



# MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

*Rely on us.*

TO: Commissioners Simpson, Brown, Helgeson, Manning and Mital  
FROM: Cathy Bloom, Finance Manager  
Susan Eicher, General Accounting and Treasury Supervisor  
DATE: July 26, 2013  
SUBJECT: EWEB Deferred Compensation Plan  
OBJECTIVE: Approve Resolution # 1314 Amending Plan

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## **Issue**

EWEB management is recommending updates to plan documents for the deferred compensation plan and the delegation of plan administration and investment oversight to a plan committee.

## **Background**

EWEB first established a deferred compensation plan in 1977. The plan was formed under Section 457 of the Internal Revenue Code. The plan allows for employees to voluntarily deposit a portion of their wages into the plan and defer the taxes on those wages until they are withdrawn from the plan.

## **Discussion**

When the plan was originally formed, the Board of Commissioners created a plan committee to administer the plan and oversee the investment policy of the plan. Since the inception of the plan, the composition of the committee has included employees and certain board officers or key managers with expertise in financial and benefit matters.

We have completed a review and noted changes that are required in the plan documents to comply with current laws and regulations. The attached Charter of the EWEB Section 457 Deferred Compensation Plan Committee incorporates all changes that were recommended by legal counsel and our deferred compensation plan consultant.

## **Recommendation**

Approve Resolution #1314 establishing the plan committee and charter.

## **CHARTER OF THE EWEB SECTION 457 DEFERRED COMPENSATION PLAN COMMITTEE**

The Board of Commissioners (the “Board”) of the Eugene Water & Electric Board (“EWEB”) has established the EWEB Section 457 Deferred Compensation Plan Committee (the “Plan Committee”) to oversee the administration of the EWEB Section 457 Deferred Compensation Plan (the “Plan”). The Board has authorized this Charter setting forth the responsibilities and functions of the Plan Committee.

### **I. Composition of Plan Committee**

The Assistant Treasurer and the Human Resources Manager of EWEB, or a designee of such individual, shall serve on the Plan Committee. The Plan Committee shall also include at least one (1) member-at-large, who shall be appointed by, and serve at the pleasure and discretion of, the General Manager, acting on behalf of the Board.

An at-large Plan Committee member may resign by giving prior written notice to the General Manager. A Plan Committee member may be removed at any time, with or without cause, by the General Manager.

Unless a Chairperson is appointed by the General Manager, the members of the Plan Committee may designate a Chairperson by majority vote of the full Plan Committee membership.

### **II. Powers and Duties as Plan Administrator**

The Plan Committee shall serve as the “Plan Administrator” with respect to the Plan. The Plan Committee shall have final and binding authority to control and manage the operation and administration of the Plan, including all rights and powers necessary or convenient to carry out its functions hereunder, whether or not such rights and powers are specifically enumerated herein. In exercising its responsibilities hereunder, the Plan Committee may manage and administer the Plan through the use of agents, who may include employees of EWEB.

Without limiting the generality of the foregoing, and in addition to the other powers set forth in the Plan, the Plan Committee shall have the following express authorities:

- (a) To act on behalf of the Board with respect to the appointment and termination of trustees, third-party administrators, investment managers, named fiduciaries or other positions relating to the Plan;
- (b) To review periodically the performance of any third parties engaged in the administration, management or investment of funds of the Plan, and to review the recommendations of management with respect to the engagement or termination of any third parties;
- (c) To establish such policies from time to time as it deems appropriate regarding the administration and operation of the Plan;

- (d) To prepare and file all reports required to be filed with any agency of government (other than reports that must be prepared or filed by other parties as required by applicable law), and prepare such other reports with respect to the Plan as are reasonable and appropriate;
- (e) To comply with all disclosure requirements imposed by state or federal law upon the administrator of the Plan, and to maintain all records of the Plan;
- (f) To receive from EWEB and from Participants such information as may be necessary for the proper administration of the Plan; and
- (g) To perform such other duties as are assigned to the “Plan Administrator” under the Plan, or which are delegated to it by the Board or the General Manager.

The Plan Committee is expressly reposed with the discretionary authority and powers in regard to all facets of any claims for benefits made under the Plan. Such authority and powers include, but are not limited to, the following:

- (a) Construing and interpreting the terms of the Plan and of any documents pertaining to the Plan;
- (b) Construing and interpreting all laws and regulations as applicable to any claims for benefits made under the Plan;
- (c) Making any factual determinations and applying such determinations to the terms of the Plan and issues arising under the Plan;
- (d) Otherwise deciding all questions regarding an individual’s benefit entitlements under the Plan, and the manner and timing of any payments to be made to or with respect to any individual under the Plan; and
- (e) Considering and deciding all appeals of benefit claims which have been denied, including affording a reasonable opportunity to any Participant or beneficiary whose claim for benefits has been denied for a full and fair review of the decision denying the claim.

### **III. Powers and Duties as Investment Committee**

The Plan Committee shall be responsible for the oversight of the investments of the assets of the Plan. In exercising this oversight function, the Committee shall have the overall responsibility for evaluating and approving the investment options of the Plan. The Plan investment responsibilities of the Plan Committee shall expressly include the following:

- (a) To approve and monitor the Statement of Investment Objectives and Policy Guidelines (the “Investment Policy”) for the Plan;
- (b) To receive and review periodic reports about the status of the investments of the Plan;

- (c) To act on behalf of EWEB with respect to the appointment and termination of trustees, investment advisors, named fiduciaries or other positions relating to the investments held under the Plan;
- (d) To review periodically the performance of any third parties engaged in the administration, management or investment of funds of the Plan; and
- (e) To review and assess, on a regular basis, the adequacy of the Investment Policy, and make any desired changes.

#### **IV. Other Powers**

The Plan Committee may consult with legal counsel, accountants, financial advisors or other advisors as may be required or appropriate to assist it in discharging its responsibilities with respect to the Plan.

The Plan Committee shall have the authority to delegate certain responsibilities to subcommittees if the Plan Committee determines that such delegation is advisable and is otherwise allowable by law or regulation.

#### **V. Powers Reserved by EWEB**

EWEB is responsible for all settlor functions under the Plan except insofar as any such authority or responsibility is assigned to another party pursuant to the Plan or this Charter. In that regard, EWEB shall be the “Sponsor” of the Plan. Such authority and responsibility shall include matters pertaining to the design of the Plan, including the right to amend and to terminate the Plan, except that the Plan Committee shall also be authorized to make Plan amendments or modifications that are the subject of a specific delegation of authority from the Board, or which, in the Plan Committee’s judgment, are:

- (a) Procedural, technical or administrative in nature;
- (b) Necessary or advisable to comply with changes in the laws or regulations applicable to the Plan; or
- (c) Necessary or advisable to implement provisions conforming to a collective bargaining agreement;

All actions that may be exercised by EWEB with respect to the Plan may be made on its behalf by its General Manager, unless the Board expressly reserves to itself the power to effect such actions.

EWEB may delegate to the Plan Committee or to any officer any authority or responsibility reserved or assigned to EWEB pursuant to the Plan. In the event of any such delegation, any references to the authority, right or power of EWEB to act which are contained in any notice, disclosure or communication made with a view toward effectuating the purposes of the Plan shall be construed to include authority for such actions by the Plan Committee or officer to whom EWEB has delegated its authority. Notwithstanding any other provision of the Plan, in the event

that an action or direction of any person acting on behalf of EWEB conflicts with an action or direction of the Board, then the authority of the Board shall supersede that of the delegate with respect to such action or direction.

## **VI. Committee Meetings**

The Plan Committee shall meet whenever required to provide for the orderly and timely administration of the business of the Plan. The Chairperson, or any two Plan Committee members, may call meetings of the Plan Committee. Any meeting shall be called upon at least three days' written notice to all Plan Committee members, which notice shall specify the date, time and place of such meeting and may specify the purpose thereof and any action proposed to be taken.

Attendance at a meeting shall be limited to the Plan Committee members and other persons invited by the Plan Committee. Two-thirds of the Plan Committee members then in office (but not less than three members) shall be necessary to constitute a quorum for the transaction of business.

The attendance of a Plan Committee member at a meeting, or the member's approval of the actions taken at a meeting at which the member was not present, shall constitute a waiver of any required notice, except where a Plan Committee member attends a meeting and objects thereto to the transaction of any business because the meeting is not lawfully called or convened.

A Plan Committee member may participate in any meeting through the use of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. A Plan Committee member's participation in a meeting by such means shall constitute that member's presence in person at the meeting.

Any action which may be taken at a meeting of the Plan Committee may be taken without a meeting if, before or after the action, consent in writing setting forth the action so taken is signed by all of the Plan Committee members then serving.

Except as may otherwise be specifically provided for herein, all actions by and decisions of the Plan Committee members shall be by votes cast by members who are in attendance at a duly-called meeting of the members at which there is a quorum present. Actions at a meeting at which a quorum is present shall be the acts of the members if the votes cast favoring the action exceed the votes cast opposing the action. Each member shall have one vote. No member may act by proxy with respect to any matter. Notwithstanding the foregoing, the unanimous written consent of the members shall be required for any action taken pursuant to the preceding paragraph.

The Plan Committee members, by resolution, may authorize any member or any joint group of members to execute any notice, certificate or other written instrument relating to an action of the Plan Committee, and all persons may rely upon any such notice or instrument so executed as having been duly authorized and as binding on the Plan and the members. An instrument that is executed by the Chairperson of the Plan Committee shall be conclusive evidence of the adoption and effectiveness of the instrument.

The Plan Committee shall maintain written minutes of its meetings. The Plan Committee may designate a secretary to take the minutes, and the secretary need not be a member of the Plan Committee.

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IN WITNESS WHEREOF, Eugene Water & Electric Board has caused this Charter to be signed by its authorized officer.

Eugene Water & Electric Board

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

Title: General Manager

Dated: \_\_\_\_\_, 2013

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**RESOLUTION NO. 1314  
AUGUST 2013**

**EUGENE WATER & ELECTRIC BOARD  
EWEB SECTION 457 DEFERRED COMPENSATION PLAN COMMITTEE CHARTER**

WHEREAS, Eugene Water & Electric Board (“EWEB”) maintains the EWEB Section 457 Deferred Compensation Plan (the “Plan”) for the benefit of its eligible employees; and

WHEREAS, it is the desire of the Board of Commissioners (the “Board”) to provide for the allocation and delegation of the duties and responsibilities under the Plan.

NOW, THEREFORE, BE IT RESOLVED, that in consideration of the foregoing, the Board hereby establishes the Charter of the Plan Committee under the EWEB Section 457 Deferred Compensation Plan, effective as of August 6, 2013.

RESOLVED FURTHER, that the Board hereby authorizes and approves the Charter of the Plan Committee, as attached hereto.

NOW, THEREFORE, BE IT RESOLVED that the Eugene Water & Electric Board approves the Resolution No. 1314 effective August 6, 2013:

Dated this 6th day of August, 2013.

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

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President

I, TARYN M. JOHNSON, 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 August 6, 2013 Regular Board Meeting.

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Assistant Secretary