

EWEB Board Consent Calendar Request

For Contract Awards, Renewals, and Increases

The Board is being asked to approve the use of a cooperative contract with **Bane Machinery, Inc.** for the **purchase of two (2) mid-size hydraulic excavators.**

Board Meeting Date: 4/6/2021

Project Name/Contract #: Hydraulic Excavator/HGAC Cooperative Contract EM06-19

Primary Contact: Rod Price Ext.7122

Previous Spend: \$0

Amount of this Request: \$ 258,000

Resulting Cumulative Total: \$258,000

Narrative:

The Board is being asked to authorize the use of the following cooperative contract: Houston-Galveston Area Council (HGAC) #EM06-19 for the purchase of two (2) mid-size hydraulic excavators.

EWEB requires the use of specialized earthmoving equipment for use by the Water Construction Crews for building and maintaining water system infrastructure. As excavators have become more sophisticated and versatile, their design provides a greater range of motion and is safer to use in confined workspaces. With a useful service life of 15 to 18 years, these units will replace two (2) backhoes that are over 20 years old and have become unreliable and replacement parts are becoming obsolete.

HGAC's Cooperative Purchasing Program, known as HGACBuy, was established pursuant to Texas Interlocal Cooperation Act [Texas Local Government Code, Title 7, Chapter 791]. The Act allows local governments and certain non-profits to contract or agree under the terms of the Act to make purchases or provide purchasing services and other administrative functions appropriately established by another government entity. The Interlocal Contract (ILC) is the required legal document that establishes a link between the End User (local governments and certain non-profits) and HGACBuy, and gives the End User access to HGACBuy contracts. Like other cooperative programs, HGAC leverages the purchasing power of public entities across the country to deliver best value and competitively sourced contracts that offer public entities, like EWEB, outstanding pricing and value.

ACTION REQUESTED:

Management requests the Board approve the use of the HGAC Contract #EM06-19 with **Bane Machinery** for the purchase of two hydraulic excavators. Approximately \$795,000 was planned for vehicle purchases in the Water Capital 2021 budget of \$21.1 million. Variances will be managed within the budget process and Board policy.

EWEB Board Consent Calendar Request

For Contract Awards, Renewals, and Increases

The Board is being asked to approve a new contract with **Lane Forest Products, Inc.** for Landscape Materials and Drop Box Services.

Board Meeting Date: April 6, 2021

Project Name/Contract #: Landscape Materials and Drop Box Services / 21-014-GS

Primary Contact: Rod Price Ext. 7122

Contract Amount:

Original Contract Amount: \$247,000 over 5 years

Additional \$ Previously Approved: \$0

Invoices over last approval: \$0

Percentage over last approval: 0 %

Amount this Request: \$247,000 over 5 years

Resulting Cumulative Total: \$247,000 over 5 years

Contracting Method:

Method of Solicitation: Formal Invitation to Bid

If applicable, basis for exemption: N/A

Term of Agreement: 5 years

Option to Renew? Contract is for one year with option to renew, not to exceed 5 years

Approval for purchases "as needed" for the life of the Contract Yes No

Proposals/Bids Received (Range): 2 (\$176,200-\$246,350)

Selection Basis: Lowest responsive and responsible bid

Narrative:

Operational Requirement and Alignment with Strategic Plan

EWEB requires landscape material to replace and repair existing soft surfaces after maintenance has been performed on EWEB's water and electric underground infrastructure. The purpose of this material is to restore and/or improve our customer's property following EWEB's work. These landscape materials will also be used to maintain and manage the landscaped areas on EWEB properties.

Contracted Goods or Services

Pick up and delivery of landscape material including soil, bark mulch, and disposing of recyclable yard, wood, and soil debris. Material will be purchased in bulk.

Prior Contract Activities

EWEB Contract No.	Project Name (Description)	Board Approval Date	Project Duration (Notice to proceed to close out).	Original Contract Amount	Final Contract Amount
13-2016	Landscape Materials	NA	2016-2021	\$136,249	NA

Contract activities were completed as requested and vendor has been responsive and responsible.

Purchasing Process

Staff issued a formal Invitation to Bid in February 2021. Staff received 2 bids, the lowest responsive and responsible bid was received from Lane Forest Products, Inc. of Eugene OR

Vendor Name	City, State	Offered Price	
Rexius	Eugene, OR	\$176,200	Did not bid all items
Lane Forest Products	Eugene, OR	\$246,350	Complete Bid

Competitive Fair Price (If less than 3 responses received)

EWEB used a formal invitation to bid process requesting landscape materials and drop box services. Lane Forest Products, Inc bid on all items and services. Rexius bid on 5 out of the 10 line items on the bid form, Rexius came in just slightly lower on two of the line items and higher on the other 3 compared to Lane Forest Products. Once the pricing averaged over five years, Lane Forest Product’s bid came out as an overall cost savings. It was determined that administering one inclusive contract offering all materials and services would be more advantageous to EWEB.

ACTION REQUESTED:

Management requests the Board approve a contract with Lane Forest, Inc. for landscape materials. These materials are primarily used upon the completion of main replacements, system improvements and water distribution repairs. For 2021, approximately \$4 million is budgeted for these type of construction services, this includes \$247,000 in landscape materials as part of the overall \$20 million water capital plan. Variances will be managed within the budget process and Board policy.

EWEB Board Consent Calendar Request

For Contract Awards, Renewals, and Increases

The Board is being asked to approve an Agreement with **McKenzie River Trust** for the acquisition and management of floodway properties affected by the Holiday Farm Fire from willing sellers.

Board Meeting Date: April 6, 2021

Project Name/Contract#: McKenzie River Trust Property Acquisition Partnership / 21-052-A

Primary Contact: Rod Price Ext. 7122

Contract Amount:

Original Contract Amount: \$1,500,000 (not to exceed)

Additional \$ Previously Approved: NA

Invoices over last approval: NA

Percentage over last approval: NA%

Amount this Request: \$1,500,000

Resulting Cumulative Total: \$1,500,000

Contracting Method:

Method of Solicitation: Grant to Facilitate Property Acquisition

If applicable, basis for exemption: Exemption – EWEB Rule 6-0110 (d)

Term of Agreement: April 2021 – December 2026

Option to Renew? No

Approval for purchases *“as needed”* for the life of the contract No

Proposals/Bids Received (Range): NA

Selection Basis: Direct Negotiation

Narrative:

Operational Requirement and Alignment with Strategic Plan

The Board is being asked to approve a new Agreement with McKenzie River Trust (MRT) to acquire and manage floodway properties on both sides of the McKenzie River. Property acquisitions will leverage funds from multiple sources to mitigate areas within the wildfire impacted areas of the Holiday Farm Fire (HFF). Purchases from willing sellers will allow McKenzie River Trust to coordinate the removal of destroyed homes, structures, septic systems, driveways, and other infrastructure to restore and improve the riparian and floodplain.

EWEB has agreed to contribute and provide up to \$1,500,000 as a 50% matching grant toward the acquisition and long-term stewardship management of said properties. EWEB staff will work with MRT to determine relevant properties and manage each acquisition to achieve the greatest possible leverage for EWEB’s Investment. The criteria used to prioritize acquisition opportunities includes: a) structure destroyed in the HFF; b) destroyed structure in floodway or 100-year floodplain; c) percentage of tax lot within the floodway and 100-year floodplain; d) property listed on EWEB’s priority list generated from GIS analysis; e) adjacency to land already conserved or publicly owned; f) has potential nexus with large scale restoration projects (either planned or existing); g) contains streams, wetlands, or springs connected to the McKenzie River; h) contains fish and wildlife habitat characteristics; and i) overall cost of acquisition as relative to other parcels that may be available.

MRT will acquire and hold the title to each property and manage the riparian and floodplain of the property primarily for fish and wildlife habitat and water quality values, and will have authority for all management decisions across each property while in its possession. MRT will ensure that while in its possession, the land's water quality, fish and wildlife and their habitat, and other conservation values that are characteristic of healthy floodplains will be protected and/or restored. MRT will provide EWEB staff with periodic updates on the project for land stewardship and restoration. If in the future MRT sells the property, EWEB will be entitled to recover a portion of its investment from net proceeds of the sale, if any, after deductions for transaction costs, site management and improvements, habitat restoration projects, and related investments by MRT in the site.

ACTION REQUESTED:

Management requests the Board approve an Agreement with **McKenzie River Trust** for **the acquisition and management of floodway properties impacted by the Holiday Farm Fire for willing sellers**. Funds for this work are supported by the recently approved 2021 Water budget amendment of \$3.9 million for supporting the Holiday Farm Fire Watershed Restoration Program. Approximately \$1.5 million was planned for these goods or services in the O & M budgets for 2021. Variances will be managed within the budget process and Board policy.

EWEB Board Consent Calendar Request

For Contract Awards, Renewals, and Increases

The Board is being asked to approve an Intergovernmental Agreement (IGA) with the **Lane Council of Governments** to provide **monitoring and consulting services for source water protection**.

Board Meeting Date: April 6, 2021

Project Name/Contract#: Drinking Water Technical Assistance / 21-009-IGA

Primary Contact: Rod Price Ext. 7122

Contract Amount:

Original Contract Amount: \$600,000 over 5 years

Additional \$ Previously Approved: \$0

Invoices over last approval: \$0

Percentage over last approval: 0%

Amount this Request: \$600,000 over 5 years

Resulting Cumulative Total: \$600,000 over 5 years

Contracting Method:

Method of Solicitation: Direct Negotiation

If applicable, basis for exemption: Exemption – Intergovernmental Agreement

Term of Agreement: April 6, 2021 to December 31, 2025

Option to Renew? No

Approval for purchases "as needed" for the life of the contract No

Proposals/Bids Received (Range): N/A, Direct Negotiation

Selection Basis: Direct Negotiation-Intergovernmental Agreement

Narrative:

Operational Requirement and Alignment with Strategic Plan

The Board is being asked to approve a new Intergovernmental Agreement (IGA) with Lane Council of Governments (LCOG) for providing GIS and technical assistance for EWEB's Drinking Water Source Protection Program and in support of the Holiday Farm Fire (HFF) response and restoration.

EWEB has contracted with LCOG since 2003 for water quality data management, GIS analysis and mapping, and development of field data collection tools that support work conducted in the McKenzie Watershed on behalf of Source Water Protection. The work over the next 5-years will include: water quality data management; GIS analysis that supports watershed assessment and monitoring associated with forestry activities, development, illegal camping, agricultural activities, and the HFF response; and development and support of field data collection tools associated with the Pure Water Partners program and post-fire response.

These efforts benefit EWEB's customers by maintaining and updating websites and databases that are accessible to the public and provide information about watershed health and source protection efforts. EWEB often refers customer inquiries to these and other resources when addressing their questions about forest chemical spray activities, pesticides detected in the watershed, harmful algal blooms, watershed recovery and restoration efforts, and other water quality questions.

Contracted Goods or Services

Contracted services include the following:

- Water quality SQL database management and maintenance that feeds a public facing website

- Collection of Oregon Department of Forestry forest harvest and chemical spray data and Lane County development permit data that is fed to a GIS mapping system for analysis.
- Illegal camping application used by partners and river guides to locate illegal camps that then inform appropriate agencies to respond and cleanup.
- GIS data layer updates and ArcGIS license management for the McKenzie Watershed Emergency Response System.
- Spatial analysis using LiDAR to show changes in canopy cover, river channel changes, and development.
- Development and management of filed collection tools that support the Pure Water Partners program response to the Holiday Farm fire, including a hazards reporting and notification application.
- GIS analysis of impacts from the HFF to prioritize where to work and track waste stabilization, erosion control implementation, and replanting efforts that feeds a public facing dashboard.

Staff has negotiated the scope of work and cost for 2021 with LCOG, which is \$212,620. The scope of work for years 2022-2025 is expected to be similar but reduced over time as the HFF response and restoration work moves toward completion and will be negotiated each year.

Prior Contract Activities

2020	\$132,000
2019	\$100,000
2018	\$ 82,000
2017	\$108,000

Purchasing Process – Staff has negotiated an IGA with Lane Council of Governments.

Bidder/Proposer Information – Directly Negotiated Intergovernmental Agreement

Competitive Fair Price – In 2016 EWEB did a cost comparison exercise associated with LCOG digitizing paper easements into GIS and found LCOG was the least expensive option. During the 2020 Holiday Farm Fire, EWEB explored using a GIS consultant for developing the hazard reporting application and found LCOG to be more cost effective.

ACTION REQUESTED:

Management requests the Board approve an Intergovernmental Agreement with **Lane Council of Governments** for **drinking water technical assistance for source water protection and Holiday Farm Fire response**. Funds for this work are supported by the Water Quality and Source Protection Department O & M budget of \$740,000 and HFF Watershed Restoration Program budget of \$3.9 million. Approximately \$215,000 was planned for these goods or services in the O&M budgets for 2021. Variances will be managed within the budget process and Board policy.



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

Rely on us.

TO: Commissioners Schlossberg, Brown, Carlson, Barofsky and McRae
FROM: Frank Lawson, General Manager
DATE: March 16, 2021
SUBJECT: Resolution No. 2108 – Amendment to EWEB Bylaws
OBJECTIVE: Board Action

Issue

EWEB may amend the Bylaws after stated public notification and by a majority vote of the Board. The Bylaws were last amended on January 6, 2015 by Resolution No. 1502.

Discussion

A copy of the Bylaws, including staff's recommendation for administrative updates, was provided to Commissioners in their February and March board packets. Commissioners have reviewed the proposed amendments and no Board members have recommended additional changes.

Staff are adhering to all requirements for public notification in accordance with the Bylaws. Members of the public who wish to comment will have the opportunity to do so during the Public Input session at the April 6 board meeting. After hearing public comments, the proposed amendments will be presented to the Board as part of the consent calendar for requested action.

Recommendation/Requested Board Action

Approval of Resolution No. 2108, Bylaw Amendments.

Attachment: EWEB Bylaws approved January 6, 2015 with proposed amendments displayed in red-lined format.

Eugene Water & Electric Board Bylaws

ARTICLE I

Section 1.

The name of this organization is the Eugene Water & Electric Board.

Section 2.

Authority for the powers and functions vested in the Eugene Water & Electric Board is established by Chapter 10, Section 44, of the [Charter of the City of Eugene](#), (1976), as amended.

Section 3.

The Eugene Water & Electric Board is defined as a political subdivision of the City of Eugene, a municipal corporation.

ARTICLE II

Section 1.

The principal purpose of the Eugene Water & Electric Board is to benefit the citizens of Eugene by providing water, electric and other physical energy services to its customers while maintaining cost based rates in accordance with ORS Chapter 225.

ARTICLE III

Section 1.

The Eugene Water & Electric Board shall comply with all applicable federal, state, and local laws and regulations relating to its activities.

ARTICLE IV

Section 1.

The Board is composed of five electors of the city who shall serve without pay.

Section 2.

~~Section 2.962 Eugene Code 2.966 (3) of Eugene City Ordinance 18106~~ provides that, "In 1978, and every fourth year thereafter, two members shall be elected to the Eugene Water & Electric Board, one from Wards 4 and 5 and one from the city at large. In 1980, and every fourth year thereafter, three members shall be elected to the Board, one from Wards 1 and 8, one from Wards 2 and 3, and one from Wards 6 and 7."

Commented [AK1]: Option 1 (Recommended): Re-number. 2.966 (3) contains the original verbatim statement with correct citation. <https://eugene.municipal.codes/EC/2.966>

Option 2: Reference Eugene Code 2.175 which reads:

- (1) There is hereby created the Eugene Water & Electric Board, hereinafter referred to as the "board."
- (2) The board is composed of five members, one from wards 1 and 8, one from wards 2 and 3, one from wards 4 and 5, one from wards 6 and 7, and one from the city at large, to be nominated and elected as provided in sections [2.964](#) and [2.966](#) of this Code. Nothing in this provision disqualifies, or shortens the term of office of, a member of the board.
- (3) Each member shall serve without pay and hold no other city office while a member of the board.

<https://eugene.municipal.codes/EC/2.175>

Option 3: Simply refer to Eugene Code without the precise citation which may change over time.

ARTICLE V

Section 1.

The officers of the Board shall be president and vice president. The president and vice president will be elected annually. The Board shall appoint a general manager-secretary and fix ~~his/her~~ their compensation and conditions of employment. The general manager-secretary shall designate an assistant secretary, treasurer and assistant treasurer.

Section 2.

Consultants to the Board shall be approved by the Board upon recommendation by the general manager-secretary as provided by policy adopted by the Board.

ARTICLE VI

Section 1.

The function of the president is to preside over all meetings of the Board. The Board shall conduct meetings in accordance with Board policies. If the Board is unable to resolve procedural issues, the Board shall use Robert's Rules of Order. The president's role shall be primarily procedural, and the president shall have no greater vote on substantive matters than other members of the Board. The president will also represent the Board as required within the community and coordinate among the Board as necessary in the conduct of Board functions.

Section 2.

The function of the vice president is to perform the duties and responsibilities of the president in ~~his/her~~ their absence or as agreed upon by the Board.

Section 3.

The general manager-secretary shall report to the Board as a whole and is responsible for implementing policies and directions established by the Board. The general manager-secretary acts as chief executive officer of the organization and shall have all authority to: operate all utilities, hire, appoint, terminate or remove employees, organize and, as the general manager-secretary deems necessary, disband and reorganize departments, act as contracting and purchasing agent for EWEB and award contracts for which there is an appropriation (except as otherwise provided in EWEB Purchasing Policies), prepare budgets, and enforce resolutions of the Board. The general manager-secretary shall also be responsible for preparing reports requested by the Board, representing the utility to the public, other agencies and organizations, and performing such other duties as the Board directs. The general manager-secretary may lawfully delegate any or all of the responsibilities within ~~his/her~~ their authority.

ARTICLE VII

Section 1.

The organizational meeting of the Board will be held at the first regular meeting of each calendar year. The primary purpose of the organizational meeting is the election of Board officers and other routine annual business.

Section 2.

The Oregon form of government requires an informed public aware of the deliberations and decisions of public bodies and the information upon which such decisions were made. It is the intent that Board decisions be approved openly. Except as otherwise provided by law: all meetings of the Board shall be open to the public and all persons shall be permitted to attend, no quorum of the Board shall meet in private for the purpose of deciding on or deliberating toward a decision on any matter; an executive session may be held only for those purposes allowed by law (ORS 192.610-.690).

Section 3.

In accordance with applicable State and Federal laws, Commissioners shall not use or attempt to use their official position or office to obtain financial gain or avoidance of financial detriment. Commissioners shall follow requirements of state-applicable law as to announcing conflicts of interest or potential conflicts of interest and requirements for refraining from discussion, debate, or voting in matters where an actual conflict exists. Commissioners shall abide by state-applicable laws on gifts, pledges or promises of employment, personal gain through use of confidential information and prohibitions on representation of others before the Board. The Board may from time to time utilize Board policies or guidelines on conflicts of interest and other ethical standards (~~ORS 244.010-.390~~).

Section 4.

A commissioner shall not qualify for employment at EWEB while serving on the Board and for twelve months after serving on the Board.

ARTICLE VIII

Section 1.

A quorum shall consist of three members of the Board.

Section 2.

In order to pass a resolution, motion, or other measure, an affirmative vote of at least 3 commissioners (a majority of the 5 commissioner positions) is required.

Commented [AK2]: The correct Statute is ORS 244-010-.400

Rather than listing an exact citation, which can change with time, we recommend omitting the statute and stating Commissioners shall follow "applicable" law, as this will encompass both state and federal law. (Federal ethics laws also apply in instances where EWEB accepts a Federal grant)

ARTICLE IX

Section 1.

Should a vacancy occur on the Board, the remaining Commissioners will appoint a qualified elector to fill such vacancy. The appointment shall be made within 90 days. (Eugene Charter [Section 24](#))

Section 2.

Attendance at all meetings of the Board is required of Commissioners. Prior notification of absence should be given to the Board or the Secretary whenever possible. The Board shall have power to declare vacant the office of a member who shall absent ~~himself/herself~~ themselves from three consecutive regular meetings without an excuse satisfactory to the Board (Eugene Code 2.205).

ARTICLE X

Section 1.

The regular meeting of the Board will be held at 5:30 p.m. on the first Tuesday of each month, unless that Tuesday falls on or generally conflicts with a national holiday in which case the meeting may be on the next business day or on another Tuesday in that month. If an additional regular meeting is required, the general preference will be to hold that meeting at 5:30 p.m. on the third Tuesday of the month. The Board President and the General Manager-Secretary may reschedule these meetings, schedule additional meetings, or cancel any meeting of the Board by mutual agreement.

ARTICLE XI

Section 1.

All regular and special meetings of the Board shall be held whenever possible within the utility service district. (ORS 192.630(4))

ARTICLE XII

Section 1.

These Bylaws may be amended or altered by a majority vote of the Board. The proposed amendment or alteration shall be submitted to all other members of the Board in writing at least ten days before the meeting at which they are to be considered. For fourteen (14) days prior to the proposed adoption of any amendment or alteration, ~~a copy of the amendment or alteration~~ it shall be available ~~at the EWEB Headquarters~~ for public inspection ~~on EWEB's website during regular office hours~~. A paper copy of the amendment or alteration shall be provided at no cost, upon request. Notification of the proposed amendment or alteration, the time and place of the meeting at which the proposal is to be adopted, and notice of its availability for public inspection shall be published once in a newspaper of general circulation in the city of Eugene at least fourteen (14) days before the meeting at which the amendment or alteration is to be adopted, or shall be published or disseminated by such alternate method as will

provide reasonable notice to the public of such proposal. At the meeting, reasonable opportunity for public comment will be afforded.

Section 2.

The Bylaws will be reviewed during the first three months following the swearing-in of elected commissioners.

Adopted: 01/12/79

Amended: 09/12/83; 03/25/91;

04/12/93; 06/09/97; 06/02/98; 05/17/05; 07/19/11; 06/04/13, 01/06/15.

**RESOLUTION NO. 2108
APRIL 2021**

**EUGENE WATER & ELECTRIC BOARD
BYLAW AMENDMENT**

WHEREAS, the EWEB Board may amend the Bylaws after stated public notification and by a majority vote of the Board;

WHEREAS, the amendments have been presented for consideration by the Board on February 2, 2021, March 2, 2021, and April 6, 2021.

NOW, THEREFORE, BE IT RESOLVED that the Eugene Water & Electric Board approves the EWEB Bylaws as recommended at the April 6, 2021 Regular Board Meeting. All changes are effective as of April 6, 2021.

Dated this 6th day of April 2021.

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 April 6, 2021 Regular Board Meeting.

Assistant Secretary