

CONTRACT DOCUMENTS

FOR

**HOPKINS CANAL PIPING PROJECT - AGGREGATE
HOPKINS CANAL AT YANKEE CREEK**

OCTOBER 2018

Prepared for:

Rogue River Valley Irrigation District
3139 Merriman Road
Medford, OR 97501

Questions pertaining to the project may be submitted to:

Brian Hampson, Manager
3139 Merriman Road
Medford, OR 97501
(541) 773-6127
(541) 773-5420 Fax
rrvid@rrvid.org

All questions must be in writing with reference to the project name. All questions must be received no later than 4:00 p.m. on November 7, 2018. Responses to questions will be published no later than 4:00 p.m. on November 9, 2018.

NOTE: Please register as a holder of bidding documents with RRVID by sending an email with your name, company, email address, and phone number to rrvid@rrvid.org. See C.2.4.1 for further details.

**ROGUE RIVER VALLEY IRRIGATION DISTRICT
INVITATION TO BID
Hopkins Canal Piping Project - Aggregate**

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Section B Introduction

B.1 Purpose of Solicitation. The purpose of the ITB is to establish a Contract for the purchase of crushed ¾" – 0 aggregate base, crushed 4" – 0 stone embankment, and delivery services incidental to the same, for the District's Hopkins Canal Piping Project. The Bid Schedule/Pricing Form included as Exhibit B in this Solicitation Document lists the description and the quantity of the Goods and Services being procured by the District.

B.2 Method of Bidding. District will receive sealed Offers until 11:00 a.m. (Pacific time) on November 13, 2018, or as amended by any issued Addenda ("Closing Date"), at the District office located at 3139 Merriman Rd., Medford, OR 97501. No oral, telegraphic, telephone, e-mail or facsimile Bids will be accepted.

B.3 Method of Award. Award will be made to the responsible Bidder submitting the lowest total for a responsive Bid. The District reserves the right to reject all Bids.

B.4 Solicitation Law and Rules. This ITB and the resulting Contract are governed by all applicable provisions of Oregon and federal law. Specific laws and rules that govern this solicitation process are found in Chapters 279A, B and C of the Oregon Revised Statutes, certain of the Attorney General's Model Public Contract Rules ("Model Rules") adopted by District resolution as well as the ITB – Hopkins Canal Piping Project – Aggregate – October 26, 2018

District's adopted contracting rules, and 2 CFR ¶¶ 200.317-200.326. The ITB and resulting Contract may be subject to other laws and rules. Offerors should obtain and become acquainted with the applicable provisions of the above laws and rules.

Section C General Bidding Information

C.1 ITB Definitions. Unless otherwise noted, the following definitions apply to this ITB:

C.1.1 "Addendum" or "Addenda" means an addition to or deletion from, a material change in or general interest explanation of this ITB. Addendum or Addenda shall be labeled as such and shall be made available to all interested Offerors in accordance with the OAR 137-047-0430(2).

C.1.2 "Bid" means a Written response to an Invitation to Bid.

C.1.3 "Bidder" means a person who submits a Bid in response to this Invitation to Bid. Bidder is used interchangeably with and means Offeror.

C.1.4 "Closing Date" means the date and time specified in Section B.2 of this ITB as the deadline for submitting Offers.

C.1.5 "Contractor" means the Person with whom District enters into a Contract (and is interchangeable with "Consultant" or "Provider").

C.1.6 "District" means the Rogue River Valley Irrigation District, an Oregon irrigation district formed and governed under ORS Chapter 545.

C.1.7 "Invitation to Bid" or "ITB" is defined in ORS 279B.005 and means all documents whether attached or incorporated by reference, and any Addenda thereto, used for soliciting Bids in accordance with ORS 279B.055.

C.1.8 "Opening" means the date, time and place specified in the Solicitation Document for the public opening of Written sealed Offers.

C.1.9 "Offer" means a Written Offer to provide goods or services in response to the ITB and is used interchangeably with and means Bid.

C.1.10 "Offeror" means a person who submits a Bid and is used interchangeably with and means Bidder.

C.1.11 "Project" means the District's Hopkins Canal Piping Project.

C.1.12 "Solicitation Document" means this Invitation to Bid and all other documents, either attached or incorporated by reference, and any changes thereto, issued by District to establish a Contract.

C.2 General Information

C.2.1 Offers are Firm Offers. An Offer is a firm offer, irrevocable, valid and binding on the Offeror for not less than sixty (60) calendar days from the Closing unless otherwise specified in this ITB or extended by written agreement.

C.2.2 Offer Submission Address and Closing. District will receive sealed Offers until 11:00 a.m. (Pacific time) on the Closing Date specified in Section B.2 of this ITB, or as amended ITB – Hopkins Canal Piping Project – Aggregate – October 26, 2018

by Addenda, at the District office located at 3139 Merriman Rd., Medford, OR 97501. Offers will not be accepted after the Closing Date.

C.2.3 Single Point of Contact. There will be only one District point of contact during this procurement process. The designated point of contact for questions concerning the procurement process, requests for brand approval, change, clarification, and protests, the award process, and any other questions that may arise is Brian Hampson, who can be contacted at (541) 773-6127, via email at rrvid@rrvid.org, or by regular mail delivered to 3139 Merriman Rd., Medford, OR 97501.

C.2.4 Invitation to Bid Document Availability.

C.2.4.1 ITB, Addenda and Attachments. ITB, including all Addenda and attachments can be obtained at no cost at <http://www.rrvid.org/>. All addenda shall be available no later than 72 hours before Bid Closing. District will attempt to email to all known Offerors of any Addenda that are published; however, it remains the responsibility of Offeror to ensure that they have received, reviewed and incorporated all issued Addenda into their Bids. Failure to acknowledge all Addenda will result in your Bid being nonresponsive. The District will not mail notice of Addenda, but will publish notice of any Addenda

C.2.5 Trade Secrets. Any information Offeror submits in response to the ITB that Offeror considers a trade secret under ORS 192.501(2) or confidential proprietary information, and that Offeror wishes to protect from public disclosure, must be clearly labeled with the following: "This information constitutes a trade secret under ORS 192.501(2) or confidential proprietary information, and is not to be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192." Offerors are cautioned that price information submitted in response to an ITB is generally not considered a trade secret under the Oregon Public Records Law. Further, information submitted by Offeror that is already in the public domain is not protected. The State shall not be liable for disclosure or release of information submitted by Offeror when authorized or required by law, or pursuant to a court or administrative order to do so. The District is immune from liability for disclosure or release of information submitted by Offeror under the circumstances set out in ORS 646.473(3).

C.3 Offer Format.

C.3.1 Signature Required, Offeror Affirmations. All Offer documents requiring signature must be signed in ink by an authorized representative of the Offeror. Offeror's signature and submission of the Contractor's signature page at Section 7 of the Contract in response to the ITB constitutes Offeror's affirmation that:

C.3.1.1 Offeror has completely read and understands all the provisions of this ITB.

C.3.1.2 The Offer submitted is in response to the specific language contained in this ITB, and Offeror has made no assumptions based upon either (a) verbal or written statements not contained in the ITB, or (b) any previously-issued ITB, if any.

C.3.1.3 The Offer was prepared independently from all other Offerors, and without collusion, fraud, or other dishonesty.

C.3.1.4 The District shall not be liable for any claims or be subject to any defenses asserted by Offeror based upon, resulting from, or related to, Offeror's failure to comprehend all requirements of this ITB.

C.3.1.5 The District shall not be liable for any expenses incurred by Offeror in preparing and submitting its Offer or in participating in the Offer evaluation/selection process.

C.3.1.6 Offeror accepts and agrees to be bound by the terms and conditions of the Contract, and agrees to provide all Goods ordered by District.

C.3.2 In Writing. Offerors must prepare all Offers including pricing information by word processor, typewriter or in ink. District will not accept oral, telephone, e-mail or facsimile Offers.

C.3.3 Forms To Be Used. Offerors must submit all required information on the forms specified in this ITB. Any information Offeror submits that is not required to be included on forms prescribed by District shall be formatted in the manner called for in the ITB and submitted on Offeror's letterhead.

C.4 Offer Contents.

C.4.1 Information To Be Included; Signatures. OFFERS MUST INCLUDE THE FOLLOWING: SECTIONS D, E, F, G, & K OF THIS ITB (SIGNED BY AUTHORIZED REPRESENTATIVE); EXHIBIT A (CONTRACT) AND ANY OTHER INFORMATION REQUESTED FROM OFFEROR IN THE CONTRACT MUST BE COMPLETED (THE CONTRACT MUST BE SIGNED BY OFFEROR'S AUTHORIZED REPRESENTATIVE); EXHIBIT B (BID SCHEDULE AND PRICING FORM); CERTAIN ADDENDA (WHEN SO INSTRUCTED –SECTION H; AND ALL OTHER DOCUMENTS IDENTIFIED IN THE ITB AS REQUIRED SUBMISSIONS, ALL SUBMISSIONS SHALL BE SIGNED OR INITIALED WHEN REQUIRED. All Offers and copies must be complete in all respects, including necessary signatures, certifications, documentation, responses on pricing and Specifications pages, and any other required information. All necessary attachments (residency statement references, descriptive literature, manufacturers' warranties, etc.) must be submitted with the Offer in the required format.

C.4.2 Product Identification. Offerors must clearly identify all Goods offered. Brand name, model, and model, serial, or identification number, where applicable, must be shown. District reserves the right to reject any Offer when the Goods information submitted with the Offer is incomplete.

C.4.2.1 Brand Name. Any product brand name listed in Exhibit B and not qualified as "or equal/ or approved equal," is specifically required because the District, by written findings made pursuant to ORS 279B.215(2), has determined that only the identified brand name specification will meet the District's needs for the Project.

C.4.2.2 "Or Equal". Any product brand name listed in Exhibit B as "or equal" or "or equivalent" shall establish the minimum requirements for quality, utility, durability, function, purpose, etc. When the brand name is followed by "or equal" or "or equivalent" other product brands be offered that are equal to or better than the minimum requirements established by product brand named. Offeror may show cost differences, alternates and options in the space provided in the ITB.

C.4.2.3 "Or Approved Equal". When the product brand is followed by "or approved equal" or "or approved equivalent" other products may be offered, if District has approved the Offeror's request for approved equal or approved equivalent in accordance with section C.5, and the brand named is not mandated pursuant to a brand-name specification.

C.4.2.4 District Determines, In Its Sole Discretion, Whether a Product Offered Is "Equal". When a product brand is followed by "or equal" or "or equivalent" District will decide after Closing whether the product brands offered are equal or equivalent to the product brand

name specified in the ITB. When the product brand name is followed by "or approved equal" or "or approved equivalent" District will consider timely requests for approval and make its decision concerning alternative brands prior to Closing.

C.4.2.5 Joint Ventures/Partnerships. When an Offeror is a partnership or joint venture, Offeror shall supply, with the Offer submission, the name of the contact person for the partnership or joint venture. Prior to award, joint ventures and partnerships submitting Offers must provide a copy of the joint venture agreement or partnership agreement evidencing authority to Offer and to enter into the resulting Contract that may be awarded, together with corporate resolutions (if applicable) evidencing corporate authority to participate as a joint venturer or partner. Such Offeror must also designate a contact person for purposes of receiving all notices and communications under the Contract. All partners and joint venturers will be required to sign the Contract awarded.

C.4.2.6 Substantial Compliance Required. District will not consider incomplete Offers (not in substantial compliance with ITB requirements), and Offerors cannot supplement incomplete Offers by delivering submissions after Closing. However, District may waive minor informalities and irregularities, and may seek clarification from Offerors of any response that, in its sole discretion, it deems necessary or advisable.

C.5 Methods of Seeking Modifications Of ITB Provisions.

C.5.1 Procedure. The appropriate means of seeking modifications to provisions of an ITB are through (a) requests for "approved equal" or "approved equivalent" product approval; (b) requests for clarification; (c) formal submittal of requests for changes to contractual terms or Specifications; and (d) formal submittal of protests of contractual terms or Specifications. Any Offer that includes non-approved alternate brands of Goods where approval is required, or that takes exception to the Specifications or contractual terms of the ITB may be deemed non-responsive and may be rejected.

C.5.2 Request For "Approved Equal/Equivalent" Product Approval. District will consider requests for approval of brands as "approved equals" or "approved equivalents" of the brand specified in the ITB unless the brand specified is identified in the ITB as the subject of a brand name specification. Requests for brand approval must be submitted in writing to the contact point listed in C.2.3 "SINGLE POINT OF CONTACT." To be considered, District must receive the request for brand approval by the deadline specified in C.5.6. Offeror must include in the request all relevant information concerning the Goods in question.

C.5.3 Request for Clarification. Any Offeror requiring clarification of any provision of the ITB may make a request for clarification in writing, to the contact point listed in C.2.3 "SINGLE POINT OF CONTACT." To be considered, District must receive the request for clarification by the deadline specified in C.5.6.

C.5.4 Request for Changes to Contractual Terms or Specifications. Any Offeror may submit a request for changes to contractual terms or Specifications, in writing, to the contact point listed in C.2.3 "SINGLE POINT OF CONTACT." To be considered, District must receive the request for changes by the deadline specified in C.5.6. Offeror must include in the request the reason for requested changes, supported by factual documentation, and any proposed changes.

C.5.4.1 If any omitted specification results in ambiguity as to material characteristics of the Goods, and inclusion is necessary to enable a reasonable person in the particular industry to properly identify such characteristics, an Offeror shall seek a formal request for change, as set forth this section C.5.4. Failure to make such a request is at Contractor's risk, and the

Offeror awarded a Contract shall be required to provide Goods meeting the Agency's needs with regard to any omitted specification for which change should reasonably have been sought.

C.5.5 Protest of Contractual Terms or Specifications. Any Offeror who believes contractual term(s) or Specification(s) are unnecessarily restrictive or limit competition may submit a protest, in writing, to the contact point listed in C.2.3 "SINGLE POINT OF CONTACT." To be considered, District must receive the protest by the deadline specified in C.5.6. Offeror must include in the protest the legal and factual grounds for the protest, a description of the resulting prejudice to the Offeror if the protest is not granted, and any proposed changes to the contractual terms or Specifications, or both.

C.5.6 Method of Submitting Requests For Modification of ITB Provisions. Offerors must mark envelopes containing requests for brand approval, requests for clarification, requests for change, and protests as follows:

District must receive the request by 4:00 p.m. (Pacific time) on November 7, 2018. Unless District extends this specific deadline by subsequent Addendum, District will not consider requests for brand approval, requests for clarification, requests for change, or protests pertaining to provisions contained in the originally-issued ITB after the date specified herein.

C.5.7 Response to Requests for Clarification. CLARIFICATIONS, WHETHER VERBAL, IN WRITING, OR INCLUDED IN AN ADDENDUM AS A "CLARIFICATION," DO NOT CHANGE SPECIFICATIONS, CONTRACTUAL TERMS, OR PROCUREMENT REQUIREMENTS OF AN ITB. IF A REQUEST FOR CLARIFICATION RAISES AN ISSUE THAT DISTRICT DETERMINES SHOULD BE HANDLED BY FORMALLY AMENDING THE ITB, DISTRICT WILL DO SO ONLY BY ANNOUNCING SUCH A CHANGE IN THE ADDENDUM, NOT THROUGH INFORMATION IDENTIFIED AS A "CLARIFICATION." (Refer to Section C.5.8.)

C.5.8 Response To Requests For Brand Approval, Requests For Change and Protests. District will promptly respond to each properly-submitted written request for brand approval, request for change, and protest. Where appropriate, District will issue ITB revisions via Addenda. District may also informally respond to Offeror questions. HOWEVER, INFORMAL RESPONSES DO NOT AFFECT THE PROVISIONS OF THE ITB. SPECIFICATIONS, CONTRACTUAL TERMS, AND PROCUREMENT REQUIREMENTS OF THE ITB CAN ONLY BE CHANGED VIA FORMAL ADDENDA ISSUED BY DISTRICT.

C.6 Protest of Addenda. District must receive requests for clarification, requests for change, and protests of Addenda by 4:00 p.m. (Pacific time) on the date specified in the Addendum, or District will not consider them. District will not consider requests or protests of matters not added or modified by the Addendum.

C.7 Offer Motivation. The person signing the Offer must initial in ink each individual alteration and erasure made before Offer submission. Offerors may, in writing, modify Offers, once submitted, before Closing. Offeror shall prepare modifications on Offeror's letterhead. Each modification document must be signed by an authorized representative, and state that the modifications amend and supersede the identified portions of the prior Offer. District will reject any Offer that fails to comply with the provisions of this paragraph of Section C.7.

C.7.1 Offerors must submit modifications in a sealed envelope marked as follows:

Bid Modification – Hopkins Canal Piping Project - Aggregate
Closing Date November 13, 2018
Closing Time 11:00 a.m.

C.7.2 Offerors May Not Modify Offers After Closing.

C.8 Offer Submission.

C.8.1 Number of Copies; Signature Required. Offerors shall submit a total of three copies (3) of the Offer. AT LEAST ONE COPY SUBMITTED BY OFFEROR MUST BEAR AN ORIGINAL SIGNATURE OR THE OFFER WILL BE REJECTED.

C.8.2 Sealed Envelope; Address and Cover Information. Offerors shall submit Offers in sealed packages or envelopes. To ensure proper identification and handling, Offerors must clearly mark Offer packages or envelopes as follows:

Hopkins Canal Piping Project - AGGREGATE
Closing Date November 13, 2018
Closing Time 11:00 a.m.

ROGUE RIVER VALLEY IRRIGATION DISTRICT
ATTN: BRIAN HAMPSON
3139 MERRIMAN RD.
MEDFORD, OR 97501

District is not responsible for the proper handling of any Offer not properly identified, marked and submitted in a timely manner.

C.9 Offer Withdrawals.

C.9.1 In Writing. Offerors may withdraw Offers prior to Closing. Offer withdrawals must be in writing on Offeror's letterhead, signed by an authorized representative, and received by District prior to Closing. Offer withdrawals must be labeled as such and contain the ITB number.

C.9.2 In Person. Offers may also be withdrawn in person before Closing if Offeror's representative presents appropriate identification and evidence of authorization to act for Offeror. District may require that the Offeror's representative sign appropriate documentation to confirm withdrawal.

C.10 Opening. District will hold Bid Opening at 11:15 a.m. (Pacific Time) on the Closing Date, at the office of the District, at 3139 Merriman Rd., Medford, OR 97501. Only Offerors' names and will be read at the Opening. It is optional for Offerors to attend Opening. Award decisions will not be made at Opening.

C.10.1 Time For Offer Acceptance. An Offeror's Offer is a firm Offer, irrevocable, valid and binding on the Offeror for not less than sixty (60) calendar days from the Closing Date.

C.10.2 Extension of Time for Offer. The District may request, orally or in writing, that Offerors extend, in writing, the time during which the District may consider their Offers. If an Offeror agrees to such extension, the Offer shall continue as a firm Offer, irrevocable, valid and binding on the Offeror for the agreed-upon extension period.

C.11 Rejection of Offers.

C.11.1 Rejections of All Offers. District may reject all Offers for good cause upon its finding that it is in the public interest to do so.

C.11.2 Rejection of Particular Offers. District may reject a particular Offer for any of the reasons listed under ORS 279B.100.

C.11.3 Executive Orders 12549 and 12689. The District shall not accept the Offer of any party listed on the government-wide exclusions in the federal System for Award Management (SAM).

C.12 Offer Evaluation Criteria. District will evaluate Offers to identify the lowest responsive Offer submitted by a responsible Offeror and not otherwise disqualified. (Refer to ORS 279B.100) Adjustments made to account for reciprocal preferences and percentage of recycled materials incorporated into the Goods will be for Offer evaluation purposes only. (Refer to Sections C.12.4 and Section E.) No such adjustments shall operate to amend Offeror's Offer or any Contract awarded pursuant thereto.

C.12.1 Responsiveness. To be considered responsive, the Offer must substantially comply with all requirements of the ITB and all prescribed public solicitation procedures. In making such evaluation, District may waive minor informalities and irregularities.

C.12.2 Responsibility. Prior to award of a Contract, District will evaluate whether the apparent successful Offeror meets the applicable standards of responsibility identified in OAR 137-047-0500. In doing so, District may investigate Offeror and request information in addition to that already required in the ITB, when District, in its sole discretion, considers it necessary or advisable.

C.12.3 Discounts. Offeror may offer cash or term discounts, or both in its Offer, and such discounts will be binding upon Offeror in the event Offeror is awarded a Contract. However, such discounts will not be considered for award purposes unless so specified.

C.12.4 Reciprocal Preference. For Offer evaluation purposes only, District will add a percent increase to each out-of-state Offeror's Offer price which is equal to the percent preference, if any, given to resident Offerors of the Offeror's state. For example, if the Offeror is from a state that grants a ten (10) percent preference to local Offerors, District will add ten (10) percent to that Offeror's Offer price.

C.13 Processing of Bids. Neither the return of a Bid, nor acknowledgment that the selection process is complete (whether by posting of a Bid tabulation sheet, issuance of notice of intent to award, or otherwise), shall operate as a representation by District that any Bid submitted was complete, sufficient, lawful in any respect, or otherwise in substantial compliance with the ITB requirements. Offers not in substantial compliance with ITB requirements cannot be considered, and cannot be supplemented by submissions delivered after Closing. However, the District may waive minor informalities and irregularities, and may seek clarification of any response that, in its sole discretion, it deems necessary or advisable.

C.14 Withdrawal by District of Bid Terms to Award. District reserves the right to delete Bid items prior to award.

C.15 Intent-To-Award Announcement. District may announce its intent to award prior to formal Contract award by posting the tabulation sheet of Bid results by letter or email ("Intent-to-

Award Announcement"). The Intent-to-Award Announcement shall serve as notice to all Offerors that District intends to make an award.

C.16 Review of Bid Files. Offerors shall have seven calendar days from the date of the Intent-to-Award Announcement within which to view the Bid files (by appointment).

C.17 Protest of Intent To Award. Adversely-affected or aggrieved Offerors shall have seven calendar days from the date of the Intent-to-Award Announcement within which to file a written protest. District will not consider protests submitted after that date. Offerors must specify in the protests the grounds upon which the protest is based (Refer to ORS 279B.410, ORS 279B.415 and OAR 137-047-0740).

C.18 Response To Intent-To-Award Protests. District will respond in writing to intent-to-award protests submitted by adversely-affected or aggrieved Offerors. District may also respond to intent-to-award protests submitted by other Offerors for purposes of clarification. However, any response provided by District is not intended to, and shall not in and of itself constitute, confirmation that the Offeror is, in fact, adversely-affected or aggrieved, and therefore entitled to protest an intent to award, or that the protest was timely or correctly filed.

C.19 Award. After expiration of the seven calendar-day file review and intent-to-award Announcement protest period, and resolution of all protests, District will proceed with final award. If District receives only one Bid, District may dispense with the intent-to-award protest period and proceed with award of a Contract.

C.20 Bid Results. After awards are completed, Offerors may submit a written request to District for a tabulation of Bid results.

C.21 Review of Awarded Bid Files. Most information contained in Awarded Bid files are public records and available for review at the District office by appointment.

C.22 Commencement Of Work. Contractor shall not commence Work under the Contract until the Notice to Proceed has been issued.

C.23 Information To Be Submitted By the Apparent Successful Offeror.

C.23.1 Insurance. The apparent successful Offeror shall provide all required proofs of insurance coverage required under Section 5 of the Contract to the District within seven (7) calendar days of notification of intent to award. Failure to present the required documents within the seven (7) calendar-day period may result in Offer rejection. Offerors are encouraged to consult their insurance agent(s) about the insurance requirements prior to Offer submission.

C.23.2 Offerors must satisfy these insurance requirements by obtaining insurance coverage from insurance companies or entities acceptable to the District that are allowed to provide such insurance under Oregon law. Eligible insurers include admitted insurers that have been issued a certificate of authority from the Oregon Department of Consumer and Business Services authorizing them to do an insurance business in the state of Oregon, and certain nonadmitted surplus lines insurers that satisfy the requirements of applicable Oregon law and are approved by the District. The District's approval will be at its sole discretion based on its assessment of the nonadmitted surplus lines insurer and the suitability of surplus lines insurance for this particular procurement.

C.23.3

C.24 Prevailing Wage Rates (BOLI Requirements).

C.24.1 The Contractor and all subcontractors shall comply with the applicable provisions of ORS 279C.800 through 279C.870, relative to Prevailing Wage Rates, and as required by the Contract.

C.24.2 This ITB and the resulting Contract are subject to the following Bureau of Labor and Industries (BOLI) wage requirements and the prevailing wages rates set forth in the following booklet, as amended, which is incorporated herein by reference with the same force and effect as though fully set forth herein, and is available at the following web link:

Prevailing Wage Rates for Public Works Contracts in Oregon in effect as of the date the solicitation was first advertised, October 26, 2018.

Prevailing Wage Rates Apprenticeship Rates in effect as of the date the solicitation was first advertised, which is October 26, 2018.

These BOLI wage rates are available on line at:
http://egov.oregon.gov/BOLI/WHD/PWR/pwr_book.shtml.

C.24.3 The Work will take place in Jackson County, Oregon.

Section D Responsibility Inquiry, Contractor References and ESB Utilization.

Responsibility Notification. District reserves the right, pursuant to OAR 137-047-0500, to investigate and evaluate, at any time prior to award and execution of the Contract, the apparent successful Offeror's responsibility to perform the Contract. Offeror's submission of a signed Offer shall constitute Offeror's authorization for District to obtain, and Offeror's agreement to produce for District's review and copying, any information District deems necessary to conduct the evaluation. The District shall notify the apparent successful Offeror, in writing, of any other documentation required, which may include, but is not limited to, recent profit-and-loss history; current balance statements; assets-to-liabilities ratio, including number and amount of secured versus unsecured creditor claims; availability of short and long-term financing; bonding capacity; credit information; materials/equipment/inventory; facility and personnel information; record of contract performance; etc. District may reject an Offer, if Offeror fails to promptly provide this information. District may postpone the award of the Contract after announcement of the apparent successful Offeror in order to complete its investigation and evaluation. Failure of the apparent successful Offeror to demonstrate Responsibility, as required under OAR 137-047-0500, shall render the Offeror non-responsible and shall constitute grounds for Offer rejection.

Offeror Information.

Business Name: _____

Owner(s) Name: _____

Business Address: _____

Telephone Number: _____

Fax No.: _____

Email Address: _____

Name of Public Works Bonding Company: _____

Address of Public Works Bonding Company:

_____(street)

(city, state, zip)

Agent Name/Phone: _____

Public Works Bond Number: _____

OFFERORS MUST PROVIDE THREE (3) REFERENCES HAVING CONTRACT(S) WITH OFFEROR WITHIN THE PAST TWENTY-FOUR (24) MONTHS THAT ARE EQUIVALENT IN TYPE, VOLUME, AND VALUE TO THE TERMS CONTEMPLATED IN THIS ITB:

OFFEROR REFERENCE #1:

FIRM NAME: _____

ADDRESS: _____

CONTACT PERSON: _____

POSITION TITLE: _____

TELEPHONE NUMBER: _____

OFFEROR REFERENCE #2

FIRM NAME: _____

ADDRESS: _____

CONTACT PERSON: _____

POSITION TITLE: _____

TELEPHONE NUMBER: _____

OFFEROR REFERENCE #3

FIRM NAME: _____

ADDRESS: _____

CONTACT PERSON: _____

POSITION TITLE: _____

TELEPHONE NUMBER: _____

SUBCONTRACTING TO MINORITY, WOMEN AND EMERGING SMALL BUSINESS

Offeror will provide the company name(s) of any certified Minority, Women and Emerging Small Business companies that they intend to utilize in the performance of this Contract.

Name: _____

Name: _____

Name: _____

Name: _____

Section E Recycled Products Certification (Part A)

Offerors shall use recyclable products to the maximum extent economically feasible in the performance of the Contract.

"Recycled product" means all materials, goods and supplies, not less than 50 percent of the total weight of which consists of secondary and post-consumer waste with not less than 10 percent of total weight consisting of post-consumer waste. 'Recycled product' also includes any product that could have been disposed of as a solid waste, having completed its life cycle as a consumer item, but otherwise is refurbished for reuse without substantial alteration of the product's form. ORS 279A.010(1)(gg)

"Post-consumer waste" means a finished material which would normally be disposed of as solid waste, having completed its life cycle as a consumer item. 'Post-consumer waste' does not include manufacturing waste. ORS 279A.010(1)(s)

"Secondary waste materials" means fragments of products or finished products of a manufacturing process which has converted a virgin resource into a commodity of real economic value, and includes post-consumer waste, but does not include excess virgin resources of the manufacturing process. For paper, 'secondary waste materials' does not include fibrous waste generated during the manufacturing process such as fibers recovered from waste water or trimmings of paper machine rolls, mill broke, wood slabs, chips, sawdust, or other wood residue from a manufacturing process. ORS 279A.010(1)(hh)

"Recycled PETE product" means a product containing post-consumer polyethylene terephthalate material. ORS 279A.010(1)(ff)

Section E Recycled Products Certification (Part B)

I, the undersigned duly authorized representative of the Offeror, hereby certify that the following product, offered in this Offer contain the following minimum percentages:

Identify the Good and respond to the following regarding that Good: _____

- a) % (recycled product as defined in ORS 279A.010(1)(gg) _____
- b) % (post-consumer waste as defined in ORS 279A.010(1)(s) _____
- c) % (secondary waste materials as defined in ORS 279A.010(1)(hh) _____
- d) % (recycled PETE product as defined in ORS 279A.010(1)(ff) _____

Offeror must provide a separate signed Recycled Product Certification for each Good identified.

Signature of Authorized Representative

Typed or Printed Name of Authorized Representative

Title

Section F Residency Information (Part A)

ORS 279A.120 states "In determining the lowest responsible bidder, a public contracting agency shall, for the purpose of awarding the contract, add a percent increase on the bid/proposal of a nonresident bidder equal to the percent, if any, of the preference given to that bidder in the state in which the bidder resides."

"Resident bidder" means a bidder that has paid unemployment taxes or income taxes in this state during the 12 calendar months immediately preceding submission of the bid/proposal, has a business address in this state and has stated in the bid/proposal whether the bidder is a "resident bidder" (ORS 279A.120(1)(b)).

"Non-resident bidder" means a bidder who is not a "resident bidder" as defined above (ORS 279A.120(1)(a)).

a) Check one: Offeror is a () resident bidder () non-resident bidder.

b) If a resident bidder, enter your Oregon business address:

c) If a non-resident bidder, enter state of residency: _____

SECTION F Residency Information (Part B).

d) If a non-resident bidder, do you or your firm receive, or are you or your firm eligible for, any preference in award of contracts with your state's government or with other governmental bodies in your state?

Check one: () Yes () No

If yes: state the preference percentage: _____%

If yes, but not a percentage of bid/proposal price, describe the preference:

If yes, state the law or regulation that allows the preference described (legal citation):

Signature of Authorized Representative

Typed or Printed Name of Authorized Representative

Title

ITB – Hopkins Canal Piping Project – Aggregate – October 26, 2018

Section G Joint Venture-Partnership Disclosure.

The Offeror shall disclose whether the Offer is submitted by either a partnership or joint venture.

NO: _____ **YES:** _____

If yes, the Offeror shall provide the name of the contact person for the partnership or joint venturer.

Name: _____

Section H Addenda Acknowledgement.

1) The District reserves the right to make changes to the Invitation to Bid and the resulting Contract, by written Addenda issued no later than 72 hours prior to the Closing time and date. The District will attempt to email to all known Offerors any Addenda that are published, however, it remains the responsibility of Offeror to ensure that they have received, reviewed and incorporated all issued Addenda into their Bids. Failure to acknowledge all Addenda will result in your Bid being nonresponsive. The District is not responsible for an Offerors failure to receive notice of Addenda if such are advertised in the foregoing manner. Addenda shall only be issued by the District and upon issuance are incorporated into the Invitation to Bid or the resulting Contract.

2) By Offeror's signature in Section K it Acknowledges, Agrees and Certifies to the following:

If any Addenda are issued in connection with this ITB, Offeror has received and duly considered such Addenda, and has completed the blanks below identifying all Addenda issued, and acknowledging and agreeing to the terms of all such Addenda as those terms revise the terms, conditions, Plans and Specifications of this ITB.

ADDENDA: No. ____ to No. ____ inclusive.

Section I Certification of Compliance With Tax Laws.

By my signature in Section K of this Contract, I, hereby attest or affirm under penalty of perjury: That I am authorized to act on behalf of the Contractor in this matter, that I have authority and knowledge regarding the payment of taxes, and that Contractor is, to the best of my knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon tax laws" are those tax laws imposed by ORS 320.005 to 320.150 and ORS 403.200 to 403.250 and ORS Chapters 118, 314, 316, 317, 318, 321 and 323; the elderly rental assistance program under ORS 310.630 to 310.706; and any local tax laws administered by the Oregon Department of Revenue under ORS 305.620.

Section J Certification of Compliance with Non-Discrimination Laws.

By my signature in Section K, I certify that I am authorized to act on behalf of Bidder in this matter and that Bidder has not discriminated and will not discriminate against a subcontractor in awarding a subcontract because the subcontractor is: (a) a minority, women or emerging small business enterprise certified under ORS 200.055; or (b) a business enterprise that is owned or controlled by or that employs a disabled veteran, as defined in ORS 408.225.

Section K Signature of Bidder's Duly Authorized Representative.

THIS BID MUST BE SIGNED IN INK BY AN AUTHORIZED REPRESENTATIVE OF THE BIDDER; ANY ALTERATIONS OR ERASURES TO THE BID MUST BE INITIALED IN INK BY THE UNDERSIGNED AUTHORIZED REPRESENTATIVE.

The undersigned acknowledges, attests and certifies individually and on behalf of the Bidder that:

1) He/she is a duly authorized representative of the Bidder, has been authorized by Bidder to make all representations, attestations, and certifications contained in this Bid and all Addenda, if any, issued.

2) Bidder, acting through its authorized representatives, has read and understands all Bid instructions, Specifications, Plans, terms and conditions contained in this Bid document (including all listed attachments and Addenda, if any, issued);

3) The Bid submitted is in response to the specific language contained in the ITB, and Bidder has made no assumptions based upon either (a) verbal or written statements not contained in the ITB, or (b) any previously-issued ITB, if any.

4) The District shall not be liable for any claims or be subject to any defenses asserted by Bidder based upon, resulting from, or related to, Bidder's failure to comprehend all requirements of the ITB.

5) The District shall not be liable for any expenses incurred by Bidder in preparing and submitting its Offer or in participating in the Offer evaluation/selection process.

6) The Bidder agrees to be bound by and comply with all applicable requirements of ORS 279C.800 through ORS 279C.870 and the administrative rules of the Bureau of Labor and Industries (BOLI) regarding prevailing wage rates.

7) The Offer was prepared independently from all other Bidders, and without collusion, fraud, or other dishonesty.

8) Bidder is bound by and will comply with all requirements, Specifications, Plans, terms and conditions contained in this Bid (including all listed attachments and Addenda, if any, issued);

9) Bidder will furnish the designated item(s) or service(s) in accordance with the Specifications, Plans and requirements, and will comply in all respects with the terms of the resulting Contract upon award;

10) Bidder represents and warrants that Bidder has the power and authority to enter into and perform the Contract and that the Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; and

11) All affirmations and certifications contained herein are true and correct.

Authorized Signature:

Title: _____

Contact Person (Type or Print): _____

Telephone Number: _____

Fax Number: _____

EXHIBIT A
CONTRACT

**ROGUE RIVER VALLEY IRRIGATION DISTRICT
CONTRACT FOR THE
PURCHASE OF GOODS
("Contract")**

Table of Contents

Section 1	Definitions
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This Contract is between the Rogue River Valley Irrigation District ("District") and the undersigned _____ ("Contractor"). This Contract is effective on the date it has been signed by all parties and all required approvals have been obtained. This Contract expires on the date Contractor has completed delivery of all Goods and Services in accordance with the requirements of this Contract, as determined by District.

RECITALS

- A.** District issued an ITB seeking offers from qualified and responsible vendors to provide the Goods and related Services described in Section 2 of this Contract; and
- B.** Contractor submitted an Offer in response to the ITB offering to provide the Goods and related Services as set forth in Section 2, at the price set forth in Section 2, pursuant to the terms and conditions set forth herein; and
- C.** District, by its execution of Section 7 hereof, has accepted Contractor's offer to the extent set forth in section 7.

AGREEMENT

Contractor agrees to sell, and District agrees to purchase, Goods and Services for the benefit of District subject to the following terms and conditions:

Section 1 Definitions.

- 1.1** "Contract" means the entire agreement between District and Contractor consisting of (i) this document and all exhibits, (ii) Purchase Orders, and (iii) any amendments.
- 1.2** "Goods" means the individual items and related Services described in Section 2.
- 1.3** "Purchase Order" or "Order" means the documentation, including but not limited to purchase orders, delivery orders and notices to proceed that are submitted to Contractor by District or District initiating the purchase and delivery of Goods under this Contract.
- 1.4** "Services" means the services, if any, described in Section 2 to be performed by Contractor under the Contract that are incidental to the purchase of Goods.

1.5 "Specifications" means the specific attributes of the Goods to be purchased or Services to be performed, if any, as described in Section 3.

1.6 "District" means the Rogue River Valley Irrigation District, acting by and through its District Board or District Manager.

1.7 "Standard" means everything related to the Goods that the manufacturer or Contractor offers to the general public during the applicable model year as standard.

Section 2 Required Goods, Services, Pricing and Delivery Schedule. Contractor shall deliver to District the Goods and Services for the prices specified in this Section 2.

2.1 Goods.

2.1.1 Contractor shall deliver to District the Goods at the unit prices and total prices for the Goods listed on Exhibit B – Bid Schedule/Pricing Form. Delivery of the Goods will be required between November 19, 2018 and July 1, 2019.

2.1.2 Contractor shall deliver the Goods as requested by the District, either verbally or in writing, to the location on the project site as directed by the District. All requested delivery locations will be located within 0.5 mile of 1099 Yankee Creek Road, Eagle Point, OR 97524.

2.1.3 Contractor shall deliver the Goods as requested by the District within 1 business day of receipt of the District's verbal or written request.

2.1.4 The minimum load size for Contractor delivery shall be 12 tons.

2.1.5 The maximum daily quantity for Contractor delivery shall be 1,170 tons of 3/4" – 0 material and 430 tons of 4" – 0 material.

2.1.6 Contractor shall retain the risk of loss of the Goods until District accepts the Goods.

2.2 Services.

2.2.1 Contractor shall perform those Services related to the delivery of the Goods for the total price listed on Exhibit B – Bid Schedule/Pricing Form.

Section 3 Specifications. Contractor shall deliver all Goods and Services specified in section 2 in accordance with this section 3. Contractor's failure to deliver Goods and Services in accordance with the provisions of this Contract is a material breach of this Contract.

3.1 General Provisions.

3.1.1 Non-Compliance. If any Goods or component parts are recalled by a regulatory body or the manufacturer, or discovered by Contractor not to comply with applicable regulatory standards or the Specifications, Contractor shall immediately notify District of the recall or non-compliance, and shall provide copies of the recall notice or notice of non-compliance, as applicable, and all other supporting documentation for the recall or non-compliance determination. District may elect to (a) reject Goods in whole or in part, or (b) revoke its acceptance of Goods in whole or in part. If District rejects Goods or revokes its acceptance of Goods, Contractor shall remove the particular Goods from District's possession as provided in

section 4.4.4 at no cost to District and shall reimburse District for all payments made for those Goods.

3.1.2 Standard Components. Unless specified otherwise in this Section 3, Contractor shall provide Goods with all components and accessories that the manufacturer lists as “standard” for Goods.

3.1.3 Necessary Components. Unless specified otherwise in this section 3, Specifications, Contractor shall include all components, hardware and parts necessary for complete and proper assembly, installation and operation of Goods.

3.1.4 New and Unused Goods. Unless specified otherwise in this section 3, Specifications, Contractor shall deliver Goods that are new, unused and produced from current production inventory. Contractor shall provide Goods manufactured from only those components that the manufacturer offers in the manufacturer’s current parts catalogue for Goods.

3.2 Detailed Specifications. In addition to the requirements included in the 2018 Oregon Department of Transportation Standard Specifications for Construction Sections 00330 and 00640, the Goods shall comply with the following listed herein.

3.2.1 Handling. Handle/transport products with care to prevent soiling or other physical damage.

Section 4 Terms and Conditions.

4.1 Payment.

4.1.1 District’s Payment. District shall pay Contractor for Goods delivered and Services performed at the prices and rates specified in section 2. Contractor shall look solely to District for payment of all amounts District owes to Contractor. Contractor shall not be compensated by any party other than District for Goods delivered or Services performed.

4.1.2 If Contractor is a nonresident alien as defined in 26 USC § 7701(b)(1)(B), then Contractor shall, upon execution of this Contract, deliver to District a completed and signed W-8 form, 8233 form, or W-9 form, as applicable, from the IRS, as evidence that District is not required by 26 USC 1441 to withhold part of Contractor's payment. Such forms are currently available at <http://www.irs.gov>. District may withhold payments to Contractor pending District's receipt from Contractor of the applicable, completed and signed form. If District does not receive the applicable, completed and signed form from Contractor, or if the IRS provides notice to District that Contractor's information on the form provided is incorrect, District will withhold as federal income tax 30% of all amounts District owes to Contractor under this Contract.

4.2 Invoices.

4.2.1 Contractor shall send invoices to District no more often than monthly after District’s acceptance of Goods delivered under this Contract. Contractor shall send invoices to District for completed Services no more often than monthly.

4.2.2 Contractor shall send all invoices to the District mailing address specified in section 7 or to any other address that District may indicate in writing to Contractor. Contractor shall include in each invoice:

4.2.2.1 The Solicitation number if any, the Contract number if any;

4.2.2.2 The quantity of Goods ordered, the quantity of Goods delivered, the date Goods were delivered, the price per unit, if applicable;

4.2.2.3 A detailed description of Services performed, including the name or names of the individuals who performed Services and prepared the deliverables to which the invoice applies, the dates Services were performed, all deliverables delivered during the period of the invoices, the rate or rates for Services performed, and the total cost of Services

4.2.2.4 Itemization and explanation of all expenses for which Contractor claims reimbursement authorized under this Contract; and

4.2.2.5 The total amount due, and the payment address.

4.2.3 Contractor may assess overdue account charges to District on unpaid invoices only in accordance with ORS 293.462.

4.3 Most Favorable Prices and Terms. Contractor represents and warrants that all prices, terms and benefits offered by Contractor under this Contract are equal to or better than the equivalent prices, terms and benefits being offered by Contractor to any other state or local governmental entity or commercial customer.

4.3.1 If during the term of this Contract Contractor enters any contract, agreement or arrangement that provides lower prices, more favorable terms or greater benefits to any other state or local governmental entity or commercial customer, Contractor shall provide the same price or prices, terms and benefits to District. The prices, terms and benefits shall be effective as of the date Contractor made the more favorable terms or greater benefits available to any other state or local governmental entity or commercial customer. This provision applies to comparable goods and services and to purchase volumes by District that are not less than the purchase volumes of the state or local governmental entity or commercial customer that has received the lower prices, greater benefits or more favorable terms.

4.3.2 Section 4.3.1 does not apply to Contractor's donations of comparable goods and services to charitable, nonprofit or governmental entities if the donations are recognized as donations and are deductible under the federal Internal Revenue Code. These donations are not considered contracts, agreements or arrangements with other state or local governmental entities or commercial customers for purposes of section 4.3.1.

4.4 Acceptance, Rejection and Revocation of Acceptance.

4.4.1 Acceptance. District shall test if District, in its sole discretion deems testing necessary, inspect and either accept or reject Goods delivered within fourteen (14) calendar days from the date Contractor delivers Goods to District. If District does not provide written notice of acceptance or rejection of Goods to Contractor within fourteen (14) calendar days following the date of delivery of Goods, District is deemed to have accepted Goods.

4.4.2 Rejection. If District rejects Goods, then District's written notice of rejection shall, at a minimum, itemize the apparent defects and include:

4.4.2.1 A description of nonconformance between Goods delivered and the required Specifications and warranties (including any variance from demonstrations or sample characteristics of Goods if Contractor provided demonstrations or samples);

4.4.2.2 A description of any other nonconformance of Goods (including late delivery); and

4.4.2.3 A statement indicating whether Contractor may cure the nonconformance and if so, the method by which and time period within which Contractor may cure.

4.4.3 Revocation of Acceptance. Notwithstanding District's acceptance of Goods under section 4.4.1, District may revoke its acceptance of Goods for nonconformance with the Specifications. If District revokes acceptance of Goods, District shall deliver a written notice of revocation of acceptance to Contractor that includes the same information required for a written notice of rejection under section 4.4.2.

4.4.4 Effect of Rejection or Revocation of Acceptance. If District rejects Goods or revokes its acceptance of Goods, Contractor shall refund all payments District has made to Contractor for those Goods and shall, at no cost to District, remove Goods from District's possession within ten (10) calendar days following the later of the date of District's notice of rejection, the date of District's notice of revocation of acceptance, or the date of Contractor's failure to cure if cure is permitted. Nothing contained in this section 4.4 precludes District from pursuing any remedies to which either may be entitled upon rejection or revocation of acceptance of Goods or otherwise under this Contract.

4.5 Other Representations and Warranties. All express and implied warranties that are applicable to goods under ORS Chapter 72 apply to Goods delivered under this Contract. Contractor represents and further warrants that:

4.5.1 Contractor has the authority to enter into and perform in accordance with this Contract, and that this Contract, when executed and delivered, is a valid and binding obligation of Contractor that is enforceable in accordance with its terms;

4.5.2 All Goods meet or exceed all Specifications;

4.5.3 All Goods delivered shall comply with all applicable federal health and safety standards.

4.5.4 Contractor has the skill and knowledge possessed by well-informed members of its industry, trade or profession and Contractor will apply that skill and knowledge with care and diligence and perform Services in a timely, professional and workmanlike manner in accordance with standards applicable to Contractor's industry, trade or profession; and

4.5.5 Contractor is, and shall be at all times during the term of this Contract, qualified, professionally competent and duly licensed to perform Services.

The warranties specified in this section 4.5 are in addition to, and not in lieu of, any other warranties provided in this Contract. All warranties are cumulative and shall be interpreted broadly to give District the greatest warranty protection available.

4.6 Manufacturer Warranties. At no charge to District, Contractor shall transfer or cause the transfer of all manufacturers' warranties for Goods and component parts, if any, to the District for District's benefit when Contractor delivers Goods to District. If a conflict or inconsistency exists between a manufacturer's warranty and Contractor's warranty, the warranty that provides the greatest benefit and protection to District shall prevail.

4.7 Compliance with Applicable Laws and Standards.

4.7.1 Contractor shall comply with all federal, state and local laws, regulations, and ordinances applicable to this Contract or to Contractor's obligations under this Contract, as they may be adopted or amended from time to time. Where applicable, this includes, but is not limited to, the Contract Work Hours and Safety Standards Act (40 USC 3701-3708), the Clean Air Act (42 USC 7401-7671q), the Federal Water Pollution Control Act (33 USC 1251-1387), the Byrd Anti-Lobbying Amendment (31 USC 1352), and Executive Orders 12549 and 12689.

4.7.2 District's performance under this Contract is conditioned upon Contractor's compliance with the obligations intended for contractors under ORS 279B.220, 279B.225 (if applicable to this Contract), 279B.230 and 279B.235 (if applicable to this Contract), which are incorporated into this Contract by reference. Contractor shall, to the maximum extent economically feasible in the performance of this Contract, use recycled paper (as defined in ORS 279A.010(1)(ee)), recycled PETE products (as defined in ORS 279A.010(1)(ff)), and other recycled plastic resin products and recycled products (as "recycled product" is defined in ORS 279A.010(1)(gg)).

4.8 Material Safety Data Sheet. At the time Contractor delivers Goods to District, Contractor shall provide to District a "Material Safety Data Sheet" as defined by (OSHA) for any Goods delivered which may release or otherwise cause exposure to a hazardous chemical substance under normal conditions of use. Contractor shall properly label, tag or mark those Goods.

4.9 Time is of the Essence. Contractor agrees that time is of the essence in the performance of this Contract.

4.10 Force Majeure. Neither District nor Contractor shall be responsible for any failure to perform or for any delay in the performance of any obligation under this Contract caused by fire, riot, acts of God, terrorism, war, or any other cause which is beyond the delaying or breaching entity's reasonable control. Contractor shall make all reasonable efforts to eliminate the cause of Contractor's delay or breach and shall, upon elimination of the cause, continue performing under this Contract. District may terminate this Contract upon written notice to Contractor after reasonably determining that this delay or breach could likely prevent successful performance of this Contract.

4.11 Insurance. Contractor shall obtain the insurance required under section 5 prior to performing under this Contract and shall maintain the required insurance throughout this duration of this Contract.

4.12 INDEPENDENT CONTRACTOR STATUS AND RESPONSIBILITY FOR TAXES AND WITHHOLDING.

4.12.1 Contractor shall perform all Services as an independent contractor. Although District may (a) determine and modify the delivery schedule for Goods to be delivered and Services to be performed and (b) evaluate the quality of the completed performance, District cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing any Services required under this Contract. Contractor is not an "officer", "employee", or "agent" of District as those terms are used in ORS 30.265.

4.12.2 If Contractor is currently performing work for the state or the federal government, Contractor by signature to this Contract declares and certifies that Contractor's performance under this Contract creates no potential or actual conflict of interest as defined by ORS 244 and that no rules or regulations of Contractor's employing government (state or federal) would prohibit Contractor's performance under this Contract.

4.12.3 Contractor is responsible for all federal and state taxes applicable to compensation or payments paid to Contractor under this Contract, and unless required by prevailing federal law or regulations, District will not withhold from compensation or payments to Contractor any amount(s) to cover Contractor's federal or state tax obligations unless Contractor is subject to backup withholding. Contractor is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation or payments paid to Contractor under this Contract.

4.13 Indemnification.

4.13.1 General Indemnity. CONTRACTOR SHALL DEFEND, SAVE, HOLD HARMLESS, AND INDEMNIFY DISTRICT, ITS AGENCIES, OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF ANY NATURE WHATSOEVER ("CLAIMS") RESULTING FROM, ARISING OUT OF, OR RELATING TO THE ACTS OR OMISSIONS OF CONTRACTOR OR ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, OR AGENTS UNDER THIS CONTRACT.

4.13.2 Indemnity For Infringement Claims. WITHOUT LIMITING THE GENERALITY OF SECTION 4.13.1, CONTRACTOR SHALL DEFEND, SAVE, HOLD HARMLESS AND INDEMNIFY DISTRICT, ITS AGENCIES, OFFICERS, DIRECTORS, AGENTS, AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS, AND EXPENSES, INCLUDING ATTORNEYS FEES, ARISING OUT OF OR RELATING TO ANY CLAIMS THAT THE WORK, THE WORK PRODUCT OR ANY OTHER TANGIBLE OR INTANGIBLE ITEM DELIVERED UNDER THIS CONTRACT BY CONTRACTOR THAT MAY BE THE SUBJECT OF PROTECTION UNDER ANY DISTRICT OR FEDERAL INTELLECTUAL PROPERTY LAW OR DOCTRINE, OR THE DISTRICT'S REASONABLE USE THEREOF, INFRINGES ANY PATENT, COPYRIGHT, TRADE SECRET, TRADEMARK, TRADE DRESS, MASK WORK, UTILITY DESIGN, OR OTHER PROPRIETARY RIGHT OF ANY THIRD PARTY ("INFRINGEMENT CLAIM"); PROVIDED, THAT DISTRICT SHALL PROVIDE CONTRACTOR WITH PROMPT WRITTEN NOTICE OF ANY INFRINGEMENT CLAIM.

4.13.3 DISTRICT SHALL REASONABLY COOPERATE IN GOOD FAITH, AT CONTRACTOR'S REASONABLE EXPENSE, IN THE DEFENSE OF CLAIMS AND INFRINGEMENT CLAIMS, AND CONTRACTOR SHALL SELECT COUNSEL REASONABLY ACCEPTABLE TO THE OREGON ATTORNEY GENERAL TO DEFEND SUCH CLAIMS AND INFRINGEMENT CLAIMS AND SHALL BEAR ALL COSTS OF SUCH COUNSEL. COUNSEL MUST ACCEPT APPOINTMENT AS A SPECIAL ASSISTANT ATTORNEY GENERAL UNDER ORS CHAPTER 180 BEFORE COUNSEL MAY ACT IN THE NAME OF, OR REPRESENT THE INTERESTS OF, DISTRICT, ITS AGENCIES, OFFICERS, EMPLOYEES OR AGENTS. DISTRICT MAY ELECT TO ASSUME ITS OWN DEFENSE WITH AN ATTORNEY OF ITS OWN CHOICE AND AT ITS OWN EXPENSE AT ANY TIME DISTRICT DETERMINES IMPORTANT GOVERNMENTAL INTERESTS ARE AT STAKE. SUBJECT TO THE LIMITATIONS NOTED ABOVE, CONTRACTOR MAY DEFEND SUCH CLAIMS AND INFRINGEMENT CLAIMS WITH COUNSEL OF ITS OWN CHOOSING PROVIDED THAT NO SETTLEMENT OR COMPROMISE OF ANY SUCH CLAIMS AND INFRINGEMENT CLAIMS SHALL OCCUR WITHOUT THE CONSENT OF DISTRICT, WHICH CONSENT SHALL NOT BE UNREASONABLY WITHHELD, CONDITIONED OR DELAYED.

4.14 Assignment of Antitrust Rights.

4.14.1 CONTRACTOR IRREVOCABLY ASSIGNS TO DISTRICT ANY CLAIM FOR RELIEF OR CAUSE OF ACTION WHICH CONTRACTOR NOW HAS OR WHICH MAY ACCRUE TO CONTRACTOR IN THE FUTURE BY REASON OF ANY VIOLATION OF 15 U.S.C. § 1-15 OR ORS 646.725 OR ORS 646.730, IN CONNECTION WITH ANY GOODS OR SERVICES PROVIDED TO CONTRACTOR FOR THE PURPOSE OF CARRYING OUT CONTRACTOR'S OBLIGATIONS UNDER THIS CONTRACT, INCLUDING, AT DISTRICT'S OPTION, THE RIGHT TO CONTROL ANY SUCH LITIGATION ON SUCH CLAIM FOR RELIEF OR CAUSE OF ACTION.

4.14.2 CONTRACTOR SHALL REQUIRE ANY SUBCONTRACTORS HIRED TO PERFORM ANY OF CONTRACTOR'S DUTIES UNDER THIS CONTRACT TO IRREVOCABLY ASSIGN TO DISTRICT, AS THIRD PARTY BENEFICIARY, ANY RIGHT, TITLE OR INTEREST THAT HAS ACCRUED OR WHICH MAY ACCRUE IN THE FUTURE BY REASON OF ANY VIOLATION OF 15 U.S.C. § 1-15 OR ORS 646.725 OR ORS 646.730, IN CONNECTION WITH ANY GOODS OR SERVICES PROVIDED TO THE SUBCONTRACTOR FOR THE PURPOSE OF CARRYING OUT THE SUBCONTRACTOR'S OBLIGATIONS TO CONTRACTOR IN PURSUANCE OF THIS CONTRACT, INCLUDING, AT DISTRICT'S OPTION, THE RIGHT TO CONTROL ANY SUCH LITIGATION ON SUCH CLAIM FOR RELIEF OR CAUSE OF ACTION.

4.15 Events of Breach.

4.15.1 Breach by Contractor. Contractor breaches this Contract if:

4.15.1.1 Contractor institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis;

4.15.1.2 Contractor no longer holds a license or certificate that is required for Contractor to perform its obligations under this Contract and Contractor has not obtained the required license or certificate within fourteen (14) calendar days after delivery of District's notice of breach or a longer period as District may specify in its notice; or

4.15.1.3 Contractor commits any material breach of any covenant, warranty, obligation or certification under this Contract, and Contractor fails to cure its breach within fourteen (14) calendar days after delivery of District's notice of breach or within a longer period as District may specify in its notice.

4.15.2 Breach by District. District breaches this Contract if:

4.15.2.1 District fails to pay Contractor any amount pursuant to the terms of this Contract, and District fails to cure this failure within fourteen (14) business days after delivery of Contractor's notice of breach or within a longer period as Contractor may specify in its notice; or

4.15.2.2 District commits any material breach of its obligations under this Contract, fails to perform its obligations hereunder within the time specified or any extension thereof, and fails to cure its failure within fourteen (14) calendar days after delivery of Contractor's notice of breach or a longer period as Contractor may specify in its notice.

4.16 Remedies.

4.16.1 District's Remedies. If Contractor is in breach of this Contract, then in addition to the remedies afforded elsewhere in this Contract, District shall be entitled to recover for any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, as provided in ORS Chapter 72. District may, at its option, pursue any or all of the remedies available under this Contract and at law or in equity, including, but not limited to:

4.16.1.1 Termination of this Contract;

4.16.1.2 Withholding all amounts Contractor has invoiced for Goods and Services that Contractor is obligated to but has failed to deliver or perform within any scheduled completion dates or has performed inadequately or defectively;

4.16.1.3 Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief; or

4.16.1.4 Exercise of the right of setoff and withholding amounts otherwise due and owing to Contractor in an amount equal to District's setoff right, without penalty.

These remedies are cumulative to the extent the remedies are not inconsistent, and District may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

4.16.2 Contractor's Remedies. Contractor's sole remedy for a breach by District shall be a claim against District for the unpaid price for any Goods delivered and accepted by District less any claims District has against Contractor and is as follows for unpaid Services completed and accepted by District:

4.16.2.1 For Services compensable on an hourly basis, a claim against District for unpaid invoices, hours worked but not yet invoiced, and authorized expenses for Services completed and accepted by District less any claims District has against Contractor.

4.16.2.2 For deliverable-based Services, a claim against District for the amount specified for completing the deliverable multiplied by the percentage of Services completed and accepted by District, less previous amounts paid and the amount of any claims District has against Contractor.

If previous amounts paid to Contractor for Goods and Services exceed the amount due to Contractor under this section 4.16.2, Contractor shall pay the excess amount to District immediately upon written demand.

4.17 Attorneys' Fees. Neither District nor Contractor is entitled to recover attorney's fees, court and investigative costs, or any other fees or expenses associated with pursuing a remedy for damages arising out of or relating to this Contract.

4.18 Termination.

4.18.1 Mutual Consent. The Contract may be terminated at any time by mutual written consent of the parties.

4.18.2 District:

4.18.2.1 District may, at its sole discretion, terminate the Contract for its convenience upon 30 days written notice to Contractor.

4.18.2.2 District may, in its sole discretion, terminate this Contract, immediately upon notice to Contractor, or at a later date as District may establish in its notice, upon the occurrence of any of the following events:

1. District fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to allow District, in the exercise of its reasonable administrative discretion, to make payments under this Contract;
2. Federal or state laws, regulations, or guidelines are modified or interpreted in a way that either the purchase of Goods or Services, or both, by the District under this Contract is prohibited, or the District is prohibited from paying for Goods or Services, or both, from the planned funding source; or
3. Contractor commits any material breach of this Contract.

Contractor shall stop performance under this Contract as directed by District in any written notice of termination delivered to Contractor under this section 4.18.2.

4.18.2.3 Contractor. Contractor may terminate this Contract immediately upon written notice to District, or at a later date as Contractor may establish in its notice, if District is in breach under section 4.15.2.

4.19 Title to Goods. Title to Goods passes to District in accordance with ORS 72.4010.

4.20 Access to Records. Contractor shall retain, maintain, and keep accessible all records relevant to this Contract ("Records") for six (6) years following Contract termination or full performance, the period required by applicable law following Contract termination or full

performance, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever ending date is later. Contractor shall maintain all financial Records in accordance with generally accepted accounting principles. During this Record-retention period, Contractor shall permit District, its duly authorized representatives, and the federal government access to the Records at reasonable times and places for purposes of examination and copying.

4.21 Notices. All notices required under this Contract shall be in writing and addressed to the party's authorized representative. For District, the authorized representative is the District contact person identified in section 7. Contractor's authorized representative is the contact person identified in section 6. Mailed notices are deemed received five (5) days after the post mark date when properly addressed and deposited prepaid into the U.S. postal service. Faxed notices are deemed received upon electronic confirmation of successful transmission to the designated fax number. Notices delivered by personal delivery are deemed received when delivered to the address specified for the receiving party's authorized representative.

4.22 Governing Law. The Contract is governed by and construed in accordance with the laws of State of Oregon without regard to principles of conflicts of laws. To the extent not modified by the terms of this Contract, the Uniform Commercial Code as codified in ORS Chapters 71 and 72 governs Goods under this Contract. The applicability of the UN Convention on Contracts for the International Sale of Goods is hereby expressly waived by the parties, and it does not apply to this Contract.

4.23 Venue, Consent to Jurisdiction. Any claim, action, suit or proceeding (collectively, "Proceeding") between District and Contractor that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of State of Oregon for Jackson County; provided, however, if a Proceeding must be brought in a federal forum, then unless otherwise prohibited by law, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. CONTRACTOR HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF THESE COURTS AND WAIVES ANY OBJECTION TO VENUE IN THESE COURTS AND ANY CLAIM THAT THE FORUM IS AN INCONVENIENT FORUM. Nothing in these provisions shall be construed as a waiver of State's sovereign or governmental immunity, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or a waiver of any defenses to Proceedings or jurisdiction based thereon.

4.24 Survival. In addition to all provisions which by their nature extend beyond the Contract termination or full performance, the following provisions shall remain in effect beyond any Contract termination or full performance: sections 1, 3, 4.1, 4.4, 4.5, 4.6, 4.12, 4.14, 4.15, 4.17, 4.18, 4.20, 4.21, 4.23, 4.24, 4.25, 4.29 and section 5.

4.25 Severability. If a court of competent jurisdiction declares any provision of this Contract to be illegal or otherwise invalid, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Contract did not contain the particular provision held to be invalid.

4.26 Subcontracts; Assignment; Successors.

4.26.1 Subcontracts. Contractor shall not enter into any subcontracts for any Services required under this Contract without District's prior written consent. In addition to any other provisions District may require, Contractor shall include in any permitted subcontract

provisions to ensure that District will receive the benefit of subcontractor's performance as if the subcontractor were Contractor with respect to sections 3, 4.5, 4.6, 4.9, 4.10, 4.14, 4.15, 4.20, 4.21, 4.23, 4.24, and 4.27. District's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.

4.26.2 Contractor shall not assign, delegate or transfer any of its rights or obligations under this Contract without District's prior written consent. District's written consent does not relieve Contractor of any obligations under this Contract, and any assignee, transferee, or delegate is considered Contractor's agent.

4.26.3 The provisions of this Contract are binding upon, and inure to the benefit of the parties and their respective successors and permitted assigns, if any.

4.27 Merger Clause; Amendment; Waiver. This Contract constitutes the entire agreement between the parties on the subject matter thereof. There are no understandings, agreements or representations, oral or written, not specified herein regarding this Contract. This Contract may be amended to the extent permitted by applicable statutes and administrative rules. For Anticipated Amendments, this Contract may be amended only in accordance with and to the extent provided in the Solicitation, if any, and this Contract, in accordance with OAR 137-047-0800. No waiver, consent or amendment of terms of this Contract shall bind either party unless in writing and signed by District and Contractor, and all necessary approvals have been obtained. Waivers and consents shall be effective only in the specific instance and for the specific purpose given. The failure of District to enforce any provision of this Contract shall not constitute a waiver by District of that or any other provision.

4.28 Third Party Beneficiaries. District and Contractor are the only parties to this Contract and are the only parties entitled to enforce the terms of this Contract. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, to third persons unless the third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract. District is an intended beneficiary of the terms of this Contract.

4.29 Counterparts. This Contract may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Contract so executed shall constitute an original.

Section 5 Insurance. Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, Automobile Liability Insurance covering Contractor's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$1,000,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability).

Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, Motor Truck Cargo Liability Insurance covering loss to cargo in transit during the performance of this contract. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits). Combined single limit per occurrence shall not be less than \$3,000,000.

Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverages that are satisfactory to the State. This insurance shall include personal and advertising injury liability, products and completed operations, liability for Contractor's operation of mobile equipment and contractual liability coverage for the indemnity provided under this contract. Coverage shall be written on an occurrence basis in an amount not be less than \$1,000,000 per occurrence. Annual aggregate limit shall not be less than \$2,000,000.

All employers, including Contractor, that employ subject workers who work under this contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its sub-contractors complies with these requirements.

Section 6 Certifications and Signature of Contractor's Authorized Representative.

THIS CONTRACT MUST BE SIGNED IN INK BY AN AUTHORIZED REPRESENTATIVE OF CONTRACTOR.

The undersigned certifies under penalty of perjury both individually and on behalf of Contractor that:

6.1 The undersigned is a duly authorized representative of Contractor, has been authorized by Contractor to make all representations, attestations, and certifications contained in this Contract and to execute this Contract on behalf of Contractor;

6.2 The undersigned is authorized to act on behalf of Contractor and that Contractor is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 and 403-200 to 403.250, ORS Chapters 118 (Inheritance Tax), 314 (Income Tax), 316 (Personal Income Tax), 317 (Corporation Excise Tax), 318 (Corporation Income Tax), 320 (Amusement Device and Transient Lodging Taxes), 321 (Timber and Forestland Tax), 323 (Cigarettes and Tobacco Products Tax), and the elderly rental assistance program under ORS 310.630 to 310.706; and any local taxes administered by the Department of Revenue under ORS 305.620.

6.3 To the best of the undersigned's knowledge, Contractor has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts.

6.4 Contractor and Contractor's employees and agents are not included on the list titled "Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at <http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>;

6.5 Contractor is bound by and will comply with all requirements, terms and conditions contained in this Contract and will provide Goods and Services in accordance with the Specifications; and

6.6 Contractor ___ is / ___ is not a nonresident alien as defined in 26 USC § 7701(b)(1) (check one). See section 4.1.2.

Contractor (print Contractor's name): _____

Authorized Signature: _____

By (print name): _____

Title: _____

Date: _____

Contractor's Contact Person (Type or Print): _____

Contact Telephone Number: (_____) _____

Contact Fax Number: (_____) _____

Contact E-Mail Address: _____

Mailing Address: _____

Section 7 Signature of District's Authorized Representative.

District accepts Contractor's offer and awards this Contract to Contractor for Goods and Service described in this Contract.

Rogue River Valley Irrigation District acting by and through

Authorized Signature: _____

By (print name): _____

Title: _____

Date: _____

District's Contact Person (Type or Print): _____

Contact Telephone Number: (_____) _____

Fax Number: (_____) _____

E-Mail Address: _____

District Mailing Address: _____

EXHIBIT B

BID SCHEDULE / PRICING FORM

EXHIBIT B
 BID SCHEDULE/PRICING FORM
 HOPKINS CANAL PIPING PROJECT - AGGREGATE

Item #	Item	UNIT COST	Total # of UNITS	UNITS	Cost
1	3/4" - 0 Aggregate Base Material, Delivered		36,400	Tons	
2	4" - 0 Stone Embankment Material, Delivered		12,700	Tons	
			GRAND TOTAL		