

***CANBY UTILITY  
REGULAR BOARD MEETING  
NOVEMBER 14, 2023  
7:00 P.M.***

**AGENDA**

- I. CALL TO ORDER
- II. AGENDA
  - Additions, Deletions or Corrections to the Meeting Agenda
- III. CONSENT AGENDA
  - Approval of Agenda
  - Approval of Regular Board Meeting Minutes of September 26 and October 10, 2023 (pp. 1-10)
  - Approval of Write-Offs
  - Approval of Payment of Water and Electric Bills
- IV. CITIZEN INPUT ON NON-AGENDA ITEMS *Citizen's wanting to speak virtually, please email or call the Board Secretary-Clerk by 4:30 p.m. on November 14, 2023 with your name, the topic you would like to speak on, and contact information: [bbenson@canbyutility.org](mailto:bbenson@canbyutility.org) or 503-263-4312.*
- V. PRESENTATION Water System Development Charge Study – Mike Schelske, Finance Manager, and Steve Donovan of Donovan Enterprises, Inc. (pp. 11-21)
- VI. RECOMMENDATION Adopt Paid Leave Oregon Policy – Barbara Benson, Human Resources/Administration Manager (pp. 22-30)
- VII. BOARD REPORT
  - Chair Comments
  - Board Member Comments
- VIII. STAFF REPORTS

Customer Service Supervisor:

  - Annual Red Flag Rules Update (pp. 31-39)

Board Secretary:

  - Annual Employee Recognition Event

General Manager Updates
- IX. ADJOURN

***CANBY UTILITY  
REGULAR BOARD MEETING MINUTES  
SEPTEMBER 26, 2023***

- Board Present:** Chair Thompson; Members Horrax, Molamphy, and Pendleton
- Staff Present:** Carol Sullivan, General Manager; Barbara Benson, Board Secretary; Mike Schelske, Finance Manager; Sue Arthur, Purchasing Agent; Cindy Dittmar, Customer Service Supervisor; and Jason Peterson, Operations Field Supervisor
- Others Present:** Brian Ginter and Libby Barg Bakke of Consor, Mayor Brian Hodson; Interim City Administrator Eileen Stein; Brian Hutchins, Veolia; Keith and Abbie Mason; Corianne Burnett; Adam Odell; Jake Hill; and Joe Brennan

Chair Thompson called the Regular Board Meeting to order at 7:01 p.m.

Chair Thompson presented the meeting agenda for consideration. Member Molamphy made the \*MOTION to approve the consent agenda, consisting of the meeting agenda. Member Horrax seconded, and the motion passed unanimously.

Chair Thompson asked for citizen input on non-agenda items, and there was none.

General Manager Carol Sullivan introduced consulting engineer Brian Ginter and Libby Barg Bakke of Consor, who were presenting the final draft of the Water Master Plan. Ginter shared that he has been working with Canby Utility for many years, and the Board hired his firm to complete an update to the 2010 Water Master Plan. Ginter noted that he had the opportunity to discuss elements of the master plan with the Board earlier in the year. The master plan sets the stage for moving forward with large capital projects.

Consor submitted the final draft of the master plan to the Oregon Health Authority. Upon review, they gave us concurrence, essentially approving the plan. Ginter said that the next step in the process is for the Board to adopt it. Ginter shared that Canby Utility's planning for the Willamette River as a long-term source of water supply for the city has been a decades-long process. In 1990, the Board had the foresight to anticipate the need for an additional water supply beyond the available water in the Molalla River sometime into the future. At that time, the Board applied to the State for water rights on the Willamette River. The application remained in a holding pattern with the State since the need for the new source was a long time into the future. In 2011, the Oregon Water Resources Department issued the water rights permit, thus allowing Canby Utility to develop the new water source by 2030. In 2013, the Board completed a water supply analysis. This process evaluated alternative sources and ways to develop the water supply, which confirmed that the Willamette River source at Canby was the right decision. These alternative water sources were revisited in 2018 by exploring regional partnership opportunities due to evolving Willamette River water supply projects. In 2021, the Board completed the Water

Management and Conservation Plan, which assessed if Canby Utility was using water resources appropriately and offered another opportunity to look at the timing for developing the additional source. Now, the Board is finalizing the Water Master Plan that identifies key milestones to having the new water source online around the year 2030. This project is a multi-year process that includes planning, permitting, funding, design, and construction.

The Water Master Plan is a planning resource for staff and the Board, documents system components, determines the financial impacts, identifies needed system improvements, and meets regulatory requirements. Ginter stated that aside from the future water supply needs, Canby Utility's water system has only a few deficiencies. Canby Utility has properly maintained the system, and it is functioning well. Ginter reviewed the recommendation for system improvements. These recommendations include conducting a water storage study to determine the needs for future storage, potential abandonment of the existing N.W. 4<sup>th</sup> and Fir Street reservoir site, additional pumping capacity at the S.W. 13<sup>th</sup> Avenue reservoir site, transmission and distribution system upgrades for Area J and future supply for development, annual waterline pipe rehabilitation and replacement, and fire flow needs to improve minor local deficiencies. Ginter noted that due to Canby's relatively flat terrain, there are no deficiencies in service pressure limits.

The significant recommendation is related to source water. Canby Utility's Molalla River source capacity is eight million gallons per day (mgd). Sometime between 2030 and 2035, Canby's peak demand is projected to reach the eight mgd limit. Ginter said that there is limited opportunity for expansion in the Molalla River source. Flows in the Molalla River during summer months are too low to access more water reliably. In addition, partnership opportunities are unlikely, so Canby will need to develop its new water source independently. Ginter summarized the recommendations from the Water Master Plan.

Ginter reviewed the Capital Improvement Plan and the planning level costs for each project. The most significant costs are within the 0–5-year horizon for developing the new water source, storage reservoir, and pump station.

The alternatives for source water that the water supply analysis considered were the Clackamas River with a South Fork Water Board partnership, the Willamette River with a City of Wilsonville partnership, and the Willamette River Water Supply Group, who is building a plant in Sherwood. The challenges with these alternatives were a need for more interest in a partnership and the distance to extend a transmission line to Canby. Developing the Willamette River source water supply at Canby is the best long-term answer. The benefits to Canby Utility developing its own source supply are having the available and reliable supply, ownership, shortest pipeline routing, property and permit requirements are achievable, lower cost than alternatives, and can be developed in the necessary timeframe.

Libby Barg Bakke shared some background information about the Willamette River. The river flows south to north, starting in the headwaters near Eugene and then flowing to the Columbia River. This flow direction means that water flows towards the Portland Harbor Superfund Site,

thereby not affecting Canby's point of diversion. It flows entirely within Oregon, making the permitting process more manageable. The 13 dams along the river store water, which improves summer in-stream flows. The river provides drinking water to the cities of Springfield, Corvallis, Wilsonville, Sherwood, and soon to Hillsboro, Beaverton, and the Tualatin Valley Water District customers. The Wilsonville water treatment plant came online in 2002. Since then, it has met or exceeded every safe drinking water standard. Bakke shared the outcomes from a focus group about 15 years after the City of Wilsonville built its water treatment plant. There was a high level of public trust in the engineering and source water treatment processes. She also described the multi-barrier protection in the treatment process to keep drinking water safe.

Bakke highlighted the steps needed to set the foundation for project success. She explained the critical step of developing a communication strategy to help manage challenges and build community support for the project. There are inherent challenges in this project, including critical time pressures, multiple stakeholders, and significant investments that will impact ratepayers. Bakke talked about the important elements of the communication strategy.

Chair Thompson confirmed that staff concurred with the results of the Water Master Plan developed by Consor. General Manager Carol Sullivan said that they did concur with the results of the plan. There was a collaboration of efforts between Consor, Veolia, and Canby Utility staff in developing the plan. They also met with the City of Canby's planning staff regarding growth projections for Canby to ensure that the data was consistent. Ginter noted he used the Portland State University's Population Research Center data to forecast population projections.

Chair Thompson asked for clarification on the upgrade system backbone for Area J referenced in the plan and that it is for future growth. Ginter explained that the area is already within the Urban Growth Boundary but outside the city limits until annexation occurs. Discussion ensued regarding the need for the distribution piping for development. The population growth considers additional Urban Growth Boundary expansion. Operations Field Supervisor Jason Peterson noted that staff has met with the city staff regarding the Area J development. Canby Utility will be ready to move forward with infrastructure work when development occurs. The developers have presented a conceptual layout of the area, and Consor incorporated that information into the Water Master Plan.

Member Horrax asked about the additional capacity the new plant will add to the system. Ginter stated that Canby Utility's water rights on the Willamette River are eight million gallons per day (mgd), which will be the baseline capacity of the new treatment plant. The Board will need to decide whether or not to invest further into the new plant as Canby's sole intake and phase out the existing aging plant or to maintain both treatment plants. The new plant's capacity can be expanded to treat 12 mgd. Canby Utility may also have its Molalla River water right transferred to the point of diversion on the Willamette River.

Member Horrax asked about the potential for an elevated, gravity-fed water storage tank. Ginter said it is an option, but they are rare in the Northwest. They cost about four times as much as a ground-level storage tank. These options could be explored more in the future.

Member Molamphy talked about the significance of the communication strategy. He feels that Canby Utility needs to start talking to Canby citizens about the project now and that the Board will need to engage a communications professional with expertise in delivering the Board's message to our customers. Chair Thompson noted that Consor's timeline started with the hiring of the owner's representative, and the second step included community engagement. Bakke shared her experience with community engagement while working with the Eugene Water and Electric Board and the Willamette River Water Supply group for their new source on the Willamette River.

Member Pendleton asked about the timing for discussing funding sources and the rate impacts of significant capital projects. Ginter stated that Canby Utility is undergoing a water rate and system development charge analysis, which will factor in the cost of the capital improvement projects. The owner's representative is the next step, and they will be exploring funding sources. Chair Thompson said we need more information to determine the impact the new water treatment plant project will have on rates. Bakke noted that there are low-interest loans that will lessen the impact on current ratepayers. Sullivan said we will have more information once the rate study is complete.

Chair Thompson presented the resolution for consideration, noting that the Board is welcome to take more time for review if needed and that staff has reviewed the technical elements of the plan and concurred with Consor's findings. Member Molamphy made the \*MOTION to adopt Resolution No. 314, adopting the draft Water Master Plan. Member Horrax seconded, and the motion passed 4-0. Member Pendleton asked Ginter how confident he was in the water treatment plant's estimated cost. Ginter replied that it is an appropriate planning level estimate based on 2023 dollars. Inflation and project definition will impact the costs of the project.

Member Molamphy made the \*MOTION to adjourn the meeting. Member Horrax seconded, and the motion passed 4-0.

The meeting adjourned at 7:48 p.m.

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Melody Thompson, Chair

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David Horrax, Member

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John Molamphy, Member

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Jack Pendleton, Member

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Vacant

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Barbara Benson, Board Secretary

***CANBY UTILITY  
REGULAR BOARD MEETING MINUTES  
OCTOBER 10, 2023***

**Board Present:** Chair Thompson; Members Horrax, Molamphy, Pendleton, and Hill

**Staff Present:** Carol Sullivan, General Manager; Barbara Benson, Board Secretary; Jason Berning, Operations Manager; Mike Schelske, Finance Manager; Sue Arthur, Purchasing Agent; Cindy Dittmar, Customer Service Supervisor; and Jason Peterson, Operations Field Supervisor

**Others Present:** Joe Brennan, Brian Hutchins, Jeff Brandt, Dan Ewert, and Pat Ewert

Chair Thompson called the Regular Board Meeting to order at 7:00 p.m.

Chair Thompson presented the meeting agenda for consideration. She asked for any additions, deletions, or corrections to the meeting agenda, and there were none.

Chair Thompson presented the consent agenda for approval. The consent agenda consisted of the meeting agenda, regular and executive session meeting minutes of September 12, 2023, write-offs of \$1,106.43, and payment of the electric and water department bills of \$970,807.12. Member Molamphy made the \*MOTION to approve the consent agenda. Member Horrax seconded, and the motion passed unanimously.

Chair Thompson asked for citizen input on non-agenda items, and there was none.

Chair Thompson opened the public rate hearing at 7:02 p.m. and reviewed the hearing process and legal standards. Finance Manager Mike Schelske presented management's recommendation to the Board to approve a proposed overall electric rate increase of 7.5% effective November 1, 2023. The rate proposal is based on the analysis and cost of service study performed by Toth & Associates. Schelske stated that the Canby Utility Board last raised electric rates in 2019. There was no rate increase in 2021. Instead, the Board opted to absorb the wholesale power rate increase without making a rate adjustment. The BPA has forecasted a 14.46% increase to Canby Utility in FY 2024-25 for wholesale electric power. This increase is primarily due to higher market prices for Tier 2 power. Operating expenses have increased significantly since the last rate increase in 2019 due to the effects of the COVID-19 pandemic and inflation. The proposed rates will cover higher expenses and a projected 4% cost increase for FY 2025. The 7.5% overall retail rate increase will provide sufficient revenue to achieve a positive operating margin for the combined two-year period of FY 2024 and FY 2025 and maintain current reserve levels.

Chair Thompson noted that Toth & Associates presented the electric rate study to the Board last month.

Chair Thompson invited public testimony on the proposed rate increase.

Jeff Brandt, co-owner of Sunbreak Electronics, a data center operating in Canby for the past five years, addressed the Board. He stated that the electric rates directly affect his business; their customers are sensitive to power prices and represent the majority of their overheads. Brandt has followed the BPA activity closely and noted they had announced average Tier 1 power rates, transmission, and ancillary control rates would remain flat for the two-year rate period. Brandt was surprised that Canby Utility is placing partial responsibility on BPA for its proposed rate increase. He reviewed the utility's budgets from 2014 and provided statistics on the utility's electricity growth. He feels that the most significant contributor to revenue is increased sales. Sunbreak Electronics represents almost 10% of all total electric sales. Projections for small commercial sales were downgraded, which raised concerns that a negative forecast was contributing to the decision to increase rates. Brandt shared their power consumption growth projections for the following year. He explained that in the data center and other tech industries, an increase of a ½ cent per kilowatt hour could be the make-or-break difference, as it represents the majority of the overhead for these companies. He stated that other public utilities have decided not to increase rates and identified three of them. Brandt said that increased rates would disproportionately disadvantage businesses, impact the ability to attract new customers, and lose customers. He suggested the utility could increase revenues by controlling credit card fees, noting that their customers would be interested in a discount of 3% on their power bill if they were to pay cash, and gave examples of how that could result in savings to the utility. He also stated that his customers were told by Canby Utility that they could no longer use credit cards to make payments over \$2,000. Brandt stated they disagree with this policy as it discriminates against the payor based on the payment method. He suggested the Board implement an increase of 3% for the budget for credit card fees and offer a 3% discount for cash payments. Customers with credit card payments would then pay the regular rate.

Chair Thompson asked about the BPA tiered rates. Schelske explained that Canby Utility's electric rates blend Tier 1 and Tier 2 power costs. Tier 1 rates increased by 2.32%, and the blended rate is 14.46%.

Chair Thompson asked Brandt if his comparison utilities adjusted rates in 2021. Brandt was familiar with some of them but commented that Canby Utility typically has a rate increase at the same time as other utilities.

Member Hill clarified Brandt's comment about the BPA announcing they were keeping rates flat. Brandt confirmed that is what BPA's notice stated. General Manager Carol Sullivan explained that BPA had announced the flat rates; however, our rates were increasing due to our Tier 2 power load. The BPA allocates Canby Utility a limited amount of Tier 1 power that cannot be increased. Canby Utility must purchase any additional power to meet its needs at Tier 2 rates. Discussion ensued regarding Sunbreak Electronics' power load and that all of its customers are direct customers of Canby Utility and have established accounts with the utility.

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Regular Board Meeting Minutes  
October 10, 2023  
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There was no additional public testimony. Chair Thompson closed the public testimony portion of the hearing.

Member Molamphy made the \*MOTION to close the public hearing on the electric rate increase. Member Horrax seconded, and the motion passed 5-0. The public hearing closed at 7:20 p.m.

Chair Thompson presented the resolution recommended by management for consideration. Member Horrax made the \*MOTION to approve Resolution No. 315, revising electric rate schedules, with an overall 7.5% rate adjustment effective November 1, 2023. Member Molamphy seconded, and the motion passed 5-0.

Customer Service Supervisor Cindy Dittmar presented a recommendation to revise Canby Utility's Share the Warmth bill assistance program. Staff proposes to increase the maximum bill assistance to \$225 per year based on the rising cost of electricity and water. Canby Utility has kept the amount of assistance the same since 2012. Member Molamphy asked about the status of the \$40,000 annual donation and account balance. Dittmar stated that the Board's yearly donation will be processed this month, and customers can apply for assistance when the program opens on November 7. Dittmar noted that the account has \$2,000 remaining funds from last year. A brief discussion ensued regarding the Board's annual contribution amount. Member Molamphy made the \*MOTION to adopt Resolution No. 316, revising Canby Utility's Share the Warmth bill assistance program and repealing Resolution No. 258. Member Hill seconded, and the motion passed 5-0.

Operations Field Supervisor Jason Peterson presented a recommendation to update Canby Utility's Water Distribution Construction Standards and Specifications. The standards and specifications were last updated in 2013. The changes were in conjunction with the updated water master plan and will make it easier for contractors to meet Canby Utility expectations. Peterson acknowledged the staff's effort in completing the update, especially Utility Worker Joe Brennan. The draft standards have been thoroughly reviewed by CU staff, Veolia, and a professional review by Sisul Engineering. Member Molamphy asked if staff receives the copies of certifications to keep with our work order. Brennan replied that the developer submits a list of all the materials used in the project, and the work is inspected by utility staff.

Member Molamphy asked about the backflow device requirements in policy. Operations Manager Jason Berning stated there is a policy covering the installation requirements for backflow devices. Member Hill asked about meeting Canby Utility's satisfaction and who inspects the work. The water distribution foreman or utility workers inspect the work of contractors.

Member Horrax made the \*MOTION to adopt Resolution No. 317, updating Canby Utility's Water Distribution Construction Standards and Specifications. Member Hill seconded, and the motion passed 5-0.



General Manager Carol Sullivan reported that she and Interim City Administrator Eileen Stein discussed federal and state loans and grant funding opportunities for the large water project. During that discussion, Stein questioned which entity would be the responsible party for these funds, with the City of Canby owning the water system assets that Canby Utility operates under an agreement. They agreed to seek legal clarification on the authority between the two agencies related to project funding. Sullivan stated that she signed a Waiver of Conflict of Interest from our board attorney's office since they also represent the City of Canby. The Board supported having legal counsel determine the legal authority to distribute responsibilities between the two entities. Member Molamphy clarified that the responsibility for the operation of the water system lies with Canby Utility. This legal opinion is specifically related to who must legally seek the funding and is responsible for the repayment of loans. Chair Thompson stated that this step is a proactive approach to a future funding need. She announced that the Board will have a joint work session with the Canby City Council later this month to discuss the projects identified in the new Water Master Plan. A brief discussion ensued regarding the City's change in legal services.

Chair Thompson reported that the Board recently adopted the new Water Master Plan (WMP), available on Canby Utility's website. The Board and City Council joint work session will be on October 18 at City Hall.

Operations Manager Jason Berning presented the quarterly reliability report. Canby Utility experienced two power outages in September. Berning explained the cause of the power interruptions that occurred; one was a result of a bad substation relay, and the other was a failed underground cable. Member Molamphy asked if the substation maintenance contractor warrantied the relay, as discussed last month. Berning replied that he learned that the relay could not be tested during the maintenance and, therefore, not covered by the warranty.

Finance Manager Mike Schelske presented the fourth-quarter Executive Financial Summary, year ending June 30, 2023. Schelske reviewed the profit and loss resulting from operations and capital contributions. The electric revenue for the nine months was \$15,836,337, the expense was \$13,473,425, and the operating profit was \$2,362,912. The operating profit plus capital contributions of \$1,111,737 resulted in a net income of \$3,474,649. The water revenue for the twelve months was \$4,660,280, the expense was \$3,628,611, and the operating profit was \$1,031,669. The operating profit plus capital contributions of \$2,464,737 resulted in a net income of \$3,496,406.

Schelske then reviewed the profit and loss resulting from operations with capital contributions compared to the budget. The electric fund's net income was \$1,111,785 higher than budgeted. The operating revenue was \$284,230 under budget, mainly due to lower commercial and industrial sales. The operating expense was \$386,886 under budget, mainly due to open positions. The capital contributions were \$169,194 under budget due to lower line extension fees. The change in net assets was \$1,111,785 higher than budget, mainly due to higher non-operating revenues and lower expenses. The non-operating revenues included the BPA Power Dividend, higher interest income, and reimbursement for the 2021 ice storm.

The water fund's net income was \$1,173,020 higher than budgeted. The operating revenue was \$527,517 over budget, mainly due to higher residential sales. The operating expense was \$157,521 under budget, mainly due to open positions. The capital contributions were \$180,080 over budget, mainly due to higher system development charges. The change in net assets was \$1,176,020 over budget, mainly due to higher sales, higher non-operating revenues, higher capital contributions, and lower expenses.

Schelske then reviewed the cash reserves summary. The electric reserves are \$11,710,066, which is \$1,231,326 over the target of \$10,478,740 and \$7,710,066 over the minimum level of \$4,000,000.

The current water cash reserves are \$8,043,001, which is \$1,537,851 over the target of \$6,505,150 and \$6,043,001 over the minimum of \$2,000,000.

Schelske reviewed variance charts for the electric and water funds that compared the budget to the actual for the fiscal year ending June 30, 2023. These charts provided a financial summary of the change in net assets for the year, and he highlighted the significant drivers that created the variances in the respective budgets. Chair Thompson asked about the Bonneville Power Administration's (BPA) dividend payment. Sullivan explained this was a one-time payment due to BPA having a good year and decided that they would give back money to their customers. These funds cannot be relied upon to offset rate increases due to being a one-time payment. Chair Thompson also asked about the established cash reserve minimum thresholds. Sullivan explained that the Board set the minimum thresholds in 2012. The budgeted targets fluctuate based on formulas that include 180 days of operating and maintenance expenses, one-fifth of the capital improvement plan, and debt reserves. The Board expressed interest in revisiting the policy for updates. Member Horrax asked about contributed capital. Schelske explained that it is a non-cash transaction. When developers install infrastructure for a subdivision, the asset becomes the property of Canby Utility. It is booked as an asset because Canby Utility then becomes responsible for maintaining the asset moving forward. Discussion ensued regarding when the developer installs infrastructure versus when the utility crew does the installation.

General Manager Carol Sullivan said that our water rate consultant, Steve Donovan, will be ready to present the water system development charge study in November.

Sullivan reported that Interim City Administrator Eileen Stein coordinated a meeting with Jeff Hampton from the Regional Development Officer for Business Oregon. Several state agency representatives participated in the meeting, which provided information on various funding opportunities available to Canby Utility for its Water Master Plan projects.

Sullivan stated that she attended the NW Environmental Business Council Oregon Infrastructure Summit. She met Jeff Hampton and several other State of Oregon staff members involved with funding programs. One of the breakout sessions she attended was about another city sharing its strategies for building large infrastructure projects.

Sullivan also reported that staff listened to a Build America Buy America webinar. There was valuable information gained that will be critical to managing federal project funding.

Sullivan stated that she participated in an interview panel for the Canby Fire Chief position.

Sullivan reported meeting with Brian Ginter of Consor and Adam Sussman of GSI regarding the new treatment plant project. Sussman's area of expertise is water rights, and he informed her of the significant provisions affecting our water rights on the Willamette River. Specifically, diversion of river water will occur only when flows in the mainstream Willamette River at Salem, Oregon, meet or exceed the amounts outlined in our water permit. During 2015, there were 86 consecutive days when the flows in the river did not meet those limits and 72 days in 2021. As a result of this new information, solutions to this issue may be to move our existing point of diversion from the Molalla downstream to the Willamette River intake. Canby Utility has two ten cubic feet per second (cfs) of water rights on the Molalla River; however, one permit was limited to 7.46 cfs when the permit was certificated. Sussman noted that we may be able to have that changed. Sullivan requested Sussman prepare a scope of work to perform a water rights strategy and implementation report for Canby Utility before engaging an Owner's Representative for the new treatment plant project. The potential limitations of the Willamette River water rights do not change the need for a new water treatment plant, and discussion ensued.

Member Molamphy made the \*MOTION to adjourn the meeting. Member Horrax seconded, and the motion passed 5-0.

The meeting adjourned at 8:13 p.m.

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Melody Thompson, Chair

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David Horrax, Member

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John Molamphy, Member

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Jack Pendleton, Member

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Jake Hill, Member

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Barbara Benson, Board Secretary



## MEMORANDUM

November 9, 2023

TO: Chair Thompson, Member Horrax, Member Molamphy, Member Pendleton, and Member Hill

FROM: Mike Schelske, Finance Manager and Carol Sullivan, General Manager

SUBJECT: Presentation of Water System Development Charge study by Steve Donovan of Donovan Enterprises, Inc.

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### **Requested Action:**

**Management requests the Board's guidance or consensus on preparing a Resolution to update the SDC rates based on the Consultant's report.**

### **Background:**

Canby Utility's current water SDC methodology was last reviewed in September of 2010. Based on that review, the Board adopted the current methodology with Resolution No. 237, effective September 14, 2010. (For clarification, there was an SDC Inflationary Adjustment approved on September 12, 2023, but this only adjusted the existing SDC fees for inflation.)

On September 26, 2023, the Board adopted the Water System Master Plan via Resolution No. 314. The Water System Master Plan contained recommendations including a significant capital improvement plan. The capital improvements will require a significant investment from the Utility, which must be supported through increased SDCs and rates.

To determine the appropriate SDC fee structure, management engaged a consultant to conduct a review of the Utility's SDC methodology and SDC fees, and to conduct a rate study.

The consultant we engaged for this work is Steve Donovan of Donovan Enterprises, Inc. Mr. Donovan has 30 years of extensive experience performing rate and SDC studies for cities and service districts throughout Oregon.

### **Report presentation:**

Mr. Donovan will present his report and recommend SDC updates. **This report will only cover SDC fees.** The water rate study and recommendations for water rate changes will be presented in a future board meeting.



# Water SDC Methodology Update Presentation

November 14, 2023

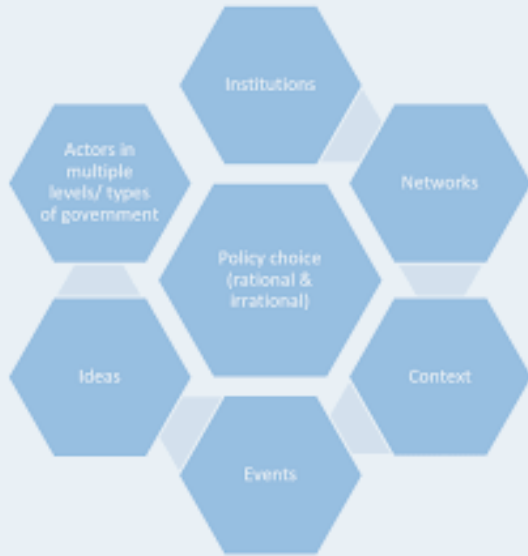


# AGENDA

- ❖ Policy issues/major points concerning SDCs
- ❖ SDC methodology overview
- ❖ Specific details of the analysis
- ❖ SDCs in neighboring communities
- ❖ Next Steps



# POLICY



- SDCs are not charged to rate payers
  - ✓ SDCs are one-time fees charged to new development at the time of permit issuance
  - ✓ By statute, SDCs consist of two unique fee components; a reimbursement fee and an improvement fee
- SDCs are “restricted” revenues and can only be spent on capacity expanding projects or the portion of project costs that expand capacity
- SDCs do have an impact on infrastructure development and the composition of our future water rate structures
- The Board’s policy on SDC pricing must strike a balance between the philosophy of “growth pays for growth” and the goal of attracting smart growth and living wage jobs

# SDC METHODOLOGY OVERVIEW



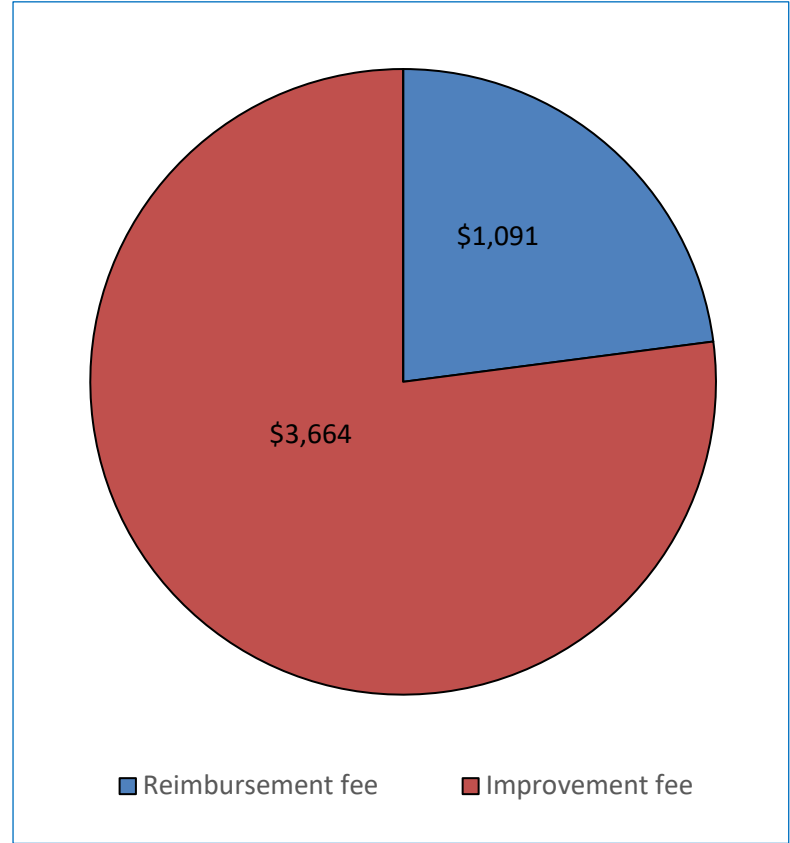
SDC Fee Component	Methodology to Calculate SDC Fee Component
Reimbursement	The reimbursement fee is the cost of available capacity per unit of growth that such available capacity will serve.
Improvement	The improvement fee is the cost of planned capacity-increasing capital projects per unit of growth that those projects will serve.
Compliance	ORS 223.307(5) authorizes recovery of compliance costs. We use a cost factor of 5%.



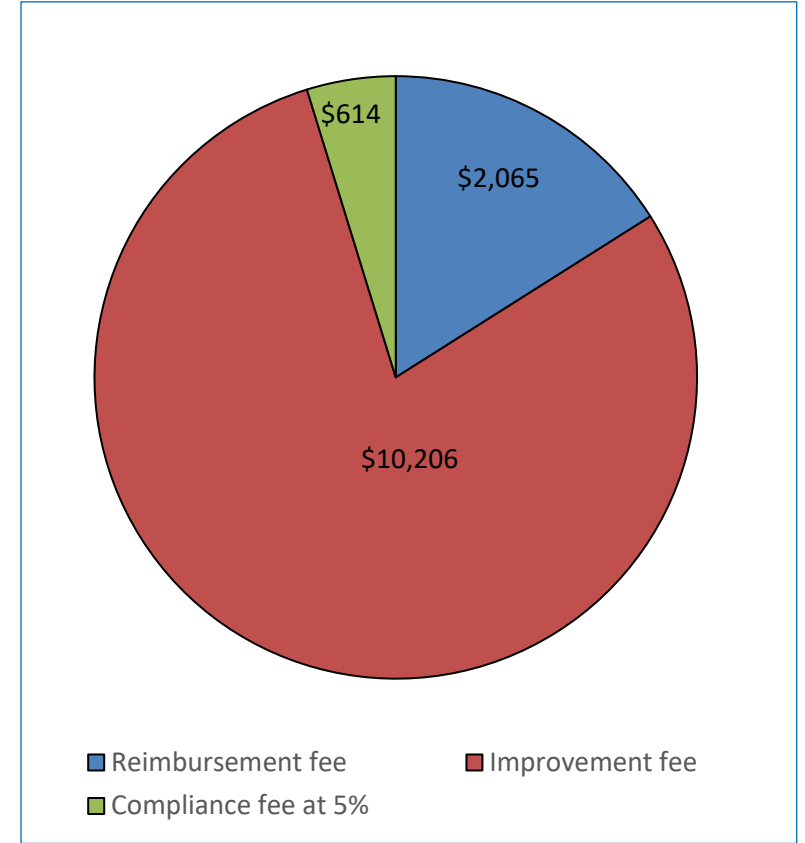
# PROPOSED VS. CURRENT SDC 3/4" METER



Current = \$4,755



Proposed = \$12,885



# PROPOSED VS. CURRENT SDC LARGER METER



Meter Size	AWWA Rated Flow (GPM)*	Flow Factor Equivalence	Proposed Schedule of Water SDCs			
			Reimbursement	Improvement	Compliance	Total
<i>Small/residential meters:</i>						
0.625" x 0.75" - Displacement or Multi-jet	30	1.00	\$ 2,065	\$ 10,206	\$ 614	\$ 12,885
0.75"x 0.75" - Displacement or Multi-jet	30	1.00	2,065	10,206	614	12,885
1.00 inch - Displacement or Multi-jet	50	1.67	3,442	17,010	1,023	21,475
1.50 inch - Displacement or Class I Turbine	100	3.33	6,883	34,020	2,047	42,950
2.00 inch - Displacement or Class I & II Turbine	160	5.33	11,013	54,432	3,275	68,720
<i>Large/commercial &amp; industrial meters:</i>						
<i>3 inch meters:</i>						
Displacement	300	10.00	20,650	102,060	6,140	128,850
compound	320	10.67	22,027	108,864	6,549	137,440
Class I & II turbine	350	11.67	24,092	119,070	7,163	150,325
<i>4 inch meters:</i>						
Displacement or Compound	500	16.67	34,417	170,100	10,233	214,750
Class I turbine	600	20.00	41,300	204,120	12,280	257,700
<i>6 inch meters:</i>						
Displacement or Compound	1000	33.33	68,833	340,200	20,467	429,500
Class I turbine	1250	41.67	86,042	425,250	25,583	536,875
<i>8 inch meters:</i>						
Compound	1600	53.33	110,133	544,320	32,747	687,200
Class I turbine	1800	60.00	123,900	612,360	36,840	773,100
<i>10 inch meters:</i>						
Compound	2300	76.67	158,317	782,460	47,073	987,850
Class I turbine	2900	96.67	199,617	986,580	59,353	1,245,550

\* - AWWA Manual of Practice M6; Water Meters - Selection, Installation, Testing, and Maintenance; Table 2-2 Total Quantities Registered per Month by Meters Operating at Varying Percentages of Maximum Capacity

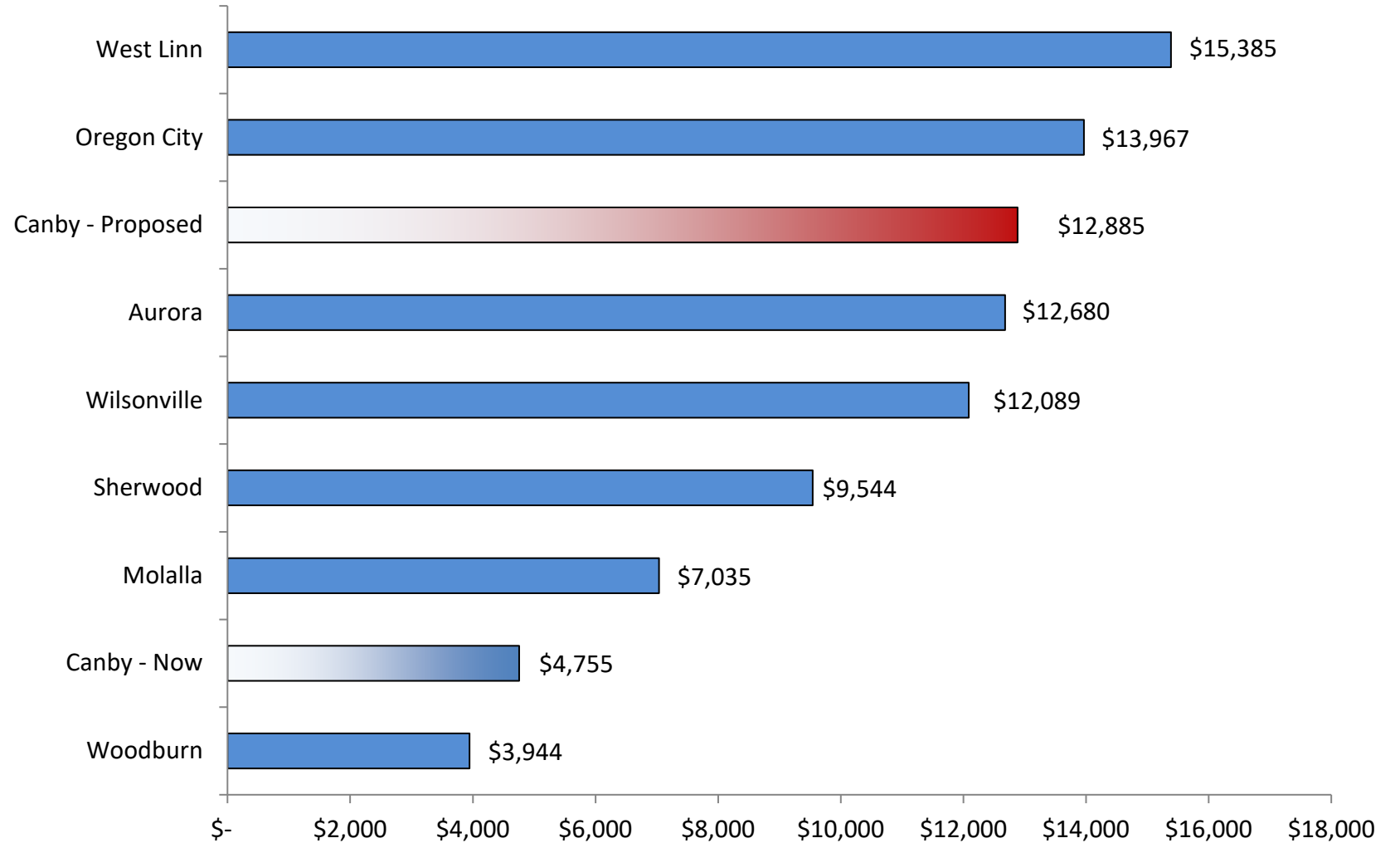
# SDC COMPS



Statewide  
Precedence/standard

High degree of  
variability in Oregon

Regional System Development Charges - **Water** Single Family Residential October, 2023



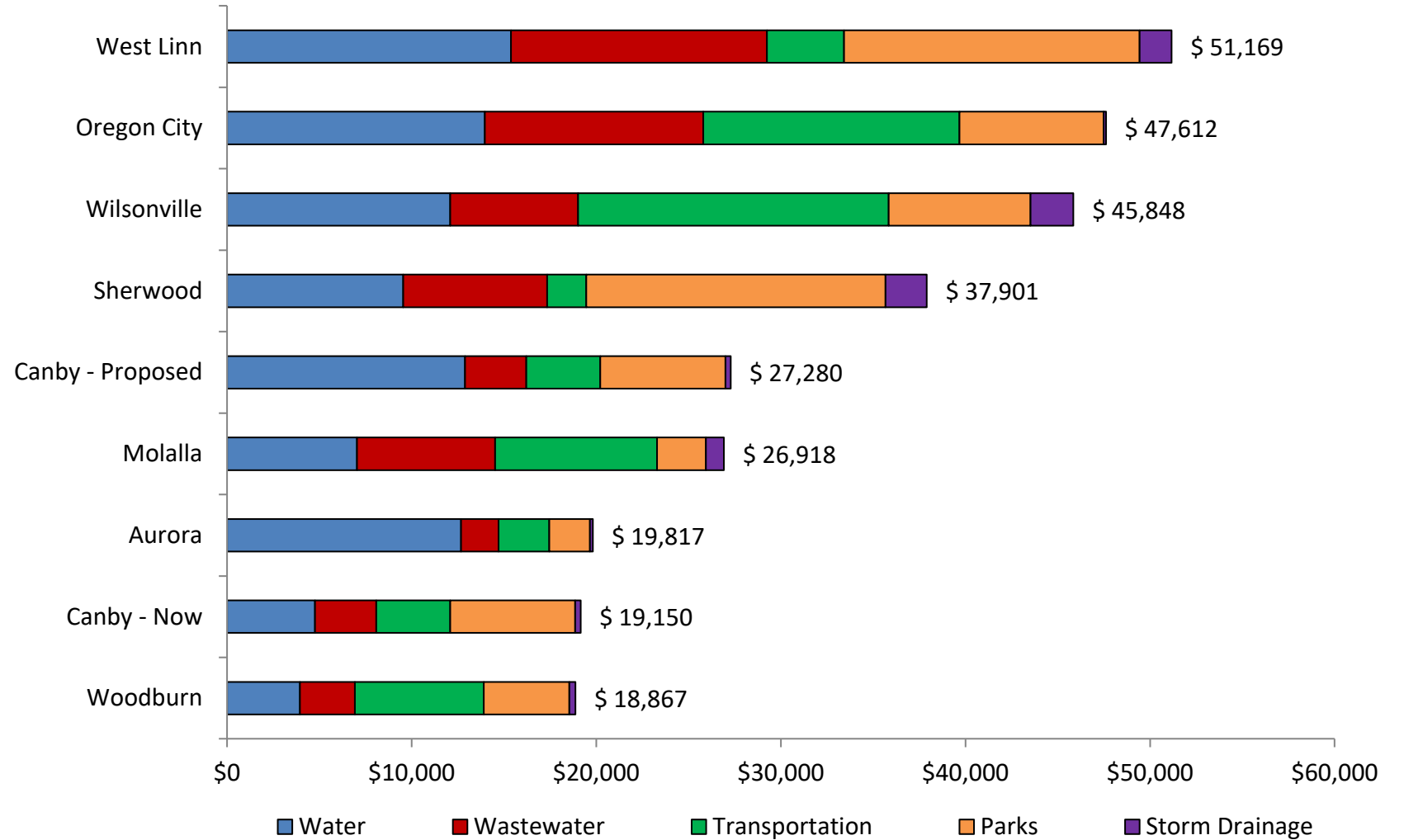
# SDC COMPS



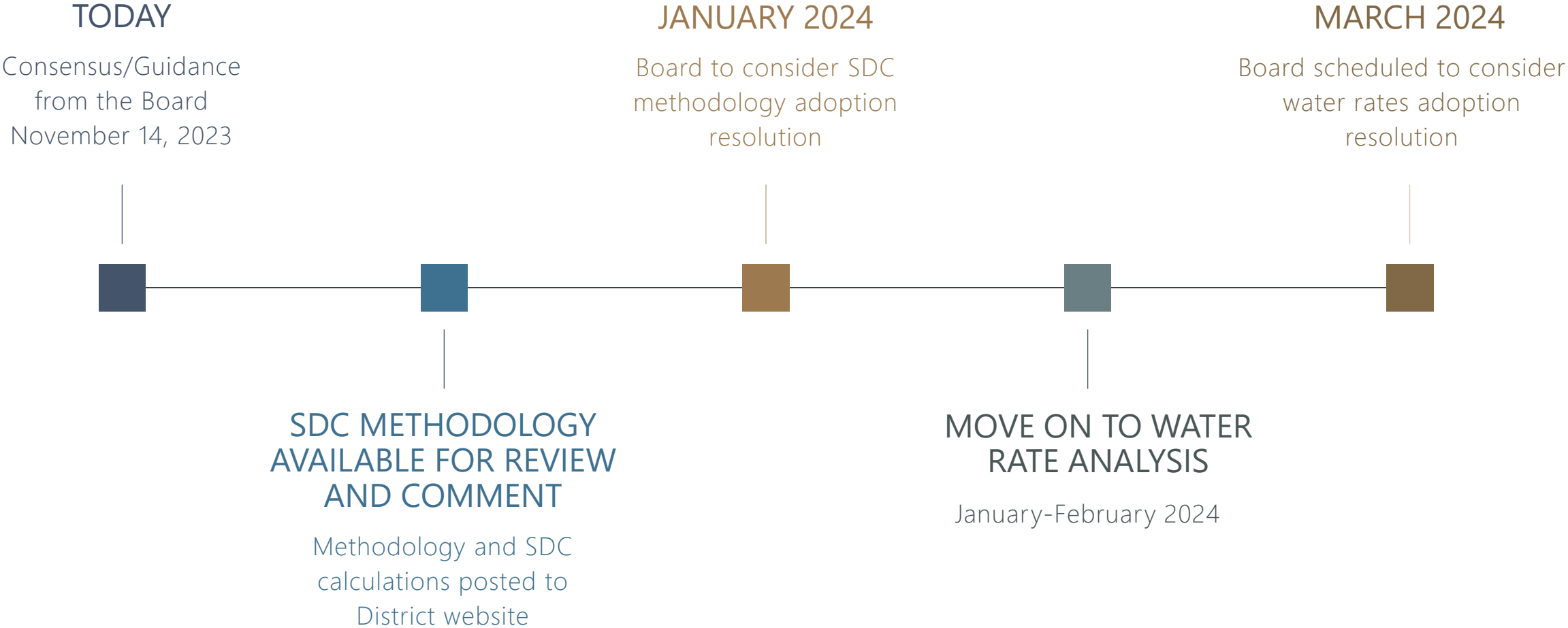
Statewide  
Precedence/standard

High degree of  
variability in Oregon

Regional System Development Charges - Single Family Residential October, 2023



# NEXT STEPS



# DISCUSSION





## MEMORANDUM

October 24, 2023

TO: Chair Thompson; Members Horrax, Molamphy, Pendleton, and Hill

FROM: Barbara Benson, Human Resources and Administration Manager

SUBJECT: Paid Leave Oregon Policy

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**Suggested Motion:** Motion to adopt Canby Utility's Paid Leave Oregon Policy.

**Background:** In 2019, the Oregon Legislature passed the nation's most generous and progressive paid family leave law that is being administered by the Oregon Employment Department. The new program is called Paid Leave Oregon or PLO. The law has gone through numerous updates and rule changes since its original passage, with changes as recent as August 9, 2023. The program went into effect on September 3, 2023.

The contribution rate for 2023 is 1% of the employee's gross wages up to \$132,900. The employee portion is 0.6% of wages and the employer portion is 0.4%. Canby Utility has been teetering between being a small or large employer. As a small employer, only the employee contribution must be made to the state; however, Canby Utility currently meets the large employer threshold and will start paying employer contributions in the next cycle. On November 15 of each year, the State may decide to increase the contribution rate.

PLO typically provides employees with 12 weeks of paid time off to care for a family member who has a serious health condition, the employee's own serious health condition, childbirth, and for victims of domestic violence, harassment, stalking or sexual assault. All employees, who have earned at least \$1,000 in wages the previous year, are eligible for PLO, and those who have worked 90 days for Canby Utility are also provided job reinstatement rights.

It is important to note that employers do not decide who is approved or denied paid leave. The Employment Department/Paid Leave Oregon division manages all applications and determination on claims submitted. Employers establish notice requirements that an employee must provide when the application has been made. The attached policy will set expectations for employees who apply for PLO benefits, determine the amount of employer provided paid leave to be used to supplement the PLO benefits, and help Canby Utility coordinate other qualifying protected leaves such as the federal and state family medical leaves (FMLA and OFLA). There is also a new form that combines FMLA, OFLA, and PLO to simplify the leave request process.

This policy will be incorporated into the Canby Utility Employee Handbook.

I will be available to answer questions you may have.

**CANBY UTILITY**  
**PAID LEAVE OREGON POLICY**

November 2023

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Canby Utility (CU) provides a Paid Leave Oregon Insurance plan through the Oregon Employment Department, also known as "PLO". This insurance is required by Oregon state law and provides paid time off to eligible employees. This is a protected leave. All health-related information gathered by the insurer and CU during this process will be maintained as confidential. Employees will not be discriminated against or retaliated against for using or trying to use this insurance benefit. We support each employee in their decision to use the combination of time off and benefits that meets their personal needs.

A poster with Paid Leave Oregon (PLO) information, including information about how to apply for benefits, is on the bulletin boards in the lunchrooms and should be cross-referenced while reviewing this policy.

Reasons for Leave and Leave Length

PLO is a state-run program that allows eligible employees to take up to 12-weeks of paid time off per benefit year, for the following reasons:

1. *Family Leave*. Family leave includes:
  - Leave taken to care for or bond with a child during the first year after the child's birth or the first year after placement through adoption or foster care.
    - Child includes the biological, adopted, foster, stepchild, legal ward, or in loco parentis child of an employee or the child of an employee's same-gender domestic partner.
  - Leave taken to care for a family member with a Serious Health Condition.
    - Family member means the spouse, same gender domestic partner, parent, child, sibling, grandparent, or grandchild of the employee or the employee's same gender domestic partner. It also includes individuals related by blood or affinity whose close association is the equivalent of a family relationship.
2. *Medical Leave*. To recover from or seek treatment for an employee's own serious health condition.
3. *Safe Leave*. To take leave covered by Oregon domestic violence leave rules. For more information, see Human Resources.



The PLO program also allows employee to take additional time off for the following:

1. Two (2) weeks of paid leave for pregnancy, childbirth, or related medical conditions.
2. Four (4) weeks of unpaid leave for other Oregon Family Leave protected reasons.

### Notification Requirements

Although the plan is administered by Paid Leave Oregon, CU requires its employees to provide written notice of their intent to take leave and if they have applied for PLO leave. The written notice should be submitted using the *FMLA-OFLA-PLO Leave Request Form (attached)* in addition to the standard Request for Time Off form.

*Foreseeable Leave:* If the need for PLO leave is foreseeable or planned, the employee is required to provide CU at least 30 days' written notice before paid leave is to begin.

*Unforeseeable Leave:* If the need for PLO leave is unforeseeable or unplanned, an employee is required to provide oral notice to CU within 24 hours of the start of the leave, and the employee must also provide written notice within three (3) days after the start of the leave.

If the employee's dates of scheduled leave change, are extended by PLO, and/or, if circumstances change during the leave and the leave period differs from the original request, the employee must notify their supervisor within three business days, or as soon as possible. The supervisor can then notify payroll and human resources of the changes.

Regardless of the reason for leave, or whether the need for leave is foreseeable, employees are expected to comply with CU's normal call-in procedures.

*Under Oregon law, an employee who fails to follow these notification requirements may receive reduced PLO benefits; specifically, the first weekly benefit amount may be reduced by 25 percent (the penalty calculated for leaves that are taken in increments of less than a full work week differs). See OAR 471-070-1310(9) and (10).*

### Concurrent use of FMLA/OFLA Leave

As allowed by law:

If an employee's PLO leave is also eligible for protected leave under the Oregon Family Leave Act (OFLA) and/or the Family Medical Leave Act (FMLA), OFLA and/or FMLA leave must be taken concurrently with PLO leave. Employees must also provide sufficient information for CU to determine if the leave qualifies for FMLA and/or OFLA protection.

If an employee is eligible for OFLA and/or FMLA leave due to a serious health condition or has a family member with a serious health condition, employees must provide a completed Oregon and Federal Family and Medical Leave Health Care Provider Certification as required by CU's Family Medical Leave policy. When an employee uses sick time to care for a family member who is related by affinity, CU may require the employee to attest in writing that the employee and the person cared for have a significant personal bond that, when examined under the totality of the circumstances, is like a family relationship.

Benefits available under PLO, OFLA, and FMLA are very similar, and an employee may be eligible for leave under one or more of these laws for the same absence. If so, the leaves will run concurrently consistent with applicable law. *Note: eligibility for PLO benefits and leave, weekly PLO benefit amounts, and the number of weeks of benefits and leave an employee may receive under PLO are determined by the State of Oregon.*

In the event that an employee uses any amount of PLO leave and one or more other types of OFLA leave during the same leave year, the employee is granted a maximum combined total of 16 weeks of leave. However, employees will generally not be eligible for more than 12 weeks of *paid* leave benefits under the state PLO program.

*For example:* an employee could take 2 weeks of unpaid bereavement leave under OFLA (not covered by PLO) as well as 2 weeks of non-seriously ill sick child leave (also not covered by PLO) and still be eligible to receive up to 12 weeks of paid PLO benefits under the state program for qualifying purposes.

In addition, employees who take time off related to pregnancy, childbirth or related medical conditions may be eligible for up to 2 additional weeks Oregon PLO benefits (for a total of up to 14 weeks of *paid* leave and 18 weeks of total leave in a leave year).

Please refer to CU's Family Medical Leave policies for more information.

#### Accrued Leave and Holiday Pay While on Leave

Employees on PLO leave will accrue sick, vacation, and holiday while receiving PLO benefits consistent with CU's policy wherein the employee must be in paid status (working or using accrued leaves) one-half time or greater for eleven (11) work days or more in a calendar month.

#### Workers Compensation and Paid Leave

Employees are not eligible to receive workers' compensation time loss and state PLO benefits for the same absence.

### Benefits While on Leave

If an employee is on state approved PLO, CU will continue the employee's medical, dental, life, and all eligible voluntary coverage, on the same terms as if the employee had continued to work. An employee wishing to maintain coverages when on a state approved PLO leave, is responsible for paying their share of premiums, the same as when premiums were paid by the employee, prior to the PLO leave.

### Medical Certification Prior to Returning to Work

If an employee takes more than three consecutive scheduled workdays for their own serious health condition, and the leave is used concurrently with FMLA and/or OFLA, the employee may be required furnish, prior to returning to work, medical certification from their health care provider stating that the employee is able to resume work.

### Job Protection

Employees who have worked for CU for more than ninety (90) consecutive calendar days prior to taking PLO leave will be reinstated to their former position, if the position still exists. If the position has been eliminated, the employee will be reassigned to an available equivalent position for which the employee is qualified with equivalent employment benefits, pay and other terms and conditions of employment.

Reinstatement is not guaranteed if the position has been eliminated under circumstances where the law does not require reinstatement.

Employees are expected to promptly return to work when the circumstances requiring PLO leave have been resolved. If an employee does not return to work at the end of a PLO leave, reinstatement may not be available unless the law requires otherwise.

Employees who work for other employers while taking PLO leave may be subject to discipline up to and including termination. Additionally, all employees who use PLO leave for reasons other than the reason for which leave had been granted may be subject to discipline up to and including termination.

### Use of Accrued Leave to Supplement Paid Leave Oregon Benefit

Paid Leave Oregon benefits will not provide the majority of employees with 100% of their gross regular wages, so employees receiving PLO benefits, may choose to supplement their PLO benefits with their accrued CU leave (sick, vacation, and banked holidays) as provided by this policy.

Employees are permitted to use all or a portion of their accrued CU leave in addition to receiving PLO benefits, consistent with applicable law. An employee choosing to supplement their PLO benefits with accrued CU leave must make their election for the

number of hours (not to exceed the work hours the employee was absent) for each leave bank during the payroll period in which they wish to use the hours.

CU will report all supplemental benefits paid to employees to the state in accordance with applicable rules. It should also be understood that CU is not responsible for an employee's PLO repayment obligations, penalties, or reduction in benefits assessed by the State due to the employee's decision to use CU leave accruals. CU is not responsible for any individual tax obligations as a result of receiving PLO benefits.

To request use of their CU leave, employees shall identify the number of hours and type of leave to be used to supplement their PLO on a Request for Time Off form, no later than the last date and time CU requires employees' regular payroll submissions to be submitted. Failure to complete the Request for Time Off form to payroll in a timely manner may result in the employee not being allowed to use employer-provided compensation to supplement PLO benefits.

### Complaint Procedure

CU prohibits discrimination and harassment against an employee who takes protected paid leave. Conduct that violates CU's Anti-harassment and Non-discrimination policies will not be tolerated and may subject an employee to discipline, up to and including termination.

Employees who have experienced discrimination or harassment, or have witnessed such behavior, should bring the matter to the attention of the Human Resources/Administration Manager, the General Manager, or a member of management as soon as possible.

### Who to contact for more information

For more information about CU's Paid Leave Oregon policy, contact Human Resources.

For more information about the state's Paid Leave Oregon program, employees need to contact Paid Leave Oregon directly. Employee information and Paid Leave Oregon contact information is available at the following website: <https://paidleave.oregon.gov>.



## FMLA-OFLA-PLO LEAVE REQUEST FORM

Employees must complete this form when requesting time off under the Family Medical Leave Act (FMLA) and/or the Oregon Family Leave Act (OFLA), including applying for Paid Leave Oregon (PLO) benefits.

### EMPLOYEE SECTION

Employee's Name: \_\_\_\_\_ Date of Request: \_\_\_\_\_

### REASON FOR LEAVE

- Medical Leave - care for my own serious health condition. **[FMLA, OFLA and PLO]**
  - Family Leave - care for a family member with a serious health condition. **[FMLA, OFLA and PLO]**  
Family relationship\* \_\_\_\_\_ If the family member is a child, age of the child \_\_\_\_\_
  - Family Leave - parental Leave for birth, adoption or foster care placement of a child. **[FMLA, OFLA and PLO]** Estimated due date/adoption/placement date: \_\_\_\_\_
  - Family Leave – pregnancy/childbirth reasons (in addition to parental leave). Birth parent only – includes prenatal care, childbirth, recovery and lactation). **[FMLA, OFLA and PLO]**  
Estimated due date: \_\_\_\_\_
  - Safe Leave – leave for employees and dependents who are survivors of sexual assaults, domestic violence, criminal harassment or stalking **[OFLA and PLO]**
  - Military Family Medical - care for a family member who is a military member with a serious health condition. **[FMLA]** Specify relationship \_\_\_\_\_
  - Military Exigency Leave. **[FMLA and OFLA]** Specify relationship and type of exigency: \_\_\_\_\_
- 
- OFLA Sick Child leave for your child with an illness or injury that requires home care, not a routine medical/dental exam. Medical certification may be requested after the third occurrence of sick child leave. **[OFLA]**
  - OFLA leave due to the closure of your child's school or childcare provider due to a public health emergency. Additional verification may be required. **[OFLA]**
  - OFLA Bereavement leave following death of a family member. **[OFLA]** Specify relationship \_\_\_\_\_  
\*See Employee Handbook or HR for definition of qualifying Family Members.

### ESTIMATED DATES OF LEAVE\*:

FROM: \_\_\_\_\_ TO: \_\_\_\_\_

\*Actual leave dates for medical leaves will be designated by the employee's medical provider.

### TYPE OF LEAVE (mark only one):

- Continuous only (more than 3 consecutive days)
- Intermittent or reduced schedule. Anticipated timing and duration: \_\_\_\_\_
- Continuous and Intermittent (e.g., continuous block followed by intermittent leave)

\*If you need more than one leave type, please complete another Leave Request Form.

**Did you submit an application to the Oregon Employment Department for Paid Leave Oregon (PLO)?**

*Note:* Only applies to Family, Medical and Safe Leave reasons as governed by the State of Oregon’s PLO program.

Yes - I have filed, or plan to file, for Paid Leave Oregon Benefits.

By choosing this option I understand that there may be a delay of two or more weeks in which the State is processing my PLO claim for benefits in which I will not be paid by Canby Utility unless I have accrued paid leave benefits available. It is my responsibility to select the number of hours to be deducted from my paid leave accrual banks. I understand that Canby Utility will report all supplemental benefits to the state in accordance with applicable rules. It should also be understood that Canby Utility is not responsible for an employee’s PLO repayment obligations, penalties, or reduction in benefits assessed by the State carriers due to the employee’s decision to use any amount of Canby Utility leave accruals.

**I wish to use Canby Utility accruals to supplement my PLO and**

I elect to take \_\_\_\_ number or hours per week of \_\_\_\_\_ (sick, vacation, banked holiday., select by priority) leave until exhausted,

Then, to take \_\_\_\_ number of hours per week of \_\_\_\_\_ leave until exhausted,

Then, to take \_\_\_\_ number or hours per week of \_\_\_\_\_ leave until exhausted

\*Please note, you are not required to exhaust your accruals. You may decide to retain all or some of your accruals. Please complete a Request for Time Off form for payroll.

No – I will not be filing for Paid Leave Oregon Benefits and/or the reason for leave does not qualify for PLO benefits.

By choosing this option I am opting to solely use my own leave accruals and understand that I am required to use any accrued paid time off benefits before taking time off as unpaid in accordance with Canby Utility’s Policy and any collective bargaining agreement applicable to my employment.

*Note:* Canby Utility receives notice directly by the State of Oregon of any application for PLO time off and benefits. Such notice will include the approval/denial of PLO benefits and dates of leave. Regardless of whether I elect to file for Paid Leave Oregon benefits, I understand that Canby Utility will report all wages and leave benefits to the state in accordance with applicable rules. Canby Utility is not responsible for an employee’s current or future PLO eligibility, benefits, repayment or other obligations due to the employee’s decision not to file for Paid Leave Oregon Benefits for which they may otherwise be eligible.

**Disclaimers (please initial in box to the left of the statement if you agree/understand):**

I acknowledge and agree that by using my Canby Utility accruals and receiving payments from Paid Leave Oregon there may be tax implications due to higher-than-normal wages.

I acknowledge and agree that Canby Utility payroll will not be responsible for any retroactive payments due to my accrual selection.

I acknowledge and agree that I may change my accrual selection; however, it may take up to one payroll cycle for a change to take effect.

I acknowledge and agree I will be responsible for the employee portion of my medical benefits and any additional deductions associated with payroll during an unpaid leave of absence, such as supplemental plans like AFLAC, MetLife, Hartford Supplemental Life, etc., with Canby Utility. I may use my earned accruals, if available, to cover my portion of the premium and/or will make payment to Canby Utility to continue uninterrupted coverage. If payment is not made, your coverage may be canceled, or up to 10% of your pay per paycheck may be withheld until your premiums are paid back.

**EMPLOYEE ACKNOWLEDGEMENT**

**I acknowledge that the Canby Utility’s Employee Handbook contains additional policies and procedures associated with Family, Medical, Safe, and other leaves of absences covered by Federal (FMLA) and State (OFLA and PLO) leave.**

Employee’s Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**HUMAN RESOURCES SECTION**

Approved

Denied, for the following reasons:

\_\_\_\_\_

Human Resources Signature: \_\_\_\_\_ Date: \_\_\_\_\_



**MEMORANDUM**

November 14, 2023

**TO:** Chairperson Thompson, Member Horrax, Member Molamphy,  
Member Pendleton, and Member Hill

**FROM:** Cindy Dittmar, Customer Service Supervisor

**SUBJECT:** Annual Red Flag Rules Update

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**Overview:** The Federal Trade Commission requires every creditor to establish an “Identity Theft Prevention Program” that is defined by the Red Flag Rules. Canby Utility established this program in November 2008.

Staff follows the current policy which is in compliance with the Federal rules. We are pleased to report that there have not been any incidents over the past year. The annual Red Flag Rules training was completed by our customer service staff on September 11, 2023.

A copy of the Identity Theft Prevention Program is attached for your review.

I will be available to answer any questions the Board may have.



**RESOLUTION NO. 226**

**A RESOLUTION OF THE CANBY UTILITY BOARD ESTABLISHING AN IDENTITY THEFT PREVENTION PROGRAM.**

WHEREAS, the Board of Directors of the Canby Utility Board seeks to protect the personal information of its customers; and

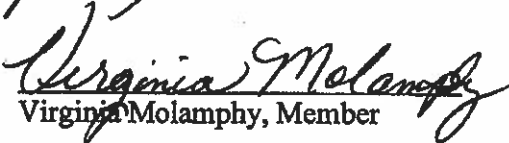
WHEREAS, the Federal Trade Commission established the Red Flags Rule that requires certain organizations to establish an Identity Theft Prevention Program to identify, detect and respond to identity theft, and the State of Oregon enacted similar identity theft requirements; and

WHEREAS, The Board of Directors must adopt an Identity Theft Program by November 1, 2008; and

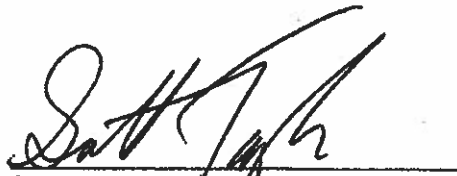
NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Canby Utility Board, that Canby Utility adopts the Identity Theft Program, attached hereto as Exhibit A.

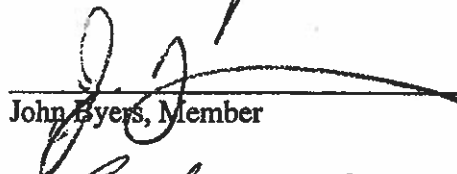
THIS RESOLUTION ADOPTED BY THE CANBY UTILITY BOARD this 28<sup>th</sup> day of October, 2008.

  
Jim Newton, Chairman

  
Virginia Molamphy, Member

  
Jerry Smith, Member

  
Scott Taylor, Member

  
John Byers, Member

  
Barbara Benson, Board Secretary

## Exhibit A

# Canby Utility Board

## Identity Theft Prevention Program

Effective November 1, 2008

### I. PROGRAM ADOPTION

The Canby Utility Board (Utility) developed this Identity Theft Prevention Program (Program) pursuant to the Federal Trade Commission's Red Flags Rule (Red Flag Rule or Rule), 16 C. F. R. § 681.2 and Appendix A to Part 681 that implements Sections 114 and 315 of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act), Pub. L. 108-159 amending parts of the Fair Credit Reporting Act (FCRA), 15 U.S.C. § 1681 *et seq.* This Program also responds to ORS 646A.622, the Oregon Consumer Identity Theft Protection Act.

After consideration of the size and complexity of the Utility's operations and account systems, and the nature and scope of the Utility's activities, the Utility management team, including the Finance Director (Program Administrator), developed this Program. The Canby Utility Board reviewed this Program and adopted it by Resolution No. 226 on October 28, 2008.

### II. REQUIREMENTS AND DEFINITIONS

#### A. Requirements

Under the Red Flag Rule, every creditor is required to establish an "Identity Theft Prevention Program" tailored to its size, complexity and the nature of its operation. According to 16 C.F.R. § 681.2(d)(2), each program must contain reasonable policies and procedures to:

- Identify relevant Red Flags for the Utility's new and existing covered accounts and incorporate those Red Flags into the Program;
- Detect Red Flags that have been incorporated into the Program;
- Respond appropriately to any Red Flags that are detected to prevent and mitigate identity theft; and
- Ensure the Program is updated periodically, to reflect changes in risks both to customers and to the safety and soundness of the Utility from identity theft.

#### B. Definitions

"Covered account" means an account the Utility offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions such as a utility account; and any other account the Utility offers or maintains for which there is a

reasonably foreseeable risk to customers or to the safety and soundness of the Utility from identity theft, including financial, operational, compliance, reputation, or litigation risks.

“Creditor,” as identified in the Rule and defined in the FCRA at 15 U.S.C. § 1681a(r)(5), means utility companies such as the Utility that are under the jurisdiction of the Federal Trade Commission (FTC) because, as interpreted in a June 2008 FTC Business Alert, “government entities [that] defer payment for goods or services...are to be considered creditors.”

“Identifying information” means information retained by the Utility including any name or number that may be used, alone or in conjunction with any other information, to identify a specific person, including any—name, social security number, date of birth, official State or government issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number, unique electronic identification number, IP address, or routing code.

“Identity theft” means fraud committed or attempted using the identifying information of another person without authority.

“Red Flag” means a pattern, practice, or specific activity that indicates the possible existence of identity theft.

### III. IDENTIFYING RED FLAGS

In order to identify relevant Red Flags, the Utility considers the types of accounts that it offers and maintains, the methods it provides to open its accounts, the methods it provides for access to its accounts, and its previous experiences with Identity Theft.

The Utility identifies the following Red Flags in each of the listed categories. The categories are not intended to be all-inclusive, and other suspicious activity may be investigated as necessary.

#### A. Notifications and Warnings From Credit Reporting Agencies

##### Red Flags

- Report of fraud accompanying a credit report;
- Notice or report from a credit agency of a credit freeze on a customer or account applicant;
- Notice or report from a credit agency of an active duty alert for an account applicant; or
- Indication from a credit report of activity that is inconsistent with a customer's usual pattern or activity.

#### B. Suspicious Documents

##### Red Flags

- Identification document or card that appears to be forged, altered or inauthentic;

- Identification document or card on which a person's photograph or physical description is not consistent with the person presenting the document;
- Other document with information that is not consistent with existing customer information (such as if a person's signature on a check appears forged); or
- Application for service that appears to have been altered or forged.

### **C. Suspicious Personal Identifying Information**

#### Red Flags

- Identifying information presented that is inconsistent with other information the customer provides (example: inconsistent birth dates);
- Identifying information presented that is inconsistent with other sources of information (for instance, an address not matching an address on a credit report);
- Identifying information presented that is the same as information shown on other applications that were found to be fraudulent;
- Identifying information presented that is consistent with fraudulent activity (such as an invalid phone number or fictitious billing address);
- Social security number presented that is the same as one given by another customer;
- An address or phone number presented that is the same as that of another person;
- A person fails to provide complete personal identifying information on an application when reminded to do so (however, by law social security numbers must not be required); or
- A person's identifying information is not consistent with the information that is on file for the customer.

### **D. Suspicious Account Activity or Unusual Use of Account**

#### Red Flags

- Change of address for an account followed by a request to change the account holder's name;
- Payments stop on an otherwise consistently up-to-date account;
- Account used in a way that is not consistent with prior use (example: very high activity);
- Mail sent to the account holder is repeatedly returned as undeliverable;
- Notice to the Utility that a customer is not receiving mail sent by the Utility;
- Notice to the Utility that an account has unauthorized activity;
- Breach in the Utility's computer system security; or
- Unauthorized access to or use of customer account information.

## **E. Alerts from Others**

### **Red Flag**

- Notice to the Utility from a customer, identity theft victim, law enforcement or other person, that it has opened or is maintaining a fraudulent account for a person engaged in identity theft.

## **IV. DETECTING RED FLAGS**

### **A. New Accounts**

In order to detect any of the Red Flags identified above associated with the opening of a new account, Utility personnel will take the following steps to obtain and verify the identity of the person opening the account:

#### **Detection**

- Require certain identifying information such as name, date of birth, residential or business address, principal place of business for an entity, driver's license or other identification;
- Review documentation showing the existence of a business entity; and/or
- Independently contact the customer.

### **B. Existing Accounts**

In order to detect any of the Red Flags identified above for an existing account, Utility personnel will take the following steps to the extent possible to monitor transactions with an account:

#### **Detection**

- Verify the identification of customers if they request information (in person, via telephone, via facsimile, via email);
- Verify the validity of requests to change billing addresses; and/or
- Verify changes in banking information given for payment purposes.

## **V. RESPONSE AND PROTECTION**

### **A. Response**

1. In the event Utility personnel detect identity theft, such personnel shall notify the customer consistent with this Section. The disclosure notification shall be made in the most expeditious time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement as provided in subsection (2) of this section, and consistent with any measures necessary to determine sufficient contact information for the customers, determine the scope of the breach and restore the reasonable integrity, security and confidentiality of the data.

2. The notification to the customer required by this Section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation and that the Utility has made a written request that the notification be delayed. The notification required by this section shall be made after that law enforcement agency determines that its disclosure will not compromise the investigation and notifies the person in writing.

3. For purposes of this Section, notification to the customer may be provided by written notice or telephone notice, provided that contact is made directly with the affected customer.

4. Notice under this section shall include at a minimum:

- A description of the incident in general terms;
- The approximate date of the breach of security;
- The type of personal information obtained as a result of the breach of security;
- Contact information for the Utility;
- Contact information for national consumer reporting agencies; and
- Advice to the customer to report suspected identity theft to law enforcement, including the Federal Trade Commission.

5. If Utility personnel discover a breach of security affecting more than 1,000 customers that requires disclosure under this Section, such personnel shall notify, without unreasonable delay, all reporting agencies that compile and maintain reports on customers on a nationwide basis of the timing, distribution and content of the notification given by Utility personnel to the customers, including the police report number, if available.

6. Notwithstanding subsection (1) of this section, notification is not required if, after an appropriate investigation or after consultation with relevant federal, state or local agencies responsible for law enforcement, the Program Administrator or designee determines that no reasonable likelihood of harm to the customers whose personal information has been acquired has resulted or will result from the breach. Such a determination must be documented in writing and the documentation must be maintained for five years. The Program Administrator may act to mitigate future red flags in the following, non-exclusive manners:

- Continue to monitor an account for evidence of identity theft;
- Not open a new account;
- Close an existing account; and/or
- Reopen an account with a new number.

## **B. Protection**

1. In order to further prevent the likelihood of identity theft occurring with respect to Utility accounts, the Utility will take the following steps with respect to its internal operating procedures to protect customer identifying information:

- Ensure complete and secure destruction of paper documents and computer files containing customer information;
- Ensure that office computers are password protected;
- Keep offices clear of papers containing customer information;
- Ensure computer virus protection is up to date; and
- Require and keep only the kinds of customer information that are necessary for utility purposes.

2. In the event a credit reporting agency sends notice to the Utility of a substantial difference between the address for the customer that the Utility provided to request the report and the address(es) in the reporting agency's file, Utility personnel will confirm the personal information received from the customer with the customer and compare that information with other internal records, third-party records, or other reasonable means.

If Utility personnel:

- form a reasonable belief that the customer-provided address is accurate,
- the Utility establishes a continuing relationship with the customer, and
- the Utility regularly and in the ordinary course of business furnishes information to the reporting agency that identified the address discrepancy,

then Utility personnel shall furnish the confirmed address to the reporting agency that identified the address discrepancy.

## VI. PROGRAM UPDATES

The Program Administrator will review and update this Program at least once a year to reflect changes in risks to customers and the soundness of the Utility from identity theft. In doing so, the Program Administrator will consider the effectiveness of the policies and procedures of the Utility in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts, service provider arrangements, significant incidents involving identity theft and management's response, Utility's experiences with identity theft situations, changes in identity theft methods, changes in identity theft detection and prevention methods, and changes in the Utility's business arrangements with other entities.

After considering these factors, the Program Administrator will determine whether such factors warrant changes to the Program, including the listing of Red Flags. If warranted, the Program Administrator will update the Program.

The Program Administrator will report annually to the Utility Board on compliance with the Red Flag Rule.

## VII. PROGRAM ADMINISTRATION

### A. Oversight

Responsibility for oversight, implementation and administration of this Program lies with the Program Administrator. The Program Administrator is responsible for the Program for ensuring appropriate training of Utility staff on the Program, for reviewing any staff reports regarding the detection of Red Flags and the steps for preventing and mitigating identity theft, determining which steps of prevention and mitigation should be taken in particular circumstances and considering periodic changes to the Program.

### B. Staff Training and Reports

Utility staff responsible for implementing the Program shall be trained either by or under the direction of the Program Administrator in the detection of Red Flags, and the responsive steps to be taken when a Red Flag is detected. Utility staff will provide reports to the Program Administrator on incidents of identity theft.

### C. Service Provider Arrangements

In the event the Utility engages a service provider to perform an activity in connection with one or more accounts, the Utility will take the following steps to ensure the service provider performs its activity in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft.

- Require, by contract, that service provider(s) have such policies and procedures in place; and
- Require, by contract, that service provider(s) review the Utility's Program and report any Red Flags to the Program Administrator.

### D. Non-disclosure of Specific Practices

For the effectiveness of this Program, knowledge about specific Red Flag identification, detection, mitigation and prevention practices must be limited to the Program Administrator and to those employees with a need to know them. Any documents that may have been produced or are produced in order to develop or implement this program that list or describe such specific practices and the information those documents contain are considered "Security information" (as defined in the following paragraph) and are unavailable to the public because disclosure of them would be likely to substantially jeopardize the security of information against improper use, that use being to circumvent the Utility's identity theft prevention efforts in order to facilitate the commission of identity theft.

"Security information" is defined as government data the disclosure of which would be likely to substantially jeopardize the security of information, possessions, individuals or property against theft, tampering, improper use, attempted escape, illegal disclosure, trespass, or physical injury.