useable energy, water, and other products (i.e., telecommunications), EWEB will consider the purchase of fee property. The decision to purchase fee property rather than lesser rights such as easements shall be based on the extent of control necessary to adequately protect the utility system.
2. Property Management – EWEB’s property shall be managed to comply with City, County, State and Federal ordinances, statutes, laws and EWEB’s Charter, Mission and Statement of Legacy.
3. Property Disposal – The Board may declare any real property surplus. The decision to declare a parcel surplus will be based on current and future utility needs land use and environmental considerations. The Board may direct staff to dispose of any properties declared surplus. Any properties disposed shall be disposed in accordance with applicable ordinances, statutes, laws and other Board policies.
4. Easement Acquisition – Easements will be obtained for all EWEB facilities located on private and public property, exclusive of electric service lines for the property owner’s sole use.
5. Easement Management – EWEB will provide customers with easement information when requested. EWEB may provide limited landscape maintenance within an easement only under certain circumstances.
6. Permits – EWEB will obtain permits for temporary uses on private property and on City of Eugene property where easements are not available.
7. Leases – EWEB staff, with Leadership Team Manager approval, may lease property for utility purposes when purchase of the property is not possible or in the best interest of EWEB.

Source: Real Property Policy, Approved 10/93, Revised 07/05/2005, Revised 11/3/2015





Eugene Water & Electric Board

*Rely on us.*

# *Property Management Policies and Procedures*

**Document Owner:** Karl Morgenstern

**Authoring Department:** Environmental Management

**Resides with:** Environmental Management Technical Assistant

**Document Number:** ***PM.200.PRC.01-00***

**Revision Number:** 00

**Approved/Revision Date:**

**On-Line Location:** R:\Share\Elec Doc Mgmt

**File Name:** ***PM.200.PRC.01-00 PROPERTY MANAGEMENT POLICIES AND PROCEDURES.docx***

**Approval**

**Signature**

**Date**

**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
mm/dd/yyyy					

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**1. PURPOSE**

The purpose of this document is to provide policies and procedures for the acquisition, management and disposal of EWEB real property and property rights, exclusive of improvements.

**2. SCOPE**

This procedure describes all aspects of Property Management responsibilities.

**3. TERMS AND ABBREVIATIONS**

- *Application Fee* – A fee based upon the administrative cost to create a permit, operational and surveyor costs and recordation fees.
- *Appraisal* – An opinion of value based upon factual analysis. An estimation of value by third party of suitable qualifications.
- *Condemnation* – The taking of private property for public use. Consent of the owner is not required but fair compensation must be paid.
- *Deed* – Any one of many conveyancing or financing instruments, but generally a conveyancing instrument, given to pass free title to property upon sale.
- *Easement* – A non-possessory interest held by one person in property of another where the first person is accorded partial use of the property for a specific purpose.
- *Easement Vacation/Termination* – To end or to cause to stop or end an approved easement. Merger, release, or abandonment are the three basic means by which easements are terminated.
- *Eminent Domain* – A governmental right to acquire private property for public use by condemnation, and the payment of just compensation.
- *Encroachment* – Generally, construction onto the property of another, as of a wall fence, building, etc.
- *Environmental Assessment* – A physical inspection of a site (land and improvements) to determine if environmental problems exist. Typically this is done prior to sell or lease to identify potential liability and risk associated with environmental degradation.
- *Integrated Vegetation Management* – A decision making process where you use mechanical, manual, biological and chemical control methods to manage vegetation and pests in a decision making hierarchy.

- *Lease* – An agreement by which an owner of real property (lessor) gives the right of possession to another (lessee), for a specified period of time (term) and for a specified consideration (rent).
- *Lease Value* – The monetary worth of a property, good or service to buyers and sellers at a given time. Typically determined through market value or appraisal methods.
- *Pending Litigation* – Either a civil lawsuit brought by a citizen or group of citizens against another person or group of person, or a criminal charge brought against someone by the government or the state, that have not been “heard” or “tried” yet.
- *Permit* – An official document giving permission to conduct specific activities (permitted actions) to someone (grantee) on property owned by the entity providing authorization (grantor) for a specified period of time (term). Permits are revocable at will.
- *Preliminary Title Report* – A report prepared prior to issuing a policy of title insurance that shows the ownership of a specific parcel of land, together with the liens and encumbrances thereon which will not be covered under a subsequent title insurance policy.
- *Public Notice* – An advertisement published to announce EWEB property proposed for disposal.
- *Surplus Declaration* – Properties that have been determined by staff to be of excess to the needs of EWEB and recommended for sale.
- *Tax Assessor’s Map* – An official document showing the locations and parcel identification numbers for all property located within an ad valorem (property) tax jurisdiction.
- *Title Report* – See Preliminary Title Report.

**4. RESPONSIBILITIES**

The Property Management Procedures, *PM.200.PRC.01-00*, describes the roles and responsibilities of how EWEB Departments work together for the acquisition, disposition, and management of EWEB property rights, easements, leases, and permits.

**5. PROPERTY ACQUISITION**

**Board Policy:** To ensure that facilities are available for the production and distribution of useable energy, water, and other products (i.e., telecommunications), EWEB will consider the purchase of fee property. The decision to purchase fee property rather than lesser rights, such as easements, shall be based on the extent of control necessary to adequately protect the utility system.

**Procedure:**

5.1 DETERMINATION OF NEED

A Manager or Supervisor may initiate the acquisition process. Departments may determine the need for additional property based upon approved facility plans and/or Capital Investment Plans, and deliver property selection criteria to Property Management. These criteria may include general location, size parameters, access requirements and elevation parameters if appropriate. Property Management will seek available property that meets the criteria or investigate properties identified by staff. Property Management will work with the requestor and appropriate staff to evaluate and rate the available properties and make recommendations for further investigation where appropriate. Once the requestor has made a final decision on the most desirable property, and subject to the application of ORS Ch. 35, the General Manager may authorize Property Management to complete acquisition. Property acquired through Eminent Domain requires a Board action.

5.2 TITLE REPORT

A Status of Record Title (SORT) report will be obtained during preliminary evaluation of property options for acquisition. A preliminary Title report will be ordered as part of the execution of the sale agreement for the property to be acquired.

5.3 SALE AGREEMENT/ENTRY PERMIT

Property Management will negotiate a Sale Agreement with the owner of the desired property that contains authorizations to conduct due diligence upon the property for environmental assessment, survey/engineering work, and other needed activities. A typical Sale Agreement will contain provisions related to determining purchase price.

Subject to requirements of ORS Chapter 35 in lieu of a Sale Agreement, Property Management may contact the owner of the desired property, explain EWEB's interest in the property and negotiate an entry permit if necessary. The entry permit may contain provisions for an environmental site assessment, fee appraisal and survey/engineering work depending on the specific situation.

5.4 ENVIRONMENTAL ASSESSMENT

The Environmental Management Department will manage consultants to provide environmental assessments for desired properties per applicable ASTM Standards. A written report of the Level 1 environmental assessment results will be sent to the requesting Manager and other appropriate staff with a copy sent to Property Management. If the report contains a recommendation for a Level 2 environmental assessment, the requesting Manager will make a determination whether to proceed with the Level 2 assessment or pursue another parcel. Should Level 3 work be required on the proposed site, the requesting Manager will make the decision in consultation with Environmental Management to either proceed with the work or pursue a different parcel. Environmental Management will provide a recommendation to the requesting Manager

how to proceed based on environmental liability and risk as determined by the environmental assessment.

**5.5 APPRAISALS**

Property Management will initiate a contract for the services of a state certified appraiser. The appraisal shall identify the parcel and property rights appraised, the valuation approach used, and state the fair market value of the property or property right being appraised. Supporting documentation shall be included. Property Management will review the appraisal for its completeness and competence. Property Management will contract with an alternate appraisal firm to complete a review appraisal to confirm that the appraisal has followed the appropriate process and that the value conclusion is well supported. Appraisal review may trigger need for conducting a second appraisal. All properties identified for acquisition will be appraised, except if value is estimated below \$10,000. Property Management may provide a Letter of Value in lieu of appraisal to estimate acquisition price if less than \$10,000.

**5.6 NEGOTIATIONS**

Negotiations will be performed by Property Management in consultation with the requesting Manager and other staff as appropriate. Eminent Domain may be used, however, when considered necessary and authorized by the Board.

If EWEB chooses to exercise its right of Eminent Domain through condemnation to acquire property for utility purposes, Property Management will obtain legal counsel to refine the process. In general, the process for condemnation includes the following:

1. Board Resolution to authorize proceedings and acquisition of property in accordance with ORS Ch. 35. The Board Resolution will include the requisite determination of need and public purpose.
2. Provide land owner 15-day notice to access property for appraisal, inspections and other appropriate activities.
3. Determine appropriate appraisal format based on type of property.
4. Make offer to land owner and provide 40-days to accept or reject offer.
5. If landowner rejects offer, File Action & Order of Possession.
6. Attempt to negotiate settlement terms with landowner.
7. Offer to compromise 10 days before trial date.
8. Other actions as necessary.

EWEB staff shall consider the following when determining an appropriate path toward acquisition through condemnation: a) relocation costs of occupants; b) practical need for lot line adjustments; c) keeping home site with agricultural zoning; d) value of mineral rights or environmental attributes which are separable from property ownership; and e) the timing and expense of condemnation process.



5.7 CLOSING

EWEB will obtain property by Warranty Deed unless a suitable alternative form of deed is approved by the Environmental Manager or General Manager for good cause shown. Title Insurance, in an amount equal to the purchase price of the property, will be obtained at the time of closing, usually to be paid for by the seller. When properties are acquired from the open market, closing costs should be split equally between buyer and seller. When EWEB acquires property from a property owner who did not already have the property for sale, closing cost may be paid by EWEB. Closing will be handled through a Title Company. Where a Title Insurance Policy provides adequate protection for EWEB's interests, the Title Companies may be exempted from Business Service Agreement requirements.

6. **PROPERTY MANAGEMENT**

**Board Policy:** EWEB's property shall be managed to comply with City, County, State and Federal ordinances, statutes, laws and EWEB's Charter, Mission and Statement of Legacy.

**Procedure:**

6.1 PROPERTY INVENTORY

EWEB Property Management will maintain a written or electronic inventory of all EWEB property. The inventory will be reviewed and updated periodically as needed and will include:

1. Tax Lot Number of Parcel
2. EWEB File Document Number
3. Size of Parcel
4. Present and Anticipated Future Use(s)
5. Last Field Inspection Date
6. Inspection Priority Status
7. Electronic Photo (optional)
8. Location
9. Zoning Code
10. Topography
11. Date Acquired
12. Environmental Conditions\*
13. Property Map/Boundary Surveys
14. Notes

\* Environmental Conditions will note such things as wetlands, Rare & Endangered plants, riparian zones, sensitive habitat, etc. when applicable.

6.2 PROPERTY INSPECTIONS

All EWEB property will be inspected regularly by surveyors and/or Property Management staff. EWEB properties under a FERC license agreement; appropriate staff will conduct inspections and maintenance per those license requirements. Parcels identified with a "HIGH" inspection priority will be visited within one year of such designation. Parcels known to be environmentally sensitive, have a higher frequency of unauthorized use, or have encroachment issues will be considered for "HIGH" inspection priority status. A parcel's inspection priority will be reviewed at the time of each inspection to verify and continue the designated priority or revise the priority for prospective action.

6.3 PROPERTY MAINTENANCE

EWEB will maintain its properties to support the present utility purpose and future needs taking into account reasonable financial and environmental stewardship:

6.3.1 EWEB will manage vegetation and appropriate landscaping per the Vegetation Management Plan developed for each property that takes into account operational needs, surrounding land use, and costs to perform activities. Property Management will coordinate with Environmental Vegetation Management Coordinator and the Right-of-Way Vegetation Management Supervisor to develop and update vegetation management plans for each property. EWEB will employ the Integrated Pest Management (IPM) in the maintenance of its lands. IPM involves recognizing the sensitivity to pesticides and acknowledging alternative methods to pest control and seeks a balance of environmental responsibility with economic reality (*Attachment A – Integrated Vegetation Management Plan 2011*).

6.3.2 Maintain all fencing, hardscaping, signage, and other features in working order in support of operational needs for the property and to attempt to mitigate adverse impacts to adjacent lands.

6.3.3 Maintain survey markers associated with properties to provide visible delineation of property boundaries.

6.3.4 Address illegal dumping and camping in a timely and consistent manner per EWEB's Illegal Camping Policy.

6.4 PERMIT GRANTING

EWEB may issue Entry or Encroachment Permits to document actions conditionally or permissively allowed on EWEB property, clarify expectations, and ensure activities are limited in scope and acceptable uses.

- 6.4.1 *Revocable Permits*: Revocable Permits are a hybrid of perpetual easements for other local government agencies and public utilities (e.g., City of Eugene, Springfield Utility Board). Revocable Permits are documents recorded at the County Deeds and Records and become public record (*Attachment B – Revocable Permit Templates*). A fee will be charged for Revocable Permits reflecting the cost of processing the permit and allow other charges to be billed (such as operational crew time or right of way agent time) (*Attachment C – EWEB Property Management Fee Schedule*).

In the event EWEB sells the property encumbered by the facility under a Revocable Permit, EWEB may: 1) revoke the permit requiring the facility to be relocated; 2) negotiate perpetual easement for the facility prior to sale; or 3) sell portion of property encumbered by the facility. Revocable Permit process is similar to easement granting (Section 6.5).

- 6.4.2 *Revocable Entry Permits*: Any public or private organization or individual shall seek prior permission from EWEB to enter upon EWEB property, dedicated easement, and/or right of way in the form of a Revocable Entry Permit. Revocable Entry Permits are granted for temporary permission to enter upon EWEB property in order to maintain adjacent property, deliver or remove materials from adjacent property, or other acceptable activities. Revocable Entry Permits are not necessary for non-vehicular pedestrian access associated with day-use recreation at EWEB properties posted for such activity. Property Management will issue Revocable Entry Permits using legal counsel reviewed templates (*Attachment D – Revocable Entry Permit Templates*). A fee will be charged for Entry Permits reflecting the cost of processing the permit and allow other charges to be billed (such as operational crew time or right of way agent time) (*Attachment C – EWEB Property Management Fee Schedule*).

All permitted uses will be described in writing, approved and signed by the Supervisor(s) representing the subject parcel(s). In some instances draft Entry Permits will require review by Risk Management and/or Environmental Management to develop terms and conditions addressing potential liabilities associated with the permitted use(s) prior to permit approval. Acceptable uses will meet each of the following conditions:

- a) Uses will not interfere with the function of the utility;
- b) Uses will not cause additional expense to the utility without adequate reimbursement;
- c) Uses must conform to zoning laws, statutes and ordinances;
- d) Uses will not cause deterioration or degradation of the property including any known environmental resources.

EWEB's issuance of any permit does not determine the lawfulness of the intended use by the permitted user. In all instances, the permitted user remains responsible for their actions and compliance with all federal, state and local laws.

6.4.3 *Water Use Agreement (Leaburg/Waltermville Canals)*: Historically, as a courtesy to property owners in the vicinity of the Leaburg and Waltermville Power Canals, EWEB has allowed the diversion of water from the power canals for irrigation purposes only (non-potable use). This practice continues at this time. The following procedures are required to allow current and future diversions to occur.

6.4.3.1 Requests to EWEB to divert water from either of the power canals will be routed to Property Management. Property Management will inform the potential irrigation water user that the following documentation is required to start the process:

1. Proof of applicable State of Oregon water right;
2. Proposed method to divert water from the power canal; and,
3. In the case of leased property, the lessee is required to provide a water right for the leased property, in addition to a copy of the signed lease.

Property Management will notify the Generation Manager, Hydro Generation Supervisor, and Generation Engineering Supervisor of the request. Generation Engineering will determine if the request for diversion can be granted under the circumstances and the location designated for diversion. Generation Engineering will report this information to Property Management for consideration whether to approve the proposed diversion.

6.4.3.2 If EWEB approves the request, Property Management will provide the requestor with two original Water Use Agreements for the requestor to review and sign, which shall incorporate EWEB drawing showing approved diversion station location and methods (*Attachment E – Water Use Agreement and current EWEB engineering standard, Drawing No. D-8834*). Property Management will also provide the requestor a letter that states:

1. Only installations as shown on EWEB current engineering standard (*Attachment E*) will be approved;
2. The irrigator shall follow the installation and posting requirements as noted on current EWEB engineering standard (*Attachment E*);
3. The irrigator's proposed method for diverting water from the canal shall be illustrated on a Professional Engineer stamped Installation Plan to be submitted to EWEB for approval. A materials list shall be included with the Installation Plan for approval;

4. No work on or near the canal will be allowed until an Installation Plan has been reviewed and approved by EWEB and proof of insurance provided per Water Use Agreement (*Attachment E*);
5. Installation shall be done by requestor with EWEB oversight of work on EWEB canal. EWEB will not sign the Water Use Agreement (*Attachment E*) until the diversion work has received a final inspection and acceptance by an EWEB engineer; and,
6. Failure to follow the requirements of the Water Use Agreement may result in immediate disconnection from the power canal.

6.4.3.3 Requestor shall be responsible for developing Professional Engineer stamped design as part of the Installation Plan using EWEB engineer standards (*Attachment E*). When received, Property Management will forward copies of the signed Water Use Agreement and proposed Installation Plan to the Generation Engineering Supervisor and request a review. Generation Engineering will review and either approve or reject the water users proposed Installation Plan to divert water from the power canal. The assigned engineer will notify Property Management of the engineer's approval or denial (with cause(s) for denial) of the diversion Installation Plan. Property Management will notify the water user of either design approval and establish a schedule for installation, or reasons for denial.

6.4.3.4 Once the request is approved and the irrigator notified, Generation Engineering will monitor the diversion installation and perform a final inspection with the Hydro Generation Supervisor for the Leaburg-Waltermville project. Generation Engineering will inform Property Management via e-mail of their approval of the final inspection.

6.4.3.5 With Generation Engineering's approved final inspection, the Generation Manager will review and sign the Water Use Agreement and return both signed copies to Property Management. Property Management will send one signed original agreement to the water user, the second original to EWEB's Library file, scan and add to Property Management GIS, and provide copies to Generation Manager, Generation Engineering Supervisor, and Hydro Generation Supervisor.

6.4.4 *Revocable Encroachment Permits*: It is the policy of EWEB that there shall be no unauthorized encroachments over, upon, across, above or below the surface of any portion of EWEB property, easement, and/or right-of-way. Where an undocumented encroachment already exists without a valid EWEB permit, the owner shall be required to remove the encroachment at his/her own expense, EWEB will send owner a letter by certified mail requiring removal of encroachment from EWEB property, easement and/or right-of-way within 30 days. After 30 days, if not resolved EWEB will remove encroachment and recover costs from offending party. If existing encroachment is permanent infrastructure (i.e., building, barn, shed, concrete/paved driveway) and determined by EWEB to not be curable, a temporary Revocable Encroachment Permit may be issued.

Property Management will use legal counsel reviewed templates for the issuance of any Revocable Encroachment Permits (*Attachment F – Revocable Encroachment Permit Templates*).

Encroachment Permits may be recorded in Lane County Deeds and Records at the discretion of Property Management in consultation with the Supervisor representing the subject parcel based on the nature of the encroachment. Encroachments involving landscaping, gardens or other vegetation will typically not be recorded in Lane County Deeds and Records. Encroachments involving structural improvements will typically be recorded in Lane County Deeds and Records. Recordation of the Encroachment Permit gives notice to potential Buyers of the existence of the encroachment that must be removed upon sale

Revocable Encroachment Permits shall contain the following terms and conditions:

- a) Grantor retains all property rights that existed prior to the granting of this permit. It is understood that this permit allows a limited encroachment for purposes specified above on the Grantor's property. In no way shall this permit be construed to allow any additional encroachment.
- b) No additional buildings or structures shall be constructed, placed or stored on the Grantor's property.
- c) Grantee agrees to keep the Grantor's property clear of storage and other obstructions except for those specifically approved herein. At no time shall the Grantee allow the permit area to become unsightly or violate any nuisance ordinance or applicable environmental or other law. At no time shall access be blocked to any utility facilities within the permit area.
- d) Grantee agrees to indemnify and hold harmless the Grantor from



any and all claims arising from or out of the use of said property by the Grantee or others.

- e) The Grantor may, with or without cause, revoke this permit with 90 days written notice to the Grantee.
- f) The Grantor intends to maintain its property as needed and reserves the right to do so including, but not limited to, mowing, clearing, and fencing etcetera.
- g) This permit is exclusive and personal to Grantee during his/her/its ownership of that above-referenced property located adjacent to the above-referenced Grantor property, and not to subsequent owners; it is neither transferrable nor perpetual. This permit shall terminate upon sale, transfer or conveyance of said Grantee's adjacent property. Grantee shall notify Grantor at its address noted below of the transfer of Grantee's said property at or prior to closing and the termination of this permit.
- h) Upon termination of this Permit, the Grantee agrees to remove all encroaching structures, fencing, gardening, landscaping, irrigation and other materials subject to this Permit at Grantee's sole expense within 30 days, except to the extent EWEB agrees, in writing, to allow specific encroachments to remain on Grantor's property. If the Grantee fails to remove unauthorized encroachments, EWEB will remove encroachments and Grantee agrees to reimburse Grantor for actual costs of removal per EWEB schedules.

Revocable Encroachment Permits shall carry with them the following fees (see *Attachment C – EWEB Fee Schedule*):

- a) An application fee based upon the administrative cost to create the permit, operational costs, and recordation fees. The application will also require EWEB Surveyors to create drawing as an exhibit that describes the location and nature of the encroachment with appropriate fees for Surveyor's time.
- b) A yearly fee for the use of EWEB property based on the actual area encumbered by the encroachment and the nature and/or severity of the encroachment. Legal review will guarantee this will not create a lease-hold estate and thus trigger a Landlord Tenant relationship.
- c) A fee to terminate the encroachment reflecting administrative cost to process the documents and recordation fees.

The above-described fees serve two purposes. First they will reflect the actual cost of staff time needed to handle these issues. Secondly, the fees serve as a disincentive to encroach on EWEB property.

In the event that the property owner rejects the Revocable Encroachment Permit, Property Management will issue written notice to the individual(s) responsible for the encroachment indicating EWEB's intent to pursue litigation for relief using legal counsel reviewed letter. Property Management will maintain and prioritize the list of encroachments pending litigation and select cases to move forward with based on available resources. It is expected that Property Management will move cases toward litigation within 180 days from issuance of intent to litigate letter. For cases moving to litigation, Property Management will consult with legal counsel to file suit to cure the encroachment.

#### 6.5 EASEMENT GRANTING

This involves EWEB granting easements to third parties to place facilities on EWEB property. In limited situations the General Manager may grant easements for specific uses over, upon, across, above or below the surface encumbering EWEB owned land providing those uses will not conflict with EWEB's present or future uses for the property.

Uses that are permanent in nature may be considered for easements. Property Management will develop an Easement Request Memorandum that provides a description of the request, background of the circumstances, issues related to the request, and staff recommendations on how to proceed (*Attachment G – Easement/Permit Request Memorandum Template*). The Memorandum is circulated for signature approvals by all Managers associated with the property under easement consideration and routed to the General Manager for final approval. The General Manager may grant an easement if all of the conditions stated above in Permit Granting (Section 6.4.2) are met.

#### 6.6 LEASE GRANTING

When a permanent easement is not appropriate EWEB may grant a lease. A lease is appropriate when the Lessee will profit, or generate revenue, from the use of the leased land or facilities.

##### 6.6.1 *Lease Request Process*

When an offer to lease a portion of EWEB property or facilities is received the following process will be followed:

- a) Property Management is notified and takes the lead to ensure consistency of lease conditions, terms, valuation, and establishing proper billing accounts.
- b) Obtain concurrence from Manager(s) and Supervisor(s) responsible for property that lease activities and terms will not interfere with EWEB operations or interests using the same criteria listed in Permit Granting (Section 6.4.2).
- c) Use legally reviewed lease agreement templates that establish terms



and conditions (*Attachment H – Lease Agreement Templates*).

#### 6.6.2 *Lease Approval*

Property Management staff will use legally reviewed lease agreement template (*Attachment H*). The Environmental Manager and Risk Manager will review all lease agreements prior to approval. The Manager representing the subject parcel will have final approval authority on the lease. Leases on joint-use property will be reviewed and approved by each Manager of the operational units potentially impacted by the lease. Once approvals are obtained from each Manager, the lease shall be subject to approval and execution by the General Manager or their designee will sign the lease as EWEB's authorized agent. Acceptable lease uses will meet the conditions detailed under "Permit Granting" in Section 6.4.2.

#### 6.6.3 *Terms of Lease*

The length of lease shall be no greater than five years, but may be renewable. Lease payments shall be due at the beginning of each month. Lease payments, at the discretion of the Lessee, may be paid annually in advance. Lessee must provide adequate liability insurance to protect EWEB. The amount of insurance will be determined by EWEB's Risk Manager.

#### 6.6.4 *Determination of Lease Value*

Property Management will be responsible for determining lease value in consultation with the Manager and/or Supervisor representing the subject parcel. Except grazing leases, lease values will generally be determined in consultation with a licensed real estate appraiser or broker. A minimum value for all leases will be set to cover administration expenses. Grazing leases may be exempted from all but the minimum value to cover administration expenses to EWEB in not having to mow the parcel to stay within vegetation requirements.

Lease consideration shall not be set below market value except when good cause is established for a lease to other government agencies and/or nonprofit organizations for use dedicated to public service and subject to approval from Manager representing the subject parcel(s).

## 7. PROPERTY DISPOSAL

**Board Policy:** The Board may declare any real property surplus. The decision to declare a parcel surplus will be based on current and future utility needs, land use and environmental considerations. The Board may direct staff to dispose of any properties declared surplus. Any properties disposed shall be disposed in accordance with applicable laws, statutes, ordinances and other Board policies.

**Procedure:**

7.1 STAFF REVIEW

Property Management will review all properties not currently used or slated to be abandoned in the near future. A list of parcels identified in the review will be routed to the all Managers to determine present and future needs for each parcel. Examples of needs include, but are not limited to:

1. Property for utility facilities such as water treatment and intake sites, substations, reservoirs, utility corridors and pump stations.
2. Land use and environmental considerations such as preservation and enhancement of water quality, increased utility setbacks or buffer strips for sight, sound and safety, trees and drainages (e.g. wildlife habitat and wetlands) where these uses are consistent with the utilities mission.
3. Uses that may otherwise assist the Board in implementing measures consistent with the utility's Mission, Vision and strategic directions.

The parcels that are determined by all Managers as not having a present or future need for utility purposes will be added to a Potential Surplus Property List that is maintained by Property Management.

7.2 SURPLUS DECLARATION

Those properties that have been determined by Staff to be excess to the needs of the utility and recommended for surplus designation by the Property Horizontal Team will be presented to the Board for a resolution declaring property surplus. Staff will provide conclusive findings in a Memorandum that demonstrates to the Board that such properties do not meet the utilities needs as described above. Board action declaring a parcel surplus may take place at any time. Actual disposal does not have to immediately follow Board action. Properties declared as surplus by Board resolution will be added to the Surplus Property List (*Attachment I – Board Surplus Designation Resolution Template*).

7.3 PRELIMINARY TITLE REPORT

Prior to any attempt to dispose of a surplus parcel, a preliminary Title Report will be ordered from a licensed Title company.

7.4 APPRAISAL

Prior to any attempt to dispose of a surplus parcel, an appraisal will be obtained. Refer to Section 5.5, Property Acquisition Appraisals, of this document for appraisal details.

7.5 CITY OF EUGENE NOTICE

After obtaining Board a surplus designation and prior to attempts to dispose of a surplus parcel, Staff will notify the Eugene City Manager, Attorney, and Executive Assistant in writing of the availability of the property pursuant to Eugene Code 2.196 (*Attachment J – City of Eugene Potential Surplus Letter Template*). If the City desires to obtain the property, the City Manager shall request negotiations within thirty (30) days of the notification.

After requesting negotiations, the City Manager and EWEB General Manager, or their representatives, have 90 days to negotiate an agreement to compensate the Board for the property to be transferred. Any agreed transfer to the City and compensation to the Board shall be completed within five (5) years from the date of the signed agreement.

The Board may dispose of the property by such means and terms as it deems appropriate if the City Manager, or the City Managers authorized representative, notifies EWEB in writing that the City is not interested in the property, fails to request negotiations within thirty (30) days of notification of availability of the property or if negotiation of the property transfer agreement is not completed within five (5) years of that notification.

7.6 NOTICE OF OTHER AGENCIES

If the City of Eugene declines the opportunity to obtain a parcel of surplus property, an opportunity may be afforded to other public agencies within whose boundaries the property lies, such as Lane County, City of Springfield and School Districts. The notified agencies will be given 30 days to respond. Those properties which receive no agency interest and are not immediately marketed will be added to a Surplus Property List, which will be maintained by the Property Management.

7.7 PUBLIC NOTICE

Advertisements announcing the proposed disposal of EWEB property shall be published within one week prior to the Board meeting for approval of property disposal and shall contain: tax lot number, legal description, size, location, zoning, EWEB's mailing address, Property Management's phone number, and time and place of Board meeting. The notice will be displayed in the Register Guard. The public notice and Board meeting shall comply with ORS. 221.725.

7.8 DISPOSAL OPTIONS

After the property has been declared surplus by the Board, a Title Report and appraisal have been obtained, and public notice issued for listing, Property Management will make a presentation to the Board. As part of that presentation, staff will recommend one of the following disposal options. The Board will select a disposal option and

approve a resolution directing staff to market the surplus property.

1. *Direct Sales*

Direct sales are straight forward transactions, exchanging land for dollars. Parcels for direct sale include whole parcels, minor partitions and/or lot line adjustments.

2. *Trades*

Trades of surplus property for property that can be used by the utility as provided by ORS 271.340. Appraisals shall conform to ORS 271.350.

3. *Donations (Disposal at less than Market Value)*

Donations of EWEB property shall be limited to other governmental agencies and non-profit organizations and shall conform to ORS 271.330 and ORS 271.350. Potential beneficiaries may include the City of Eugene, City of Springfield, Lane County, school districts and land trusts. Donation of property is allowed, providing the donation conforms to the Board's policy and is otherwise permitted by law.

7.9 MARKETING

When a particular parcel, or portion of a parcel, is to be marketed, Property Management will order a preliminary Title Report and an appraisal. When an independent fee appraiser is used, the same criteria established under Property Acquisition Section 5.5 will apply. If less than one year has elapsed since the property was declared surplus, the appraisal obtained at that time may be sufficient.

In order to maximize value, some parcels may require a planning action such as:

1. Re-Zoning
2. Reservation of an Easement
3. Formal Partition
4. Subdivision
5. Verification of Unit of Land/Legal Lot Status
6. Septic Approval
7. Installation of adequate water supply
8. Use of conservation easement or CCR to protect social and/or environmental values important to EWEB and/or the community.

Property Management may employ two different approaches to marketing properties for sale:

1. *Auction:* Use internal sources or hire an auction company to advertise property for sale. The ad will contain the location, size, zoning, physical description, Board approved minimum bid price of the parcel, and the last date bids will be accepted. If no bids are received at or above the minimum bid price, the Board may choose to accept or deny any and all bids received. Staff may accept, without additional Board

approval the highest acceptable bid over the minimum bid price established by the Board.

2. *Direct Sale:* EWEB will employ a local Real Estate Broker with expertise regarding the type of property to be sold to represent EWEB interests.

#### 7.10 CLOSING

Closing will be executed through a Title company. EWEB will pay for fifty percent (50%) of the closing costs as well as purchase Title insurance on the parcel sold. All sales will be fully payable at closing and there will be no mortgage terms. EWEB will not finance or “hold paper” on any property sold. Ten percent (10%) of the bid price in the form of a cashier’s check shall be submitted with the written sealed offer. The balance is due at closing.

### 8. **EASEMENT ACQUISITION**

**Board Policy:** Easements will be obtained for all EWEB facilities located on private and public property, exclusive of electric service lines for the property owner’s sole use.

**Procedure:**

#### 8.1 EWEB INITIATED EASEMENTS

EWEB initiated easements are those easements required for system improvements, road widening projects or other projects that are not a result of a request for service. EWEB staff requesting Property Management to acquire an easement shall follow the Easement Acquisition Procedure Manual (*Attachment K – Easement Acquisition Procedure Manual*). Staff will attempt to acquire the easement without monetary compensation to the property owner. Staff will notify EWEB's Financial Services of any easement compensation paid for proper IRS reporting.

#### 8.2 CUSTOMER INITIATED EASEMENTS

Customer initiated easements are those easements required due to a customer’s request for service. Staff will attempt to acquire the easement at no cost in an effort to keep facility extension costs reasonable. If the owner of the property over which the easement is requested insists on compensation, the property owner and the customer will be encouraged to work out a fair settlement without involving EWEB. Any costs incurred preparing and acquiring the easement plus EWEB overhead will be passed on to the customer as part of the facility extension costs.

#### 8.3 STRIP EASEMENTS

Strip easements are those easements of a consistent width that are adjacent and contiguous to a property line. Strip easement documents will be prepared by Property Management and reviewed by survey personnel per the Easement Acquisition

Procedure Manual (*Attachment K*).

#### 8.4 AS-BUILT EASEMENTS

As-built easements are those easements that are obtained after the facility, for which the easement is being obtained, has been installed. As-built easements require surveys and will be prepared by survey personnel and reviewed by Property Management per the Easement Acquisition Procedure Manual (*Attachment K*).

#### 8.5 EXHIBIT EASEMENTS

Exhibit easements may be obtained prior to the installation of the facilities. Exhibit easements do not require surveys but have attached exhibits showing details of the facility's intended location the Easement Acquisition Procedure Manual (*Attachment K*).

#### 8.6 EASEMENT TRACKING

Requests for easements will be coordinated and tracked by Property Management. Written requests for easements submitted to Property Management should include a Work Order, name of EWEB staff, Tax Assessor's Map with the requested easement indicated, and a copy of the job drawing or sketch. In an effort to save money, customers requesting service may request the opportunity to prepare the easements related to their project. EWEB will only allow customer prepared easements to be accomplished using Licensed Professional Surveyor and/or Attorney of Law representing the customer. Although this option is not preferred, blank easement forms will be provided to the customer's agent to prepare and obtain the necessary easements on behalf of their client. After the customer's agent has prepared the easement and before the easement has been signed by the property owner(s), the easement document shall be returned to Property Management for review. Once Property Management has approved the easement, the customer's agent will have the property owner(s) sign the document and have the signatures notarized. The easement document must be accepted by the appropriate EWEB Supervisor(s) or Manager(s) potentially affected by this action. The customer's agent will then properly record the document at the County Records Office, and return a copy of the fully executed and recorded easement to Property Management. Property Management will enter the recorded easement into EWEB's GIS system for tracking.

All easement documents will have an attached exhibit clarifying the intent of the easement.

## 9. **EASEMENT MANAGEMENT**

**Board Policy:** EWEB will provide customers with easement information when requested. EWEB may provide limited landscape maintenance within an easement only under certain circumstances.

**Procedure:**

9.1 CUSTOMER INQUIRES

9.1.1 *Easement Inquiries*

Property Management will provide EWEB easement information to anyone who requests it. All existing EWEB easements are recorded at the County Deeds and Records Office and are therefore public information. EWEB will not establish the physical location of an easement because this requires a survey.

9.1.2 *Vegetation Control*

EWEB will not normally provide landscape maintenance within easements. However, with approval of the Supervisor responsible for the subject facilities the easement protects, staff may provide limited landscape assistance under special circumstances. Staff may maintain clearance and access to its facilities by trimming vegetation away from electric or water facilities in accordance with EWEB's established environmental management procedures (*Attachment A – Integrated Vegetation Management Plan 2011*).

9.2 EASEMENT VACATION/TERMINATION

EWEB staff will recommend that the General Manager re-convey and vacate easements when no present or future utility use for the easement can be determined.

When a request for easement vacation has been received, Property Management will route the request along with applicable maps to the Supervisors and staff associated with the facilities potentially impacted by the action. With staff Supervisors concurrence, Property Management will prepare Resolution and Conveyance & Release documents for appropriate Leadership Team Manager approval before routing to the General Manager for final approval and signature.

9.3 EASEMENT ENCROACHMENTS

To protect EWEB easement rights, encroachments will be addressed as described in Property Management Section 6.4.4.

**10. PERMITS**

**Board Policy:** EWEB will obtain permits for temporary uses on private property and on City of Eugene property where easements are not available.

**Procedure:**

10.1 ENTRY PERMITS

Entry Permits are to be obtained prior to final design on projects requiring as-built



easements (*Attachment L – As-Built Easement Entry Permit Template*). Permits will allow for EWEB employees, contractors and assigns to enter upon private property to facilitate the installation of facilities and to survey facilities for the preparation of the final easement document. EWEB will agree to hold the property owner harmless from EWEB negligence and the property owner will agree to grant EWEB an easement once the document is prepared.

10.2 USE PERMITS

The City of Eugene and EWEB have agreed to grant each other Use Permits instead of easements.

10.3 RAILROAD PERMITS

When a Railroad Permit is required, EWEB Engineering staff will deliver to Property Management a sketch showing the exact location of the crossing and a detailed description of all facilities to be placed in the proposed crossing per Railroad Permit Procedure Manual (*Attachment M – Railroad Permit Procedure Manual*). This process must take place well in advance of the expected construction phase as the railroad companies frequently take in excess of three months to process an application. Railroads charge annual fees for all crossings. An attempt will be made to pay a larger, one-time, up-front charge so additional annual fees can be avoided.

**11. LEASES**

**Board Policy:** EWEB staff with Leadership Team Manager approval, may lease property for utility purposes when purchase of the property is not possible or in the best interest of EWEB.

**Procedure:**

Leases are not a preferred property right and should be avoided. However, in some Circumstances such as out-of-town office space, a lease is the only option. All lease agreements will be reviewed by Legal Counsel prior to execution. Leases shall conform to ORS. 271.360.

**12. REFERENCE DOCUMENTS**

12.1 [Attachment A – Integrated Vegetation Management Plan 2011](#)

12.2 [Attachment K - Easement Acquisition Procedure Manual](#)

12.3 [Attachment M – Railroad Permit Procedure Manual](#)



**13. ATTACHMENTS**

13.1 Attachment B – Revocable Permit Template



REVOCABLE PERMIT

Lane County Recording Sticker

BE IT KNOWN THAT the EUGENE WATER & ELECTRIC BOARD, an Oregon Corporation, Grantor is the owner of the following referenced real property in Lane County, Oregon to-wit:

That parcel of land conveyed to Grantor by that certain DEED, recorded on \_\_\_\_\_, as Instrument Number \_\_\_\_\_, Lane County Deeds and Records, Lane County, Oregon, and further described as EXHIBIT "A".

The undersigned, as Grantor, does hereby grant unto the \_\_\_\_\_, as Grantee, a Revocable Permit for Grantee's purposes to \_\_\_\_\_ that will be located on the above-referenced real property at \_\_\_\_\_. The scope of permitted use and geographic area subject to this Revocable Permit being more particularly described as follows:

\_\_\_\_\_ is more particularly shown on the attached Exhibit A.

The approximate location of the Permit area is shown on the attached Exhibit A.

Other than the agreements contained herein there is no consideration for this conveyance.

This Revocable Permit does not allow for the use of the property described in this document to be in violation of any law, applicable land use laws and regulations. At no time shall any temporary or permanent structure be erected or placed on said Permit area without the prior written consent of the Grantor.

Subject to the foregoing limitations, said Permit area may be used by the Grantee for limited purposes to \_\_\_\_\_. Grantee shall be required to notify EWEB at the earliest possible opportunity for \_\_\_\_\_ of the Permit area prior to conducting work. EWEB may require staff to be present during work. At no time shall the Grantee allow the Permit area to become unsightly or violate any nuisance ordinance. No trees shall be planted within the Permit area.

During the term of this Permit, Grantee's activities on and use of the Property shall be secondary to the needs of EWEB and will not interfere with EWEB operations. If at any time EWEB, at its sole discretion, defines a need to place a structure in the location of their facilities, Grantee will be required to vacate the property or move, at Grantee's expense, any materials conflicting with EWEB's use. Grantor will provide Grantee a \_\_\_-Day written notice for removal of facilities.

Grantee accepts and will use EWEB property "as is" and, in consideration for the permitted use, does release and discharge EWEB from any warranty of fitness or claim of premises liability. Grantee agrees to release, indemnify, and hold harmless Grantor and all employees and agents of EWEB against any and all damages, claims, demands, actions, causes of action, costs and expenses of whatsoever nature which may arise from Grantee's use and the maintenance of the land, or from damages arising out of acts or omissions or the tortuous acts of Grantee, its employees and agents.

TO HAVE AND TO HOLD the same unto the Grantee, the rights, conditions and provisions of this Revocable Permit shall not be assigned and the permitted rights do not run with the land.

IN WITNESS WHEREOF, the undersigned have executed this instrument the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

GRANTOR:

STATE OF OREGON )
COUNTY OF LANE )

On this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me personally appeared the within named Roger Gray, who did acknowledge that he is the General Manager of the EUGENE WATER & ELECTRIC BOARD, an Oregon Corporation, and that he has executed the within instrument freely and voluntarily and with the proper authority on behalf of the EUGENE WATER & ELECTRIC BOARD, an Oregon Corporation.

Notary Public - Oregon

13.2 Attachment C – Property Management Fee Schedule

PROPERTY MANAGEMENT ACTIVITY FEE SCHEDULE - Updated October 20, 2015				
Property Management Activity	Fee Amount	Fee Duration	Reason for Fee	Calculation of Fee
Revocable Permit	\$400	One-Time	Administrative costs for setup and recording with County	WAM Work Design No 150647 - Right-of-Way Agent time (average 4 hours); vehicle use (average 1 hour); recordation fee (average \$57)
Revocable Permit	\$225	As Needed	Operational costs for inspection and/or standby	WAM Work Design No 150649 - Line crew lead (average 2 hours); Crew vehicle (average 2 hours)
Revocable Entry Permit	\$345	One-Time	Administrative costs for setup and tracking	WAM Work Design No 150648 - Right-of-Way Agent time (average 4 hours); vehicle use (average 2 hours)
Revocable Entry Permit	\$225	As Needed	Operational costs for inspection and/or standby	WAM Work Design No 150649 - Line crew lead (average 2 hours); Crew vehicle (average 2 hours)
Revocable Encroachment Permit	\$940	One-Time	Administrative costs for setup, survey/mapping encroachment, and recording with County	WAM Work Design No 150650 - Right-of-Way Agent time (average 5.5 hours); vehicle use (average 1 hour); recordation fee (average \$57); Average 2.5 hours survey crew time; crew vehicle use (2.5 hours)
Revocable Encroachment Permit	\$335	Annual	Permit renewal fee including encroachment inspection	WAM Work Design No 150651 - Right-of-Way Agent time (average 4 hours); vehicle use (average 1 hour)
Revocable Encroachment Permit	\$390	One-Time	Administrative costs associated with termination of permit (vacation process)	WAM Work Design No 150652 - Right-of-Way Agent time (average 4 hours); vehicle use (average 1 hour); recordation fee for vacating (average \$57)

13.3 Attachment D – Revocable Entry Permit Template



Eugene Water & Electric Board

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

REVOCABLE ENTRY PERMIT

The Eugene Water & Electric Board (EWEB) hereby grants permission for
\_\_\_\_\_(Grantee), to enter upon EWEB's property known as the
\_\_\_\_\_, located at \_\_\_\_\_, and identified as on
Lane County Assessor's Tax Map 00-00-00-00 Tax Lot:00000, for the express purpose of
\_\_\_\_\_.

Grantee agrees to not: \_\_\_\_\_ EWEB covenants that
it has the right to grant this permission.

CONTRACTOR INFORMATION:

NAME:
Contact:
Address:
Phone:

License #
Bond #
Liability policy # \_\_\_\_\_ with Contractors Bonding & Insurance.

INSURANCE. \_\_\_\_\_ will carry during the Term of the entry permit, at its own
cost and expense, the following insurance: (i) commercial general liability insurance with a minimum limit of
liability of \$2,000,000 combined single limit for bodily injury or death/property damage arising out of any one
occurrence; and (ii) Workers' Compensation Insurance as required by Oregon law. The coverage afforded by
Tenant's commercial general liability insurance shall apply to EWEB as an additional insured.

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, for their approval prior to commencement of this agreement.
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.

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 Agreement.

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 by the Landlord.

Grantee shall not allow the EWEB property to become unsightly, make waste or damage the EWEB property in
any way, or that of its adjacent property owners. Nor shall they block the EWEB substation gate at any time,
other than turning the vehicle around. They shall not allow any other persons entry to the property that is not
listed on this permit.

[Provide specific description of actions (access, staging, etc.) allowed as part of entry permit and reference on
attached map/photo]

Upon finishing the project, Grantee shall restore the property to a condition as good as, or better than existed prior to Grantee's use. If EWEB provides clean-up or repairs after Grantee's use, Grantee shall promptly submit reimbursement for such costs to EWEB upon receipt of EWEB's notification.

Grantee covenants that it shall hold EWEB harmless from all liability arising from Grantees' use, or any of its employees, contractors, subcontractors, use of the EWEB Property.

This permission shall be in effect from \_\_\_\_\_ to \_\_\_\_\_ between the hours of \_\_\_\_\_.

This permit is not assignable, and shall be on site during entry.

Executed this \_\_\_\_ day of \_\_\_\_\_ 2015.

**Grantor: Eugene Water & Electric Board**

**Grantee: \_\_\_\_\_**

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

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

**Photos Next Page**  
**Equipment Staging within Red Shaded Area Below**





13.4 Attachment E – Water Use Agreement and EWEB Drawing No. D-8834

**WATER USE AGREEMENT****[LEABURG or WALTERVILLE] POWER CANAL**

THIS CONTRACT AND AGREEMENT, made and entered into by and between the Eugene Water & Electric Board, hereafter referred to as **EWEB**; and **Owner, Owner Address**, (Tax Map & Tax Lot # 00-00-00-00-00000), hereafter referred to as **Owner**;

## WITNESSETH

That **Owner** owns property adjacent to the **Leaburg Power Canal** Property owned by **EWEB**.

That **Owner** has obtained water rights in the McKenzie River for the purpose of irrigation of \_\_\_\_\_ acres (Certificate # \_\_\_\_\_). The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed \_\_\_\_\_ **CUBIC FEET PER SECOND**, measured at the point of diversion of water allocated from the McKenzie River.

That **EWEB** desires to accommodate **Owner** insofar as said withdrawal does not in any way interfere with the Leaburg or Walterville Power Canal or the operation or maintenance thereof, or in any rights or duties of **EWEB** under obligation to the public or to the State of Oregon.

Now, therefore, **EWEB** hereby grants to **Owner** permission to withdraw water from the Leaburg or Walterville Power Canal for above stated purposes only, in such amounts, in such a manner, and at such times as stated herein.

This agreement is on the express condition that **Owner** maintains from the State of Oregon a water right for irrigation in the McKenzie River for diversion at the intake of the Leaburg or Walterville Power Canal.

It is expressly agreed that **Owner** is at sufferance of EWEB's primary use of the canal, and Owner's allocation shall not be taken from or adversely affect the allotment of **EWEB's** water rights now or in the future.

**EWEB** makes no guarantee to **Owner** of continuity of supply or potability, it being expressly understood that **EWEB** may de-water the Leaburg or Walterville Power Canal at any time it deems necessary, and that the canal may be dewatered at times during the normal irrigation season for the purposes of maintenance without liability to Owner or water user.

The **Owner** shall provide **EWEB** a Professional Engineer stamped Installation Plan illustrating the proposed method for diverting water from the canal for **EWEB** approval. No work on or near the canal will be allowed until an Installation Plan has been reviewed and approved by **EWEB** and proof of insurance provided to **EWEB**. The coverage afforded by **Owner** or **Owner's** contractor general liability insurance shall apply to EWEB as an additional insured.

The installation of irrigation equipment for and by **Owner** shall be placed so as not to compromise the canal stability or interfere with the operation of the canal, and shall be installed only with the approval of Installation Plan by **EWEB** in writing, in such a manner as is set out in EXHIBIT "A" attached to and made part of this agreement. Installation shall be done by **Owner** with **EWEB** oversight of work on **EWEB** canal. **EWEB** will not sign the Water Use Agreement until the diversion work has received a final inspection and acceptance by a **EWEB** engineer. The approval of **EWEB** does not guaranty the design or installation of the irrigation equipment and **Owner** expressly does not rely upon **EWEB's** approval to warrant the proposed installation.

It is further agreed that this is a permissive use only and this agreement may be canceled at any time by **EWEB** upon 30 days written notice to **Owner**. Upon receiving said notice, **Owner** agrees to remove all his equipment from **EWEB** property, within said time, without damage to the canal.

**Owner** hereby assumes all liability by reason of its installation and operation and agrees to indemnify and hold harmless **EWEB**, its officers, agents and employees, from and against any and all claims, demands, losses, damages, causes of action, suits, and liabilities of every kind (including reasonable attorney's fees, court costs and other expenses related thereto) for injury to or death of a person or loss of or damage to any property arising out of or in connection with any work done, action taken or permitted by **Owner**, its subcontractors, agents or employees under this agreement. It is further agreed

that **EWEB** shall not be liable by reason of the failure of **Owner** to obtain water at any time, it being understood that **EWEB** is entering into this agreement as an accommodation to **Owner** and that **Owner** cannot rely on the withdrawal of any quantity of water at any given time. It can be expected that there will be some interruption in the water supply due to changes in the operating schedule and/or maintenance schedule of the power facility.

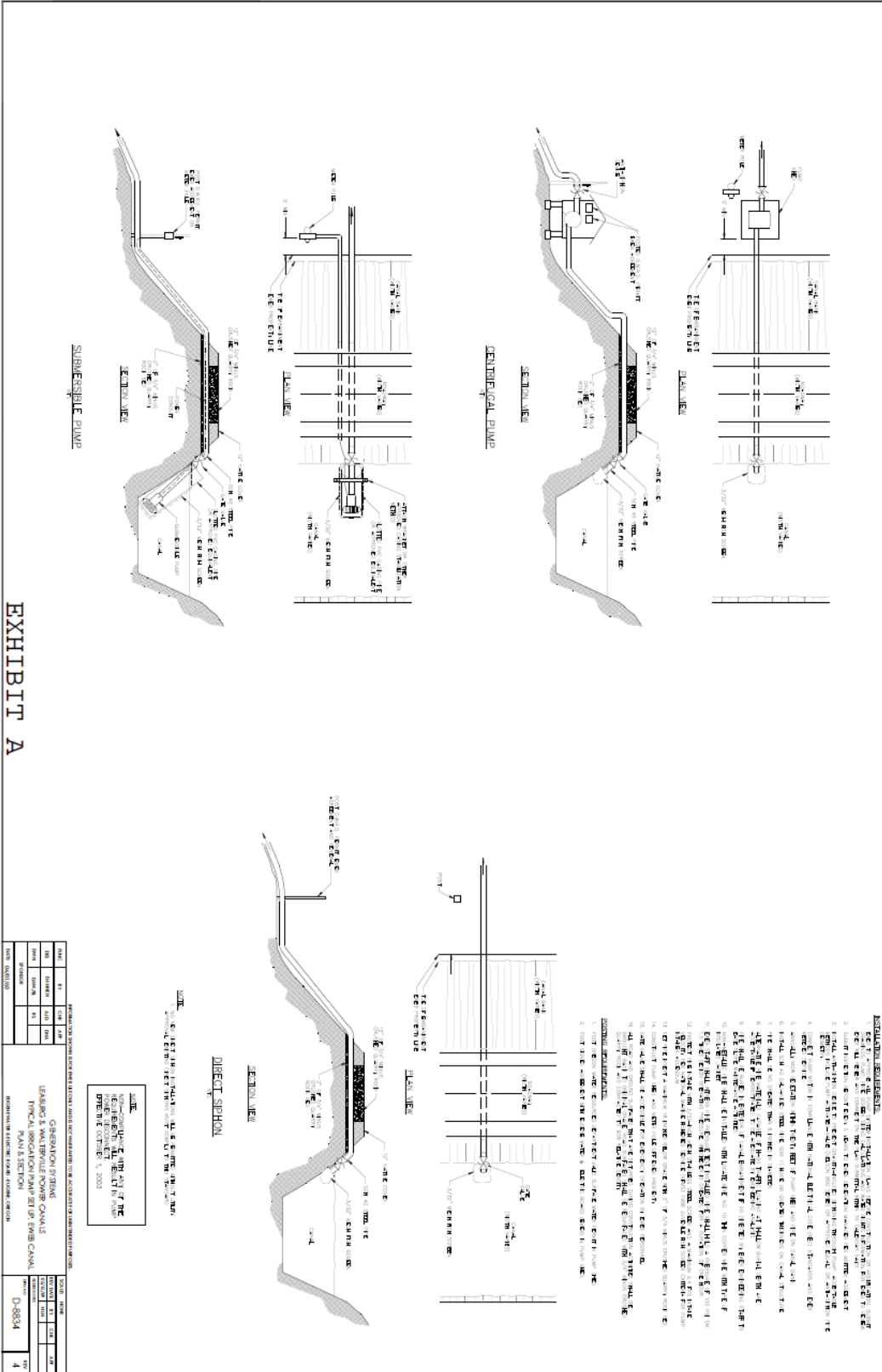
This is a personal agreement with **Owner**, and shall not run with the land, and this agreement cannot be assigned without the written consent of **EWEB**.

IN WITNESS WHEREOF, **EWEB** has caused these presents to be executed by its officers thereunto duly authorized, by **Mike McCann**, signed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Eugene Water & Electric Board

By: \_\_\_\_\_  
**Generation Manager**

By: \_\_\_\_\_ Water User  
**Owner**



13.5 Attachment F – Revocable Encroachment Permit Recorded

Lane County Recording Sticker

REVOCABLE ENCROACHMENT PERMIT

The City of Eugene, a municipal corporation, by and through the Eugene Water & Electric Board hereinafter referred to as the Grantor, hereby grants unto (Name of Business or Property Owner), hereinafter referred to as the Grantee, a Revocable Encroachment Permit for the specific purpose of (identify the purposes) on that property conveyed to the Grantor by that certain \_\_\_\_\_ and recorded on \_\_\_\_\_, as Instrument Number \_\_\_\_\_, Lane County Deeds and Records, Lane County, Oregon.

The Grantee owns property adjacent to the Grantor's above-referenced property. Grantee's property is further described as: (legal description)

This permit is granted with the following terms and conditions:

1. Grantor retains all property rights that existed prior to the granting of this permit. It is understood that this permit allows an encroachment for purposes specified above on the Grantor's property. In no way shall this permit be construed to allow any additional encroachment.
2. No additional building or structure shall be constructed, placed or stored on the Grantor's property.
3. Grantee agrees to pay Grantor's one-time administration fee of \$\_\_\_\_\_ and an annual renewal fee of \$\_\_\_\_\_ to maintain valid permit status. Nonpayment will lead to permit being immediately voided and requirement of Grantee to remove encroachment at Grantee's expense.
4. Grantee agrees to keep the Grantor's property clear of storage and other obstructions except for those specifically approved herein. At no time shall the Grantee allow the permit area to become unsightly or used in any way resulting in violation of any applicable law, code, rule or regulation. At no time shall EWEB access be blocked to any utility property or facilities within the permit area.
5. Grantee agrees to carry insurance of \$\_\_\_\_\_ and name EWEB as additional insured and to indemnify and hold harmless the Grantor from any and all claims arising from or out of the permitted encroachment of said property by the Grantee or others under this Permit.
6. The Grantor may, with or without cause, revoke this permit with 90 days written notice to the Grantee at the address noted below.
7. This permit is personal to Grantee during his/her/their ownership of that above-referenced property located adjacent to the above-referenced Grantor property, does not run with any land and is not assignable; it is not perpetual. Grantee shall disclose the existence of this non-transferrable permit to all potential buyers of said Grantee's property. This Permit is not intended to benefit any third party, nor is it to be construed to do so.
8. This permit shall terminate upon sale, transfer or conveyance of said Grantee's adjacent property. Grantee shall notify Grantor at its address noted below of the transfer of Grantee's said property at or prior to closing and the termination of this permit.
9. The Grantor intends to maintain its property as needed and reserves the right to do so including, but not limited to, mowing, clearing, and fencing etcetera.
10. Upon termination of this Permit, the Grantee agrees to remove all encroaching structures, fencing, gardening, landscaping, irrigation and other materials subject to this Permit at Grantee's sole expense within 30 days, except to the extent EWEB agrees, in writing, to allow specific encroachments to remain on Grantor's property. If the Grantee fails to remove unauthorized encroachments, EWEB will remove encroachments and Grantee agrees to reimburse Grantor for actual costs of removal per EWEB schedules.
11. The parties hereby agree that this Permit is solely for purposes of documenting an encroachment and is neither intended to, nor should it be construed to, constitute a lease or rental subject to Oregon Residential Landlord and Tenant Act.

By signing this document the undersigned Grantee acknowledges their understanding and acceptance of all the rights, terms and conditions stated above.

IN WITNESS WHEREOF, the undersigned have executed this instrument the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

GRANTEE: *Name of Business or Property Owner*

By: \_\_\_\_\_  
Printed Name and Title: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_

STATE OF OREGON    )  
                                  ) *(use this notary block for a person; change block for a business entity)*  
COUNTY OF LANE    )

On this \_\_\_\_ day of \_\_\_\_\_, 201\_\_, before me personally appeared the within named known to me to be the identical individual described herein and who executed the within instrument freely and voluntarily.



\_\_\_\_\_  
Notary Public - Oregon  
(Acknowledgment of Grantor on next page)

GRANTOR: Eugene Water & Electric Board

By     Steve Newcomb Property Manager  
       Eugene Water & Electric Board  
       500 E. 4<sup>th</sup> Avenue  
       Eugene, OR 97401

STATE OF OREGON    )  
                                  )  
COUNTY OF LANE    )

On this \_\_\_\_ day of \_\_\_\_\_, 2014, before me personally appeared the within named Steve Newcomb who did acknowledge that he is the **Property Manager** of the Eugene Water & Electric Board and that he has executed the within instrument freely and voluntarily and with the proper authority on behalf of the Eugene Water & Electric Board.



\_\_\_\_\_  
Notary Public - Oregon

13.6 Attachment G – Easement Permit Request Memorandum





# INTEROFFICE MEMO

EUGENE WATER & ELECTRIC BOARD  
PROPERTY MANAGEMENT



TO: [Managers associated with Property]

CC: [Associated Supervisors]

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

**14. FROM: LORI PRICE, RIGHT-OF-WAY AGENT**

14.1 RE: Easement/Permit Request Memorandum

**Request:**

*[Summarize request for need of easement/permit, requestor, location, type of activity, timing and duration of activity, length of need for permit or easement, etc.]*

**EWEB Facilities Effected:**

EWEB owns property on Map#: \_\_\_\_\_ Lot#: \_\_\_\_\_. Please see attached aerial photo of the proposed locations for *[activities to be conducted]* and *[details of how property is impacted or encumbered]*.

**Issues:**

*[Describe potential issues with EWEB operations, access, etc.]*

**Recommendation:**

Staff recommends \_\_\_\_\_.

Please provide your signature below as your approval for this *[activity]* Easement/Permit.

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

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

[Facilities Supervisor]  
EWEB Facilities

Steve Newcomb  
EWEB Environmental Manager

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

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

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

[Affected Managers associated with Property]

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

13.7 Attachment H – Land Lease Agreement

## LAND LEASE AGREEMENT

THIS LEASE AGREEMENT ("**Agreement**"), dated as of the latter of the signature dates below ("**Effective Date**"), is entered into by the Eugene Water & Electric Board, a Municipal Corporation, having a mailing address of P.O. Box 10148, Eugene, OR 97440 (hereinafter referred to as "**Landlord**") and \_\_\_\_\_, (hereinafter referred to as "**Tenant**").

### BACKGROUND

Landlord owns or controls that certain plot, parcel or tract of land, together with all rights and privileges arising in connection therewith, located at \_\_\_\_\_, identified as Tax Lot \_\_\_\_\_ on Lane County Assessor's Map # \_\_\_\_\_, Eugene, in the County of Lane, State of Oregon (collectively, the "**Property**"). Tenant desires to use the Property for vehicular parking only for the Tenant's employees and authorized construction personnel. Landlord desires to grant to Tenant the right to use the Property in accordance with this Agreement.

### TERMS

The Parties agree as follows:

1. **LEASE OF PROPERTY.** Landlord leases to Tenant the Property containing approximately \_\_\_\_\_ acres, commonly referred to as \_\_\_\_\_, and described on attached **Exhibit A**, together with unrestricted access for Tenant's uses from the nearest public right-of-way along the Property as described on the attached **Exhibits A and B**.
2. **PERMITTED USE.** Tenant may use the property for \_\_\_\_\_. Any required permits shall be the responsibility of the Tenant.

The Tenant further agrees that the leased property shall [1] not be used beyond any rated capacity; [2] shall not be used for any illegal purpose; [3] shall not be used in any manner for which it was not designed, built, or designated; [4] will not be used in a negligent manner; and [5] will not be operated by any other person without the written permission of the Owner.

All building and/or materials placed on the Property by tenant shall be removed upon termination of Agreement and the Property will be returned in condition as it was upon execution of this agreement. If Landlord provides clean-up or repairs after Tenant's use, Tenant shall promptly submit reimbursement for such costs to Landlord upon receipt of Landlord's notification.

Tenant agrees to comply with all applicable federal, state, and local laws, rules, statutes and regulations, relating to its use of the Property. Any and all contractors hired by Tenant to perform services on Property shall be considered agents of Tenant and shall be licensed, bonded and insured as required by the State of Oregon. No tenant improvements (other than the above described) shall be made without Landlord's written consent.

3. **TERM.** The lease term will begin \_\_\_\_\_. The Landlord agrees to rent the above-described property to the Tenant on a Month-to Month tenancy beginning in \_\_\_\_\_. Renter agrees to pay the full rent for \_\_\_\_\_ upon execution of this agreement.

4. **RENT.** Tenant will pay Landlord a monthly rental of \_\_\_\_\_ \$\$ ("Rent") at the address set forth above, on or before the 1st day of each calendar month in advance. For the first partial month commencing on the Effective Date, Tenant will pay Landlord the full monthly amount for the partial month's rent at the Rent Commencement Date. Each calendar month thereafter Tenant shall pay \_\_\_\_\_ rental on the 1st day of each month. Rent will be considered late on the 5<sup>th</sup> of each month. Late payments shall be charged a late fee of 3 percent. The rent shall be prorated for any partial month at the end of the lease term.

5. **APPROVALS.** Landlord agrees that Tenant's ability to use the Property is contingent upon the suitability of the Property for Tenant's Permitted Use and Tenant's ability to obtain and maintain all governmental licenses, permits, approvals or other relief required of or deemed necessary or

appropriate by Landlord for Tenants use of the Property, including without limitation, applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits (collectively, the "**Government Approvals**"). Landlord authorizes Tenant to prepare, execute and file all required applications to obtain Governmental Approvals for Tenant's Permitted Use under this Agreement and agrees to not unreasonably object to Tenant's effort with such applications and with obtaining and maintaining the Government Approvals.

**6. TERMINATION.** This Agreement may be terminated, without penalty or further liability, as follows:

- (a) by Landlord on thirty (30) days prior written notice for no reason and without cause.
- (b) by Tenant upon thirty (30) days prior written notice to Landlord for any reason.

**7. INSURANCE.**

Tenant will carry during the Term, at its own cost and expense, the following insurance: (i) "All Risk" property insurance for its property's replacement cost; (ii) commercial general liability insurance with a minimum limit of liability of \$2,000,000 combined single limit for bodily injury or death/property damage arising out of any one occurrence; and (iii) Workers' Compensation Insurance as required by Oregon law. The coverage afforded by Tenant's commercial general liability insurance shall apply to Landlord as an additional insured.

**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.

**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.

**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.

**8. INDEMNIFICATION.**

(a) Subject to the limitations of the Oregon Tort Claims Act, Landlord shall defend, save, hold harmless, and indemnify EWEB, its officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of, or relating to the activities of Tenant or its officers, employees, subcontractors, or agents under this Agreement.

(b) Notwithstanding anything to the contrary in this Agreement, Tenant and Landlord each waives any claims that each may have against the other with respect to consequential, incidental or special damages.

**9. WARRANTIES.** Landlord represents and warrants that Landlord solely owns the Property in fee simple, or controls the Property by lease or license; and the Property is not encumbered by any liens, restrictions, mortgages, covenants, conditions, easements, leases, or any other agreements of record or not of record, which would adversely affect Tenant's Use and enjoyment of the Property under this Agreement.

**10. ENVIRONMENTAL.**

(a) Landlord and Tenant agree that each will be responsible for their individual compliance with any and all environmental and industrial hygiene laws, including any regulations, guidelines,

standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene condition or other matters as may now or at any time hereafter be in effect, that are now or were related to that party's activity conducted in or on the Property.

(b) Tenant agrees to hold Landlord harmless and indemnify the Landlord from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of Tenant for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is related to (i) Tenant's failure to comply with any environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or matters as may now or hereafter be in effect, or (ii) any environmental or industrial hygiene conditions that arise out of or are in any way related to the condition of the Property and activities conducted by the Tenant thereon.

(c) The tenant agrees not to bring hazardous substances, as defined in Oregon Revised Statutes chapter 465, onto the Property other than those normally contained in motor vehicles. The tenant agrees not to wash, clean, or repair any vehicles or equipment on the Property.

(d) The indemnifications of this Paragraph 10 Environmental specifically include reasonable costs, expenses and fees incurred in connection with any investigation of Property conditions or any clean-up, remediation, removal or restoration work required by any governmental authority. The provisions of this Paragraph 10 Environmental will survive the expiration or termination of this Agreement.

(e) In the event Tenant becomes aware of any hazardous materials on the Property, or any environmental or industrial hygiene condition or matter relating to the Property, Tenant will immediately notify Landlord. If the hazardous materials or environmental condition, in Tenant's sole determination, renders the condition of the Property unsuitable for Tenant's use, or if Tenant believes that the leasing or continued leasing of the Property would expose Tenant to undue risks of government action, intervention or third-party liability, Tenant will have the right to terminate the Agreement upon a 30-days prior written notice to Landlord.

**11. ACCESS.** At all times throughout the Term of this Agreement, and at no additional charge to Tenant, Tenant and its employees, agents, and subcontractors, will have twenty-four (24) hour per day, seven (7) days per week pedestrian and vehicular access to and over the Property, from an open and improved public road to the Property, for Tenant's use. Landlord grants to Tenant permission for such access. The Tenant agrees to access the premises only from the existing sliding gate from East 8<sup>th</sup> Avenue. Said gate shall be double-padlocked with both Owner and Tenant locks, and Tenant shall not in any way impede or obstruct access to EWEB personnel who have a business need to enter the premises.

Any and all liability for property damage or personal injury caused by Tenant's contractors or other agents shall remain the Tenant's liability and responsibility. Landlord shall not accrue any liability or expense for actions of the Tenant, its employees, officers, contractors, agents, or any other party associated with Tenant's access, egress, or use of the Property.

**12. REMOVAL/RESTORATION.** All property brought onto the Property by Tenant will be and remain Tenant's personal property and, at Tenant's option, may be removed by Tenant at any time during the Term. Allowable personal property is set out in Section 2 Permitted Use. Within two weeks (14 days) of the termination of this Agreement, Tenant will remove all of Tenant's improvements and Tenant will, to the extent reasonable, restore the Property to its condition at the commencement of the Agreement, reasonable wear and tear and loss by casualty or other causes beyond Tenant's control excepted.

**13. MAINTENANCE/UTILITIES.**

(a) Tenant will keep and maintain the Property in good condition and in compliance with current vegetation codes, reasonable wear and tear and damage from the elements excepted. Tenant agrees not to disturb the asphalt cover. The new temporary perimeter fence should be constructed in a manner that does not require penetration of the asphalt cover. The access road to

the Property is a county-owned roadway. If Lane County assesses Landlord for unusual wear and tear to the county roadway due to tenant’s use, Tenant shall be responsible for payment of such assessment(s).

(b) No utilities are provided to the Tenant under this agreement.

**14. DEFAULT AND RIGHT TO CURE.**

(a) The following will be deemed a default by Tenant and a breach of this Agreement: (i) non-payment of Rent if such Rent remains unpaid for more than thirty (30) days; or (ii) Tenant's failure to perform any other term or condition under this Agreement within forty-five (45) days after receipt of written notice from Landlord to remedy the failure. No such failure, however, will be deemed to exist if Tenant has commenced to cure such default within such period and provided that such efforts are prosecuted to completion with reasonable diligence. Delay in curing a 45-day default will be excused if due to causes beyond the reasonable control of Tenant. If Tenant remains in default beyond any applicable cure period, Landlord will have the right to exercise any and all rights and remedies available to it under law and equity.

(b) The following will be deemed a default by Landlord and a breach of this Agreement: Landlord's failure to perform any term, condition or breach of any warranty or covenant under this Agreement within forty-five (45) days after receipt of written notice from Tenant specifying the failure. No such failure, however, will be deemed to exist if Landlord has commenced to cure the default within such period and provided such efforts are prosecuted to completion with reasonable diligence. Delay in curing a 45-day default will be excused if due to causes beyond the reasonable control of Landlord. If Landlord remains in default beyond any applicable cure period, Tenant will have the right to exercise any and all rights available to it under law and equity.

**15. ASSIGNMENT/SUBLEASE.** Tenant shall not assign this Agreement or sublease the Property, in whole or in part, without the written consent of Landlord.

**16. NOTICES.** All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notices will be addressed to the parties as follows:

If to Tenant:

If to Landlord: Eugene Water & Electric Board  
Attn: Steven Newcomb, Environmental Manager  
P.O. Box 10148  
Eugene, OR 97401

Either party hereto may change the place for the giving of notice to it by thirty (30) days prior written notice to the other as provided herein.

**17. SEVERABILITY.** If any term or condition of this Agreement is found unenforceable, the remaining terms and conditions will remain binding upon the parties as though said unenforceable provision were not contained herein. However, if the invalid, illegal or unenforceable provision materially affects this Agreement then the Agreement may be terminated by either party on ten (10) business day’s prior written notice to the other party hereto.

**18. CONDEMNATION.** In the event Landlord receives notification of any condemnation proceedings affecting the Property, Landlord will provide notice of the proceeding to Tenant within forty-eight (48) hours. If a condemning authority takes all of the Property, or a portion sufficient in Tenant’s sole determination, to render the Property unsuitable for Tenant, this Agreement will terminate as of the date the title vests in the condemning authority. The parties will each be entitled to pursue their own separate awards in the condemnation proceeds, provided that any award to Tenant will not diminish Landlord’s recovery of any damages caused by Tenant.



**19. CASUALTY.** Landlord, if having knowledge of a casualty, will provide notice to Tenant of any casualty affecting the Property within forty-eight (48) hours of the casualty. If any part of the Property is damaged by fire or other casualty so as to render the Property unsuitable, then Tenant may terminate this Agreement by providing written notice to the Landlord, which termination will be effective as of the date of written notice of such damage or destruction.

**20. SALE, LEASE, OR USE OF PROPERTY.** If Landlord, at any time during the Term of this Agreement, decides to sell, subdivide or rezone any of the Property, all or any part of the Property, to a purchaser other than Tenant, Landlord shall promptly notify Tenant in writing, and such sale, subdivision or rezoning shall be subject to this Agreement and Tenant's rights hereunder. Landlord shall provide Tenant an executed assignment of Landlord's rights and delegation of duties to the new owner.

Landlord shall not be prohibited from the selling, leasing or using any of the Property for whatever use Landlord desires. In the event the Property is transferred, the new landlord shall have a duty at the time of such transfer to provide Tenant with a completed IRS Form W-9, or its equivalent, and other related paper work to affect a transfer in Rent to the new landlord.

**21. MISCELLANEOUS.**

(a) **Amendment/Waiver.** This Agreement cannot be amended, modified or revised unless done in writing and signed by an authorized agent of the Landlord and an authorized agent of the Tenant. No provision may be waived except in a writing signed by both parties.

(b) **Memorandum/Short Form Lease.** Either party will, at any time, upon fifteen (15) business day prior written notice from the other, execute, acknowledge and deliver to the other a recordable Memorandum or Short Form of Lease. Either party may record this Memorandum or Short Form of Lease at any time, in its absolute discretion. The party who records this Memorandum or Short Form of Lease will provide a recorded copy to the other party.

(c) **Bind and Benefit.** The terms and conditions contained in this Agreement will run with the Property and bind and inure to the benefit of the parties, their respective heirs, executors, administrators, successors and assigns.

(d) **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.

(e) **Interpretation.** Unless otherwise specified, the following rules of construction and interpretation apply: (i) captions are for convenience and reference only and in no way define or limit the construction of the terms and conditions hereof; (ii) use of the term "including" will be interpreted to mean "including but not limited to"; (iii) whenever a party's consent is required under this Agreement, except as otherwise stated in the Agreement or as same may be duplicative, such consent will not be unreasonably withheld, conditioned or delayed; (iv) exhibits are an integral part of the Agreement and are incorporated by reference into this Agreement; (v) use of the terms "termination" or "expiration" are interchangeable; and (vi) reference to a default will take into consideration any applicable notice, grace and cure periods.

(f) **No Electronic Signature/No Option.** The submission of this Agreement to any party for examination or consideration does not constitute an offer, reservation of or option for the Property based on the terms set forth herein. This Agreement will become effective as a binding Agreement only upon the handwritten legal execution, acknowledgment and delivery hereof by Landlord and Tenant.

(g) **Legal Rights Retained.** Notwithstanding the individual obligations herein, the Parties reserve all their individual rights in law or in equity to pursue any legal action available to them.

(h) **Capacity of Parties.** Tenant and Landlord each acknowledge and represent that it is duly organized, validly existing, and in good standing; and has the right, power and authority to enter into this Agreement and bind itself hereto through the party set forth as signatory for the party below.

(i) **Entire Agreement.** This Agreement and the exhibits attached hereto, all being a part hereof, constitute the entire agreement of the parties hereto and will supersede all prior offers, negotiations and agreements with each other with respect to the subject matter of this Agreement.

The parties have caused this Agreement to be effective as of the last date written below.

**“LANDLORD”**

**“TENANT”**

Eugene Water & Electric Board  
A Municipal Corporation

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

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

Print Name: Steven Newcomb  
Its: Environmental Manager

Print Name:  
Its:

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

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



EXHIBIT A

DESCRIPTION OF PROPERTY

To the Agreement dated \_\_\_\_\_, by and between Eugene Water & Electric Board, a Municipal Corporation, as **Landlord**, and \_\_\_\_\_, as **Tenant**.

Landlord owns certain real property identified as Tax Lot \_\_\_\_\_ on Lane County Assessor's Map # \_\_\_\_\_, a portion of which is aforementioned and referred to as the "Property."

Tenant leases a portion of said real estate described and/or depicted as follows:

A parcel of land situated in Section \_\_\_\_\_, Township \_\_\_\_\_ South, Range \_\_\_\_\_ West of the Willamette Meridian, Lane County, Oregon, being a part of that land described by that \_\_\_\_\_, recorded on \_\_\_\_\_, as Instrument \_\_\_\_\_, REEL \_\_\_\_\_R, Lane County OFFICIAL Records, Lane County, Oregon.

Map here



See ariel Photo EXHIBIT B which Follows Next Page for specific boundaries

**EXHIBIT B**

13.7 Attachment I – Board Surplus Resolution Template

RESOLUTION \_\_\_\_\_  
[DATE]

**RESOLUTION DECLARING SURPLUS  
FOR CERTAIN REAL PROPERTY NO LONGER NEEDED FOR UTILITY PURPOSES  
EUGENE WATER & ELECTRIC BOARD**

**WHEREAS**, EWEB holds title to approximately \_\_\_\_\_ acres of \_\_\_\_\_ property in the name of the City of Eugene, for the use and benefit of Eugene Water & Electric Board;

**WHEREAS**, approximately \_\_\_\_ acres represented in Exhibit A are no longer needed for utility purposes;

**WHEREAS**, Eugene Code, Section 2.195 provides:

"The Water Board [EWEB] shall have entire control of the water and electric utilities of the city, and all property connected therewith";

**WHEREAS**, *[describe any master planning or other planning processes associated with property, land use changes, transition to development for other purposes, current zoning and City or other agencies working with around planning, rezoning, etc.]*.

**NOW, THEREFORE, BE IT RESOLVED** by the Eugene Water & Electric Board that:

- (i) The EWEB Board does hereby declare surplus the area represented in Exhibit A– the exact boundaries of which shall be determined at a later date, and
- (ii) Instructs the General Manager to notify the City Manager of the opportunity to obtain the property for municipal purposes as provided by Eugene Code 2.196 not later than ninety (90) days from the execution of this resolution.

Adopted at a meeting of the Eugene Water & Electric Board on \_\_\_\_\_.

THE CITY OF EUGENE, OREGON  
Acting by and through the  
EUGENE WATER & ELECTRIC BOARD

\_\_\_\_\_  
President

I, ANNE KAH the duly appointed, qualified and acting Assistant Secretary of the Eugene Water & Electric Board, do hereby certify that the above is a true and exact copy of the Resolution adopted by the Board at its \_\_\_\_\_ Regular Board Meeting.

\_\_\_\_\_  
Assistant Secretary

13.8 Attachment J - Notice of Surplus – City of Eugene



**Eugene Water & Electric Board**

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

[DATE]

Notice of availability of property not needed for utility purposes,

Parcel description:

\_\_\_\_\_, Lane County Oregon Plat Records, in Lane County, Oregon.

Mr. Jon Ruiz,

This letter serves as notification to the Eugene City Manager pursuant to Eugene Code 2.196 that the parcel described above and more commonly known as \_\_\_\_\_ is no longer needed for utility purposes by the Eugene Water and Electric Board.

Should the City of Eugene desire to negotiate for purchase of the above described parcel for municipal purposes, notice must be delivered to EWEB General Manager within 30 days of the date of this letter.

In the interest of timely disposition of EWEB property, if it is clear the City has no interest in the parcel, EWEB requests immediate notification of the lack of interest.

If notice is not delivered as described above within 30 days from date of this letter, EWEB will seek disposition of the property without further claim of interest by the City of Eugene.

Respectfully,

Roger Gray  
General Manager  
EWEB

Cc: Anne Kah, COE Executive Assistant, Glenn Klein (City Attorney), Eric DeFreest (EWEB Attorney)

13.9 Attachment L – As-Built Easement Entry Permit Template

UTILITY EASEMENT

Not to be recorded

BE IT KNOWN, THAT \_\_\_\_\_ the Grantor herein does hereby covenant that the Grantor is the owner of the following referenced real property in Lane County, Oregon to-wit:

That parcel of land conveyed to Grantor by that certain \_\_\_\_\_ recorded on \_\_\_\_\_, as Instrument Number \_\_\_\_\_, Lane County Deeds and Records, Lane County, Oregon.

The undersigned, as Grantor, does hereby grant unto the CITY OF EUGENE, LANE COUNTY, OREGON, by and through the EUGENE WATER & ELECTRIC BOARD, 500 E. 4th Avenue, Eugene, Oregon 97401 (EWEB), as Grantee, a perpetual easement for utility purposes to construct, maintain and repair, remove and replace utility facilities over, under, across, and upon the above-referenced real property along the route and location as actually constructed and installed. Said easement being more particularly described as follows:

The easement area will be determined once facilities are installed. Legal description shall be created by surveyors and approved by grantor as per this draft. This document shall not be recorded but once final easement document is drafted this document shall be void and the final easement recorded at Lane County Deeds & Records.

It is the intent of this easement to cover the EWEB facilities as actually constructed and installed. The approximate location of the above-described easement area is shown on the attached Exhibit A.

Other than the agreements herein contained there is no consideration for this conveyance.

The Grantor herein acknowledges that any and all equipment or replacement thereof, installed in or upon said real property by said Grantee, shall remain the sole property of said Grantee and may be removed from said real property at any time at the discretion of Grantee.

The Grantee and its joint users with whom it contracts shall at all times have the rights and privileges therein necessary for the full enjoyment and use thereof for the purpose above described, including the right of ingress and egress across the real property of the Grantors over the most convenient and practical route. Grantee shall have rights to trim trees and shrubbery as needed for installation and maintenance of said utility facilities. Grantee agrees to return the easement area to the condition that existed prior to Grantee's work.

At no time shall any structures or signs be erected or placed on said easement area without prior written consent of the Grantee. Subject to the foregoing limitations said easement area may be used by the Grantor for any purpose not inconsistent with said easement.

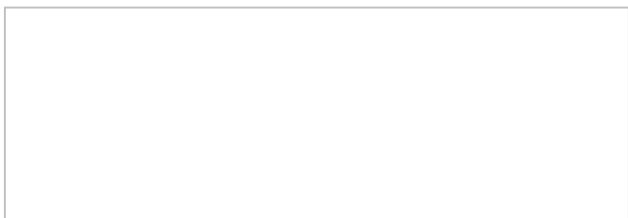
TO HAVE AND TO HOLD the same unto the Grantee, its successors and assigns forever; and the rights, conditions and provisions of this easement shall inure to the benefit of and be binding upon the heirs, executors, administrators, successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the undersigned have executed this instrument the \_\_\_\_ day of \_\_\_\_\_, 2014.

GRANTOR:

STATE OF OREGON )
COUNTY OF LANE )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me personally appeared the within named known to me to be the identical individual described herein and who executed the within instrument freely and voluntarily.



Notary Public - Oregon



**RESOLUTION NO. 1532  
NOVEMBER 2015**

**EUGENE WATER & ELECTRIC BOARD  
RESOLUTION APPROVING REVISION TO  
REAL PROPERTY POLICIES**

**WHEREAS**, The Eugene Water & Electric Board (EWEB) periodically reviews, revises and updates Board Policies for consistency, legality, correctness and to reflect actual practices evolving as continual improvement;

**WHEREAS**, The Board Policy SD14 – having been presented at the November 3, 2015 Regular Board Meeting and revised as follows:

1. Modifications to language in Real Property Policy (SD-14) to update Property Acquisition, Easement Acquisition, and Leases;
2. Implementation of this policy through adoption of Property Management Procedures, PM.200.PRC.01-00, effective November 4, 2015.

**NOW THEREFORE, BE IT RESOLVED**, that the Eugene Water & Electric Board does hereby resolve to adopt the revisions of Real Property Policy (SD-14) as so revised.

DATED this 3rd day of November, 2015.

THE CITY OF EUGENE, OREGON  
Acting by and through the  
Eugene Water & Electric Board

\_\_\_\_\_  
President

I, ANNE KAH, the duly appointed, qualified and acting Assistant Secretary of the Eugene Water & Electric Board, do hereby certify that the above is true and exact copy of the Resolution adopted by the Board in its November 3, 2015 Regular Board Meeting.

\_\_\_\_\_  
Assistant Secretary



TO: Commissioners Mital, Simpson, Helgeson, Manning and Brown  
FROM: Anne Kah, Executive Assistant  
DATE: October 20, 2015  
SUBJECT: Board Meeting Minutes  
OBJECTIVE: Board Action

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### **Issue**

Eugene Water & Electric Board of Commissioners meeting minutes contain a detailed account of actions taken, as well as discussions. A significant amount of time is required for the Minutes Recorder to transcribe this level of detail for the official written minutes. In addition, a considerable amount of time is consumed by all five commissioners, General Manager and Assistant Secretary to review the minutes prior to Board approval. EWEB staff is looking for opportunities to increase efficiency and reduce costs while still providing a level of service that meets ORS Public Meeting Law requirements.

### **Background**

EWEB has an agreement with the Lane Council of Governments (LCOG) for minutes-recording services. The annual cost is approximately \$6,000, based on the assumption of one board meeting per month. The current hourly rate is \$40.95.

An excerpt from [ORS 192.650](#) states that:

“The governing body of a public body shall provide for the sound, video or digital recording or the taking of written minutes of all its meetings. Neither a full transcript nor a full recording of the meeting is required, except as otherwise provided by law, but the written minutes or recording must give a true reflection of the matters discussed at the meeting and the views of the participants.”

The statute further explains that minutes must reflect the names of Board members present; all motions, proposals, resolutions, orders, ordinances and measures proposed and their disposition; the results of all votes and the vote of each member by name; the substance of any discussion on any matter; and a reference to any document discussed at the meeting.

### **Discussion**

Management believes that efficiencies can be gained by reducing the content of written minutes to focus on motions and actions taken, rather than what was said and by whom. If the Board approves

of this change, the abbreviated written minutes shall be supplemented with full audio recordings to guarantee that all requirements of ORS 192.650 are met, as well as provide a complete account of the meeting that may be called upon as necessary. This proposed format for written minutes will require far less time to transcribe; staff believes that minutes recordings may eventually be accomplished using internal resources. Staff will collaborate with Commissioners to create a template that is acceptable to the Board and which will provide consistency of the meeting minutes.

A transition period will be needed to implement the revised procedure. Meanwhile, staff wishes to continue to use LCOG services for minutes recording, and rely on the expertise of its staff to provide minutes that meet the new guidelines. Successful implementation is expected in the first quarter of 2016; at that time, Management will make a determination as to whether this service should be brought in-house or retained as a contracted service.

The current [eweb.org](http://eweb.org) platform does not readily support audio files. Therefore, audio recordings will be available to the public upon request, in the near term. However, Public Affairs is on track to implement a modern, “cloud-based” content management system for the external web site, which will provide for the addition of enhanced features, including audio. The new web-platform project is expected to be complete in Q2 2016. Once the new website is fully operational in 2016, interested parties will have access to Board Meeting audio recordings via a link on the Board Agenda webpage for a period of one-year, after that time, the recordings will be archived and available upon request.

## **Recommendation**

Management recommends adoption of action-oriented minutes supplemented by full audio recordings for regular EWEB Board meetings. The proposed format shall include actions that are noted briefly to reflect actions taken, rather than a full account of what was said by Commissioners and staff.

Minutes will include:

- Place and time of the meeting
- Board members present and, if relevant, absences
- The fact that a quorum was preset
- Text of all main motions and their disposition (passed, failed, postponed, etc.)
- If amendments were made, the final version of the motion as amended
- The results of all votes and the vote of each member
- Any points of order that were made and their resolution
- Public Comment will be noted with the speaker's name and topic of their remarks
- Public Hearings will be noted with the speaker's name and a brief summary of the content of the speaker's remarks.

All other requirements of ORS 192.650 will be fulfilled by full audio recordings.

This proposed change will have no impact to the existing format of Executive Session minutes

## **Requested Board Action**

Management requests that the Board approve the proposal for action minutes as described herein. If there are any questions or if more information is needed, please contact Anne Kah, Executive Assistant 541-685-7191 or [anne.kah@eweb.org](mailto:anne.kah@eweb.org).