



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD



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

FROM: Roger Gray, General Manager
Cathy Bloom, Finance Manager
Gail Murray, Purchasing/Risk Manager

DATE: December 19, 2012

SUBJECT: 2013 Board Appointed Consultants and Retained Professionals Ratification

Issue

The first Board meeting of the year the Board appoints professional consultants retained by the Board.

Background

EWEB contracts with a group of consultants who are defined as being appointed or retained by the Board. The selection of these consultants is based on their technical knowledge, areas of expertise, and most importantly, their historical knowledge and perspective of EWEB and its work. The key attribute of each of these consultants is their independent advisory responsibility to the Board; a responsibility to provide professional direction and assessments to the Board, as determined by the consultant, without regard to staff's position or interpretation. These are long-term relationships that remain in effect through a Board adopted exemption from the requirements of Oregon Public Contracting law [EWEB Rule 6-0130: Board Appointed Consultants and Retained Professionals].

Although these contracts are exempt from public contracting law and do not require a competitive process, the General Manager has given staff direction that he would like to see these contracts competitively solicited to insure that EWEB is receiving the most competitive and best value for these contracts. Following is the tentative schedule for the solicitations (subject to change):

4Q 2012

- General Counsel – completed
- Financial Advisor – completed

1Q 2013

- Real Estate Consultant
- Land Real Estate Appraisal Services

2Q 2013

- Independent Actuary
- Renewable energy credits REC legal counsel
- Trustee Services

3Q 2013

- HR Counsel
- Special Counsel and Power Risk Counsel

4Q 2013

- Independent Auditor & CPA
- Special Counsel BPA Rate Review

3Q 2014

- Bond Counsel

Note: Independent and consulting Engineers was bid in 2012, so no need to rebid until 2017

Each of these consultants’ work continually supports and helps direct EWEB’s business and policy decisions. All retained attorneys have an obligation to protect EWEB (and its Governing Body) and to independently advise the Board, if required, on legal matters. EWEB Bond Resolutions require certain actions by some of these independent consultants when issuing new bonds. EWEB’s bond counsel, financial advisor, and independent auditor are appointed to act on behalf of the Governing Body to independently assess the utility’s performance in these areas.

A survey is distributed to staff annually to assess the performance of the consultants. All of the consultants being ratified have had positive reviews.

Staff has no objection to ratification of any of these consultants and request the Board ratify all consultants for continued services in 2013.

A very brief overview of each consultant is provided herein:

RETAINED PROFESSIONALS - ATTORNEYS

Contract Information: Luvaas Cobb Law – Eric DeFreest: General Counsel

Tenure: Contract award January 2013, pending board approval.

Contract Information: The contract with Calkins & Calkins was reassigned to DeFreest Law in 2010, upon the retirement of the Calkins’. In 2011, DeFreest Law/Eric DeFreest joined the firm of Luvaas Cobb Law as a partner and the contract was reassigned. In 2012 an RFP was issued for General Counsel services. Luvaas Cobb was determined to be the highest ranked proposer. A new contract will be established with Luvaas Cobb Law in Jan 2013 for General Counsel, pending board approval.

Annual Expenditures (to date): (2011-12 is Luvaas Cobb, 2010 is DeFreest Law; all previous years are Calkins & Calkins)

2012	2011	2010	2009	2008
\$106,147	\$177,665	\$91,412	\$150,296	\$201,689

Luvaas Cobb, through Eric DeFreest maintains an historical perspective and broad range of expertise in municipal utility legal matters which continue to be very valuable to the utility. Eric DeFreest often

responds to inquiries on a moment's notice. They continue to maintain an excellent relationship with staff and consistently provide sound legal advice.

Recommendation: Ratify as General Counsel for 2013

Cable Huston Benedict Haagensen & Lloyd: Special Counsel

Tenure: Retained in the early 1980s

Contract Information: The contract is in its third year and has 1 year remaining.

Annual Expenditures (to date):

2012	2011	2010	2009	2008
\$401,860	\$445,146	\$432,726	\$557,819	\$1,050,625

Cable Huston is recognized as the preeminent law firm in the state dealing with energy issues. Their work on many utility projects is considered to be invaluable. They have considerable technical expertise and stay current with the industry and EWEB's business needs. Staff greatly value Cable et al's work on environmental, generation and power contract issues.

Recommendation: Ratify as Special Counsel for 2013

Murphy & Buchal LLP: Special Counsel (BPA Rate Review)

Tenure: Retained in 2010

Contract Information: The contract is in its third year and has 2 years remaining.

Annual Expenditures (to date):

2012	2011	2010
\$54,880	\$160,230	\$32,019

Murphy & Buchal have represented major participants in every general power and every contested transmission rate case of BPA since 1984 (10 BPA power and 8 BPA transmission rate cases). Murphy & Buchal will assist in analyzing legal positions and preparing testimony in the BPA rate case.

Recommendation: Ratify as Special Counsel for 2013

Harrang, Long, Gary and Rudnick: Human Resources Counsel

Tenure: Retained in 1992

Contract Information: This contract is in its final year.

Annual Expenditures (to date):

2012	2011	2010	2009	2008
\$104,625	\$ 89,584	\$102,798	\$71,121	\$242,818

Harrang, Long et al is EWEB's retained HR Counsel. Harrang has a long history of providing HR legal services and is very knowledgeable about EWEB's HR policies and related issues. They are generally very effective in their legal support for HR.

Recommendation: Ratify as Human Resources Counsel for 2013

Mersereau & Shannon: Bond Counsel

Tenure: Retained in 2009

Contract Information: The contract is in its second year and has 3 years remaining.

Annual Expenditures (to date):

2012	2011	2010	2009
\$ 85,000	\$230,000	\$75,000	\$55,000

In late 2009 staff solicited these services and selected Mersereau and Shannon to be EWEB’s Bond Counsel. Mersereau and Shannon have had a long history with EWEB. Staff values their knowledge, expertise and timely response to staff requests.

Recommendation: Ratify as Bond Counsel for 2013

BOARD APPOINTED CONSULTANTS:

Black & Veatch: Independent and Consulting Engineers

Tenure: Retained in 1991.

Contract Information: This contract was solicited in 2012 and is in its first year, with an option to renew for four additional years.

Annual Expenditures (to date):

2012	2011	2010	2009	2008
\$8,000	\$15,000	\$3,900	\$9,000	\$7,200

Black & Veatch is considered to have demonstrated excellent technical knowledge and expertise in performance of its engineering work. Staff has very high confidence in this consultant’s expertise and greatly appreciates their timely response even when given very short notice.

Recommendation: Ratify as Independent and Consulting Engineers for 2013

Kenney Consulting: Independent Actuaries

Tenure: Retained over 20 years ago

Contract Information: The contract is in its final year and will be solicited in 2013.

Annual Expenditures (to date):

2012	2011	2010	2009	2008
\$33,500	\$20,000	\$10,000	\$19,650	\$69,200

The Independent Actuaries’ scope of work includes medical benefits, supplemental retirement plan evaluations, and PERS issues – all important and very visible issues for the utility. Staff has rated Kenney Consulting very high in past evaluations and continues to have confidence in their ability to meet

EWEB needs. Kenny Consulting is recognized as having a broad range of available expertise and knowledge of the pension reporting requirements.

Recommendation: Ratify as Independent Actuaries for 2013

Davis Wright Tremaine LLP: REC Legal counsel

Tenure: Retained in 2010

Contract Information: This contract is in its third year and has two years remaining.

Annual Expenditures (to date):

2012	2011	2010
\$12,608	\$19,189	\$32,641

Davis Wright Tremaine LLP will provide legal services related to the sales and marketing of Renewable Energy Credits (REC).

Recommendation: Ratify as REC legal counsel for 2013.

Moss Adams: Independent Auditor and Certified Public Accountant

Tenure: Since 2005

Contract Information: In 2011 a new contract was negotiated for a potential five year term.

Annual Expenditures (to date):

2012	2011	2010	2009	2008
\$114,521	\$128,727	\$93,670	\$116,682	\$116,837

Staff is very satisfied and impressed with Moss Adams' performance as Independent Auditor and with their vast knowledge of utility auditing issues. This is Moss Adams seventh audit cycle as EWEB's Independent Auditor and Certified Public Accountant.

Recommendation: Ratify as Independent Auditor and Certified Public Accountant for 2013

Seattle Northwest Securities Corp: Financial Advisor

Tenure: Retained in 2013 (Pending Board approval)

Contract Information: This contract was solicited in late 2012. The contract will be in its first year January 2013.

Annual Expenditures to Date: \$0

The quality of the performance of the financial advisor consultant is often based on their experience with electric and water utilities, rating agency presentations, access to trading floor and current pricing experience. Seattle Northwest Securities Corp. has demonstrated in a recent solicitation process that they possess these qualifications and experience.

Recommendation: Ratify as Financial Advisor for 2013

Summary

EWEB's Board, through a Board adopted exemption that exempts Board Appointed Consultants and Retained Professionals from the requirements of Oregon Public Contracting law, has appointed independent consultants and retained professionals as advisors to the utility's Governing Body. These consultants' historical perspective and in-depth knowledge of the utility and its operations makes their expertise and advice extremely valuable and beneficial to EWEB.

Each year staff asks the Board to ratify the consultants to continue their work in the coming year. Staff has confidence in the very high quality of work, demonstrated technical knowledge and expertise, and high satisfaction with the service received.

Recommendation and Requested Board Action

Management recommends ratification of the Board Appointed Consultants and Retained Professionals for 2013 as recommended above.

References

EWEB Contracting Rule 6-0130 Board Appointed Consultants and Retained Professionals

EWEB designates the following classes of contracts as personal services contracts which are not subject to competitive bidding and proposal requirements.

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

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

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

Statute Authority:

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

EWEB Rule:

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

EUGENE WATER & ELECTRIC BOARD
REGULAR SESSION
EWEB BOARD ROOM
NOVEMBER 20, 2012
5:30 P.M.

Commissioners Present: John Simpson, President; John Brown, Vice President; Joann Ernst, Rich Cunningham, and Dick Helgeson

Others Present: Roger Gray, Debra Smith, Mark Freeman, Karen Lee, Sheila Crawford, Claire Elliker-Vaagsberg, Cathy Bloom, Megan Capper, Harvey Hall, Sue Fahey, Gail Murray, Toni Zechentmayer, Richard Jeffryes, Laurie Muggy, Marie Elbert, Lena Kostopulos, Mel Damewood, Todd Simmons, Roger Kline, Frank Lawson, Michelle Martin, Adam Rue, Edward Yan, Deborah Hart, Flo Hoskinson, Tracy Davis, Erin Erben, Kevin McCarthy, Colleen Wedin, Dave Churchman, Lance Robertson, Joe Harwood, and Taryn Johnson of the EWEB staff; Vicki Maxon, recorder.

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

AGENDA CHECK

There were no items.

PUBLIC INPUT

President Simpson stated that a second Board meeting had not been planned for November, but is being held tonight to discuss employee salary increases which are a part of the proposed 2013 budget. He explained that there is potential to modify the budget, including the possibility of removing all cost of living adjustments (COLA) for EWEB's regular (MAPT) employees and IBEW (union) employees. He added that wages for EWEB's MAPT employees are presently under contract for an annual increase, and that they are coded into the labor contract and required, but he noted that the current contract will come to an end a few years from now and can be re-negotiated.

President Simpson then asked Commissioner Cunningham to speak, since he had requested this meeting.

Commissioner Cunningham stated that he had been hammered with numerous e-mails from customers regarding the proposed rate increases, saying that EWEB is not doing enough to help customers and keep their costs down, and that customers are irate, as they feel they have had to cut back and now they're asking EWEB to do the same. He added that he requested this meeting so that the Board could have a discussion about the upcoming COLA for EWEB's MAPT employees.

President Simpson then re-opened the public input portion of the meeting.

PUBLIC INPUT

Former EWEB Commissioner and EWEB customer **Sandra Bishop** requested that EWEB withdraw its money from Bank of America, and instead deposit it into a locally owned bank. She said she realizes that this is not technically a Board decision, but she believes it is within the parameter of the Board regarding policy issues. She added that most people know that Bank of America has not been a friend of EWEB's ratepayers. She also wondered if there could be a public push toward allowing credit unions to take deposits of public money, but noted that she is not advocating for that this evening. In closing, she reiterated her request that the Board ask General Manager Roger Gray to pull EWEB's money from Bank of America and deposit it into a locally owned bank, where it will go toward local investments instead of out of the area.

Commissioner Helgeson said that he would like to talk further with Ms. Bishop about her request.

Commissioner Ernst said that she is happy that Ms. Bishop brought this up because she has had customers approach her to ask who EWEB banks with, and she has provided that information via staff. She added that she knows that there has been a lot of grumbling about EWEB using Bank of America, and some of the other banks who are not friendly toward ratepayers. She said she would be happy and hopeful that at least two other Commissioners would give a head nod to at least look further into this issue.

President Simpson said that he appreciated Ms. Bishop's comment and that it is great to hear feedback like that. He said he also would like to chat more with her about that issue, and that he is not prepared to make a recommendation tonight.

Vice President Brown said that he doesn't disagree philosophically with Ms. Bishop's request, but that he had requested to change banks a long time ago, but was told it couldn't be done because of EWEB's legal representation out of Portland, Seattle, Washington, D.C., and California (because EWEB can't make a preference based on location). He asked that this issue be vetted to the City Council and, if they can give the Board pros and cons beyond the philosophical, he would welcome that.

Commissioner Cunningham deferred further comment.

President Simpson reiterated that he would like to talk to General Manager Gray about this opportunity, and that maybe this issue could become a starboard report item with the basics of what could be changed, and the pros and cons of the ability to do so.

General Manager Gray requested that staff not be held to the usual 48-hour turnaround time for a starboard report item, and that Cathy Bloom, Financial Services Manager, will be the contact person for this item. He noted that he will remove himself from this issue because his daughter works for Bank of America.

President Simpson asked that staff report back to the Board at the middle or end of next week.

The Board then continued their discussion about the upcoming COLA for regular employees.

President Simpson stated that there is a public perception problem, because the public believes they will be able to save money on their EWEB bill if the Board doesn't grant staff a salary increase next year. He said he realizes that the Board could go ahead and do that, and cut that money from the budget as a public feel-good action, but there would be practically no impact on the rate increase if that were done, i.e., about a .1% impact.

General Manager Gray explained that this would result in staff assuming no COLA for management, administrative, professional and technical (MAPT) employees (based on today's budget assumptions) and a 3% wage escalation if there is not a COLA across the board. He noted that there is more latitude for salary adjustments with MAPT employees, but he reiterated that the International Brotherhood of Electrical Workers (IBEW) salaries can't be adjusted due to contractual obligations, and that staff would have to negotiate with the union and/or talk to them about possible concessions. He noted that for 2013 there would be potential savings, but also potential cost, due to the previous layoffs and additional union negotiations that are already underway, and that he doesn't know how much of that cost could be offset.

General Manager Gray continued, saying that on the water side, the drivers are not employee salary increases, but loss of sales and changes in accounting procedures; and that for the electric side, the drivers are the Bonneville Power Administration (BPA) rate increase, the Carmen-Smith rebuild/relicensing, and the wholesale power market. He noted that he is not recommending any rate change calculations, and that staff would need Board permission to return to them with budget recalculations for 2013, and would also need some outcome from the union at that point.

President Simpson voiced concern about whether or not this concept is something the Board wishes to pursue, and about going ahead and taking this action when there would be very little rate impact on EWEB's customers. He wondered if this is only a perception problem with ratepayers and, if a different action is taken, would that be sufficient to manage that perception problem. He added that while he believes it is not appropriate for certain ratepayers to have the luxury of a salary raise and other ratepayers to not have one because of economic conditions and private vs. public sector, he has a lot of internal pain about this decision because it would have such a minimal effect on rates. He wondered whether the Board should begin to lead EWEB in a manner that isn't necessarily logical just because there is a public groundswell saying that EWEB is finally doing the right thing. He reiterated that he is not convinced that all of EWEB's ratepayers are asking for this, though there was much feedback and e-mails received, even without public testimony at tonight's meeting.

Vice President Brown commented that when General Manager Gray brought the budget to the Board two years ago, there was a split wage differential, and the Board changed that, and

at that time he had called other utility general managers and asked them what they were doing, and it was similar. On the other hand, he said that customers have told him that the recent cuts the Board and EWEB made in customer service, with elimination of the switchboard and cuts in conservation measures and energy management services, have affected customers negatively, but that customers have also asked what EWEB employees could give up, aside from 38 employees losing their jobs. He said that he can't speak for the other Commissioners, but he himself has better things to do on Tuesday evenings, and he is on this Board because he has a passion for clean water, among other interests. He added that he has received more customer feedback recently than he has ever received in the last six years, and he has to respond to that, and he noted that the Board could cut wages by 40% and lay off more people, but they would still face huge setbacks. He said that he is not on the Board to appease the electorate, but to respond to the community, and that there's no way he would be an electric lineman and risk his life every day. He also noted that EWEB has enough money, so the question is, does EWEB cut back on the quality of what it does, or do they cut more employees? He reminded everyone that EWEB's budget problems aren't over and that \$2 million still has to be borrowed, that BPA's rate increases and power delivery charges are astronomical, and that they will only get worse and not better. He said that if the Board votes against a wage increase, there will probably be more layoffs because the IBEW contract can't be broken. He closed by saying that it is his job to give General Manager Gray direction, and that he is willing to have this discussion with the Board.

Commissioner Ernst commented that this decision is a difficult one, and she acknowledged that she feels a lot of tension in the room from the employees who are present at tonight's meeting. She said that EWEB employees are very dedicated and do a wonderful job, and that she believes staff should separate out labor and non-labor expenses and list them as two separate items. She noted that she believes that the economy is slowly getting better, but very slowly, and that she realizes that many ratepayers only received a 25-cent per hour raise this year. She said it is difficult to assume that EWEB is going to grant a 3-4% COLA every year, and that she appreciates that the union negotiated and saved EWEB some money.

She wondered if EWEB could initiate a wage freeze for this year instead of not granting a COLA. She reminded the Board of the huge PERS debt that is hanging over EWEB's head, and that EWEB has to borrow a lot of money to make up that deficit, and that it was the State that lost that money even though EWEB did what it was supposed to. She said it is very unfortunate that the ratepayers have to help make up that deficit, and she would also like to see EWEB employees help with that deficit. She also suggested that the Board ask General Manager Gray to consider asking employees to pay 3% and EWEB to pay 3% of the PERS contribution, of which EWEB currently pays the full 6%.

She noted that she doesn't agree with President Simpson about public perception and that wage decreases won't help rate increases, and that she believes that even a .5% rate impact would help, which equates to approximately a \$3-4 per month savings per month, and maybe \$5-8 per month savings for a large household. She said her calculations are that a wage freeze would save about \$.75 million (\$750,000), which seems pretty significant for a rate increase of not quite 1%.

President Simpson asked what the difference would be between withholding the COLA and freezing wages. General Manager Gray explained that COLAs are EWYs, and that for most of the IBEW employees, a new formula was approved for the CPI, and that EWEB can either negotiate a GWI or follow the COLA. He said that a wage freeze is much more comprehensive, meaning no changes, period--which could be interpreted to be no promotions and no step pay increases, which in some positions if applied literally, in certain skill sets, could be catastrophic and would disrupt human resources functions. He noted that there could be potential savings in the first year for MAPT employees but not union employees (because of the negotiation cost), possibly in the hundreds of thousands of dollars, but that the savings aren't realized immediately in some cases, and that if a wage freeze is attempted on both the electric and water side, it would have to be negotiated, which would result in time loss. He added that if savings aren't achieved by negotiation, other provisions of the contract could be negotiated, along with the disruption factors, and all of that money could be leaked out in the first year with little savings.

President Simpson deferred comment.

Commissioner Cunningham noted that many other state and local government agencies and school district employees now take unpaid furlough days, and he wondered what the savings would be if EWEB closed the Customer Service Department one day per month.

General Manager Gray replied that this is only one example of all kinds of cost-saving concepts EWEB could pursue, but that for hourly personnel (line crews, etc.), that would end up costing more money because time would be converted from straight to double time, and reduced work equates to reduced services. Regarding closing the Customer Service Department for one day per month, General Manager Gray said that there would be a substantial wage reduction depending on how many hours the office would be closed for, but obviously there would be a service impact, and that if the office is open later and overtime is paid, then that would obviously cost more, the customer service lines would be longer, etc.

Regarding furlough days for salaried employees, General Manager Gray said it would depend on the nature of their work and each individual situation, and that most of the departments in which employees were reduced were those that have a low impact on customer service. He added that more layoffs and/or furlough days would affect customer service in some way.

Regarding the PERS deficit, Commissioner Cunningham added that the number is rapidly approaching \$100 million (though not for the 2013 budget), and that just the interest on that has a substantial impact on ratepayers.

Regarding MAPT salaries, Commissioner Helgeson asked if EWEB still grants step raises on a merit basis and if the COLA is still across the Board.

General Manager Gray replied that before he came to EWEB, MAPT and IBEW salaries were, on average, fairly similar, and MAPT loosely followed the union side. In 2011, IBEW employees received a 4% wage increase and the COLA for MAPT employees was 1.6%.

Commissioner Helgeson asked what the practical operational impact of not including a COLA for salaried employees would be compared to the previous process that was based on a merit matrix. He also asked if the COLA is rolled in with increases over a broad range, across the Board.

General Manager Gray replied that EWEB doesn't use the merit matrix any longer and that, if EWEB were to go forward with the MAPT COLA of 3%, it would not automatically be across the board, but would instead be based on performance, relativity to the job market, etc. He added that a combination of one-time monetary awards and base salary adjustments may be used, but that there is currently no pay plan for 2013 because the budget for 2013 has not yet been approved.

Ms. Smith added that for the last two years, EWEB has made salary adjustments that have been loosely non-performance-based, and has made more of a diligent effort to address under-performing employees and those who were not eligible for one-time adjustments. She said that this was also attempted last year, when it had been three years since EWEB had done market pricing, and money was set aside and adjustments made based on people who were on the green line (those under market and at risk), including some small COLAs. She noted that if a wage freeze is done, that would eliminate the opportunity to make those types of adjustments and, conversely, a general wage adjustment applying to everyone would allow General Manager Gray some flexibility to recommend adjustments where necessary without rolling everyone's salary or awarding everyone an increase.

General Manager Gray added that 3% is the generalized wage assumption for both MAPT and IBEW, and that if the 3% wage assumption is removed from the budget, it would make things difficult, but not impossible, as a position may not be filled because EWEB wouldn't want to lose employees.

President Simpson reiterated that much of the above is about public perception. He stated that EWEB employees are highly dedicated, skilled and reliable workers, and that he can't think of a better place to be a Commissioner. He said he doesn't agree that EWEB staff is overpaid, especially not when one looks at industry comparables, but that if one looks at private business wages, EWEB employees do stand above, but he doesn't believe that is an appropriate comparison. He reminded the Board about the e-mails they receive about high electric bills, i.e., from an apartment dweller who doesn't own a dishwasher whose water bill is \$60 a month. He surmised that this customer probably added up his fresh water, sewer and stormwater charges, and that was probably how they arrived at \$60. He also reiterated his comments at previous meetings that the perception problem is partially caused by the two City of Eugene fees that appear on EWEB's bill and somehow become EWEB's fault. He noted that EWEB is simply the collector of these fees and that they are City fees, not EWEB fees.

He continued, pointing out that another complaint the Board hears over and over is that the Roosevelt Operations Center (ROC) is the reason for a rate increase, and that this is false information. He explained that the ROC does cost money, but the Board made an overt decision

to reduce the budget for it, and it still came in under budget. He noted that the ROC was paid for by a one-time 2% rate increase that was enacted several years ago, and that EWEB won't be asking for any more rate increases to help pay for the ROC. He added that EWEB's public relations department produces plenty of educational material that gets into the newspaper from time to time and is well-written, and he appreciates that, but customers still aren't reading it or connecting the dots, and that it's human nature to jump to conclusions, even when they're wrong. He wondered how the public relations department's responses to each individual complaint could get published for the greater community to read, as he would love to see those get a greater audience.

Commissioner Ernst commented that she doesn't agree with everything President Simpson said, but that he is correct that some customers don't understand their bills, but even so, a bill is a bill. She noted that of greater concern to her is the large rate increase on the water side, and that the electric side is causing a lot of problems. She noted that many customers who live in apartments have ceiling heat and are at fixed income, on Disability, or seniors, and that with the proposed rate increases, their bills will go to \$95 or \$98, when these customers who still work are getting 25-cent raises. She acknowledged that EWEB's employees are dedicated and hard-working employees, the "cream of the crop," but that she thinks everyone needs to be in this together, and that it is a difficult decision for the Board.

She added that she ran her campaign based on the ROC, and that the bond should have been put to a public vote. She acknowledged that EWEB needed a new building, but many felt at that time that it could have been built for a lot less. She wondered if the previous 2% rate increase really did pay off the bond for the ROC.

General Manager Gray replied that the ROC was paid for through bonds and long-term cost structure with debt payments built into the rate structure, that the previous 2% rate structure is permanently in the rate structure, and that there are no incremental rate increases being caused by the ROC. He explained that in the 2013 8% rate increase, 4% represents the BPA increase late in the year, 2% is for Carmen-Smith bonds, and the remaining 2% to cover the wholesale power market and other factors.

Commissioner Helgeson stated that the Board has asked employees to do a lot for them already, and that substantial cuts in staffing are not the only issue from a culture and morale standpoint, but also that the employees who remain after the layoffs have to pick up the slack caused by the people who were laid off. He added that he struggles with the anger around the perceptions, but has to take a deep breath and realize that even though those are there, he doesn't necessarily agree with them, and ultimately he has to decide what is in the best interest of EWEB employees and the public.

Commissioner Helgeson continued, saying that his problem is that suspending a COLA for one year or instilling a wage freeze is a blunt instrument and doesn't have a significant impact on trajectory, mainly in the context of the trends in the economy. He reiterated that EWEB has asked their employees to do enough already, and that it is not going to make much difference in the rate action, and that it is more strategic to manage this issue over time. He said

that he would like to hear more input but, generally, he doesn't want to remove the COLA from the budget, and that if one segment of the population continues to grow and prosper while others have not seen a COLA in some time, that's a strategic problem for EWEB. He noted that he is more interested in the long-term strategy for this.

Commissioner Cunningham noted that the elderly and disabled will be receiving a 1.7% increase in their Social Security income in 2013, and that many employee contracts, COLAs, etc., are based on something along those lines. He said that this situation is a Catch-22, but that it would be reasonable for the IBEW contract to be reopened for discussion. He voiced his desire for the Board to authorize General Manager Gray to meet with IBEW leaders to investigate possibilities, and bring those back to the Board. He added that with only a 1.7% increase in Social Security income and a 4-6% rate increase, there is no way for the elderly and disabled to ever catch up.

Vice President Brown commented that Lane County Sheriff and Eugene Police employees are doing more with less and they aren't receiving a salary increase, that State employees are required to take 14 unpaid furlough days, and that many other employees in the area have taken substantial decreases. He said that EWEB employees have the best offices, equipment and training, and great benefits, and that EWEB has given its employees quite a bit over the years. He reminded the Board that when the \$750,000 energy education funding was discussed, he had said he would rather hire back the 36 employees who lost their jobs, but instead the Board voted to go ahead with the \$750,000 funding. He said he doesn't understand how $\frac{3}{4}$ of 1% doesn't translate to a rate adjustment, and that he is leaning toward having someone else help the Board make a decision on this.

General Manager Gray explained that if there was a zero wage increase or no COLA in 2013, there would be benefit and it would cause slight rate decreases—the water rate increase might go from 20 to 19.5%, and the electric increase might go from 8 to approximately 7.6% or so, but EWEB doesn't have union agreement to do that, so the union side would be lost immediately, and twice as many people would have to be laid off. He noted that the second-year savings would be 100%, but during the first year there would be leakage. He added that the union represents approximately 35% of EWEB employees, and that EWEB would probably continue to see a huge unionization effort, and that cost is significant, and would be a very contentious negotiation, in his opinion. He reiterated that if EWEB ultimately has to do layoffs, the savings will occur in 2013 because of the time it will take to do them and because of early departure incentives, and that the savings would be in year two.

Vice President Brown reminded the Board that EWEB is owned by the ratepayers and the Board is supposed to reflect their will.

In response to a question from Commissioner Helgeson, General Manager Gray explained how the 3% COLA relates to what EWEB anticipates that the actual labor inflation index will be.

Commissioner Helgeson then asked if that number would be different if the COLA was based on not representing the union contract next year but on a more traditional index like the Portland/Salem CPI or wage factors used in the past.

Ms. Smith replied that the COLA for the Portland/Salem CPI is 2.3% and in 2011 it was 1.6%.

Ms. Smith then explained that the COLA would be approached with the amount of money available to solve the most problems, i.e., if the Board chooses a 1.7% COLA because of the 2013 SSA increase, she is not sure staff would choose to allocate it as a general wage adjustment because funds need to be maintained to solve specific market-driven problems.

Ms. Gray added that EWEB has to follow the union contract, and then MAPT wages, and how staff chooses to use those dollars becomes more strategic. He added that he worries about the limited dollars becoming more and more precious. A brief discussion ensued on what situations may arise that EWEB will have to deal with. He said that staff has tried to depart from a COLA-based philosophy, and that Human Resources staff are careful about looking at comparators such as independently-owned utilities and consumer-owned utilities. He reiterated that EWEB's policy is to be in the middle of the pack for wages and benefits, and that EWEB is above some and below others in classifications, and that when EWEB is below others in critical positions, he starts to worry a lot. He reiterated that a global wage freeze could cause a lot of problems.

Commissioner Cunningham commented that he believes it comes down to being remiss to the Board's constituents to not ask General Manager Gray to go to the union and see if there's any concession available. He noted that he doesn't want contentious negotiations, and he hopes that there can be a "family discussion" to see if anything can be adjusted.

It was moved by Vice President Brown, seconded by Commissioner Cunningham, to direct General Manager Gray to begin discussions regarding the MAPT and IBEW proposed wage increases, and bring back to the Board the best financial recommendations available that are in the utility's best interest.

Vice President Brown stated that he doesn't want to bind General Manager Gray into making bad financial decisions, that he has trust and confidence in him, and that whatever Roger thinks he can do time-wise within the time frame of EWEB's budget should be the time frame.

Commissioner Cunningham asked if it is possible to delay the budget vote until after the December 4 meeting. General Manager Gray replied that he doesn't like to go into a new year without a clear idea of a budget and that, if the budget is decreased, there is less time to react. He reminded the Board that on the water side, the rate increase has been moved from May to February (including bills for January consumption), and that would be lost. He also reminded them that there is nothing that can be done on the union side before December 4 because of the

union's process. He further reminded the Board that nothing staff would do in the next few weeks would impact anything before 2013.

Commissioner Helgeson stated that this seems practical for both parties and for perception, and that this direction would have even less perceptual impact than a straight decision for the MAPT wages would. He said that he is inclined to support the motion, though he is not sure it deals with the perception issue that was discussed.

Vice President Brown stated that if the public asks what the Board has done, and even if it ends up they can do nothing, at least they tried. He reiterated that the Board needs to at least try to do something, as they represent 80,000 customers, and it's the Board's job to try.

Commissioner Ernst stated that she feels like the last hour will have been wasted if the above motion passes. She said that not granting a COLA could produce a lot of pushback, and would result in a lot of time spent on negotiations. She added that she hopes employees will realize what's happening in the community and will want to help the ratepayers.

She then stated she would like to amend Vice President Brown's motion to direct General Manager Gray to negotiate with IBEW to see what could happen, and to see if some adjustment could be made in the 3% to get a marker to determine what that could be, and whether to tie it to the CPI (the SSA increase of 1.7% or the Portland/Salem CPI of 2%), and then return to the Board. She added that she appreciates Vice President Brown's comment that EWEB has given their employees a lot over the years when times were good, but times are tough now, and even fire, police and City employees have had to take cuts.

Vice President seconded Commissioner Ernst's amended motion for purposes of discussion, and said he wants to treat everyone the same whether they're within EWEB's organization or not.

Commissioner Ernst stated that she believes the MAPT and IBEW employee groups are different, and that operations and maintenance jobs are hard work, not just for EWEB but also for other organizations.

Commissioner Cunningham stated that he doesn't believe the Board can direct General Manager Gray to negotiate, because the other side has to be willing to. He voiced agreement with Vice President Brown that any pay adjustment needs to be equal for everyone.

President Simpson asked for a vote on Commissioner Ernst's amendment to Vice President Brown's motion. The amendment failed 4-1 (Ernst voted yes).

General Manager Gray confirmed that Vice President Brown's motion is clear, and that staff will do their best to come back to the Board with something better that is also sustainable, rational, and doesn't create foolish outcome, although it can't be accomplished by December 4. He added that he will talk to union representatives, MAPT representatives, management,

financial services staff, and employees, and find ways to come up with a better budget, i.e., a variance that would be created in 2013.

Vice President Brown's motion passed unanimously (5-0).

President Simpson adjourned the Regular Session at 7:00 p.m.

Assistant Secretary

President

EUGENE WATER & ELECTRIC BOARD
EXECUTIVE SESSION
EWEB BOARD ROOM
500 EAST 4TH AVENUE
DECEMBER 4, 2012
5:30 P.M.

Commissioners Present: John Simpson, President; John Brown, Vice President; Joann Ernst, Rich Cunningham and Dick Helgeson

Others Present: Lena Kostopulos of EWEB Staff.

President Simpson called the Executive Session meeting of the EWEB Board of Directors to order pursuant to ORS 192.660(2)(I) at 5:30 p.m. to review and evaluate, pursuant to standards, criteria and policy directives adopted by the governing body, the employment-related performance of the chief executive officer.

President Simpson adjourned the Executive Session meeting at 6:10 p.m.

Assistant Secretary

President

SIGNATURES:

Project Coordinator: _____

Manager: _____

Assistant General Manager: _____

Purchasing Manager: _____

General Manager: _____

Board Approval Date: _____

Secretary/Assistant Secretary verification: _____

EWEB Board Consent Calendar Request

For Contract Awards, Renewals, and Increases

The Board is being asked to approve an increase to the contract with **Delta Environmental Services, LLC** for **wastewater treatment system consulting services at the Roosevelt Operations Center**.

Board Meeting Date: January 2, 2013

Project Name/Contract#: Wastewater Treatment System Consulting Services/
PSC#2135

Primary Contact: Todd Simmons Ext. 7373

Secondary Contact: Debra Smith Ext. 7196

Purchasing Contact: Cheryl Golbek Ext. 7389

Contract Amount:

Original Contract Amount: \$51,804

Additional \$ Previously Approved: \$ N/A

Invoices over last approval: \$ N/A

Percentage over last approval: 0%

Amount this Request: \$75,000

Resulting Cumulative Total: \$126,804

Contracting Method:

Method of Solicitation: Direct Negotiated

If applicable, basis for exemption: EWEB Rule 6-0270 Personal Services

Term of Agreement: February 2, 2011 thru December 31, 2015

Option to Renew? No

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

Action Requested:

Contract Award
 Contract Renewal
 Contract Increase
 Other

Funding Source:

Budget
 Reserves
 New Revenue
 Bonding
 Other

Form of Contract:

Single Purchase
 Services
 Personal Services
 Construction
 IGA
 Price Agreement
 Other

NARRATIVE:

The Board is being asked to approve an increase to the contract with **Delta Environmental Services, LLC** for **wastewater treatment system consulting services at the Roosevelt Operations Center (ROC)**.

The Department of Environmental Quality by law requires an owner (EWEB) of a wastewater system (located at the ROC), with an average dry weather flow (ADWF) of 75,000 gallons per day, must have its system supervised on a part-time or full-time basis by one or more operators who hold a valid certificate for that type of system (OAR 340-049-0015(3) and OAR 340-049-070). Staff has directly negotiated a contract with Delta Environmental to provide supervision of the facility by a State Certified Operator and provide operational training to EWEB staff until staff obtain the on the job training and experience to qualify for Wastewater Treatment System Operator Certification.

If approved, Delta Environmental will operate the system as efficiently as possible and in compliance with facility/system discharge permit, provide personnel to respond to emergencies at the facility, and provide on the job training to EWEB staff. It is anticipated that EWEB staff will be certified by December 31, 2015. Staff estimates these additional services will not exceed \$75,000.

ACTION REQUESTED:

Management requests Board approve an increase to the contract with **Delta Environmental Services, LLC** for **wastewater treatment system consulting services at the Roosevelt Operations Center**. Funds for these services were budgeted for 2013 and will be budgeted annually.

SIGNATURES:

Project Coordinator: _____

Manager: _____

Assistant General Manager: _____

Purchasing Manager: _____

General Manager: _____

Board Approval Date: _____

Secretary/Assistant Secretary verification: _____

EWEB Board Consent Calendar Request

For Contract Awards, Renewals, and Increases

The Board is being asked to approve a new contract with **Luvaas Cobb Law** for **Legal Services – General Counsel**.

Board Meeting Date: January 2, 2013
Project Name/Contract#: Legal Services – General Counsel
RFP 047-2012
Primary Contact: Gail Murray Ext. 7429
Secondary Contact: Roger Gray Ext. 7130
Purchasing Contact: Tracy Davis Ext. 7468

Action Requested:	
<input checked="" type="checkbox"/>	Contract Award
<input type="checkbox"/>	Contract Renewal
<input type="checkbox"/>	Contract Increase
<input type="checkbox"/>	Other

Contract Amount:
Original Contract Amount: \$ 750,000 over 5 years (estimate)
Additional \$ Previously Approved: \$ N/A
Invoices over last approval: \$ N/A
Percentage over last approval: N/A %
Amount this Request: \$ 750,000 over 5 years
Resulting Cumulative Total: \$ 750,000 over 5 years (estimate)

Funding Source:	
<input checked="" type="checkbox"/>	Budget
<input type="checkbox"/>	Reserves
<input type="checkbox"/>	New Revenue
<input type="checkbox"/>	Bonding
<input type="checkbox"/>	Other

Contracting Method:
Method of Solicitation: Formal Request for Proposal
If applicable, basis for exemption: N/A
Term of Agreement: January 4, 2013 – December 31, 2015
Option to Renew? Yes, for additional two years
Approval for purchases “as needed” for the life of the contract Yes

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

NARRATIVE:

The Board is being asked to approve a new contract with **Luvaas Cobb Law** for **General Counsel Legal Services**.

Legal services are exempt from public contracting law. However, EWEB, in an attempt to insure that it is receiving the best value with all of its contracts, issued an RFP in November 2012 to qualified legal firms to provide general legal counsel. Two proposals were received and evaluated; Arnold Gallagher of Eugene and Luvaas Cobb Law of Eugene. Luvaas Cobb Law, the current provider, was selected as the highest ranked proposer. A notice of Intent to Award was sent to Luvaas Cobb Law, pending Board approval.

Luvaas Cobb Law maintains an historical perspective and broad range of expertise in municipal utility legal matters which continue to be very valuable to the utility. They continue to maintain an excellent relationship with staff and consistently provide sound legal advice.

ACTION REQUESTED:

Management requests Board approve a new contract with **Luvaas Cobb Law** for **Legal Services – General Counsel**. Funds for these services are budgeted for 2013 and will be budgeted annually.

SIGNATURES:

Project Coordinator: _____

Manager: _____

Purchasing Manager: _____

General Manager: _____

Board Approval Date: _____

Secretary/Assistant Secretary verification: _____

EWEB Board Consent Calendar Request

For Contract Awards, Renewals, and Increases

The Board is being asked to approve a new contract with **Seattle-Northwest Securities Corporation** for **Financial Advisor Services**.

Board Meeting Date: January 2, 2013

Project Name/Contract#: Financial Advisor / RFP 046-2012

Primary Contact: Cathy Bloom Ext. 3277

Secondary Contact: Roger Gray Ext. 7130

Purchasing Contact: Tracy Davis Ext. 7468

Action Requested:

Contract Award
 Contract Renewal
 Contract Increase
 Other

Funding Source:

Budget
 Reserves
 New Revenue
 Bonding
 Other

Contract Amount:

Original Contract Amount: \$300,000 over 5 years (estimate)

Additional \$ Previously Approved: \$ N/A

Invoices over last approval: \$ N/A

Percentage over last approval: N/A %

Amount this Request: \$300,000 over 5 years

Resulting Cumulative Total: **\$300,000 over 5 years (estimate)**

Contracting Method:

Method of Solicitation: Formal Request for Proposal

If applicable, basis for exemption: N/A

Term of Agreement: January 4, 2013 – December 31, 2015

Option to Renew? Yes, for additional two years

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

Form of Contract:

Single Purchase
 Services
 Personal Services
 Construction
 IGA
 Price Agreement
 Other

NARRATIVE:

The Board is being asked to approve a new contract with **Seattle-Northwest Securities Corporation** for **Financial Advisor Services**.

Public contracts for "the incurring of debt... and all associated contracts" are exempt from public contracting code under ORS 279A.025 2(q) and EWEB rules. However, EWEB, in an attempt to insure that it is receiving the best value with all its contracts, issued an RFP in November 2012 to organizations that provided Financial Advisor services. Two proposals were received and evaluated: Public Financial Management, Inc. of Portland and Seattle-Northwest Securities of Portland. Seattle-Northwest was selected as the highest ranking proposer and a notice of Intent to Award was sent, pending Board approval.

The Financial Advisor assists EWEB in evaluating its financing programs and reviewing its performance in light of economic, administrative, fiscal and debt factors related to the issuance and refunding of bonds through refinancing or restructuring of existing debt, or selecting among alternative sources or methods of obtaining new funding.

Seattle-Northwest has provided these services to EWEB in 2002 to 2006, and 2011 to 2012. They are a regional firm specializing in providing financial advising services which include many electric and water utilities in the Northwest. Over the last year, EWEB also contracted with the firm for pricing advisor services and they assisted with our latest debt issue.

ACTION REQUESTED:

Management requests Board approve a new contract with **Seattle-Northwest Securities Corporation** for **Financial Advisor Services**. Funds for these services are budgeted for 2013 and will be budgeted annually as needed.

SIGNATURES:

Project Coordinator: _____

Manager: _____

Purchasing Manager: _____

General Manager: _____

Board Approval Date: _____

Secretary/Assistant Secretary verification: _____

EWEB Board Consent Calendar Request

For Contract Awards, Renewals, and Increases

The Board is being asked to approve a new contract with **WESCO Distribution** for the purchase of 3 Phase Submersible Transformers.

Board Meeting Date: 1/2/2012
Project Name/Contract#: 3 Phase Submersible Transformers/050-2012
Primary Contact: Mel Damewood Ext. 7145
Secondary Contact: Debra Smith Ext. 7196
Purchasing Contact: Sarah Gorsegner Ext. 7348

Action Requested:

Contract Award
 Contract Renewal
 Contract Increase
 Other

Contract Amount:

Original Contract Amount: \$ 395,000/5 years
Additional \$ Previously Approved: \$ n/a
Invoices over last approval: \$ n/a
Percentage over last approval: n/a %
Amount this Request: \$ 395,000/5 years
Resulting Cumulative Total: \$ 395,000/5 years

Funding Source:

Budget
 Reserves
 New Revenue
 Bonding
 Other

Contracting Method:

Method of Solicitation: Formal Invitation to Bid
If applicable, basis for exemption: n/a
Term of Agreement: Jan 7, 2012-Jan 6, 2013
Option to Renew? Yes, annually for up to 5 years
Approval for purchases "as needed" for the life of the contract Yes

Form of Contract:

Single Purchase
 Services
 Personal Services
 Construction
 IGA
 Price Agreement
 Other

Narrative:

The Board is being asked to approve a new contract with **WESCO Distribution** of Portland, Oregon for the purchase of 3 Phase Submersible Transformers on an as needed basis.

EWEB requires 3 Phase Submersible Transformers for unit failure replacement and for new construction. In November 2012, EWEB issued a formal Invitation to Bid to establish a price agreement for the purchase of 3 Phase Submersible Transformers. The solicitation was reviewed by eight companies. Three responses were received; WESCO Distribution was determined to be the lowest responsive and responsible bidder.

Historical procurement data suggests that the total contract amount will be approximately \$395,000 over the total five-year period. The actual total dollar amount, however, is unknown and may be more or less than that estimated volume. Purchases will be based on need and not on any specific annual quantity. The annual cost will be within the amount budgeted for that specific year.

If approved, staff will purchase required 3 Phase Submersible Transformers at the established prices over the life of the contract. The contract is for one-year with the option to renew for four additional one-year periods.

ACTION REQUESTED:

Management requests Board approve a new contract with **WESCO Distribution** for purchase of 3 Phase Submersible Transformers, as needed. Funds for these purchases were budgeted for 2012 and will be budgeted annually.

SIGNATURES:

Project Coordinator: _____

Manager: _____

Assistant General Manager: _____

Purchasing Manager: _____

General Manager: _____

Board Approval Date: _____

Secretary/Assistant Secretary verification: _____



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

Rely on us.

TO: Commissioners Simpson, Brown, Helgeson, Manning and Mital
FROM: Mel Damewood, Engineering Manager; Debra Smith, Assistant General Manager
DATE: December 17, 2012
SUBJECT: Budget Amendment Request - Leaburg Left Bank Fish Ladder Improvements

Issue

The foundation of the Leaburg Dam Left Bank Fish Ladder has been undermined by river flows and turbulence. A structural engineering analysis revealed that the fish ladder is in danger of tipping toward the river. If significant movement were to occur, extensive structural damage would result.

Background

The Leaburg Dam Left Bank Fish Ladder was constructed in the late 1960s. Review of the design drawings show that the ladder's concrete foundation was poured directly on the river bottom, which is comprised of cobbles, sand, and gravel. Rip-rap was placed adjacent to the fish ladder in an effort to prevent erosion.

Underwater inspection of the Leaburg Dam on June 19, 2012 revealed that the Left Bank Fish Ladder foundation has been undermined, presumably by erosion resulting from river flows passing through the dam and adjacent to the fish ladder. Measurements taken during the inspection revealed that seventy feet of the fish ladder has been undermined. The extent of the undermining ranges from four feet to more than fifteen horizontal feet as measured from the riverside foundation face of the fish ladder. Therefore, a substantial portion of the foundation is unsupported. In addition, measurements revealed that twelve vertical feet of rip-rap, which helped protect the fish ladder, has also been washed away from the riverside face of the fish ladder over the years.

EWEB contracted with a structural engineering firm, Metzler Engineering Group, on July 23, 2012 to perform a structural analysis of the fish ladder and ascertain if there is risk of failure. Metzler's August 17, 2012 report concluded that due to the absence of bearing material beneath the foundation, the fish ladder is at risk of tipping toward the river. Depending on the extent of structure movement, significant damage requiring extensive repair could result.

Discussion

Metzler Engineering Group was retained through the MSA program on October 4, 2012 to design repairs to the left bank fish ladder. The design will include installation of sheet piling along the riverside face of the fish ladder as well as filling all below-foundation voids with concrete. The concrete will provide a solid bearing surface for the existing foundation, while the sheet piling will retain the concrete during construction and reduce the potential for future erosion.

Due to fish migration concerns, all in-water construction activities must be completed by April 30, 2013. Delaying repairs increases the risk of structural failure. Completing all construction activities by this date would require obtaining Board approval at the February 5, 2013 Board meeting. It is uncertain at this time whether final contract preparation, advertising, bidding, and bid evaluation can be complete prior to the February Board meeting. In addition, any unforeseen delays, such as complications with permit acquisition, could adversely affect the project timeline. If such a delay occurs and the work cannot be completed by April 30th, EWEB would be at risk of incurring additional major damage during the spring high flow season. To mitigate this risk by preserving an adequate construction schedule, it may be necessary to award a construction contract without Board approval. If delays are significant, it may also be necessary to forego conventional formal bidding processes in favor of obtaining quotes from select contractors.

Staff intends to follow conventional procurement processes to the maximum extent possible. However, in anticipation of potential project delays which could increase the risk of fish ladder failure, it is necessary to request emergency approval for a non-conventional procurement processes if warranted. Findings to support a Declaration of Emergency as well as Budget Amendment No. 1 are attached herein for your review.

This work was not budgeted for 2013 as the need for repairs was not known until after the 2012 budgeting period. Estimated total cost of work, including EWEB labor, consultant, and construction contractor, is \$900,000.

EWEB staff would typically submit an updated overall 5-year capital plan with a budget amendment to reflect the change as required by Board Policy EL-1. However, staff is currently working on a major update to the 5-year capital plan in preparation for the annual April true-up of which this change will be included. For this reason, the 5-year capital plan update that reflects this change will be submitted to the Board as part of the annual April true-up.

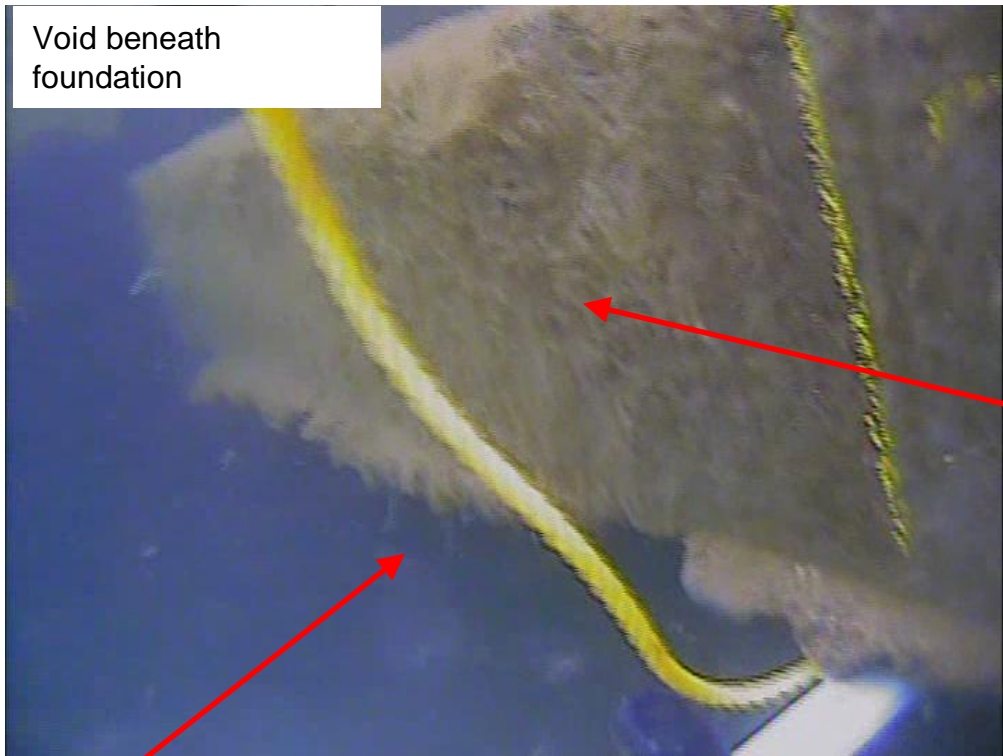
Recommendation/Requested Board Action

Management recommends Board approval of Budget Amendment No. 1 to complete the Leaburg Left Bank Fish Ladder Improvements project. Furthermore, Management recommends approval of the Emergency Declaration which is to only be carried out on a contingent basis as described above. If there are any questions or if more information is needed, please contact Debra Smith, Assistant General Manager 541-685-7196 or debra.smith@eweb.org.



Fish ladder wall

Foundation footing



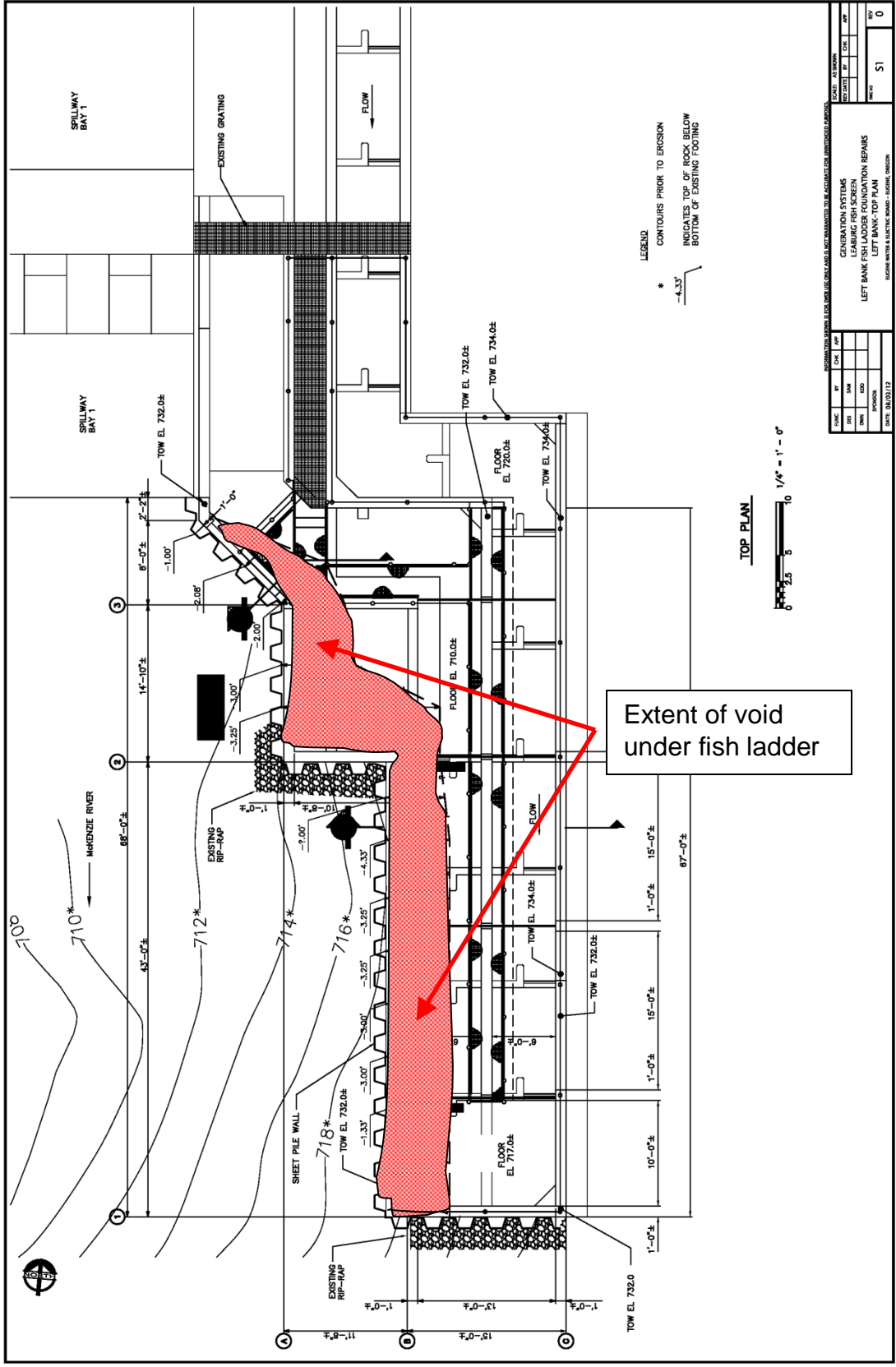
Void beneath foundation

Foundation footing

Void beneath foundation



Underside of
foundation



DATE	BY	CHK	APP	SCALE	AS SHOWN
08/11/12	SM	SM	SM	1"	1' = 10'
PROJECT	LEFT BANK FISH LADDER FOUNDATION REPAIRS				
DATE	08/11/12				
SCALE	1" = 10'				
NO.	S1				
TOTAL	9				

FOR INFORMATION ONLY. THIS DRAWING IS NOT TO BE USED FOR CONSTRUCTION OF THE PROJECT UNLESS OTHERWISE SPECIFIED.

DESIGNED BY: SM
 CHECKED BY: SM
 APPROVED BY: SM

PROJECT: LEFT BANK FISH LADDER FOUNDATION REPAIRS
 DATE: 08/11/12
 SCALE: 1" = 10'

NO. OF SHEETS: 9
 SHEET NO.: S1

Budget Amendment Form

Amendment #1

General Information

Date: December 17, 2012

Project Name and No : 18043 – Leaburg/Waltermville Capital Expenditures

Job No and Name: 36399 – Leaburg Left Bank Fish Ladder Foundation Improvements

Amendment for: Generation Capital Projects

Category of Amendment (Check all that Apply):

Utility: Electric Water Steam

Major Capital Project Capital O & M Labor & Benefits

Contact Information:

Name: Debra Smith – Assistant General Manager

Description and justification for Budget Amendment:

A tabulation of the expenditures, additional funds needed, and funding sources is presented below: See the corresponding Board Memo for additional explanation and justification.

<i>Actual Expenditures thru</i>	<i>Projected Year-End Expenditures</i>	<i>Amount Currently Budgeted</i>	<i>Additional Funds Needed</i>	<i>Funding Source (reserves, new revenue, bonding)</i>
<i>Job No. 36399 2013 Expenditures - \$0</i>	<i>\$900,000</i>	<i>0</i>	<i>\$900,000</i>	<i>Reserves</i>

General Manager Approval: _____ Assistant GM Approval: _____

Finance Manager Approval: _____ Department Manager Approval: _____

Fiscal Services Supervisor Approval: _____

Board Consent Date: _____

FINDINGS TO SUPPORT DECLARATION OF EMERGENCY

DATE: December 17, 2012 _____

REQUESTOR: Steve Celeste, Senior Engineer _____

ESTIMATED COST: \$900,000 _____

In accordance with ORS 279A.065, ORS279A.025, 279B.080, 279B.145, 279C.335(5), 279C.380(4) and all applicable EWEB Rules:

The Purchasing Manager, with the concurrence of the General Manager and/or an affected Leadership Team Manager, may approve the award of a public contract for goods, services, or work, as an emergency procurement.

“**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))

Such circumstances may also include, but are not limited to:

- (a) EWEB moving forward as quickly as possible to prevent interruption to vital services, restoration of vital services, or
- (b) Prevention of loss to EWEB, or
- (c) Protection of the quality of services, or
- (d) Other circumstances necessary to responsibly carry out EWEB's services to its customers

279B.145 Finality of determinations. The determinations under ORS 279B.055 (3) and (7), 279B.060 (3) and (10), 279B.075, 279B.080, 279B.085 and 279B.110 (1) are final and conclusive unless they are clearly erroneous, arbitrary, capricious or contrary to law.

NATURE OF THE EMERGENCY:

The Leaburg Dam Left Bank Fish Ladder was constructed in the late 1960s. Review of the design drawings show that the ladder's concrete foundation was poured directly on the river bottom, which is comprised of cobbles, sand, and gravel. Rip-rap was placed adjacent to the fish ladder in an effort to prevent erosion.

Underwater inspection of the Leaburg Dam on June 19, 2012 revealed that the Left Bank Fish Ladder foundation has been undermined, presumably by erosion resulting from river flows passing through the dam and adjacent to the fish ladder. Measurements taken during the inspection revealed that seventy feet of the fish ladder has been undermined. The extent of the undermining ranges from four feet to more than fifteen horizontal feet as measured from the riverside foundation face of the fish ladder. In other words, a substantial portion of the foundation is unsupported. In addition, measurements revealed that twelve vertical feet of rip-rap, which helped protect the fish ladder, has also been washed away from the riverside face of the fish ladder over the years.

EWEB contracted with a structural engineering firm, Metzler Engineering Group, on July 23, 2012 to perform a structural analysis of the fish ladder and ascertain if there is risk of failure. Metzler's August 17, 2012 report concluded that due to the absence of bearing material beneath the foundation, the fish ladder

is at risk of tipping toward the river. Depending on the extent of structure movement, significant damage requiring extensive repair could result.

Metzler Engineering Group was retained through the MSA program on October 4, 2012 to design repairs to the left bank fish ladder. The design, which is 90 percent complete, will include installation of sheet piling along the riverside face of the fish ladder as well as - filling all below-foundation voids with concrete.

Due to fish migration concerns, all in-water work must be completed by April 30, 2013. Completing all construction activities by this date would require obtaining Board approval at the February 5, 2013 Board meeting. It is uncertain at this time whether final contract preparation, advertising, bidding, and bid evaluation can all be complete prior to the February Board meeting. In addition, any unforeseen delays, such as complications with permit acquisition, could adversely affect the project timeline. If such a delay occurs and the work cannot be completed by April 30th, EWEB would be at risk of incurring additional major damage during the spring high flow season. To mitigate this risk by preserving an adequate construction schedule, it may be necessary to award a construction contract without Board approval. If delays are significant, it may also be necessary to forego conventional formal bidding processes in favor of obtaining quotes from select contractors.

Staff intends to follow conventional procurement processes to the maximum extent possible. However, in anticipation of potential project delays which could increase the risk of fish ladder failure, it is necessary to request emergency approval for non-conventional procurement processes if warranted.

APPROVALS

Department Supervisor: _____ Date: _____

Purchasing Manager: _____ Date: _____

LT Manager: _____ Date: _____

Additional Comments:

Vendor/Contractor: _____

Buyer Name: _____ P.O. Number: _____



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

Rely on us.

TO: Commissioners Simpson, Brown, Helgeson, Manning and Mital
FROM: Lena Kostopulos, Human Resources Manager
DATE: December 18, 2012
SUBJECT: Annual General Manager's Performance Evaluation for Year 2012

Background:

On December 18, 2012, the Board met in Executive Session with Roger Gray to conduct the annual evaluation of the General Manager's performance. This document is intended to summarize the discussion from that meeting for the public record.

Discussion:

The timing of this year's performance evaluation process was adjusted to enable outgoing Commissioners Ernst and Cunningham to participate and contribute their feedback to the process. Mr. Gray's last evaluation (for year 2011) was conducted in February, 2012 and entailed a very comprehensive process including feedback from Mr. Gray's direct reports, community and industry partners in addition to the Board of Commissioners. Since less than a year has passed, the Board opted to condense the process somewhat, relying purely on the Board's evaluations of Mr. Gray's performance in the following six categories:

- Mission, Vision & Purpose
- Operational Effectiveness
- Strategic Agility
- Setting Expectations and Creating Accountability
- Leadership
- Effectiveness in Working with Board of Commissioners

The rating options were:

- 1 – Consistently Exceeds My Expectations; Exceptionally Skilled
- 2 – Fully meets my expectations; Skilled
- 3 – Generally meets my expectations; Approaching desired levels of performance
- 4 – Needs to improve; underperforming

Individual Commissioner ratings in each category ranged from "Skilled" to "Exceptionally Skilled" with an overall rating of "Exceptionally Skilled."

The Board indicated that overall, they are very satisfied with Mr. Gray's 2012 job performance, making particular note of his success in spite of present economic challenges and customer perceptions regarding recent rate increases. To that end, the Board offered that Mr. Gray could provide more direct and advanced notice surrounding issues that may become controversial. Their goal in this is to ensure each Commissioner is fully informed and prepared to address questions and concerns from their constituents. They were unanimous in directing Mr. Gray to work toward developing a more proactive and robust communications and marketing strategy as a means to better educate customers and the general public about the value of EWEB products and services as well as any emerging challenges that may be confronting the Utility.

During regular session, Vice President Brown invited individual Commissioners to comment regarding Mr. Gray's 2012 job performance. Each made remarks recognizing Mr. Gray's efforts and exceptional performance. On behalf of the Board of Commissioners, Vice President Brown expressed appreciation for Mr. Gray's 2012 performance and the evaluation discussion was concluded.

The Board directed me to prepare this summary to be presented as a consent calendar item for the next agenda. A copy of this memorandum, along with any documents associated with the performance evaluation process, will be placed in Mr. Gray's EWEB employment record.

Recommended Action:

Confirm that this summary is an accurate reflection of the annual performance evaluation discussion (for year 2012) between the EWEB Board of Commissioners and General Manager, Roger Gray and that it be entered into the record.