CITY OF SISTERS

ORDINANCE NO. 379

AN ORDINANCE OF THE CITY OF SISTERS AMENDING THE SISTERS MUNICIPAL CODE RELATING TO PUBLIC CONTRACTING AND DECLARING AN EMERGENCY

WHEREAS: The Oregon Revised Statutes provide for alternative contracting methods for public procurements and improvements as a means of providing greater flexibility for local governmental bodies; and

WHEREAS: The City of Sisters previously revised its code to incorporate some of the provisions available under state law; in particular the availability of intermediate procurement and improvement contracting options, and

WHEREAS: The City of Sisters has determined that the availability to contract using the intermediate procurement and intermediate improvement contracting methods results is significant cost and time savings for the City, and the City desires to amend its code provisions to increase the availability of the intermediate procurement option for the City;

NOW, THEREFORE, THE CITY OF SISTERS ORDAINS AS FOLLOWS:

Section 1. The Sisters Municipal Code Section 2.32 is repealed and adopted to read as follows:

2.32.010 Definitions. For the purposes of this chapter, the following words and phrases shall have the following meanings:

(1) "Board" means the local contract review board as established in Section 2.32.020.

(2) "Informal price quote" means the procedure whereby the City Manager ascertains by correspondence, telephone calls, or by direct contact the various prices for the items involved, quoted by a number of reliable firms that shall have the item for sale. The City Manager *or the Manager's designee* shall maintain all records and evidence of such informal bids.

(3) "Public contract" means any purchase, lease, or sale by the city of personal property, public improvements or services other than agreements, which are exclusively for personal services.

(4) "Public improvement" means any construction or improvements on real property by or for the City.

2.32.020 Contract Review Board. The City Council of the City of Sisters is designated as the Local Contract Review Board. The Local Contract Review Board may delegate its powers and

responsibilities consistent with ORS 279A, 279B, and 279C, the Oregon Public Contracting Code, the Attorney General's Model Rules, and the Sisters Municipal Code.

2.32.022 Contracting Agency. The City Manager is designated as the City's Contracting Agency and is further designated as the Purchasing Agent for the City of Sisters. The City Manager or the Manager's designee is delegated and is authorized to exercise all authorities granted by ORS 279A, 279B, and 279C, the Attorney General's Model Rules, and by ordinance or resolution.

2.32.024 Model Rules. Except as provided in this chapter, or by subsequent ordinance or resolution, the Model Rules adopted by the Attorney General under ORS 279A, 279B, and 279C, as they now exist, and as they may be amended in the future, are hereby adopted as the City's public contracting rules.

2.32.026 Contracting Authority. The City Manager *and the Contract Review Board* shall have contracting authority as follows:

(1) Small Procurements *and Improvements*. *The City Manager is authorized* to enter into contracts for procurement of goods, services, *or improvements* not to exceed $5,000 by any manner deemed practical or convenient by the City Manager, including by direct selection or award.

(2) Intermediate Procurements *and Improvements*. *The City Manager is authorized t*o enter into contracts for procurement of goods, services, or improvements not to exceed $25,000 by seeking at least three informally solicited competitive price quotes or competitive proposals from prospective contractors. *The Contract Review Board is authorized to enter into contracts for procurement of goods, services, or improvements not to exceed $50,000 by seeking at least three informally solicited competitive price quotes or competitive proposals from prospective contractors*. The City Manager *or the Contract Review Board* shall keep a written record of the sources of the quotes or proposals received. If three quotes or proposals are not reasonably available, fewer may be accepted, but the City Manager *or the Contract Review Board* shall make a written record of the effort made to obtain the quotes or proposals.

(3) Sole Source. To enter into contracts for goods or services without competition when the Board determines in writing and in accordance with any applicable rules that the goods or services, or class of goods or services, are available from only one source.

(4) Emergency Procurements. To enter into contracts for the emergency procurement of goods or services when an emergency exists. The City Manager shall document the nature of the emergency and describe the method used for the selection of the particular contractor.

2.32.030 Competitive Bids Exemption.

All public contracts and public improvements shall be based on competitive bids or proposals except:

(1) Purchase through federal programs as provided by ORS 279A.180 or otherwise made with or the cost of which is provided by other public agencies or the federal government;

(2) Contracts for any item that is available only through one company, firm or individual, with the determination of a sole source based on written findings consistent with state law;

(3) Contracts for any purchase may be made *by as a special procurement* where the local contract review board has determined that the awarding of the contract without competitive *bidding is unlikely to encourage favoritism in the awarding of public contracts, is unlikely to substantially diminish competition for public contracts, and is reasonably likely to result in substantial cost savings to the City or otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with the public bidding or proposal requirements.*

(4) Emergency contracts provided that the Board complies with any requirements of ORS 2790A, 279B, 279C and the Model Rules in making the exemption.

(5) Any other contract (including sole source and brand name specification contracts) where the public interest would be promoted by exemption the contract from the competitive bidding process, provided that the Board complies with any requirements of ORS 2790A, 279B, 279C and the Model Rules in making the exemption.

(6) Any other contract exempted by state law or the Model Rules.

2.32.070 Bid Rejection. The board may reject any bid not in compliance with all prescribed public bidding procedures and requirements and may reject all bids if it is in the public interest to do so.

2.32.080 Bidder Disqualification. The board may disqualify any bidder on a contract if:

(1) The bidder does not have sufficient financial ability to perform the contract. Evidence that the person can acquire a surety bond in the amount and type required shall be sufficient to establish financial ability;

(2) The bidder does not have equipment available to perform the contract; or

(3) The bidder does not have personnel of sufficient experience to perform the contract; or

(5) The bidder has breached contractual obligations to public and private contracting agencies.

(6) For such other reasons as may be allowed by statute or rule.

2.32.090 Appeal of Disqualification. A bidder who has been disqualified may appeal such disqualification to the board as follows:

(1) The bidder shall, within three (3) business days from receipt of notice of

disqualification, notify the city manager in writing that they wish to appeal the disqualification.

(2) Upon receipt of such written notice of appeal, the city manager shall inform the board.

(3) Upon receipt of the notice of appeal, the board shall notify the person appealing of the time and place of the hearing.

(4) The board shall conduct the hearing according to the statutory requirement and decide the appeal within ten (10) days after receiving the notification and shall set forth in writing the reasons for its decisions.

2.32.100 Additional Authority. In addition to the powers and duties established by this chapter, the board shall have such additional powers as authorized by state law and administrative rule.

2.32.110 Surplus Property: The City Manager shall have the authority to dispose of surplus property by any means determined to be in the best interest of the City, including but not limited to, transfer to other departments, government agencies, non-profit organizations, sale, trade, auction, or destruction, provided however that disposal of personal property have a residual value of more than $1,000 shall be subject to authorization by the Board.

2.32.120 Personal Services Contracts:

Personal services contracts are those that require specialized technical, creative, professional or communication skills and knowledge, and that the quality of services depends on attributes that are unique to the service provider. Such services include architects, engineers, attorneys, auditors and other licensed professionals, artists, computer programmers, consultants, property managers and such other services as may be designated as personal services by the Board.

The City Manager is authorized to set the selection criteria for any personal services contract. However, the criteria should included consideration of the contractor's education, experience, and capability to perform the work.

Section 2 - Effective Date.

The City Council declares it is necessary for the preservation of the public health, welfare and safety for this Ordinance to have immediate effect.

Passed by the Common Council of the City of Sisters and Approved by the Mayor this 8th day of May, 2008.

Mayor

ATTEST:

Kathy Nelson

City Recorder