Division 1: Definitions

The following are definitions applicable to the EWEB Public Contracting Rules (also referred to as the Rules, EWEB Rules or Public Contracting Rules). These definitions apply unless the context or a specifically applicable definition require otherwise, or unless inconsistent with or contrary to statute, including, but not limited to, ORS chapters 279A, 279B, and 279C, or unless inconsistent with or contrary to EWEB Public Contracting Rules. Words in bold print within each definition are also defined in this section.

“Addendum” or “Addenda” means an addition or deletion to, a material change in, or general interest explanation of a Solicitation Document. Addenda shall be labeled as such and distributed to all interested Persons in accordance with these EWEB Rules.

“Adequate” for purposes of ORS 279C.305(3)(a) and Rule 5-0120(2), means plans and specifications and the estimated unit cost of each classification of work sufficient to control the performance of the work and to ensure satisfactory quality of construction by EWEB personnel. (ORS 279C.305(3)(a))

“Administering contracting agency” means a contracting agency that solicits and establishes the original contract for procurement of goods, services or public improvements in a cooperative procurement. (See ORS 279A.200(a))

"Advantageous" means in EWEB’s best interests, as assessed according to the judgment of EWEB.

“Affected Person” or “Affected Offeror” means a Person whose ability to participate in a Procurement is adversely affected by a decision by EWEB.

“Affirmative action” means a program designed to ensure equal opportunity in employment and business for persons otherwise disadvantaged by reason of race, color, religion, sex, national origin, age or physical disability. (See ORS 279A.100(1))

“Amendment,” for purposes of a Public Improvement Contract, means a written modification to the terms and conditions of a Public Improvement Contract, other than a Change Order, within the general scope of the original procurement that requires mutual agreement between EWEB and the contractor.

“Architect” means a person who is registered and holds a valid certificate in the practice of architecture in the State of Oregon, as provided under ORS 671.010 to 671.220, and includes without limitation the terms “architect,” “licensed architect,” and “registered architect.” (See ORS 279C.100(1))
“Architectural, engineering, photogrammetric mapping, transportation planning and land surveying services” or “Architectural, engineering, photogrammetric mapping, transportation planning or land surveying services” means professional services that are required to be performed by an architect, engineer, photogrammetrist, transportation planner or land surveyor. (See ORS 279C.100(2))

“Award” means the identification of the Person with whom EWEB will enter into a Contract.

“Bidder” means a person that submits a bid in response to an invitation to bid. (279A.010(a)). “Bidder” includes a person who submits a proposal to EWEB pursuant to a request for proposals. (See ORS 279B.415(1))

“Bid” or “Bids” means a competitive Offer(s) or Proposal(s), binding on the Bidder and submitted in response to an Invitation to Bid or Request for Proposals, respectively. (See ORS 279C.400(3))

“Board” means the Eugene Water & Electric Board of Commissioners (see also EWEB Contract Review Board).

“Brand name” means a brand name specification. (See ORS 279B.405(1)(a); 279B.200(2))

“Brand name or equal specification” means a specification that uses one or more manufacturers’ names, makes, catalog numbers or similar identifying characteristics to describe the standard of quality, performance, functionality or other characteristics needed to meet EWEB’s requirements and that authorizes bidders or proposers to offer goods or services that are equivalent or superior to those named or described in the specification. (See ORS 279B.200(1))

“Brand name specification” means a specification limited to one or more products, brand names, makes, manufacturer’s names, catalog numbers or similar identifying characteristics. (See ORS 279B.200(2))

“Business Enterprise Certification” (BEC) is the certification accorded to Disadvantaged, Women, Minority and Emerging Small Business Enterprises as authorized under ORS 200.005 to 200.200.

“Business Enterprise Certification “BEC” Disqualification, means a disqualification pursuant to ORS 200.065 or 200.075, and Rule 5-0370(1)(b).

“Change Order” means a written order issued by EWEB to the contractor requiring a change in the work within the general scope of a Public Contract or Public Improvement Contract and issued under its changes provisions in administering the Contract. It includes the EWEB’s written change directives as well as changes reflected in a writing executed by the parties to the Contract and, if applicable, adjusting the Contract Price or contract time for the changed work.

“Local Contract Review Board” or “Contract Review Board” for EWEB means the Eugene Water & Electric Board of Commissioners (see also “Board”).

“Closing” means the date and time announced in the Solicitation Document as the deadline for submitting Offers or Proposals.

“Code” means the Public Contracting Code, ORS chapters 279A, 279B and 279C. (See ORS
“Conduct Disqualification” means a Disqualification pursuant to ORS 279C.440, and Rule 5-0370(1)(a).

“Consultant,” for purposes of EWEB Rules, Division 4, means an architect, engineer, photogrammetrist, transportation planner, land surveyor, or provider of related services. A Consultant includes a business entity that employs Architects, Engineers, Photogrammetrists, Transportation Planners, Land Surveyors, or providers of related services, or any combination of the foregoing. Provided, however, when entering into a direct Contract under 4-0200(c), the “Consultant” must be an Architect, Engineer, Photogrammetrist, Transportation Planner or Land Surveyor as required by ORS 279C.115(1).

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

“Contracting agency” means a public body, such as EWEB, authorized by law to conduct a procurement or otherwise engage in public contracting. “Contracting agency” includes, but is not limited to, the Director of the Oregon Department of Administrative Services and any person authorized by a contracting agency to conduct a procurement on the contracting agency’s behalf. “Contracting agency” does not include the judicial department or the legislative department. (See ORS 279A.010(1)(b))

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

“Contract Price” means the total maximum payments that EWEB is required to make under a Contract.

“Contract-specific special procurement,” means a contracting procedure that is for the purpose of entering into a single contract or a number of related contracts for the acquisition of specified goods or services on a one-time basis or for a single project.” (See ORS 279B.085(1)(b))

“Cooperative procurement” means a procurement conducted by or on behalf of one or more contracting agencies, and includes, but is not limited to, multiparty contracts and price agreements. (See ORS 279A.200(1)(b))

“Cooperative procurement group” means a group of contracting agencies joined through an intergovernmental agreement for the purposes of facilitating cooperative procurements. (See ORS 279A.200(1)(c))

“Cost Estimate” means, for purposes of EWEB Rules, Division 5, EWEB’s most recent pre-Bid, good faith assessment of anticipated Contract costs, consisting either of an estimate of an architect, engineer or other qualified professional, or confidential cost calculation Worksheets, where available, and otherwise consisting of formal planning or budgetary documents.

“Days,” except as otherwise provided, means calendar days. (See ORS 279A.010(1)(c))

“Descriptive Literature” means the Offeror’s materials submitted to provide information concerning the products or services available in response to the Solicitation Document.

“Disqualification,” for purposes of EWEB Rules, Division 5, means the preclusion, by
disqualification, debarment or suspension, of a Person from contracting with EWEB for a period of time in accordance with Rule 5-0370, and any other applicable statutes and rules. Disqualification includes Conduct Disqualification, Business Enterprise Certification “BEC” Disqualification, or Discrimination Disqualification.

“Electronic Advertisement” means Electronic Advertisement for Offers available over EWEB’s Purchasing Internet site (via The World Wide Web).

“Emergency” means circumstances that:

(A) Could not have been reasonably foreseen;

(B) Create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health, welfare or safety; and

(C) Require prompt execution of a contract to remedy the condition. (See ORS 279A.010((1)(f))

“Energy savings performance contract” means a public contract between a contracting agency, such as EWEB, and a qualified energy service company for the identification, evaluation, recommendation, design and construction of energy conservation measures, including a design-build contract, that guarantee energy savings or performance. (See ORS 279A.010(1)(g)) (see ORS279C.335 (1)(e)) (see ORS279A.065(2))

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

“Estimated Fee” means EWEB’s reasonably projected fee to be paid for a Consultant’s services under the anticipated Contract, excluding all anticipated reimbursable or other non-professional fee expenses. The Estimated Fee is used solely to determine the applicable Contract solicitation method and is distinct from the total amount payable under the Contract.

“EWEB” means the Eugene Water & Electric Board or any persons to whom EWEB has delegated its public contracting authority.

“EWEB Public Contracting Rules” or “Rules,” or “EWEB Rules” or “Public Contracting Rules” mean these Rules, Divisions 1-6, as amended.

“Executive Department” means, subject to ORS 174.108, all statewide elected officers other than judges, and all boards, commissions, departments, divisions and other entities, without regard to the designation given to those entities, that are within the executive department of government as described in Section 1, Article III of the Oregon Constitution, and that are not in the judicial department or legislative department, not local governments and not special government bodies. (See ORS 279A.010(1)(h); 174.112)

“Facsimile” means a document that has been transmitted to and received by EWEB in a format that is capable of being received via a device commonly known as a facsimile machine (e.g. a Facsimile Bid). A facsimile machine allows hard copy documents (Written, typed or drawn material) to be sent over telephone lines and printed in another location.

Findings,” with respect to public improvement competitive bidding exemptions, mean the justification for EWEB’s conclusion regarding exemptions that includes, but is not limited to, information regarding operational, budget and financial data; public benefits; value engineering; specialized expertise required; public safety; market conditions; technical complexity; and funding sources. (See ORS 279C.330)
“Foreign Contractor” means a Contractor that is not domiciled in or registered to do business in the state of Oregon. See Rule 5-0490.

“Good cause,” for purposes of substituting an undisclosed first tier subcontractor in a public improvement contract, means “good cause” as defined by rule by the Construction Contractors Board, which reflects the least-cost policy for public improvements, and includes but is not limited to the financial instability of a subcontractor. (See ORS 279C.585(9)) Otherwise, “good cause” means any rational basis as determined in the sole discretion of EWEB, in accordance with the Public Contracting Code and the EWEB Rules.

“Goods” includes products that have associated or incidental service components, such as supplier warranty obligations or maintenance service programs. (See ORS 279B.115(1))

“Goods and services” or “Goods or services” means supplies, equipment, materials and services other than personal services designated under ORS 279A.055 and any personal property, including any tangible, intangible and intellectual property and rights and licenses in relation thereto, that EWEB or another contracting agency is authorized by law to procure. (See ORS 279B.005(1)(a))

“Grant,” when used as a noun, means:
(A) An agreement under which EWEB or another contracting agency receives moneys, property or other assistance, including but not limited to federal assistance that is characterized as a grant by federal law or regulations, loans, loan guarantees, credit enhancements, gifts, bequests, commodities or other assets, from a grantor for the purpose of supporting or stimulating a program or activity of the contracting agency and in which no substantial involvement by the grantor is anticipated in the program or activity other than involvement associated with monitoring compliance with the grant conditions; or

(B) An agreement under which EWEB or another contracting agency provides moneys, property or other assistance, including but not limited to federal assistance that is characterized as a grant by federal law or regulations, loans, loan guarantees, credit enhancements, gifts, bequests, commodities or other assets, to a recipient for the purpose of supporting or stimulating a program or activity of the recipient and in which no substantial involvement by the contracting agency is anticipated in the program or activity other than involvement associated with monitoring compliance with the grant conditions. “Grant” does not include a public contract for a public improvement, for public works, or for emergency work, minor alterations or ordinary repair or maintenance necessary to preserve a public improvement, when under the public contract a contracting agency pays, in consideration for contract performance intended to realize or to support the realization of the purposes for which grant funds were provided to the contracting agency, moneys that the contracting agency has received under a grant. (See ORS 279A.010(1)(i))

“Interstate cooperative procurement” means a permissive cooperative procurement in which the administering contracting agency is a governmental body, domestic or foreign, that is authorized under the governmental body’s laws, rules or regulations to enter into public contracts and in which one or more of the participating agencies are located outside this state. (See ORS 279A.200(1)(d))

“Invitation to bid” or “ITB” means, except to the extent otherwise defined in the Code or EWEB Rules, all documents, whether attached or incorporated by reference, used for soliciting Bids or requesting Proposals, in accordance with the Public Contracting Code, and these Rules.
“Joint cooperative procurement” means a cooperative procurement in which the participating contracting agencies or the cooperative procurement group and the agencies’ or group’s contract requirements or estimated contract requirements for price agreements are identified. (See ORS 279A.200(1)(e))

“Labor dispute” includes any controversy concerning terms or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment, regardless of whether or not the disputants stand in the proximate relation of employer and employee. (See ORS 279C.650; 662.010(1))

“Land surveyor” means a person who is registered and holds a valid certificate in the practice of land surveying in the State of Oregon, as provided under ORS 672.002 to 672.325, and includes all terms listed in ORS 672.002(2). (See ORS 279C.100(4))

“Local contracting agency” means a local government or special government body authorized by law to conduct a procurement. “Local contracting agency” includes any person authorized by a local contracting agency to conduct a procurement on behalf of the local contracting agency. (See ORS 279A.010(1)(n))

“Local government” means, subject to ORS 174.108, all cities, counties and local service districts located in Oregon, and all administrative subdivisions of those cities, counties and local service districts. (See ORS 279A.010(1)(o); 174.116(1)(a) and (b))

“Lowest responsible bidder” means the lowest bidder who:
(A) Has substantially complied with all prescribed public contracting procedures and requirements;
(B) Has met the applicable standards of responsibility;
(C) Has not been debarred or disqualified by EWEB; and
(D) If the advertised contract is a public improvement contract, is not on the list created by the Construction Contractors Board under ORS 701.227. (See ORS 279A.010(1)(p))

“Most Qualified Consultant,” for purposes of EWEB Rules, Division 4, means an Architect, Engineer, Photogrammetrist, Transportation Planner, Land Surveyor, or provider of Related Services whose qualifications, pricing, availability, and approach best meets the requirements of the work and whose offer is most advantageous to the utility. The determination of “most qualified” shall be in EWEB’s sole judgment and at EWEB’s sole discretion.

“Nonresident bidder” means a bidder who is not a resident bidder. (See ORS 279A.120(1)(a))

“Notice” means any form of public announcement, as required or allowed pursuant to the Public Contracting Code and/or the EWEB Rules.

“Offer” or “Offers” means a response(s) to a Solicitation Document.

“Offeror” means a Person who submits an Offer.

“Opening” means the date, time and place announced in the Solicitation Document for the public Opening of Written sealed Offers, Bids, or Proposals.
“Original contract” for purposes of cooperative procurement means the initial contract or price agreement solicited and awarded during a cooperative procurement by an administering contracting agency. (See ORS 279A.200(1)(f))

“Other options,” for purposes of Rule 5-0430, means those items generally considered appropriate for negotiation in the RFP process, relating to the details of Contract performance as specified in Rule 5-0650, but excluding any material requirements previously announced in the Solicitation process that would likely affect the field of competition.

“Permissive cooperative procurement” means a cooperative procurement in which the purchasing contracting agencies are not identified. (See ORS 279A.200(1)(g))

“Person” or “Persons” means a natural person(s) capable of being legally bound, a sole proprietorship, a corporation, a partnership, a limited liability company or partnership, a limited partnership, a for-profit or nonprofit unincorporated association, a business trust, two or more persons having a joint or common economic interest, any other person with legal capacity to contract or a public body. (See ORS 279A.010(1)(r)) “Person” or “Persons” includes an individual, limited liability entity, association, joint venture, governmental agency, and public corporation. For purposes of required conditions in construction contracts, unless the context requires otherwise, “Person” or “Persons” includes the State Accident Insurance Fund and the Department of Revenue. (See ORS 279C.500) For purposes of the determination of the prevailing rate of wage, “Person” or “Persons” includes any employer, labor organization or any official representative of an employee or employer association. (279C.815(1))

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

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

“Prevailing rate of wage” means the rate of hourly wage, including all fringe benefits, paid in the locality to the majority of workers employed on projects of similar character in the same trade or occupation, as determined by the Commissioner of the Bureau of Labor and Industries, pursuant to ORS 279C.800(3). (See ORS 279C.800(3))

“Photogrammetric Mapping” has the meaning given that term in ORS 672.002.

“Photogrammetrist” has the meaning given that term in ORS 672.002.

“Price agreement” means a public contract for the procurement of goods or services at a set price with:
(A) No guarantee of a minimum or maximum purchase; or
(B) An initial order or minimum purchase combined with a continuing contractor obligation to provide goods or services in which EWEB or another contracting agency does not guarantee a minimum or maximum additional purchase. (See ORS 279A.010(1)(v))

“Procurement” means the act of purchasing, leasing, renting or otherwise acquiring goods or services. “Procurement” includes each function and procedure undertaken or required to be undertaken by a contracting agency to enter into a public contract, administer a public contract and obtain the performance of a public contract under the Public Contracting Code. (See ORS 279A.010(1)(u))

“Product Sample” means a representative specimen of the item offered by the Offeror in response to the Solicitation Document. Unless otherwise provided in the Solicitation Document, the Product Sample shall be the exact product or a representative portion of that product offered by the Offeror.

“Project,” for purposes of EWEB Rules, Division 4, means, depending on the context, a public improvement and/or all components of EWEB’s planned undertaking that give rise to the need for a Consultant’s Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, or Related Services under a Contract.

“Proposal” or “Proposals” means a competitive Offer(s) submitted in response to a Request for Proposals (RFP).

“Proposer” means a person, including a Consultant, that submits a proposal to EWEB in response to a request for proposals. (See ORS 279A.010(1)(v))

“Public body” means, subject to ORS 174.108, state government bodies, local government bodies and special government bodies. (See ORS 279A.010(1)(w); 174.109)

“Public contract” means a sale or other disposal, or a purchase, lease, rental or other acquisition, by a contracting agency of personal property, services, including personal services, public improvements, public works, minor alterations, or ordinary repair or maintenance necessary to preserve a public improvement. “Public contract” does not include grants. (See ORS 279A.010(1)(x))

“Public contracting” means procurement activities described in the Public Contracting Code relating to obtaining, modifying or administering public contracts or price agreements. (See ORS 279A.010(1)(y))

“Public Contracting Code” or “Code” means ORS Chapters 279A, 279B and 279C. (See ORS 279A.010(1)(z))

“Public improvement” means a project for construction, reconstruction or major renovation on real property by or for a contracting agency such as EWEB. “Public improvement” does not include:
(A) Projects for which no funds of EWEB are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection; or
(B) Emergency work, minor alteration, ordinary repair or maintenance necessary to preserve a public improvement. (See ORS 279A.010(1)(aa))

“Public improvement contract” means a public contract for a public improvement. “Public improvement contract” does not include a public contract for emergency work, minor
alterations, or ordinary repair or maintenance necessary to preserve a public improvement. (See ORS 279A.010(1)(bb))

“Public works” includes, but is not limited to, roads, highways, buildings, structures and improvements of all types, the construction, reconstruction, major renovation or painting of which is carried on or contracted for by any public agency, including EWEB, to serve the public interest but does not include the reconstruction or renovation of privately owned property that is leased by a public agency. (See ORS 279C.800(5))

“Purchasing contracting agency” means, for purposes of cooperative procurement, a contracting agency that procures goods, services or public improvements from a contractor based on the original contract established by an administering contracting agency. (See ORS 279A.200(1)(h))

“Recycled material” means any material that would otherwise be a useless, unwanted or discarded material except for the fact that the material still has useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled. (See ORS 279A.010(1)(cc))

“Recycled product” means all materials, goods and supplies, not less than 50 percent of the total weight of which consists of secondary and post-consumer waste with not less than 10 percent of its total weight consisting of post-consumer waste. “Recycled product” includes any product that could have been disposed of as solid waste, having completed its life cycle as a consumer item, but otherwise is refurbished for reuse without substantial alteration of the product’s form. (See ORS 279A.010(1)(gg))

“Related services” means personal services, other than architectural, engineering, photogrammetric mapping, transportation planning and land surveying services, that are related to planning, designing, engineering or overseeing public improvement projects or components thereof, including but not limited to landscape architectural services, facilities planning services, energy planning services, space planning services, hazardous substances or hazardous waste or toxic substances testing services, cost estimating services, appraising services, material testing services, mechanical system balancing services, commissioning services, project management services, construction management services and owner’s representative services or land-use planning services. (See ORS 279C.100(8))

“Request for proposals” or “RFP” means all documents, whether attached or incorporated by reference, used for soliciting Proposals. (See ORS 279B.005(1)(e))

“Request for Qualifications” or “RFQ” means a written document issued by EWEB to which Consultants respond with a description of their experience with and qualifications for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, or Related Services described in the RFQ and from which EWEB creates a list of Consultants who are qualified to perform those services, but which is not intended to result in a Contract between a Consultant and EWEB.

“Resident bidder” means a bidder that has paid unemployment taxes or income taxes in this state during the 12 calendar months immediately preceding submission of the bid, has a business address in this state and has stated in the bid whether the bidder is a “resident bidder” under ORS 279A.120(1)(b). (See ORS 279A.120(1)(b))

“Responsible bidder” or “Responsible proposer” means, for purposes of the purchase of
goods or services, EWEB’s determination whether a bidder or proposer has met the standards of responsibility, considering whether a bidder or proposer has:

(a) Available the appropriate financial, material, equipment, facility and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to indicate the capability of the bidder or proposer to meet all contractual responsibilities;
(b) A satisfactory record of performance. The contracting agency shall document the record of performance of a bidder or proposer if the contracting agency finds the bidder or proposer nonresponsible under this paragraph;
(c) A satisfactory record of integrity. The contracting agency shall document the record of integrity of a bidder or proposer if the contracting agency finds the bidder or proposer nonresponsible under this paragraph;
(d) Qualified legally to contract with the contracting agency;
(e) Supplied all necessary information in connection with the inquiry concerning responsibility. If a bidder or proposer fails to promptly supply information requested by the contracting agency concerning responsibility, the contracting agency shall base the determination of responsibility upon any available information or may find the bidder or proposer nonresponsible; and
(f) Not been debarred by the contracting agency under ORS 279B.130. (See ORS 279B.110(2))

For purposes of determining whether a bidder has met the emerging small business enterprise contract requirements, “responsible bidder” or “responsible proposer” has the meaning set forth in ORS 200.005 and 200.045. (See ORS 279A.105(3))

“Responsive bid” or “responsive proposal” means a bid or proposal that substantially complies with the invitation to bid or request for proposals and all prescribed procurement procedures and requirements. (See ORS 279B.005(1)(g))

“Retainage” means the difference between the amount earned by a contractor on a public contract and the amount paid on the contract by the contracting agency. (See ORS 279C.550)

“Rule” means a Rule within the EWEB Public Contracting Rules.

“Scope” means the range and attributes of the Goods or Services described in the applicable Procurement document.

“Signed” or “Signature” means any mark, word or symbol attached to or logically associated with a document and executed or adopted by a Person with the intent to be bound.

“Solicitation Document” means an Invitation to Bid, Request for Proposals or any documents issued to invite offers in response to a Special Procurement pursuant to ORS 279B.085, and includes all documents incorporated into any of the foregoing by reference.

“Special government body” means, subject to ORS 174.108, a public corporation created under a statute of this state and specifically designated a public corporation; a school district; a public charter school established under ORS chapter 338; an education service district; a community college district or community college service district established under ORS chapter 341; an intergovernmental body formed by two or more public bodies; any entity that is created by statute, ordinance or resolution that is not part of state government or local government; any entity not otherwise described in this definition that is not part of state government or local government, created pursuant to authority granted by a statute, ordinance or resolution but not directly created by that statute, ordinance or resolution, and identified as a governmental entity by the statute, ordinance or resolution authorizing the creation of the entity without regard to the
specific terms used by the statute, ordinance or resolution. (ORS 279A.010(ii); 174.117)

“Special procurement” means, unless the context requires otherwise, a class special procurement, a contract-specific special procurement or both. (See ORS 279B.085(1)(c))

“Specification” means any description of the physical or functional characteristics, or of the nature of a supply, equipment, service, or construction item, including any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery and the quantities or qualities of materials to be furnished under the Contract. Specifications generally will state the result to be obtained and may, on occasion, describe the method and manner of doing the Work to be performed. “Specification” may include a description of any requirement for inspecting, testing or preparing goods or services for delivery. “Specification” may also include any description of the characteristics or nature of personal services. (See ORS 279B.200(3))

“State agency” means the executive department, except the Secretary of State and the State Treasurer in the performance of the duties of their constitutional offices. (See ORS 279A.010(1)(jj))

“State government” means, subject to ORS 174.108, the executive department, the judicial department and the legislative department. (ORS 279A.010(LL); 174.111)

“Transportation Planning Services” are defined in ORS 279C.100. Transportation Planning Services include only Project-specific transportation planning involved in the preparation of categorical exclusions, environmental assessments, environmental impact statements and other documents required for compliance with the National Environmental Policy Act, 42 USC 4321, et. seq. Transportation Planning Services do not include transportation planning for corridor plans, transportation system plans, interchange management plans, refinement plans and other transportation plans not directly associated with an individual Project that will require compliance with the National Environmental Policy Act, 42 USC 4321, et. seq. Transportation Planning Services also do not include transportation planning for Projects not subject to the National Environmental Policy Act, 42 USC 4321, et. seq.

“Unnecessarily restricted” means that the specifications for goods or services limit competition arbitrarily, without reasonably promoting the fulfillment of the procurement needs of EWEB.

“Value Engineering” means the identification of alternative methods, materials or systems which provide for comparable function at reduced initial or life-time cost. It includes proposed changes to the plans, Specifications, or other Contract requirements which may be made, consistent with industry practice, under the original Contract by mutual agreement in order to take advantage of potential cost savings without impairing the essential functions or characteristics of the Public Improvement. Cost savings include those resulting from life cycle costing, which either increase or decrease absolute costs over varying time periods.

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

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

“Written” or “Writing” means conventional paper documents, either manuscript or printed, in
contrast to spoken words. It also includes electronic transmissions or facsimile documents when required or permitted by applicable law, or to the extent permitted by the Solicitation Document or Contract.

Stat. Auth.: ORS 279A.070
Stats. Implemented: ORS 279A.065.