

***CANBY UTILITY
REGULAR BOARD MEETING
FEBRUARY 13, 2024
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 January 9, 2024 (pp. 1-4)
 - 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 February 13, 2023 with your name, the topic you would like to speak on, and contact information: bbenson@canbyutility.org or 503-263-4312.*
- V. PRESENTATION Water Rate Study – Mike Schelske, Finance Manager, and Steve Donovan of Donovan Enterprises, Inc. (pp. 5-13)
- VI. RECOMMENDATION Approve Proposed Water Rate Adjustment for Public Hearing – Mike Schelske, Finance Manager (pp. 14-16)
- VII. RESOLUTION NO. 320 Revising Canby Utility's Public Contracting Rules – Sue Arthur, Purchasing Agent (pp. 17-33)
- VIII. BOARD REPORT
 - Chair Comments
 - Board Member Comments
- IX. STAFF REPORTS

Operations Manager:

 - Winter Storm EventGeneral Manager Updates
- X. ADJOURN

***CANBY UTILITY
REGULAR BOARD MEETING MINUTES
JANUARY 9, 2024***

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: Jason Padden, City Council Liaison; Brian Hutchins, Veolia Water North America; Joe Brennan; and Corianne Burnett

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. Member Hill made the *MOTION to approve the consent agenda, consisting of the meeting agenda, regular meeting minutes of December 12, 2023, write-offs in the amount of \$1,186.60, payment of the electric and water department bills in the amount of \$1,320,358.18. Member Horrax seconded, and the motion passed 5-0.

Chair Thompson presented the annual election of the Board's Chairperson for 2024 and then opened the floor for nominations. Member Molamphy made a *MOTION to appoint the present board chair, Melody Thompson, as Chairperson for 2024. Member Horrax seconded the motion. Member Thompson accepted the nomination. There were no other nominations made. Let the record show that there was no vote on this motion. Member Pendleton made a *MOTION to close the nomination. Member Hill seconded, and the motion passed with four yes votes and one abstention. Member Molamphy amended his *MOTION to read: I move to close nominations and appoint member Thompson to serve as Board Chair for 2024. Member Horrax seconded, and the motion passed with four yes votes and one abstention. Thompson abstained from the voting process.

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

Finance Manager Mike Schelske presented the proposed adjustment to the water system development charges (SDC) based on a study conducted by Donovan Enterprises, Inc. The board last updated SDCs in 2004, with only inflationary adjustments since then. The proposed SDCs are based on the 2023 Water Master Plan (WMP) that was prepared by Consor and adopted by the Board in September 2023. The WMP includes a Capital Improvements Plan for all

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recommended water system improvements over the 20-year planning horizon of the WMP. Schelske noted that Donovan presented the Water System Development Charge study to the Board on November 14, 2023. Staff presented the revised proposed rates on December 12, 2023. The new SDCs account for the impact of future improvements and replacements for water system infrastructure needs. The amount of an SDC paid corresponds to the size of the meter requested, based on annual average water consumption computed for a single dwelling unit equivalent (DUE). Schelske said that staff mailed 74 notices of the proposed SDC adjustments to interested parties, and he reviewed the three public responses received. Schelske noted a correction on Exhibit A showing the change for the multi-family rate classification. Member Hill pointed out that the Board adopted Resolution No. 318 in December. The staff realized the numbering error and said it should have been Resolution No. 319. Member Molamphy made the *MOTION to adopt revised Resolution No. 319, renumbered from Resolution No. 318 on the agenda, adjusting Canby Utility's Water System Development Charges as presented by the Finance Manager. Member Hill seconded, and the motion passed 5-0.

Customer Service Supervisor Cindy Dittmar recommended the Board continue donating green power to the City of Canby for another year. In 2023, 192 customers purchased 1,204 blocks of green power. Canby Utility donated 45 blocks of green power per month to the city for its parks and transit mall. Member Hill asked about the block of green power. Dittmar replied that a block is \$0.92, which goes towards developing renewable, non-polluting energy in the Pacific Northwest. Dittmar added that we are not truly purchasing green power; it contributes to supporting green energy. Member Molamphy made the *MOTION to continue a monthly donation of green power on behalf of the city parks and transit mall. Member Hill seconded, and the motion passed 5-0.

Member Molamphy thanked Board Secretary Barb Benson for her work in planning the employee recognition event dinner. He remarked on the event being enjoyable.

Operations Manager Jason Berning presented the quarterly reliability report. Canby Utility experienced three events in the past quarter. Berning explained the cause of the power interruptions: in October, there was an issue with the primary cable on a pole; in November, a squirrel caused a fuse to open; and in December, an overhead transformer failed. Berning noted a momentary outage early this morning on Portland General Electric's (PGE) 57kV transmission line that feeds Canby Utility's substations. PGE's issue resulted in a city-wide 45-second momentary outage. He also reported another outage on the Knights Bridge substation feeder the night before. The cause is suspected to be a tree branch. Still, it is unconfirmed after several electric employees patrolled the line looking for the reason that evening. This outage lasted about 45 minutes.

Operations Field Supervisor Jason Peterson reported on the fire hydrant replacement project. He said the water crew had replaced eight hydrants. The ninth hydrant will not be replaced. The project is coming in below budget. The next step will be submitting for payment from the City of Canby's American Rescue Plan Act "ARPA" funds.

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Finance Manager Mike Schelske presented the fiscal year 2024 first quarter (Q1) financials using a new reporting format. Schelske reported that, in general, revenue and operational expenditures are tracking to budget. Revenues are at or above budget, and operating expenses are lower, excluding a budgetary difference for purchased power. The main variance is the contributed capital, which is significantly lower than the budget.

Schelske reviewed the key highlights for Q1 electric operations. The operating revenue is on target. The net income of \$702,493 is 45.5% under budget, mainly due to the budgeted amount for purchased power. The purchased power is 28.8% over budget, noting that \$64,416 is due to increased kilowatt hours purchased and a \$415,491 budgeting error related to the BPA power dividend being included twice. Schelske noted that BPA will implement another dividend in December, offsetting the budgetary error. The operating expenses are 11.1% under budget, mainly due to open positions and lower costs for supplies and contractors. The contributed capital is under budget by \$264,954 or 90.7%. This variance is due to decreased development activity.

Schelske reviewed the key highlights for Q1 water operations. The operating revenue is over budget by 18.8%, using a low consumption year for budgeting. The net income of \$749,646 is 3.2% under budget. The contributed capital is under budget by \$414,379 or 89.1%. This variance is due to a significant decrease in development activity. The operating expenses are 9.8% under budget, mainly due to open positions and lower costs for supplies and contractors. The savings from open positions are permanent. Lower costs for supplies and contractors combine lower costs and the timing for certain expenditures.

Schelske said that development activity may have the most significant impact on the operating results for electric and water. A lower-than-estimated level of development activity will have a negative impact on both net income and cash reserves. Member Thompson talked about her experience with the effects of decreased development and how that could impact wages and staffing levels, and a brief discussion ensued regarding core service levels to meet customer needs. Schelske then reviewed the new report showing the balance sheets, income statements, and sales data of the electric and water operations. The report indicates what line items are under-, over-, or on-budget. Schelske welcomed feedback on the reports. The board expressed that they like the new report format and want to see reporting on cash reserves, cash flow, trend analysis, and earmarking excess funds for future capital projects.

Customer Service Supervisor Cindy Dittmar presented an update on the Share the Warmth bill assistance program. In 2023, the program dispersed \$48,275, helping 224 customers pay their utility bills. We received \$8,997 from 110 customer donations into the program. Canby Utility paid the Canby Adult Center \$1,120 for customer intake services. Dittmar said that the Board's annual donation of \$40,000 ensures the program's success.

General Manager Carol Sullivan reported that the City of Canby and Canby Utility met with Jacobs Engineering to explore grant funding opportunities. Jacobs Engineering has been successful in obtaining funding for clients across the country. Sullivan anticipates additional

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discussions with city staff regarding funding the water supply project since the funding sources will most likely be in the City of Canby's name. Sullivan also noted that another joint workshop with the City Council will be scheduled.

Sullivan also reported that Canby Utility has entered into a personal services contract with GSI Water Solutions to begin the water rights study. She expects GSI's report to be ready by early February. The report will be included in our Request for Qualifications (RFQ) for the water treatment plant project owner's representative since it is significant to the water supply project.

Sullivan reported that she is working on the RFQ for the owner's representative and has received assistance from a non-bidding consultant with writing it. The board attorney's office has completed an initial review of the document. Sullivan anticipates a final review by the end of January, and the RFQ will be advertised in early February.

Sullivan also reported signing the National Energy & Utility Affordability Coalition All Parties Letter for Federal Fiscal Year 2025. This letter to Congress supports the Low-Income Home Energy Assistance Program (LIHEAP) that Clackamas County manages. This program offers bill payment assistance to our customers.

Member Hill made the *MOTION to adjourn the meeting. Member Pendleton seconded, and the motion passed 5-0.

The meeting adjourned at 7:57 p.m.

Melody Thompson, Chair

David Horrax, Member

John Molamphy, Member

Jack Pendleton, Member

Jake Hill, Member

Barbara Benson, Board Secretary



Water Rates Forecast Presentation

February 13, 2024





Agenda ...

- Key planning assumptions for the forecast
- Funding strategy for the new water supply project
- Forecast of annual changes in water system revenue requirements
- Forecast of average monthly single-family water bills
- Monthly single-family water bills in neighboring communities
- Next Steps

KEY PLANNING ASSUMPTIONS



Macro Economic

- Customer growth 1.4%
- Inflation generally 3.0%
- SDCs start at ~\$1.2million and grow with inflation thereafter
- Interest earnings rate 5.0%



Long Term Debt

- 2014 refunding bonds retire in 2024
- 2017 refunding bonds retire in 2027
- New debt for water treatment plant 80% WIFIA; 20% SDWSRLF
 - All 30-year loans
 - WIFIA 4.75%
 - SDWSRLF 4.50%



Cash Flows & Rate Strategy

- Minimum of \$10 million cash contribution to treatment plant project
- Start raising rates now to have predictable increases over the next five years
- Rates will double at the end of the five-year forecast

FUNDING STRATEGY FOR THE NEW WATER SUPPLY PROJECT

Supply Element	Estimated Project Cost ¹
<u>Treatment Plant Elements</u>	
Raw Water Intake and Pumping Facilities	\$7,500,000
Transmission System ²	\$5,750,000
New 10.0 MGD WTP	\$40,000,000
Subtotal	\$53,250,000
<u>Planning & Design Efforts</u>	
Develop Project Implementation Plan, Procure Owner's Representative	\$100,000
Complete Conceptual Design and Alternatives Analysis	\$3,750,000
Permitting	\$2,000,000
Final Design	\$9,600,000
Contingency	\$13,300,000
Subtotal	\$28,750,000
Total (Project ID S-1)	\$82,000,000

Notes:

1. Does not include the cost of land acquisition.
2. One mile (5280 LF) of 24" Ductile Iron Pipe assumed.

FUNDING STRATEGY FOR THE NEW WATER SUPPLY PROJECT



Project Total

- Gross project cost \$82 million
- Equity contribution from CU \$10 million
- Net amount \$72 million to be funded from new loans
- Total estimated annual level debt service \$4,524,903 per year
- First payment due on or near January 1, 2029



WIFIA Assumptions

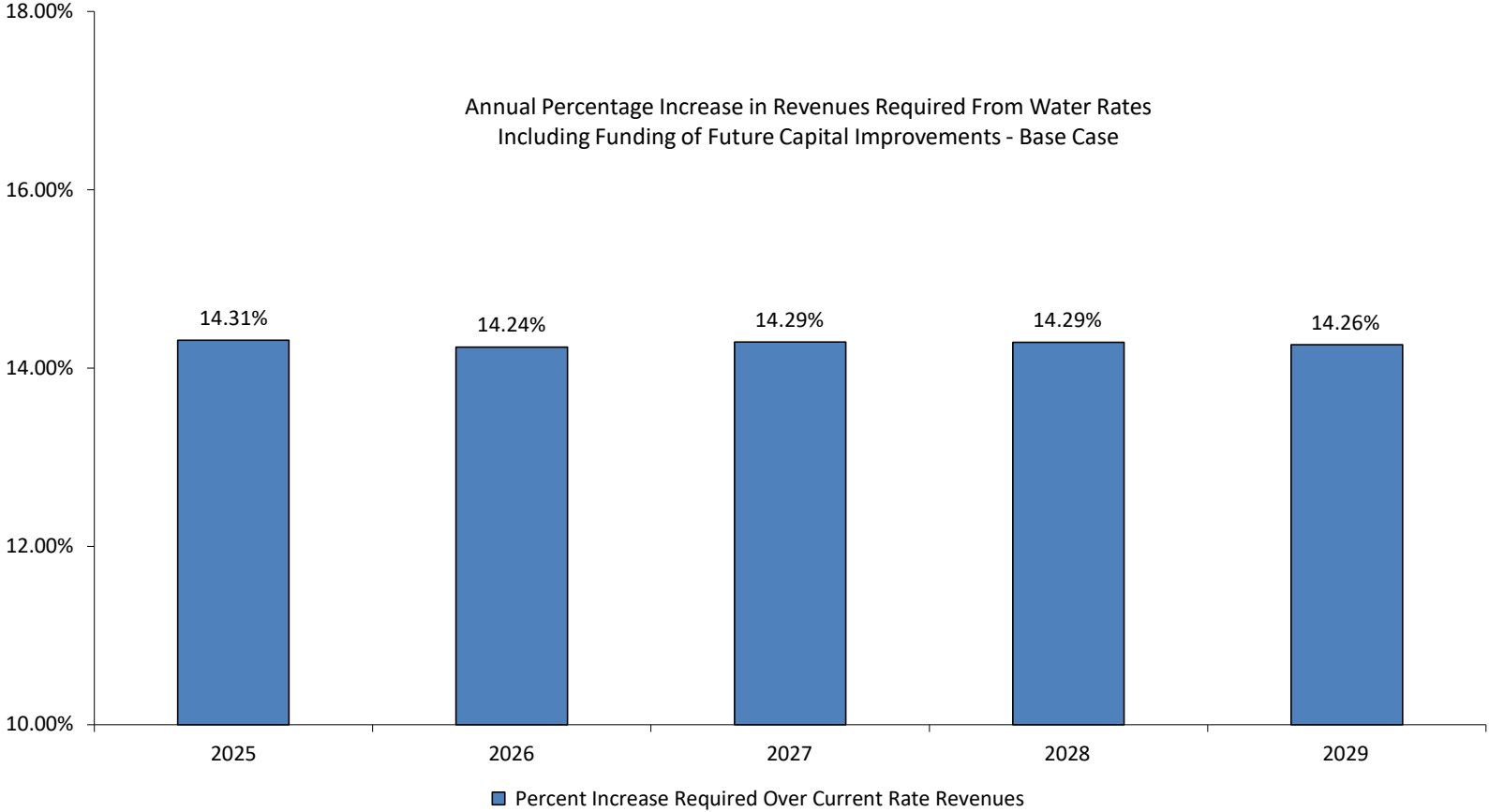
- Principal amount 80% or \$57,600,000
- 30-year term
- 4.75%
- Level debt service \$3,640,865
- Administered by federal government (EPA)
- Strings attached
 - buy American
 - prevailing wage requirement



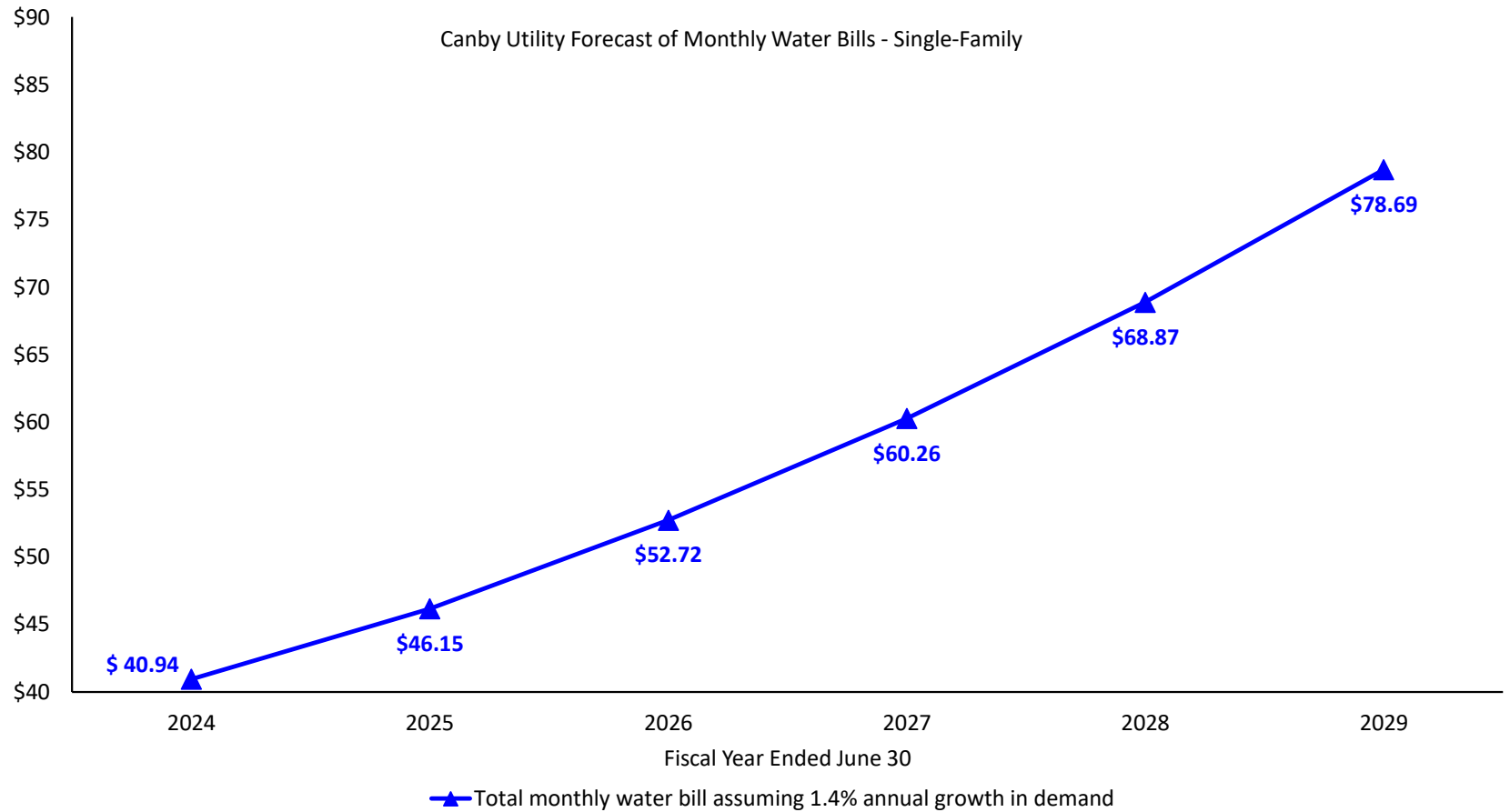
SDWSRFL Assumptions

- Principal amount 20% or \$14,400,000
- 30-year term
- 4.50%
- Level debt service \$884,038
- Administered by the State of Oregon (Oregon Business)
- Strings attached
 - Rate pledge with coverage of 1.2x

FORECAST OF ANNUAL CHANGES IN REVENUE REQUIREMENTS

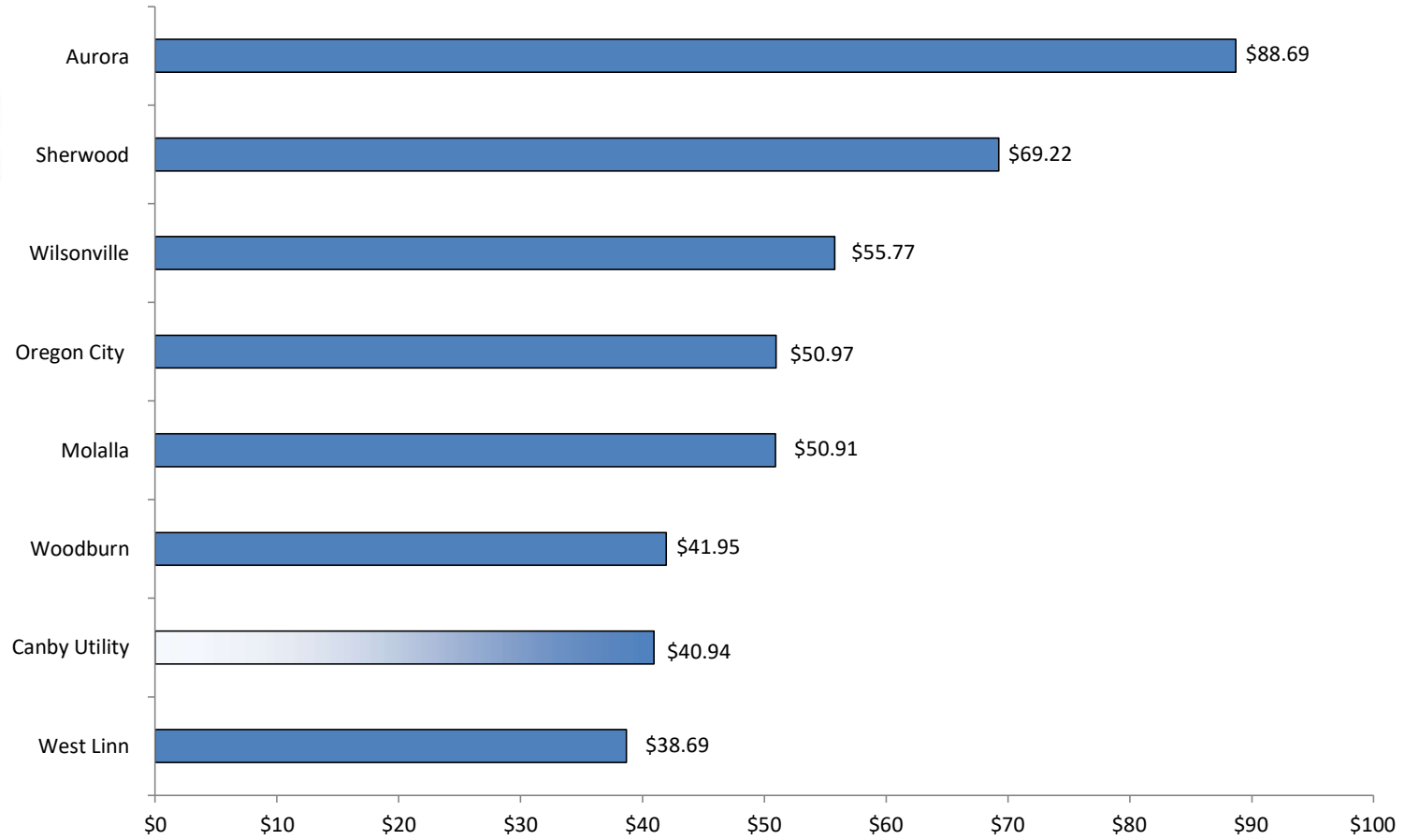


FORECAST OF AVERAGE MONTHLY SINGLE-FAMILY WATER BILLS





Neighboring Communities' Water Bills for 10 Ccf of Water per Month - January, 2024



DISCUSSION



FEBRUARY 13, 2024

CANBY UTILITY BOARD PRESENTATION

9



MEMORANDUM

January 29, 2024

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

FROM: Mike Schelske, Finance Manager

SUBJECT: Set Proposed Water Rate Hearing for Rates Effective May 1, 2024

Suggested Motion: Motion that the Proposed Water Rate Hearing for Rates Effective May 1, 2024, be scheduled for April 9, 2024, with a rate increase of 14.31% on the base and volume charges for all customer classifications.

Recommendation:

Management recommends the Board schedule a rate hearing for public input on April 9, 2024, on the proposed water rate increase of 14.31% on both the base and volume charges for all customer classifications. The rate proposal is based on the rate analysis study performed by Donovan Enterprises, Inc.

Key Information:

The Canby Utility Board last raised the water rates in October 2020. The need for a rate adjustment is due to the planned construction of a new water treatment facility and supporting infrastructure. This new facility is needed to provide additional capacity to support the projected growth of the city. The project will also secure additional water source supply and address water quality issues. The additional revenues from the rate increase will cover a portion of the project costs and the debt service for the project's financing.

The proposed rates are shown in Exhibit A. Under these rates the average monthly bill for a residential service will increase by \$5.21.

Steve Donovan and I will be available to answer questions the Board may have.

EXHIBIT A

Canby Utility Board Schedule of Proposed Water Rates Effective 5/1/2024

Residential

Applicable to single-family dwellings.

METER SIZE	BASE CHARGE	VOLUME CHARGE					
		PER 100 CUBIC FEET (CCF)					
		Tier 1 Rate	Tier 1 Threshold	Tier 2 Rate	Tier 2 Threshold	Tier 3 Rate	Tier 3 Threshold
5/8" - 3/4"	\$ 24.42	\$ 2.08	Up to 7 CCF	\$ 2.61	7 to 12 CCF	\$ 3.64	Over 12 CCF
1"	\$ 35.19	\$ 2.08	Up to 11 CCF	\$ 2.61	11 to 19 CCF	\$ 3.64	Over 19 CCF

MULTI-FAMILY RESIDENTIAL

Applicable to duplexes, triples, apartment houses/complexes, small lot mobile home parks and PUDs meeting three requirements: 1) Single-family residential property in a approved PUD; 2) Zone R-2 High Density by the City of Canby (per Chapter 16.20 of the City of Canby Municipal Code); and 3) Property has a separate Irrigation meter for which an SDC was paid to the Utility.

METER SIZE	BASE CHARGE	DWELLING UNIT CHARGE	VOLUME CHARGE		
			PER 100 CUBIC FEET (CCF)		
			Tier 1 Up to 5 CCF	Tier 2 5 to 8 CCF	Tier 3 Over 8 CCF
5/8" - 3/4"	\$ 11.23	\$ 10.86	\$ 1.78	\$ 2.24	\$ 3.12
1"	\$ 13.26	\$ 10.86	\$ 1.78	\$ 2.24	\$ 3.12
1-1/2"	\$ 15.32	\$ 10.86	\$ 1.78	\$ 2.24	\$ 3.12
2"	\$ 20.92	\$ 10.86	\$ 1.78	\$ 2.24	\$ 3.12
3"	\$ 62.25	\$ 10.86	\$ 1.78	\$ 2.24	\$ 3.12
4"	\$ 77.57	\$ 10.86	\$ 1.78	\$ 2.24	\$ 3.12

Please note that the dwelling unit charge did increase. Use the number of dwelling units times the Dwelling Unit Charge to calculate that increase. Then use the number of dwelling units times the Threshold CCF numbers in the table above to determine the CCF Thresholds. Thus, if there are two Multi-Family Residential Dwelling Units, the Dwelling Unit Charge will be \$22.46 (\$11.23 x 2). The Tier 1 CCF will become 10 CCF (5 CCF x 2), Tier 2 CCF will become 16 CCF (8 CCF x 2) and Tier 3 CCF will be all volume Over 16 CCF.

COMMERCIAL

Applicable to all service deemed not to be Residential, Multi-Family Residential, Municipal, or Irrigation.

METER SIZE	BASE CHARGE	VOLUME CHARGE					
		PER 100 CUBIC FEET (CCF)					
		Tier 1 Rate	Tier 1 Threshold	Tier 2 Rate	Tier 2 Threshold	Tier 3 Rate	Tier 3 Threshold
5/8" - 3/4"	\$ 25.78	\$ 1.81	Up to 6 CCF	\$ 2.26	6 to 13 CCF	\$ 3.18	Over 13 CCF
1"	\$ 45.47	\$ 1.81	Up to 13 CCF	\$ 2.26	13 to 27 CCF	\$ 3.18	Over 27 CCF
1-1/2"	\$ 71.23	\$ 1.81	Up to 21 CCF	\$ 2.26	21 to 46 CCF	\$ 3.18	Over 46 CCF
2"	\$ 158.53	\$ 1.81	Up to 51 CCF	\$ 2.26	51 to 111 CCF	\$ 3.18	Over 111 CCF
3"	\$ 260.14	\$ 1.81	Up to 76 CCF	\$ 2.26	76 to 164 CCF	\$ 3.18	Over 164 CCF
4"	\$ 370.46	\$ 1.81	Up to 111 CCF	\$ 2.26	111 to 241 CCF	\$ 3.18	Over 241 CCF

EXHIBIT A

Canby Utility Board Schedule of Proposed Water Rates Effective 5/1/2024

IRRIGATION

Applicable to service for Irrigation only.

METER SIZE	BASE CHARGE	VOLUME CHARGE PER 100 CUBIC FEET (CCF)
5/8" - 3/4"	\$ 25.78	\$3.16
1"	\$ 45.47	\$3.16
1-1/2"	\$ 71.23	\$3.16
2"	\$ 158.53	\$3.16
3"	\$ 260.14	\$3.16
4"	\$ 370.46	\$3.16



MEMORANDUM

February 13, 2024

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

FROM: Sue Arthur, Purchasing Agent

SUBJECT: Update Canby Utility's Public Contracting Rules

Suggested Motion: Motion to Adopt Resolution No. 320, revising Canby Utility's Public Contracting Rules and Repealing Resolution No. 298.

Background: The Board last updated its contracting and procurement rules in August 2018, via Resolution No. 298. Since that time, the Oregon Public Contracting Code has been amended in part to permit new approaches for Canby Utility when it solicits the services of certain professionals in the context of construction projects (e.g. architects and engineers).

In addition, recent changes to Oregon law in the 2023 Regular Session via Senate Bill 1047 increased certain small, intermediate, and large procurement thresholds. Effective January 1, 2024, small procurements of goods, services, and public improvements increased from \$10,000 to \$25,000, intermediate thresholds increased from \$150,000 to \$250,000, and large thresholds increased from amounts exceeding \$150,000 to amounts exceeding \$250,000.

Ashleigh Dougill, Board Attorney, and staff completed a review of the current contracting and procurement rules. There were a number of areas identified that we recommend to be simplified, updated, or otherwise amended to ensure we are consistent with Oregon laws and rules governing procurement. Housekeeping changes were also made.

The existing policy also contains a provision authorizing the General Manager to make purchases up to \$10,000 for goods, services, and public improvements that were not included in a given fiscal year without Board approval. Staff recommends increasing this limit to \$25,000 to match the small procurement threshold. This language is identified in the Signature Authority of the resolution, Section 1.10.120.

Staff recommends the Board approve this resolution, adopting the new public contracting rules. I will be available to answer any questions the Board may have.

RESOLUTION NO. 320

A RESOLUTION ADOPTING PUBLIC CONTRACTING RULES AND REPEALING RESOLUTION NO. 298

- A. The Canby Utility Board (Canby Utility) last updated its contracting and procurement rules in August 2018, via Resolution No. 298.
- B. Since that time, the Oregon Public Contracting Code has been amended in part to permit new approaches for Canby Utility when it solicits the services of certain professionals in the context of construction projects (e.g. architects and engineers).
- C. In addition, recent changes to Oregon law in the 2023 Regular Session via Senate Bill 1047 increased certain small, intermediate, and large procurement thresholds. Effective January 1, 2024, small procurements of goods, services, and public improvements increased from \$10,000 to \$25,000, intermediate thresholds from \$150,000 to \$250,000, and large thresholds increased from amounts exceeding \$150,000 to amounts exceeding \$250,000.
- D. The Canby Utility Board Attorney and staff completed a review of the current contracting and procurement rules and identified a number of areas that are recommended to update, simplify, or otherwise amend.
- E. Canby Utility recognizes the need to ensure that procurement of these services is consistent with Oregon laws and rules governing such procurement.
- F. Therefore, Canby Utility wishes to adopt new rules through this resolution, relating to the procurement goods and services, personal services, public improvements, and construction-related services, raising the dollar thresholds that apply to the solicitation of such services, and making other housekeeping changes to Canby Utility's contracting and procurement rules.

THE CANBY UTILITY BOARD RESOLVES AS FOLLOWS:

- Section 1.** That Canby Utility adopts the Public Contracting Rules for Canby Utility Board attached as Exhibit A.
- Section 2.** That this Resolution is effective on the date of its adoption.
- Section 3.** That Resolution Number 298 is repealed.

THIS RESOLUTION IS ADOPTED BY THE CANBY UTILITY BOARD THIS 13th DAY OF FEBRUARY, 2024.

Melody Thompson, Chair

David Horrax, Member

John Molamphy, Member

Jack Pendleton, Member

Jake Hill, Member

Barbara Benson, Board Secretary

Exhibit A

Public Contracting Rules for the Canby Utility Board.

1.10.010 General provisions

- (1) Except as provided within these rules, Canby Utility’s public contracting is governed by the Oregon Public Contracting Code (ORS Chapters 279, 279A, 279B and 279C) (the “Code”) and the Oregon Attorney General’s Model Public Contract Rules (OAR Chapter 137, divisions 46, 47, 48 and 49) (the “Model Rules”).
- (2) The Canby Utility Board of Directors is Canby Utility’s local Contract Review Board (Board). Except as otherwise provided in these rules, the Board will exercise the powers and duties of local contract review boards under the Code and Model Rules and the Utility’s General Manager, or their designee, as the contracting agent will exercise the powers and duties given or assigned to contracting agencies by the Code or Model Rules.
- (3) For the purposes of these rules, “General Manager” means the General Manager for the Canby Utility Board, or the General Manager’s designee.
- (4) For the purposes of these rules, “Emergency” means circumstances that:
 - (A) Could not have been reasonably foreseen;
 - (B) Create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health, welfare or safety; and
 - (C) Require prompt execution of a contract to remedy the condition.

1.10.020 Personal service contracts not including certain construction-related personal services

- (1) “Personal service contract” means a contract for personal or professional services performed by an independent contractor, primarily for the provision of services that require specialized technical, creative, professional or communication skills or talents, unique and specialized knowledge, or the exercise of discretionary judgment skills, and for which the quality of the service depends on attributes that are unique to the service provider. Such services include, but are not limited to, the services of attorneys, accounting and auditing services, information technology services, planning and development services, artists, designers, performers, property managers and consultants. The General Manager has discretion to determine whether a particular contract or service falls within this definition. Personal services contracts generally do not include contracts for architectural, engineering, photogrammetric, land surveying and, in very narrow

instances, transportation-planning services when only such professionals may legally provide the service. The procedures for those contracts are found below in section 1.10.025.

- (2) Large Procurements. The following formal selection procedure will be used when the estimated payment to the contractor exceeds \$250,000.
 - (a) Announcement. Canby Utility will give notice of its intent to procure personal services through its website and any other means the General Manager deems appropriate, including contacting prospective contractors directly. Announcements will include:
 - (A) A description of the proposed project;
 - (B) The scope of the services required;
 - (C) The project completion dates;
 - (D) A description of special requirements;
 - (E) When and where the application may be obtained and to whom it must be returned;
 - (F) The closing date; and
 - (G) Other necessary information.
 - (b) Application. Applications will include a statement that describes the prospective contractor's credentials, performance data, examples of previous work product or other information sufficient to establish contractor's qualification for the project, references, and other information identified by Canby Utility as necessary to make its selection.
 - (c) Initial screening. The General Manager will evaluate the qualifications of all applicants and select a prospective contractor or prospective contractors whose application demonstrates that the contractor is best qualified to meet Canby Utility's needs.
 - (d) Final selection.
 - (A) The General Manager will interview the finalists selected from the initial screening. At the General Manager's discretion, the interviews may be conducted before the Board.

- (B) After the interview process concludes, the General Manager will make the final selection. If the interviews are conducted before the Board, the Board will make the final selection.
 - (C) The final selection will be based upon applicant capability, experience, project approach, compensation requirements, references and any other criteria identified by Canby Utility as necessary to select a contractor.
- (3) Intermediate Procurements. The following informal selection procedure may be used when the estimated payment to the contractor is equal to or less than \$250,000 and above \$25,000, or when the General Manager determines that the informal procedures will not interfere with competition among prospective contractors, reduce the quality of services or increase costs. The General Manager will contact a minimum of three prospective contractors qualified to offer the services sought. The General Manager will request an estimated fee and make the selection consistent with Canby Utility's best interests. If three quotes are not received, the General Manager will make a written record of efforts to obtain the quotes.
 - (4) Small Procurements. The General Manager may enter into personal service contracts not exceeding an estimated \$25,000 without following the procedures under subsection (2) or (3). However, the General Manager must make reasonable efforts to choose the most qualified contractor to meet Canby Utility's needs. The amount of a given contract may not be manipulated to avoid the informal or formal selection procedures.
 - (5) Sole Source. The General Manager may negotiate with a single source for personal services if the services are available from only one contractor, or the prospective contractor has special skills uniquely required for the performance of the services, or if Canby Utility has previously worked with the contractor. Unless the basis for a direct award under this subsection is a prior work history with the contractor, the General Manager must make written findings to demonstrate why the proposed contractor is the only contractor who can perform the services desired.
 - (6) Emergency. The General Manager may select a contractor under this section without following any procedures if an Emergency exists. The General Manager must make written findings of the circumstances that describe the Emergency.

1.10.025 Contracts for certain construction-related personal services

- (1) Purpose. This section implements ORS 279C.100 to 279C.125. Canby Utility will rely on these rules, not the Model Rules, for a contract with an architect, engineer, photogrammetrist, land surveyor or (in very narrow instances) a transportation planner.

- (2) Applicability. This section applies only to personal services that meets the following criteria:
- (a) A contract with an Estimated Fee that exceeds \$100,000; and
 - (b) The contract is for a personal service that is *legally required* to be provided or performed by an architect, engineer, photogrammerist, transportation planner or land surveyor. For example: hiring an architect to design a building or structure, or hiring an engineer to design a wastewater system. Because the law requires licensed professionals to design buildings and infrastructure, Canby Utility may rely on this subsection to hire someone to perform those services. However, if Canby Utility is hiring an architect or engineer to perform project management services (for example), it may solicit and award such services under section 1.10.020 of these rules. *See* definition of “Related Services” below.
 - (c) If either (a) or (b) above is not satisfied (i.e. the contract is for a personal service that is legally required to be provided by a licensed architect, etc. *but* is estimated to not exceed \$100,000; *or* the contract will require an engineer, etc. to perform a Related Service) then Canby Utility may rely on section 1.10.020 of these rules to solicit and award the contract.
- (3) Mixed contracts. Some contracts will contain a mixture of services covered by this section (i.e. services that only the particular consultant may legally perform) and Related Services. Whether Canby Utility uses this section or section 1.10.020 to solicit and award a mixed contract will depend upon the predominate purpose of the contract. Canby Utility will determine the predominate purpose based upon either the amount of money it estimates it will spend for covered services versus Related Services or the amount of time the consultant estimates they will spend working on covered services versus Related Services. If covered services predominate, Canby Utility will solicit the contract under this section. If Related Services predominate, Canby Utility will solicit the contract under section 1.10.020.
- (4) Exception for Previous Work. Pursuant to ORS 279C.115, Canby Utility may enter into a contract with a Construction-Related Consultant pursuant to Section 1(B) if the Project described in the contract:
- (a) Involves work that was described, planned or rendered in an earlier contract with the Construction-Related Consultant;
 - (b) The earlier contract was awarded in accordance with Canby Utility’s contracting rules in effect at the time of the earlier contract; and

- (c) The new contract is a continuation of the Project described in the earlier contract.
- (5) Exception for Emergencies. Pursuant to ORS 279C.110(9), Canby Utility may directly contract with a Construction-Related Consultant in an Emergency.
- (6) Definitions. The following definitions apply to this section:
 - (a) "Construction-Related Consultant" means an architect, engineer, photogrammetrist, land surveyor, a transportation planner in narrow instances defined below or a provider of Related Services.
 - (b) "Estimated Fee" means the reasonably projected fee, as determined by Canby Utility, to be paid for a Construction-Related Consultant's services under the anticipated contract, excluding all anticipated reimbursable or other non-professional fee expenses. The Estimated Fee is used solely to determine the applicable contract solicitation method and is distinct from the total amount payable under the contract.
 - (c) "Price Agreement" means an agreement related to the procurement of architectural, engineering, photogrammetric mapping, transportation planning or land surveying services, or Related Services, under agreed-upon terms and conditions and possibly at a set price with:
 - (A) No guarantee of a minimum or maximum purchase; or
 - (B) An initial order or minimum purchase, combined with a continuing obligation to provide architectural, engineering, photogrammetric mapping, transportation planning or land surveying services or Related Services where Canby Utility does not guarantee a minimum or maximum additional purchase.
 - (d) "Project" means all components of a Canby Utility-planned undertaking that gives rise to the need for a Construction-Related Consultant's architectural, engineering, photogrammetric mapping, transportation planning or land surveying services, or Related Services, under a contract.
 - (e) "Transportation Planning Services" only includes Project-specific transportation planning required for compliance with the National Environmental Policy Act, 42 USC 4321 et seq. and no other types of transportation planning services. By way of example only, Transportation Planning Services do not include transportation planning for corridor plans, transportation system plans, interchange area management plans, refinement plans and other transportation plans not associated with an individual Project required to comply with the National Environmental Policy Act, 42 USC 4321 et seq.

- (f) “Related Services” means personal services, other than architectural, engineering, photogrammetric, mapping, transportation planning or land surveying services, that are related to planning, designing, engineering or overseeing public improvement projects or components of public improvements, including, but not limited to, landscape architectural services, facilities planning services, energy planning services, space planning services, hazardous substances or hazardous waste or toxic substances testing services, cost estimating services, appraising services, material testing services, mechanical system balancing services, commissioning services, project management services, construction management services, and owner’s representation services or land-use planning services. In other words, personal services that are *not required by law* to be performed by an architect, engineer, photogrammetrist, transportation planner or land surveyor.

- (7) Intermediate Procurements. The following informal selection procedure may be used when the estimated payment to the consultant for Construction-Related Personal Services is equal to or less than \$250,000 and above \$100,000. The General Manager will contact a minimum of three (3) prospective consultants qualified to offer the services sought. The General Manager will request an estimated fee, and make the selection consistent with Canby Utility’s best interests, to the most qualified consultant. If three (3) quotes are not received, the General Manager will make a written record of efforts to obtain the quotes.

- (8) Large Procurements. The following formal selection procedure will be used when the estimated payment for the Construction-Related Personal Services exceeds \$250,000.
 - (a) When selecting a Construction-Related Consultant to perform architectural, engineering, photogrammetric mapping, transportation planning or land surveying services under this section, Canby Utility must award a contract to the most qualified consultant.

 - (b) In accordance with Oregon law, when determining which consultant is most qualified, Canby Utility may only solicit or use pricing policies and pricing proposals, or other price information, including the number of hours proposed for the services required, expenses, hourly rates and overhead, to determine a Construction-Related Consultant's compensation *after* Canby Utility has selected the most qualified consultant.

 - (c) As provided in ORS 279C.110, if the solicitation documents include the information described in ORS 279C.110(5)(a), Canby Utility may identify as many as three top-ranked proposals. Notwithstanding subsections (a) and (b) of the section, Canby Utility may request pricing policies or pricing proposals from the top-ranked proposals including an estimate of

the number of hours that will be needed to perform the work described in the solicitation, and a schedule of hourly rates. A pricing policy or pricing proposal also may include a description of the tasks included in the bid, a list of persons or labor classifications who will perform the tasks, and a list of expenses. A bidder that does not wish to provide pricing information may withdraw its bid. Canby Utility may use the pricing policies or pricing proposals to select a consultant provided Canby Utility does not assign more than 15 percent of weight in its evaluation to the pricing policies or information.

- (d) When soliciting a Construction-Related Consultant under this section, Canby Utility will use a Request for Proposals (“RFP”) or a Request for Qualifications (“RFQ”) followed by a RFP, as described below. Canby Utility may advertise RFQs and RFPs in any manner it deems appropriate. If Canby Utility directly solicits qualifications or proposals from Construction-Related Consultants, it will attempt to contact at least three consultants.
- (e) RFQ. Canby Utility may in its sole discretion issue a RFQ to evaluate potential Construction-Related Consultants and establish a short list of qualified Construction-Related Consultants to whom it may issue an RFP for some or all of the architectural, engineering, photogrammetric mapping, transportation planning or land surveying services or Related Services described in the RFQ. RFQs may include:
 - (A) A brief Project description;
 - (B) A description of the architectural, engineering, photogrammetric mapping, transportation planning or land surveying services or Related Services required for the Project;
 - (C) Any conditions or limitations that may constrain or prohibit the selected Construction-Related Consultant's ability to provide additional services related to the Project, including but not limited to construction services;
 - (D) A response deadline and a description of how or where to submit a response;
 - (E) A statement that interested consultants respond solely at their own expense;
 - (F) RFQ evaluation criteria; and
 - (G) Any other elements the General Manager deems appropriate.

- (f) RFP. Canby Utility will issue an RFP to select the most qualified Construction-Related Consultant, regardless of whether a RFQ precedes an RFP. RFPs will include:
- (A) A description of the Project and the specific architectural, engineering, photogrammetric mapping, transportation planning or land surveying services or Related Services sought for the Project, the estimated Project cost, the estimated time period during which the Project is to be completed, and the estimated time period in which the specific architectural, engineering, photogrammetric mapping, transportation planning or land surveying services or Related Services sought will be performed;
 - (B) The RFP evaluation process and the criteria that Canby Utility will use to select the most qualified Construction-Related Consultant, including the weight, points or other classifications applicable to each criterion. Without limitation, the criteria may include:
 - (i) Proposers' availability and capability to perform the services described in the RFP;
 - (ii) Experience of proposers' key staff persons in providing similar services on similar projects within the last three years;
 - (iii) The amount and type of resources, and number of experienced staff persons Proposers will commit to the Project;
 - (iv) Proposers' demonstrated ability to successfully complete similar Projects on time and within budget, including the hourly rates for key personnel and related cost data for similar Projects in the previous 12 months;
 - (v) References and recommendations from past clients; and
 - (vi) Any other criteria the General Manager deems appropriate.
 - (C) Conditions or limitations, if any, that may constrain or prohibit the selected Construction-Related Consultant's ability to provide additional services related to the Project, including but not limited to construction services;
 - (D) Whether interviews will or may occur and, if so, how the interview will factor into Canby Utility's selection;
 - (E) A proposal deadline and a description of how or where to submit a proposal;

- (F) A statement whether Canby Utility will accept proposals in electronic format;
 - (G) A statement that interested consultants respond solely at their own expense;
 - (H) A statement reserving Canby Utility's right to reject any or all proposals and its right to cancel the RFP at anytime if doing either would be in the public interest;
 - (I) A statement directing proposers to the protest procedures set forth in the RFP;
 - (J) A statement whether Canby Utility will hold a pre-proposal meeting for all interested Construction-Related Consultants to discuss the Project and if a pre-Proposal meeting will be held, the location of the meeting and whether or not attendance is mandatory; and
 - (K) Any other elements the General Manager deems appropriate.
- (g) After selecting the most qualified Construction-Related Consultant in accordance with a RFP, Canby Utility will notify each proposer accordingly and state that it will begin negotiating a contract with the most qualified consultant. A resulting contract will at least include:
- (A) The consultant's performance obligations and performance schedule;
 - (B) Payment methodology and a maximum amount payable to the consultant for the services required under the contract;
 - (C) Legally required terms; and
 - (D) Any other provisions Canby Utility believes to be in its best interest to negotiate.
- (h) Canby Utility will formally terminate negotiations in writing with the most qualified consultant if it is unable for any reason to negotiate a contract within a reasonable amount of time, as Canby Utility may determine in its sole discretion. Canby Utility may thereafter negotiate with the second ranked consultant, and if necessary, with the third ranked consultant, and so on, until negotiations result in a contract. If negotiations with any consultant do not result in a contract within a reasonable amount of time, Canby Utility may end the particular solicitation. Nothing in this section precludes Canby Utility from re-entering negotiations, in its own

discretion, with a consultant if negotiations were previously terminated for the same contract.

- (9) Price agreements. Solicitation materials and the terms and conditions for a Price Agreement for architectural, engineering, photogrammetric mapping, transportation planning or land surveying services or Related Services must:
- (a) Include a scope of services, menu of services, a specification for services or a similar description of the nature, general scope, complexity and purpose of the procurement that will reasonably enable a Construction-Related Consultant to decide whether to submit a proposal;
 - (b) Specify whether Canby Utility intends to award a Price Agreement to one consultant or to multiple consultants. If Canby Utility will award a Price Agreement to more than one consultant, the solicitation document and Price Agreement will describe the criteria and procedures Canby Utility will use to select a consultant for each individual work order or task order. Subject to the requirements of ORS 279C.110, the criteria and procedures to assign work orders or task orders that only involve or predominantly involve architectural, engineering, photogrammetric mapping, transportation planning or land surveying services are at Canby Utility's sole discretion.
 - (c) Specify the maximum term for assigning services under the Price Agreement.

1.10.030 Authority to electronically advertise solicitations for goods and services

- (1) The General Manager is authorized to develop an “Electronic Procurement System” in accordance with OAR 137-047-0300(2)(b). As described in OAR 137-046-0110(17), this is an information system accessible through the internet that allows Canby Utility to post electronic advertisements and receive electronic offers for goods and services. When an electronic procurement system is in place, the Model Rules allow procurement solicitations to be advertised exclusively on the internet. This will save Canby Utility time and money over newspaper advertisements and forms of published notice.
- (2) Prior to any development of an electronic procurement system, Canby Utility may advertise solicitations for goods and services on the internet in addition to newspaper advertisements.

1.10.040 Authority to electronically advertise solicitations for public improvements

- (1) As provided by ORS 279C.360(1), the Canby Utility may electronically advertise solicitations in a manner deemed appropriate for a public improvement contract with an estimated cost not exceeding \$125,000.

- (2) An advertisement for a public improvement contract with an estimated cost over \$125,000 must be published at least once in a trade newspaper of general statewide circulation (such as the Daily Journal of Commerce).

1.10.050 Small procurements for goods and services, and public improvements

- (1) A procurement of goods or services or public improvements estimated by the General Manager to not exceed \$25,000 may be awarded in any manner the General Manager finds practical or convenient, including direct selection or award.
- (2) A small procurement contract may be amended but the cumulative amendments may not increase the total contract price to more than \$31,250.
- (3) A procurement may not be artificially divided or fragmented to qualify for this section.

1.10.060 Intermediate procurements of goods and services, and public improvements

- (1) The following informal selection procedure may be used when the estimated payment to the contractor for goods or services is equal to or less than \$250,000 and above \$25,000, or the estimated payment to the contractor for a public improvement is equal to or less than \$100,000 and above \$25,000. The General Manager will contact a minimum of three (3) prospective contractors qualified to offer the goods or services or public improvement sought. The General Manager will request an estimated fee, and make the selection consistent with Canby Utility's best interests. If three (3) quotes are not received, the General Manager will make a written record of efforts to obtain the quotes.
- (2) An intermediate procurement contract may be amended, but the cumulative amendments to a contract for goods or services may not increase the total contract price to more than \$312,500, and the cumulative amendments to a contract for a public improvement may not increase the total contract price to more than \$125,000.
- (3) A procurement may not be artificially divided or fragmented to qualify for this section.

1.10.070 Large procurements for goods and services, and public improvements

- (1) When the estimated payment to the contractor for goods or services is above \$250,000, Canby Utility shall either seek competitive sealed bidding in accordance with OAR 137-047-0255 or competitive sealed proposals in accordance with OAR 137-047-0260.

- (2) When estimated payment to the contractor for a public improvement is above \$100,000, Canby Utility shall follow the solicitation procedures set forth in OAR 137-049-0200.
- (3) A procurement may not be artificially divided or fragmented to avoid this section.

1.10.080 Sole-source procurements

- (1) Pursuant to ORS 279B.075(1), the General Manager is authorized to declare in writing certain goods and services to be available from only one source.
- (2) The determination of a sole-source must be based on findings required by ORS 279B.075(2), and otherwise be processed in accordance with OAR 137-047-0275.
- (3) To the extent reasonably practical, the General Manager shall negotiate with the sole source to obtain contract terms that are advantageous to Canby Utility.

1.10.090 Special Procurements

- (1) Pursuant to ORS 279B.085, to seek approval of a special procurement, the General Manager shall submit a written request to the Board that describes the contracting procedure, the goods or services or the class of goods or services that are the subject of the special procurement and the circumstances that justify the use of a special procurement.
- (2) The written findings must demonstrate that the use of the special procurement:
 - (a) Is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts; and;
 - (b) Is reasonably expected to result in substantial cost savings to the contracting agency or to the public; or;
 - (c) Otherwise substantially promotes the public interest in a manner that could not practicably be realized by complying with requirements that are applicable under ORS 279B.055, 279B.060, 279B.065 or 279B.070 or under any rules adopted thereunder.
- (3) The Board shall provide public notice of the special procurement approval in the same manner as provided in ORS 279B.055(4).

1.10.100 Notice of intent to award certain contracts

- (1) At least seven days before the award of a public contract solicited under a traditional invitation to bid or request for proposals, Canby Utility will post or

provide to each bidder or proposer notice of Canby Utility's intent to award a contract.

- (2) If stated in the solicitation document, Canby Utility may post this notice electronically or through non-electronic means and require the bidder or proposer to determine the status of Canby Utility's intent.
- (3) As an alternative, Canby Utility may provide written notice to each bidder or proposer of Canby Utility's intent to award a contract. This written notice may be provided electronically or through non-electronic means.
- (4) Canby Utility may give less than seven days notice of its intent to award a contract if Canby Utility determines in writing that seven days is impracticable as allowed by ORS 279B.135.
- (5) This section does not apply to goods and services contracts awarded under small procurements under these rules, or other goods and services contracts awarded in accordance with ORS 279B.070, 279B.075, 279B.080 or 279B.085.
- (6) This section does not apply to any public improvement contract or class of public improvement contracts exempted from competitive bidding requirements.
- (7) A protest of Canby Utility's intent to award a contract may only be filed in accordance with OAR 137-047-0740 or OAR 137-049-0450, as applicable.

1.10.110 Procedure for surplus property

- (1) Surplus property is property owned by Canby Utility such as office furniture, computers, equipment, vehicles, excluding real property, that the General Manager determines is surplus and no longer useful to Canby Utility.
- (2) The General Manager may authorize the sale, donation or destruction of surplus property. Surplus property may be sold through the informal solicitation of bids or through an auction, including an online auction. The General Manager has the discretion to advertise the sale of surplus property in a newspaper of city-wide circulation.
- (3) Employees of Canby Utility may purchase surplus property, so long as at least three individuals or entities have bid on the property and the employee's bid is the highest bid.

1.10.120 Signature authority

- (1) The purpose of this section is to clarify when the General Manager may bind Canby Utility to a purchase of, or a contract for, goods, services (including personal services) and public improvements (collectively "Purchases") without

additional Board authorization. In order to bind Canby Utility to a Purchase, the General Manager must sign a document related to the Purchase. For the purposes of this section, “signing” a document includes a digital signature or authorization.

- (2) If the Purchase does not exceed \$25,000 or the Board’s adopted budget for a given fiscal year includes or anticipates the Purchase regardless of the dollar amount, the General Manager may bind Canby Utility without additional Board authorization. For the purposes of this section, the General Manager may exercise reasonable discretion in determining whether the adopted budget anticipates a Purchase.
- (3) If the Board’s adopted budget for a given fiscal year does not include or anticipate the Purchase and it exceeds \$25,000, the Board must authorize the Purchase in order to bind Canby Utility to it.