

***CANBY UTILITY  
REGULAR BOARD MEETING  
AUGUST 14, 2018  
7:00 P.M.***

**AGENDA**

- I. CALL TO ORDER
- I. AGENDA
  - Additions, Deletions or Corrections to the Meeting Agenda
- II. CONSENT AGENDA
  - Approval of the Agenda
  - Approval of Regular Board Meeting Minutes of July 10, 2018 (pp. 1-4)
  - Approval of Write-Offs
  - Approval of Payment of Water and Electric Bills
- III. CITIZEN INPUT ON NON-AGENDA ITEMS
- IV. RESOLUTION NO. 298 Adopt New Public Contracting Rules – Sue Arthur, Purchasing Agent (pp. 5-17)
- V. BOARD REPORT
  - Chairman Comments
  - Board Member Comments
- VI. STAFF REPORTS

Operations Manager:

  - New Hires

General Manager Updates
- VII. ADJOURN

***CANBY UTILITY  
REGULAR BOARD MEETING MINUTES  
JULY 10, 2018***

**Board Present:** Chairman Potter; Members Maxwell, Daniels, and Wagner

**Board Absent:** Member Brito

**Staff Present:** Daniel P. Murphy, General Manager; Barbara Benson, Board Secretary; Carol Sullivan, Finance Manager; Dee Anne Wunder, Customer Service Supervisor; and Jim Stuart, Operations Manager

**Others Present:** Tim Dale, City Council Liaison

Chairman Potter called the Regular Board Meeting to order at 7:00 p.m.

Chairman Potter presented the meeting agenda for consideration and asked for any additions, deletions or corrections to the meeting agenda, and there were none.

Chairman Potter presented the consent agenda for approval. Member Brito made the \*MOTION to approve the consent agenda, consisting of the amended meeting agenda, regular and executive meeting minutes of June 12, 2018, write-offs in the amount of \$464.43, and payment of the electric and water department bills in the amount of \$341,248.46. Member Wagner seconded, and the motion passed unanimously.

Chairman Potter asked for citizen input on non-agenda items and there was none.

Customer Service Supervisor Dee Anne Wunder presented a recommendation that the Board approve a resolution that will replace the existing Intergovernmental Agreement (IGA) between the Board and Clackamas County, by and through its Clackamas County Department of Disaster Management, revising the terms of our current cooperative working relationship for the activation of the Clackamas County Emergency Notification System. Wunder stated the revisions to the original IGA include modifying the compensation fee for the service from \$.22 per minutes to an annual \$200 administrative fee. In addition, the county will now be able to send notifications by text and email. This will enhance the notification processes to our customers in the event of activating the reverse 911 system, such as a boil water alert. Canby Utility will send quarterly updates with customer contact information to the county. Wunder reviewed the activation process. The previous IGA was adopted on August 12, 2014. Chairman Potter asked about past utilization of their services, and Wunder stated that we did not have a need to use the service. Potter also commented on the increase services being offered. Member Daniels made the \*MOTION to adopt Resolution No. 296, a resolution authorizing an Intergovernmental Agreement between the Canby Utility Board and Clackamas County, and repeal Resolution No. 274. Member Wagner seconded the motion, and the roll was as follows:

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Member Daniels, aye; Member Wagner, aye; Member Hill, aye; and Chairman Potter, aye. The motion passed 4 to 0.

Finance Manager Carol Sullivan presented the annual inflationary adjustment for Canby Utility's water system development charges. Our SDC methodology allows for an annual inflationary adjustment to the charges, using the Engineering News Record Construction Cost Index. The fiscal year 2019 inflation factor increase is 2.75% for one dwelling unit equivalent or \$106. Sullivan noted a chart in the packet that compares the current SDC's to the proposed SDC's, and stated 53 letters were mailed to contractors to notify them of the change. Chairman Potter asked if we've heard feedback from contractors and Sullivan stated that we have not. Member Wagner asked how our SDC rates compared to other cities. Sullivan stated that we have not conducted a rate comparison, but staff would do that and have it available at a future meeting. Member Wagner made the \*MOTION to adopt Resolution No. 297, a resolution adjusting Canby Utility's water system development charges by the prescribed inflationary amount effective August 1, 2018, and repeal Resolution No. 291. Member Daniels seconded the motion, and the roll was as follows: Member Daniels, aye; Member Wagner, aye; Member Hill, aye; and Chairman Potter, aye. The motion passed 4 to 0.

Operations Manager Jim Stuart reported that the emergency drinking water dispensing unit is now operational. The long-standing project to construct an emergency drinking water dispensing station at Baker Prairie Middle School has finally been completed and is operational. This dispensing unit can be used to fill water containers for customers in an event where our distribution system capacity has been interrupted due to some type of disaster. Stuart noted the dispensing station may or may not be operational in the case of a disaster. Some disasters are likely to interrupt a water source for this dispensing station such as an earthquake. Stuart noted that in the event of a major earthquake, Canby utility will depend upon stored water in our reservoirs located at SW 13<sup>th</sup> Avenue and the water treatment plant. In such an event, several million gallons of potable water would be rationed and dispensed to the public. Chairman Potter asked how many gallons of water are in our reservoirs. Stuart stated the 13<sup>th</sup> Avenue reservoirs have a total capacity in excess of two million gallons, and the water treatment plant reservoir holds over a million gallons. Those reservoirs have been seismically retrofitted to protect against earthquakes. General Manager Dan Murphy stated the fire department, as part of their emergency management, would orchestrate the dispensing of water from these reservoirs.

Operations manager Jim Stuart presented the quarterly reliability report. The report provides information about outages for the previous 12 months. Stuart stated there has been an increase in consumer outage minutes for May and June. There were two power outages in May. One of those outages was a result of a cable fault on an old direct-buried primary cable that resulted in a total outage time of two hours and 39 minutes. Stuart noted the old primary cable is being replaced. The second outage was an arrestor failure in Westcott substation that caused a feeder breaker to open and lock out. The total outage time was less than an hour and a half. In June, we had four outages; three caused by birds and squirrels and the other due to a high wind event that broke off the top of a tree and blew it into a power line. Stuart stated the report shows that we are still below the industry averages for both the SAIDI and CADI indexes and only slightly higher

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in the SAIFI category. These numbers will improve as our outages diminish. Stuart also reported on an outage that occurred the previous day that involved a bird landing in Westcott substation. Stuart talked about the operational efforts to restore power. The total outage time was 40 minutes and repairs will need to be made.

Stuart also reported that we hired a Journeyman Lineman, Erich Zaugg. Zaugg comes to Canby Utility having approximately six years of journeyman experience. Stuart stated Zaugg will be an asset to the department.

Finance manager Carol Sullivan presented the third quarter financial reports through March 31, 2018. Sullivan presented the executive financial summary of profit resulting from operations and capital contributions. The electric operating profit was \$1,102,361, plus capital contributions of \$778,705, resulted in a net income of \$1,881,066. The water operating profit was \$421,434, plus capital contributions of \$973,298, resulted in a total net income of \$1,394,732.

Sullivan then compared the profit resulting from operations with capital contributions to the budget. The electric fund was over budget \$345,627, and she explained the reasons for that variation. The water fund was over budget \$214,968, and she again explained the reasons for that variation.

Sullivan then reviewed the cash reserve balances for both funds. The electric cash reserves are over the June 30, 2018 target by \$3,543,228, noting that there still payments to be made on the new building. The water cash reserves are under the June 30, 2018 target by \$371,418, noting this is variance is due to the timing of receiving water system development charges. General manager Dan Murphy explained that system development charges are budgeted using a trend analysis; however, it is unknown when we will receive funds throughout the year.

Board Secretary Barbara Benson presented a draft board planning calendar for fiscal year 2019. The calendar is used as a planning tool for topics that are presented during the fiscal year, and was developed using past history and known information. Benson stated the calendar is for their use and will help direct staff on topics to be added to the agendas. The items listed on the calendar may not be presented in the designated month listed. The board had no questions or additions to the planning calendar. Chairman Potter noted that the calendar is a working document, and board members should contact Barbara if they would like to have something added to the calendar throughout the year. Potter stated the document serves as a reminder for them all.

General Manager Dan Murphy reported on the recent algae bloom issues. Canby Utility tested, on June 13, for toxic algae cyanotoxins and taste and odor compounds. The test results were received and showed no signs of any harmful cyanotoxins were present, and the water is safe. The results also confirmed no signs of the taste and odor compounds that occasionally create problems when algae are present in the source water. Murphy stated that to his knowledge there haven't been any taste and odor issues so far this year. He noted that we continue to voluntarily collect samples every two weeks to make sure that we promptly discover any algae bloom issues

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when they occur. Murphy stated that we continue to sample voluntarily, but come July 1 we will be required to test according to the new mandatory testing guidelines set forth in the new rules issued by the Oregon Health Authority. There have never been any federal or state requirements to test for algae bloom contamination in the past. The cost of frequent testing is significant, noting that the voluntary testing is more than \$500 per month. Under the new rule, the State of Oregon will cover the cost of testing. Member Hill asked about the testing frequency, and Murphy said testing will be at a minimum twice per month. Discussion ensued about the upcoming high temperature and lowering river flows that could impact water taste.

Murphy also gave an update on the status of the new office building. We experienced a second delay on our move-in date, as a result of 2KG having had continuing problems completing the finished work at the building. We changed our move-in date to August 9 and 10. We will be open for business August 13. These dates are subject to change, and should the general contractor impose another delay staff will notify the public.

Member Daniels made the \*MOTION to Adjourn the Meeting. Member Wagner seconded, and the motion passed unanimously.

There being no further business, the meeting was adjourned at 7:35 p.m.

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Gary Potter, Chairman

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Robert Hill, Member

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Jack Brito, Member

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Walt Daniels, Member

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Todd Wagner, Member

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Barbara Benson, Board Secretary



## MEMORANDUM

July 25, 2018

TO: Chairman Potter, Members Daniels, Brito, Wagner, and Hill

FROM: Sue Arthur, Purchasing Agent

SUBJECT: Resolution No. 298: Adopt New Public Contracting Rules

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Suggested Motion: Adopt Resolution No. 298, A Resolution Adopting New Public Contracting Rules and Repealing Resolution No. 253.

Recommendation: Revise Canby Utility's Public Contracting Rules to amend thresholds for small procurements.

Background: Canby Utility's small procurement threshold is currently limited to \$5,000. The small procurement provision allows an agency to directly award a contract or procure goods and services as long as the cost doesn't exceed the amount set by the agency.

The State of Oregon increased the threshold for small procurements from \$5,000 to \$10,000 in January 2014. If the Board approves staff's proposal, this change will align Canby Utility's purchasing policies with the current Oregon Public Contracting Code (ORS 279B.063) and the Oregon Attorney General's Model Public Contract Rules (OAR 125-246-0170). Since small procurements are considered a relatively low risk, the increase in the dollar amount will speed up the procurement of goods and services by not having to request three competitive bids.

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

## RESOLUTION NO. 298

### A RESOLUTION ADOPTING PUBLIC CONTRACTING RULES AND REPEALING RESOLUTION NO. 253

- A. The Canby Utility Board last modified its public contracting rules in June 2009 to add rules governing the solicitation and award of contracts for architectural, engineering, surveying and related personal services.
- B. Recent changes to Oregon law affect the manner in which local governments solicit and award these types of personal service contracts.
- C. Therefore, the Board wishes to adopt new rules implementing these changes to Oregon law.

### THE CANBY UTILITY BOARD RESOLVES AS FOLLOWS:

**Section 1.** 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 (“Board”) is Canby Utility’s local contract review board. Except as these rules may otherwise provide, the powers and duties of local contract review boards under the Code and Model Rules will be exercised by the Board and the powers and duties given or assigned to contracting agencies by the Code or Model Rules will be exercised by the General Manager acting as Canby Utility’s contracting agent.
- (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. For the purposes of this section, personal services contracts 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 at section 1.10.025.
- (2) The following formal selection procedure will be used when the estimated payment to the contractor exceeds \$50,000.
  - (a) Announcement. Canby Utility will give notice of its intent to procure personal services through a newspaper of general circulation, and any other means Canby Utility 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 for Canby Utility to select a contractor.
- (3) The following informal selection procedure may be used when the estimated payment to the contractor does not exceed \$50,000 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) The General Manager may enter into personal service contracts not exceeding an estimated \$10,000 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) 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. Canby Utility must make written findings to demonstrate why the proposed contractor is the only contractor who can perform the services desired.

- (6) The General Manager may select a contractor without following any procedures if an emergency exists. In such instances, the General Manager must memorialize in writing the circumstances that justify the emergency appointments.

#### **1.10.025 Contracts for certain construction-related personal services**

- (1) Purpose. This section implements ORS 279C.100 to .125. Canby Utility will rely on this subsection, not the Model Rules, when it seeks to contract with an architect, engineer, photogrammerist, land surveyor or (in very narrow instances) a transportation planner.
- (2) Applicability. This section applies only to personal services meeting 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 would rely on this subsection to hire someone to perform those services. However, if Canby Utility were 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.
  - (d) 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 section 1.10.020 or this section to solicit and award a mixed contract will depend upon the contract’s predominate purpose. 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 it estimates it the consultant 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.

(3) 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 Canby Utility's reasonably projected fee 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" is limited to mean 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.

(4) Selection procedures.

- (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) 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.
- (d) 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 a 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.
- (e) RFP. Canby Utility will issue a RFP to select the most qualified Construction-Related Consultant, regardless of whether an RFQ precedes a 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 or not 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.
- (f) 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.
  - (g) 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. The city 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.
- (5) 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(16), 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 online. This saves Canby Utility time and money over newspaper advertisements.

- (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) For all public improvement contracts with an estimated cost not exceeding \$125,000, the General Manager may electronically advertise solicitations in a manner deemed appropriate. This method of advertising will save Canby Utility time and money, may be used exclusively, and is allowed under ORS 279C.360(1).
- (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**

- (1) As provided by ORS 279B.065, any procurement of goods or services not exceeding \$10,000 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 in accordance with OAR 137-047-0800, but the cumulative amendments may not increase the total contract price to greater than \$12,000.
- (3) A procurement may not be artificially divided or fragmented to qualify for this section.

#### **1.10.060 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.

#### **1.10.070 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.

**1.10.080 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.

**1.10.090 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 \$10,000 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 \$10,000, the Board must authorize the Purchase in order to bind Canby Utility to it.

**Section 2.** This resolution is effective on the date of its adoption.

**Section 3.** Resolution Number 253 is repealed.

THIS RESOLUTION IS ADOPTED BY THE CANBY UTILITY BOARD this \_\_\_ day of August, 2018

\_\_\_\_\_  
Gary Potter, Chairman

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Walt Daniels, Member

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Jack Brito, Member

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Todd Wagner, Member

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Robert Hill, Member

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Barbara Benson, Board Secretary