



REQUEST FOR PROPOSAL

for

Deschutes County Real Estate Agent of Record

Deschutes Public Library

CLOSING DEADLINE: January 11, 2019

**PLACE: Deschutes Public Library
Administrative Offices
507 NW Wall St.
Bend, OR 97703**

SCHEDULE

The RFP will proceed in three phases:

Phase 1: Written Proposals

Phase 2: On-Site Interviews

Phase 3: Negotiation & Award

Timeline dates:

RFP Advertised	December 10, 2018
RFP released:	December 10, 2018
Proposals due:	January 11, 2019
Completion of proposals review:	January 18, 2019
Interviews with Proposers:	January 24, 2019
Negotiation and award:	January 31, 2019

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SECTION 1: Notice

1.1

REQUEST FOR PROPOSALS (“RFP”)

Real Estate Agent of Record

Deschutes Public Library District (hereinafter referred to as “DPL”) is requesting proposals from local qualified companies providing Real Estate Services that meet the needs of DPL. Areas of consideration include Purchase and Sale of Commercial Property, purchase and development of raw land to be used commercially, and Property Management Services. DPL will accept responses until no later than January 11, 2019 (closing) at 4pm PST at the Deschutes Public Library, 507 NW Wall St., Bend, OR 97703 and will ultimately result in an exclusive contract to meet DPL’s needs.

DPL is in need of partnering with an experienced Real Estate Firm to support us over the next five years in the potential disposition and acquisition of Commercial Property for the purpose of expanding the Library. The firm or individual awarded this contract will perform complex real estate activities, including property acquisitions, appraisals, sale of District property and lessor/lessee activities.

This RFP, including contract terms, conditions and specifications, may be obtained from Denise Senner, Business Services Manager or via DPL’s Public Website (<https://www.deschuteslibrary.org/>) and shall be available for review at the above address beginning December 10, 2018 until RFP closing. Sealed proposals can be hand delivered or mailed to Denise Senner at the above address. No faxed or emailed proposals will be accepted. No proposals will be received after closing. Proposals will be opened directly after January 11, 2019 at 4pm. Per DPL Rule 137-047-0300(3)(d), no prequalification for proposers is required. The RFP Project Team members may not be contacted or solicited.

PUBLISH: December 10, 2018, “The Bulletin”

December 6, 2018

DESCHUTES PUBLIC LIBRARY, BEND OREGON
Todd Dunkelberg, Library Director

SECTION 2 - INSTRUCTIONS TO PROPOSERS

2.1 GENERAL

Proposers shall study carefully and conform to these "Instructions to Proposers" so that their proposals will be regular, complete and acceptable.

2.2 PROPOSALS

All proposals shall be legibly written in ink or typed and must comply in all regards with the requirements of this solicitation.

Proposals carrying orders or qualifications may be rejected as irregular.

All proposals shall be signed in ink in the blank spaces provided herein (Section 4). If the proposal is made by a firm or partnership, the name and address of the firm or partnership shall be shown, together with the names and addresses of the members. If the proposal is made by a corporation, it shall be signed in the name of such corporation by an official who is authorized to bind the proposer.

2.3 SUBMISSION OF PROPOSALS

Four copies of the proposal must be submitted (one marked as original) in sealed envelopes marked "CONFIDENTIAL: DPL Real Estate Agent of Record" on the outside, the name and address of the proposer, and the time and date of the proposal opening. If the proposal is forwarded by mail, the sealed envelope containing the proposal and marked as directed above, must be enclosed in another envelope addressed to Denise Senner, Business Services Manager Administrative Office, Deschutes Public Library, 507 NW Wall St., Bend, OR 97703.

Faxed or emailed proposals shall be rejected as non-responsive.

2.4 RECEIPT AND OPENING OF PROPOSALS

Proposals shall be submitted prior to the time fixed in the advertisement for proposals. Proposals received after the time so designated will be considered late proposals and will be returned unopened.

No responsibility will be attached to any official of the DPL for the premature opening of, or the failure to open, a proposal not properly addressed and identified.

2.5 WITHDRAWAL OF PROPOSALS

Any proposals may be withdrawn prior to opening, pursuant to DPL Rule 137-047-0440.

Proposers' proposals shall be valid for at least 180 days from RFP opening. The expiration date must be included in proposal.

2.6 MODIFICATION

Any proposer may modify its proposal per DPL Rule 137-047-0440 by registered communication at any time prior to the scheduled closing time for receipt of proposals, provided such communication is received prior to the closing time. The communication should not reveal the proposal price but should provide that the final price or terms will not be known until the sealed proposal is opened.

2.7 ACCEPTANCE OR REJECTION OF PROPOSALS

Any evidence of collusion between proposers may constitute cause for rejection of any proposals so affected. In the award of the contract, DPL will award the contract to the proposer whose proposal is deemed best for the public good. DPL reserves the right to accept or reject any or all proposals. Only one proposal will be accepted from any one firm or association.

2.8 ADDENDA AND INTERPRETATIONS

Statements by DPL staff or its representatives are not binding on DPL, unless confirmed by written addendum. Addenda will issue and proposers shall receive addenda per DPL Rule 137-047-0430 and as follows: DPL will not mail notice of addenda, but will publish notice of any addenda on DPL's website. Addenda may be downloaded off DPL's website. Proposers should frequently check DPL's website until the RFP closing (i.e., at least once weekly until the week of closing and at least once daily the week of closing).

Requests for interpretations shall be submitted in writing and addressed to Denise Senner, Business Services Manager in the same manner as solicitation protests per DPL Rule 137-047-0730. To be given consideration, such requests must be received at least **SEVEN (7)** days prior to the date set for the opening of proposals. Any and all such interpretations will be posted with addenda on the DPL's website, as above. Failure of any proposer to receive any such addenda or interpretation shall not relieve such proposer from any obligation under this RFP. All addenda so issued shall become as much a part of the solicitation documents as if bound herein.

2.9 NONDISCRIMINATION

Submittal of a proposal in response to this RFP evidences proposer's agreement that, in performing the work called for by this proposal and in securing and supplying materials, proposer has not and will not discriminate against: 1) any person on the basis of race, color, religious creed, political ideas, sex, age, marital status, physical or mental handicap, national origin or ancestry unless the reasonable demands of employment are such that they cannot be met by a person with a particular physical or mental handicap; and 2) a subcontractor in the awarding of a subcontract because the subcontractor is a minority, woman, or emerging small business enterprise certified under ORS 200.055, or a business enterprise that is owned or controlled by, or that employs a disabled veteran as defined in ORS 408.225.

2.10 FAILURE TO SUBMIT OFFER

If no offer is to be submitted, do not return the RFP. Failure of the recipient to offer, or to notify the issuing office that future solicitations are desired, will not result in removal of the name of such recipient from the mailing list for the type of supplies or services covered by the solicitation.

2.11 PREPARATION OF OFFERS

Proposers are expected to examine the specifications, schedules and all instructions. DPL is not liable for costs associated with preparation of proposals in response to this RFP.

2.12 SPECIFICATIONS LIMITING COMPETITION

Proposers may protest the procurement process or provisions of this RFP pursuant to DPL Rule 137-047-0730. Protests shall include all information required by ORS 279B.405, including a statement of desired changes to the procurement process for this RFP. Such protests shall be in writing, labeled "Solicitation Protest; Real Estate Agent of Record" and addressed to:

Todd Dunkelberg, Director
Deschutes Public Library
507 NW Wall St.
Bend, OR 97703

Such comments shall be submitted to DPL no later than **SEVEN (7)** days prior to the opening date. No comments will be accepted after that time.

2.13 EMPLOYEES NOT TO BENEFIT

No employee or elected official of DPL shall be permitted to receive any share or part of this contract or any benefit that may arise there from.

2.14 DPL FURNISHED PROPERTY

No material, labor or facilities will be furnished by DPL unless otherwise provided for in the RFP.

2.15 PROTEST OF AWARD

The award of the Contract by DPL's Board of Directors shall constitute a final decision of DPL to award the contract if no written protest of the award is filed pursuant to DPL Rule 137-047-0740 with DPL within **SEVEN (7)** calendar days from the notice of intent to award. If a timely protest is filed, the award is a final decision of DPL only upon issuance of a written decision denying the protest and affirming the award. DPL will not entertain a protest submitted after the time period established in this Section.

2.16 REIMBURSEMENT

There is no express or implied obligation for DPL to reimburse responding firms for any expenses incurred in preparing proposals in response to this request.

2.17 INTERGOVERNMENTAL COOPERATIVE PURCHASING STATEMENT

DPL grants to other Oregon public governmental agencies authorization to establish contracts or price agreements under the terms, conditions and prices of any contract between the awardee and DPL resulting from this RFP.

2.18 PERFORMANCE BOND

The successful proposer shall provide, within thirty (30) days after receiving the Notice of Award, a performance bond in an amount equal to 100% of the Contract amount and shall be dated concurrent to, or subsequent to, the date of the Contract.

2.19 PROPOSAL BOND

Each proposal shall be accompanied by a proposal bond in the amount of five percent (5%) of the proposal price. The bond is to be furnished by the company who will build the equipment proposed. Proposal bonds by salespersons, agents of the manufacturer, or persons or entities other than the manufacturer, are not acceptable.

2.20 RESERVED RIGHTS

DPL reserves the right:

- A. To reject any proposal not in compliance with all prescribed public bidding procedures and requirements.
- B. To reject for good cause any or all proposals upon DPL's written finding that it is in the public interest to do so.
- C. To reject any and all proposals not meeting or differing from the specifications set forth herein.
- D. To waive any or all informalities in the proposals submitted.
- E. To consider the competency and responsibility of proposers in making any awards.
- F. In the event that two or more proposals are identical in price, fitness, availability and quality, award shall be made in accordance with DPL Rule 137-046-0300.
- G. In the event any proposer or proposers to whom a contract is awarded shall default in executing said formal contract or in furnishing a satisfactory performance bond within the time and manner herein after specified, to re-award the contract to another proposer or proposers.
- H. To hold the three most responsive proposals and accompanying checks or bonds under consideration until the final award is made, provided that DPL shall award the contract within 180 days after the proposal opening date.
- I. To extend the deadline for submitting proposals, in according with DPL Rule 137-047-0430(3).
- J. To negotiate additions or deletions to equipment and/or services.

- K. To include liquidated damages of \$150 per day for each day the equipment/or service is not delivered as set forth in the contract, barring circumstances beyond Contractor's control.

2.21 NO WAIVER OF LEGAL RIGHTS

DPL shall not be precluded or stopped by any measurement, completion and acceptance of the work and payment therefore from showing that any such measurement, estimate or certificate is untrue or incorrectly made, or that the work or materials do not conform in fact to the contract. DPL shall not be precluded or stopped, notwithstanding any measurement, estimate, or certificate, and payment in accordance therewith, from recovering from contractor and his/her surety such damages as it may sustain by reason of his/her failure to comply with the terms of the contract. Neither the acceptance by DPL, nor any representative of DPL, nor any payment for acceptance of the whole or any party of the work, on any extension of time, nor any possession taken by DPL, shall operate as a waiver of any portion of the contract or of any power herein reserved, or any right to damages herein provided. A waiver of any breach of the contract shall not be held as a waiver of any other subsequent breach of the contract.

2.22 NEGOTIATION

DPL may negotiate specification modifications and the contract price as permitted by DPL's public contracting rules.

SECTION 3 - SCOPE OF WORK

3.1 KEY FUNCTIONALITY REQUIREMENTS

Review the information in this section, answering all specific questions and also providing us with an overview of the capabilities and functionality within your company/product/service that relate to each area.

For each area, describe how your company and your products/services will help us achieve these goals.

3.2 GENERAL INFORMATION ABOUT DESCHUTES PUBLIC LIBRARY

DPL is a publicly supported Special District serving Deschutes County in the Bend, Redmond, Sisters, Sunriver and La Pine areas. DPL currently operates six Libraries and one Administrative Office.

3.3 SCOPE OF WORK

DPL is in need of partnering with an experienced Real Estate Firm to support us over the next five years in the potential disposition and acquisition of Commercial Property for the purpose of expanding the Library. The firm or individual awarded this contract will perform complex real estate activities, including property acquisitions, appraisals, sale of District property and lessor/lessee activities.

3.4 CONTRACT PERIOD

The district intends to award one contract to the successful proposer for a term of five years. The initial term of appointment will be for five years with the option to extend for an additional five year period. The successful proposer will participate in a formal contract process with DPL where standard terms and conditions will apply.

3.6 SCOPE OF SERVICES: The firm or individual awarded the contract will possess extensive practical knowledge of the following:

- A. Federal and State real estate laws and appraisal practices.
- B. The federal Uniform Acquisition and Relocation Act.
- C. Oregon law regarding the purchase of property for public use.
- D. Basic principles of commercial real estate development
- E. Property Management practices, including leasing laws and regulations.
- F. Deschutes County and related City Zoning and Boundary plans.

Excellent oral and written communication skills are required to convey information in an effective and constructive manner to the DPL Board of Directors and District Staff. Individual and/or company shall hold and maintain proper licenses to conduct real estate activity in the State of Oregon. Certified Commercial Investment Member (CCIM) designation is desirable

DPL reserves the right to use the agents professional services only on selected real estate transactions.

3.7 ESSENTIAL FUNCTIONS:

- A. Supervise, negotiate and conduct property acquisitions, including formal and informal appraisals or selection of appraisers and appraisal reviews.
- B. Assist with any leasing of District facilities, including drafting lease documents and negotiating terms.
- C. Manage the sale of District land or improved properties.
- D. Negotiate and administer personal service contracts for appraisals, appraisal reviews and consultant and professional services.
- E. Research properties for purchase, including title investigation. Resolve issues regarding clearing titles for purchase.
- F. Attend public meetings or hearing as required.
- G. Assist with real estate planning and develop recommendations for real estate sale and purchase.
- H. Provide regular updates directly to the DPL Board of Directors and Management team.
- I. Work with Central Oregon Realtors Association (CORA) to ensure that DPL's needs are widely communicated in the interest of acquiring property that "may" become available but has not been advertised.
- J. Perform other related duties as requested.

3.8 Proposal Requirements: Proposals shall include all of the information solicited in this RFP. Responses to this RFP must include ALL proposal requirements. Respondents should not withhold any information from the written response. Such omissions will effectively cause the response to be rejected as non-responsive.

The following format and sequence should be followed in order to provide consistency in the Proposers' responses:

- A. Letter of Interest: The letter should include general information about the firm, such as: description of all services offered, the total years in business, number of employees, office location/locations etc. Include name, phone and email for authorized contract concerning proposal.

- B. Proposed Project Work Plan: Provide an outline detailing your approach and concept of the project.
- C. Key Personnel: List those persons who will have a management position working with DPL if contract is awarded.
- D. List of Similar Projects and References: Provide a list of at least three (3) similar relevant and completed projects in Central Oregon including information on the project scope, client, location, budget, common issues, services provided etc. Provide client references, including names, titles, addresses, telephone numbers and email addresses for these projects.
- E. Disclosure of any legal claims, lawsuits or professional complaints against the key personnel and/or firm within the last five (5) years based on breach of contract, negligence or professional misconduct.
- F. Submit a copy of your Real Estate Brokerage license(s) and designations for the above-mentioned individuals and/or agencies.
- G. Proposed Fees: Include a complete fee and commission schedule for all requested services.
- H. Signature of authorized company representative submitting the proposal and date..

3.9 CONFIDENTIALITY

DPL will limit distribution of full proposals to the RFP Project Team, Library Director, and the Library Board. DPL may elect to share a written summary of proposals selected for further consideration with certain library staff. DPL will not agree to a more restrictive approach to confidentiality. However, if a proposal contains any information that is considered a trade secret under ORS 192.501(2), each section of such information must be marked as a "trade secret."

SECTION 4 - PROPOSER'S RESPONSE FORM

Submitted by:

Address:

Date:

Phone number:

Fax:

E-Mail:

The undersigned, through the formal submittal of this proposal response, declares that proposer has examined all related proposal documents and read the instruction and conditions, and hereby proposes to respond in accordance with the proposal documents herein, for the price set forth in the proposal submittal attached hereto, and forming a part of this proposal.

By proposer's signature below, proposer hereby represents as follows:

(a) That no Director, officer, agent or employee of Deschutes Public Library District (DPL) is personally interested directly or indirectly in this contract or the compensation to be paid hereunder, and that no representation, statement or statements, oral or in writing, of DPL, its Directors, officers, agents, or employees had induced him to enter into this contract and the papers made a part hereof by its terms;

(b) The proposer and each person signing on behalf of any proposer certifies, in the case of a joint proposal, each party thereto, certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief:

1. The prices in the proposal have been arrived at independently, without collusion, consultation, communication, or agreement for the purpose of restraining competition as to any matter relating to such prices with any other proposer or with any competitor;
2. Unless otherwise required by law, the prices which have been quoted in the proposal have not been knowingly disclosed by the proposer prior to the proposal deadline, either directly or indirectly, to any other proposer or competitor;
3. No attempt has been made nor will be made by the proposer to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restraining trade;
4. Proposer has not and will not discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a minority, woman or emerging small business enterprise certified under ORS 200.055, or against a business enterprise that is owned or controlled by, or that employees a disabled veteran as defined in ORS 408.225;
5. The proposer agrees to accept as full payment for the services specified herein, the amount as shown in its proposal;
6. Proposer is a resident proposer, as defined in ORS 279A.120;

7. Proposer hereby agrees to comply with all applicable Oregon Public Contracting Code provisions, as more specifically described in the associated exhibits.

The names of the principal officers of the corporation submitting this proposal, or of the partnership, or of all persons interested in this proposal as principals are as follows:

Name Title

Name Title

Name Title

(If Sole Proprietor or Partnership)

In witness hereto, the undersigned has set his (its) hand on this ___ day of _____, 2017

Name of Firm

Signature of Proposer

Phone, email, and fax

(If Corporation)

In witness whereof the undersigned corporation has caused this instrument to be executed by its duly authorized officers on this ___ day of _____, 2017

Name of Corporation

By

Title

CONTRACT MANAGER:

Name Title:

Telephone number:

Email and fax number

Additional Information:

1. Is your company currently for sale or involved in any transactions to expand or be acquired by another organization? If so, explain.
2. Has your company been involved in a merger, acquisition or reorganization in the last five years? If so, describe.
3. Number of years in businesses related to the systems and services outlined in this RFP.

4. Company-wide annual sales volume.
5. Number of employees.
6. What is your data privacy policy?
7. Describe your history as a trusted partner to libraries, museums, archives or similar cultural institutions.
8. What sets your company apart from that of other Realtors offering the same service?

PROPOSAL CONTENTS AND FORMAT

4.1 INSTRUCTIONS

Proposers must submit a proposal using the Proposer's Response Form, section 4, and observe the following submission instructions:

- 4.1.1. Proposals must be submitted in a sealed envelope bearing on the outside the name and address of the proposer, the name of the project for which the proposal is submitted and the time and date of the scheduled opening.
- 4.1.2. If the proposal is forwarded by mail, the sealed envelope containing the proposal and marked as directed above, must be enclosed in another envelope addressed to Denise Senner, Business Services Manager Administrative Office, Deschutes Public Library, 507 NW Wall St., Bend, OR 97703.
- 4.1.3. **Four** copies of the proposal are to be supplied. One set of signed originals shall be included and clearly identified as such.
- 4.1.4. DPL reserves the right to solicit additional information or proposal clarification from the proposers, or any one proposer, should DPL deem such information necessary.
- 4.1.5. All questions regarding the request for proposal process shall be directed, during regular business hours, to:

Denise Senner

Business Services Manager

541-312-1036

denises@deschuteslibrary.org

- 4.1.6. If a proposer is unable or unwilling to meet any DPL RFP requirement, an explicit statement to that effect must be made in the proposal as an exception. An alternative must be submitted.
- 4.1.7. This Request for Proposals and all supplemental information in response to this RFP will be a binding part of the final contract entered into by the selected proposer and DPL.
- 4.1.8. If a proposal is accepted and the contract is awarded, but the proposer fails or neglects to execute the contract or provide the required bond within ten (10) days after award, the proceeds of the proposal bond may be retained by DPL as liquidated damages for such failure or neglect. As the damages involved herein would be difficult to ascertain, the parties are setting the damages in this manner, both agreeing that the bond proceeds would represent DPL's actual damages and would not be assessed as a form of penalty.

4.2 SUBMISSION

PROPOSAL RESPONSES ARE TO BE SUBMITTED IN A SEALED ENVELOPE: CLEARLY MARKED: "CONFIDENTIAL: REAL ESTATE AGENT OF RECORD". The responses are to be delivered unopened to DPL Administration, per instructions in this RFP.

SECTION 5 - SELECTION CRITERIA AND AWARD

5.1 CRITERIA FOR EVALUATION

The following criteria shall be used to evaluate the proposals:

A. Experience of the proposing firm including persons proposed for this project	20
B. Proposing firms client references	20
C. Understanding of the overall needs of the District as presented in this proposal	20
D. Price	40

Evaluation of the Proposals will be conducted by the RFP Project Team. The team will evaluate all responsive Proposals received from Proposers who meet or exceed the requirements contained in the RFP based upon the information and references contained in the Proposals as submitted. The team reserves the right to conduct interviews and/or demonstrations with the top scoring proposers. If held, interviews will be conducted separately and the Evaluation Committee will rank the interviewed proposers. Only the interview and resulting ranking will be considered in the selection of the vendor.

5.2 EXCEPTIONS

Proposers shall identify any exceptions taken to this RFP by specific item number

5.3 PROPOSAL EVALUATION PROCESS:

Only those proposals providing sufficient information for DPL to evaluate the criteria set forth in Section 5.1 will be deemed responsive. The RFP project team will rank responsive proposals and provide a recommendation to DPL Library Board. The Library Board may undertake negotiations as permitted by DPL Rule 137-047-0600(2). If awarded, DPL will award to the proposer whose proposal will best serve the interests of DPL, based upon scoring and negotiation results.

5.4 CONTRACT AWARD

Submittal of a proposal evidences proposer's intent to execute and be bound by the terms of the attached contract. DPL will enter into contract negotiations regarding any open terms with the highest ranked proposer. During negotiations DPL may require any additional information it deems necessary to clarify the approach and understanding of the requested services. Any changes agreed upon during contract negotiations will become part of the final contract. The negotiations will identify a level of work and associated fee that best represents the efforts required. If DPL is unable to come to terms with the highest rated proposer, discussions shall be terminated and negotiations will begin with the next highest rated proposer. DPL may reject any and all proposals.

EXHIBIT A

DPL Rule 137-047-0300

Public Notice of Solicitation Documents

(1) **Notice of Solicitation Documents; Fee.** A Contracting Agency shall provide public notice of every Solicitation Document in accordance with section (2) of this rule. The Contracting Agency may give additional notice using any method it determines appropriate to foster and promote competition, including:

- (a) Mailing notice of the availability of the Solicitation Document to Persons that have expressed an interest in the Contracting Agency's Procurements; or
- (b) Placing notice on the Contracting Agency's Electronic Procurement System; or
- (c) Placing notice on the Contracting Agency's Internet World Wide Web site.

(2) **Advertising.** A Contracting Agency shall advertise every notice of a Solicitation Document as follows:

- (a) The Contracting Agency shall publish the advertisement for Offers in accordance with the requirements of ORS 279B.055(4) and 279B.060(5); or
- (b) A Contracting Agency may publish the advertisement for Offers on the Contracting Agency's Electronic Procurement System instead of publishing notice in a newspaper of general circulation as required by ORS 279B.055(4)(b).

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(3) **Content of Advertisement.** All advertisements for Offers shall set forth:

- (a) Where, when, how, and for how long the Solicitation Document may be obtained;
- (b) A general description of the Goods or Services to be acquired;
- (c) The interval between the first date of notice of the Solicitation Document given in accordance with subsection 2(a) or (b) above and Closing, which shall not be less than fourteen (14) Days for an Invitation to Bid and thirty (30) Days for a Request for Proposals, unless the Contracting Agency determines that a shorter interval is in the public's interest, and that a shorter interval will not substantially affect competition. However, in no event shall the interval between the first date of notice of the Solicitation Document given in accordance with subsection 2(a) or (b) above and Closing be less than seven (7) Days as set forth in ORS 279B.055(4)(f). The Contracting Agency shall document the specific reasons for the shorter public notice period in the Procurement file;
- (d) The date that Persons must file applications for prequalification if prequalification is a requirement and the class or classes of Goods or Services for which Persons must be prequalified;
- (e) The office where Contract terms, conditions and Specifications may be reviewed;
- (f) The name, title and address of the individual authorized by the Contracting Agency to receive Offers;
- (g) The scheduled Opening; and
- (h) Any other information the Contracting Agency deems appropriate, including the date, time, and place of any mandatory or voluntary pre-Offer conference, and the fee, if any, to be charged for requested copies of the Solicitation Document.

(4) **Posting Advertisement for Offers.** The Contracting Agency may post a copy of each advertisement for Offers at the principal business office of the Contracting Agency. An Offeror may obtain a copy of the advertisement for Offers upon request.

(5) **Fees.** The Contracting Agency may charge a fee or require a deposit for the Solicitation Document.

(6) **Notice of Addenda.** The Contracting Agency shall provide potential Offerors notice of any Addenda to a Solicitation Document in accordance with Rule 137-047-0430.

Stat. Auth.: ORS 279A.065, ORS 279B.055 & ORS 279B.060

- i. Stats. Implemented: ORS 279B.055 & ORS 279B.060

EXHIBIT B

DPL Rule 137-047-0440

Offer Preparation

(1) **Instructions.** An Offeror shall submit and Sign its Offer in accordance with the instructions set forth in the Solicitation Document. An Offeror shall initial and submit any correction or erasure to its Offer prior to Opening in accordance with the requirements for submitting an Offer set forth in the Solicitation Document.

(2) **Forms.** An Offeror shall submit its Offer on the form(s) provided in the Solicitation Document, unless an Offeror is otherwise instructed in the Solicitation Document.

(3) **Documents.** An Offeror shall provide the Contracting Agency with all documents and descriptive literature required by the Solicitation Document.

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(4) **Electronic Submissions.** If the Solicitation Document permitted Electronic Offers under Rule 137-047-0330, an Offeror may submit its Offer electronically. The Contracting Agency shall not consider Electronic Offers unless authorized by the Solicitation Document.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065

EXHIBIT C

DPL Rule 137-047-0440

Pre-Closing Modification or Withdrawal of Offers

(1) **Modifications.** An Offeror may modify its Offer in Writing prior to the Closing. An Offeror shall prepare and submit any modification to its Offer to the Contracting Agency in accordance with Rules 137-047-0400 and 137-047-0410, unless otherwise specified in the Solicitation Document. The Offeror shall mark the submitted modification as follows:

- (a) Bid (or Proposal) Modification; and
- (b) Solicitation Document Number (or other identification as specified in the Solicitation Document).

(2) **Withdrawals.**

(a) An Offeror may withdraw its Offer by Written notice submitted on the Offeror's letterhead, Signed by an authorized representative of the Offeror, delivered to the individual and location specified in the Solicitation Document (or the place of Closing if no location is specified), and received by the Contracting Agency prior to the Closing. The Offeror or authorized representative of the Offeror may also withdraw its Offer in person prior to the Closing, upon presentation of appropriate identification and evidence of authority satisfactory to the Contracting Agency.

(b) The Contracting Agency may release an unopened Offer withdrawn under subsection 2(a) of this rule to the Offeror or its authorized representative, after voiding any date and time stamp mark.

(c) The Offeror shall mark the Written request to withdraw an Offer as follows:

- (A) Bid (or Proposal) Withdrawal; and
- (B) Solicitation Document Number (or Other Identification as specified in the Solicitation Document).

(3) **Documentation.** The Contracting Agency shall include all documents relating to the modification or withdrawal of Offers in the appropriate Procurement file.

Stat. Auth.: ORS 279A.065 & ORS 279B.055

Stats. Implemented: ORS 279B.055

EXHIBIT D

DPL Rule 137-047-0730

Protests and Judicial Review of Solicitations

(1) Purpose.

(a) A prospective Offeror may protest the Procurement process or the Solicitation Document for a Contract solicited under ORS 279B.055, 279B.060 and 279B.085 as set forth in ORS 279B.405(2). Pursuant to ORS 279B.405(3), before seeking judicial review, a prospective Offeror must file a Written protest with the Contracting Agency and exhaust all administrative remedies.

(b) Specific Special Procurements. Notwithstanding section 1(a) of this rule, a Person may not protest, challenge, or review approval of a Special Procurement except in conformance with ORS 279B.400.

(2) Delivery. Unless otherwise specified in the Solicitation Document, a prospective Offeror must deliver a Written protest to the Contracting Agency not less than ten (10) Days prior to Closing.

(3) Content of Protest. In addition to the information required by ORS 279B.405(4), a prospective Offeror's Written protest shall include a statement of the desired changes to the Procurement process or the Solicitation Document that the prospective Offeror believes will remedy the conditions upon which the prospective Offeror based its protest.

(4) Contracting Agency Response. The Contracting Agency shall not consider a Prospective Offeror's solicitation protest submitted after the timeline established for submitting such protest under this rule, or such different time period as may be provided in the Solicitation Document. The Contracting Agency shall consider the protest if it is timely filed and meets the conditions set forth in ORS 279B.405(4). The Contracting Agency shall issue a Written disposition of the protest in accordance with the timeline set forth in ORS 279B.405(6). If the Contracting Agency upholds the protest, in whole or in part, the Contracting Agency may in its sole discretion either issue an Addendum reflecting its disposition under Rule 137-047-0430 or cancel the Procurement or solicitation under Rule 137-047-0660.

(5) Extension of Closing. If the Contracting Agency receives a protest from a prospective Offeror in accordance with this rule, the Contracting Agency may extend Closing if the Contracting Agency determines an extension is necessary to consider and respond to the protest.

(6) Clarification. Prior to the deadline for submitting a protest, a prospective Offeror may request that the Contracting Agency clarify any provision of the Solicitation Document. The Contracting Agency's clarification to an Offeror, whether orally or in Writing, does not change the Solicitation Document and is not binding on the Contracting Agency unless the Contracting Agency amends the Solicitation Document by Addendum.

(7) Judicial Review. Judicial review of the Contracting Agency's decision relating to a solicitation protest shall be in accordance with ORS 279B.405.

Stat. Auth.: ORS 279A.065 & ORS 279B.405

Stats. Implemented: ORS 279B.405

EXHIBIT E

DPL Rule 137-047-0740

Protests and Judicial Review of Contract Award

(1) **Purpose.** An Offeror may protest the Award of a Contract, or the intent to Award of a Contract, whichever occurs first, if the conditions set forth in ORS 279B.410(1) are satisfied. An Offeror must file a Written protest with the Contracting Agency and exhaust all administrative remedies before seeking judicial

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review of the Contracting Agency's Contract Award decision. These administrative remedies apply to all public contracts awarded by Contracting Agency, including those awarded pursuant to an intermediate procurement.

(2) **Delivery.** Unless otherwise specified in the Solicitation Document, an Offeror must deliver a Written protest to the Contracting Agency within seven (7) Days after issuance of the notice of intent to Award the Contract, or Award of a Contract, whichever occurs first.

(3) **Content of Protest.** An Offeror's Written protest shall specify the grounds for the protest to be considered by the Contracting Agency pursuant to ORS 279B.410(2).

(4) **Contracting Agency Response.** The Contracting Agency shall not consider an Offeror's Contract Award protest submitted after the timeline established for submitting such protest under this rule, or such different time period as may be provided in the Solicitation Document. The Contracting Agency shall issue a Written disposition of the protest in a timely manner as set forth in ORS 279B.410(4). If the Contracting Agency upholds the protest, in whole or in part, the Contracting Agency may in its sole discretion either Award the Contract to the successful protestor or cancel the Procurement or solicitation.

(5) **Judicial Review.** Judicial review of the Contracting Agency's decision relating to a Contract Award protest shall be in accordance with ORS 279B.415.

Stat. Auth.: ORS 279A.065 & ORS 279B.410

Stats. Implemented: ORS 279B.410 & ORS 279B.415.

EHIBIT F

DPL Rule 137-046-0300

Preference for Oregon Goods and Services; Nonresident Bidders

(1) **Award When Offers Identical.** When a Contracting Agency receives Offers identical in price, fitness, availability and quality, and chooses to award a Contract, the Contracting Agency shall award the Contract based on the following order of precedence:

- (a) The Agency shall award the Contract to the Offeror among those submitting identical offers that is offering Goods or Services or Personal Services that have been manufactured or produced in Oregon.
- (b) If two or more Offerors submit identical Offers, and both offer Goods or Services or Personal Services manufactured or produced in Oregon, the Contracting Agency shall award the Contract by drawing lots among the identical Offers offering Goods or Services or Personal Services that have been manufactured or

5 produced in Oregon. The Offerors that submitted the identical Offers subject to the drawing of lots shall be given notice and an opportunity to be present when the lots are drawn.

(c) If the Contracting Agency receives identical Offers, and none of the identical Offers offer Goods or Services or Personal Services manufactured or produced in Oregon, then the Contracting Agency shall award the Contract by drawing lots among the identical Offers. The Offerors that submitted the identical Offers subject to the drawing of lots shall be given notice and an opportunity to be present when the lots are drawn.

(2) **Determining if Offers are Identical.** A Contracting Agency shall consider Offers identical in price, fitness, availability and quality as follows:

(a) Bids received in response to an Invitation to Bid are identical in price, fitness, availability and quality if the Bids are Responsive, and offer the Goods or Services or Personal Services described in the Invitation to Bid at the same price.

(b) Proposals received in response to a Request for Proposals are identical in price, fitness, availability and quality if they are Responsive and achieve equal scores when scored in accordance with the evaluation criteria set forth in the Request for Proposals.

(c) Proposals received in response to a Special Procurement conducted pursuant to ORS 279B.085 are identical in price, fitness, availability and quality if, after completing the contracting procedure approved by the Contract Review Authority, the Contracting Agency determines, in writing, that two or more Proposals are equally advantageous to the Contracting Agency.

(d) Offers received in response to an intermediate Procurement conducted pursuant to ORS 279B.070 are identical if the Offers equally best serve the interests of the Contracting Agency in accordance with ORS 279B.070(4).

(3) **Determining if Goods or Services or Personal Services are Manufactured or Produced in Oregon.**

For the purposes of complying with section 1 of this Rule, Contracting Agencies may request, either in a Solicitation Document, following Closing, or at any other time determined appropriate by the Contracting Agency, any information the Contracting Agency determines is appropriate and necessary to allow the Contracting Agency to determine if the Goods or Services or Personal Services are manufactured or produced in Oregon. A Contracting Agency may use any reasonable criteria to determine if Goods or Services or Personal Services are manufactured or produced in Oregon, provided that the criteria reasonably relate to that determination, and provided that the Contracting Agency applies those criteria equally to each Bidder or Proposer.

(4) **Procedure for Drawing Lots.** In any instance when this Section calls for the drawing of lots, the Contracting Agency shall draw lots by a procedure that affords each Offeror subject to the drawing a substantially equal probability of being selected, and that does not allow the person making the selection the opportunity to manipulate the drawing of lots to increase the probability of selecting one Offeror over another.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.120

EXHIBIT G

DPL Rule 137-047-0430

Addenda to Solicitation Document

(1) **Issuance; Receipt.** The Contracting Agency may change a Solicitation Document only by Written Addenda. An Offeror shall provide Written acknowledgment of receipt of all issued Addenda with its Offer, unless the Contracting Agency otherwise specifies in the Addenda.

(2) **Notice and Distribution.** The Contracting Agency shall notify prospective Offerors of Addenda in a manner intended to foster competition and to make prospective Offerors aware of the Addenda. The Solicitation Document shall specify how the Contracting Agency will provide notice of Addenda and how the Contracting Agency will make the Addenda available before Closing, and at each subsequent step or tier of evaluation if the Contracting Agency will engage in a multistep competitive sealed Bid process in accordance with Rule 137-047-0257, or a multi-tiered or multistep competitive sealed Proposal process in accordance with Rules 137-047-0261 through 137-047-0263. The following is an example of how a Contracting Agency may specify how it will provide notice of Addenda: "Contracting Agency will not mail notice of Addenda, but will publish notice of any Addenda on Contracting Agency's web site. Addenda may be downloaded off the Contracting Agency's web site. Offerors should frequently check the Contracting

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Agency's web site until Closing, i.e., at least once weekly until the week of Closing and at least once daily the week of the Closing."

(3) **Timelines; Extensions.**

(a) The Contracting Agency shall issue Addenda within a reasonable time to allow prospective Offerors to consider the Addenda in preparing their Offers. The Contracting Agency may extend the Closing if the Contracting Agency determines prospective Offerors need additional time to review and respond to Addenda. Except to the extent required by a countervailing public interest, the Contracting Agency shall not issue Addenda less than 72 hours before the Closing unless the Addendum also extends the Closing.

(b) Notwithstanding subsection 3(a) of this rule, an Addendum that modifies the evaluation criteria, selection process or procedure for any tier of competition under a multistep sealed Bid or a multi-tiered or multistep sealed Proposal issued in accordance with ORS 279B.060(6)(d) and Rules 137-047-0261 through 137-047-0263 must be issued no fewer than five (5) Days before the beginning of that tier or step of competition, unless the Contracting Agency determines that a shorter period is sufficient to allow Offerors to prepare for that tier or step of competition. The Contracting Agency shall document the factors it considered in making that determination, which may include, without limitation, the scope of the changes to the Solicitation Document, the location of the remaining eligible Proposers, or whether shortening the period between issuing an Addendum and the beginning of the next tier or step of competition favors or disfavors any particular Proposer or Proposers.

(4) **Request for Change or Protest.** Unless a different deadline is set forth in the Addendum, an Offeror may submit a Written request for change or protest to the Addendum, as provided in Rule 137-047-0730, by the close of the Contracting Agency's next business day after issuance of the Addendum, or up to the last day allowed to submit a request for change or protest under Rule 137-047-0730, whichever date is later. If the date established in the previous sentence falls after the deadline for receiving protests to the Solicitation Document in accordance with Rule 137-047-0730, then the Contracting Agency may consider an Offeror's request for change or protest to the Addendum only, and the Contracting Agency shall not consider a request for change or protest to matters not added or modified by the Addendum. Notwithstanding any provision of this section (4) of this rule, a Contracting Agency is not required to provide a protest period for Addenda issued after initial Closing during a multi-tier or multistep Procurement process conducted pursuant to ORS 279B.055 or ORS 279B.060.

Stat. Auth.: ORS 279A.065 & ORS 279B.060

Stats. Implemented: ORS 279B.060

EXHIBIT H

DPL Rule 137-046-0300

Preference for Oregon Goods and Services; Nonresident Bidders

(1) **Award When Offers Identical.** When a Contracting Agency receives Offers identical in price, fitness, availability and quality, and chooses to award a Contract, the Contracting Agency shall award the Contract based on the following order of precedence:

(a) The Agency shall award the Contract to the Offeror among those submitting identical offers that is offering Goods or Services or Personal Services that have been manufactured or produced in Oregon.

(b) If two or more Offerors submit identical Offers, and both offer Goods or Services or Personal Services manufactured or produced in Oregon, the Contracting Agency shall award the Contract by drawing lots among the identical Offers offering Goods or Services or Personal Services that have been manufactured or

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produced in Oregon. The Offerors that submitted the identical Offers subject to the drawing of lots shall be given notice and an opportunity to be present when the lots are drawn.

(c) If the Contracting Agency receives identical Offers, and none of the identical Offers offer Goods or Services or Personal Services manufactured or produced in Oregon, then the Contracting Agency shall award the Contract by drawing lots among the identical Offers. The Offerors that submitted the identical Offers subject to the drawing of lots shall be given notice and an opportunity to be present when the lots are drawn.

(2) **Determining if Offers are Identical.** A Contracting Agency shall consider Offers identical in price, fitness, availability and quality as follows:

(a) Bids received in response to an Invitation to Bid are identical in price, fitness, availability and quality if the Bids are Responsive, and offer the Goods or Services or Personal Services described in the Invitation to Bid at the same price.

(b) Proposals received in response to a Request for Proposals are identical in price, fitness, availability and quality if they are Responsive and achieve equal scores when scored in accordance with the evaluation criteria set forth in the Request for Proposals.

(c) Proposals received in response to a Special Procurement conducted pursuant to ORS 279B.085 are identical in price, fitness, availability and quality if, after completing the contracting procedure approved by the Contract Review Authority, the Contracting Agency determines, in writing, that two or more Proposals are equally advantageous to the Contracting Agency.

(d) Offers received in response to an intermediate Procurement conducted pursuant to ORS 279B.070 are identical if the Offers equally best serve the interests of the Contracting Agency in accordance with ORS 279B.070(4).

(3) **Determining if Goods or Services or Personal Services are Manufactured or Produced in Oregon.**

For the purposes of complying with section 1 of this Rule, Contracting Agencies may request, either in a Solicitation Document, following Closing, or at any other time determined appropriate by the Contracting Agency, any information the Contracting Agency determines is appropriate and necessary to allow the Contracting Agency to determine if the Goods or Services or Personal Services are manufactured or produced in Oregon. A Contracting Agency may use any reasonable criteria to determine if Goods or Services or Personal Services are manufactured or produced in Oregon, provided that the criteria reasonably relate to that determination, and provided that the Contracting Agency applies those criteria equally to each Bidder or Proposer.

(4) **Procedure for Drawing Lots.** In any instance when this Section calls for the drawing of lots, the Contracting Agency shall draw lots by a procedure that affords each Offeror subject to the drawing a substantially equal probability of being selected, and that does not allow the person making the selection the opportunity to manipulate the drawing of lots to increase the probability of selecting one Offeror over another.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.120