



# CITY COUNCIL STUDY SESSION AGENDA

June 29, 2016  
12:00 p.m. to 1:15 p.m.

Marc D. Tall, Mayor  
Ronald J. Beauchamp, Mayor Pro-Tem  
Patricia A. Baribeau, Council Member  
Ralph B. Blasier, Council Member  
Michael R. Sattem, Council Member

James V. O'Toole, City Manager  
Robert S. Richards, CMC, City Clerk  
Ralph B.K. Peterson, City Attorney

## Catherine Bonifas Civic Center - 225 North 21<sup>st</sup>. Street - Escanaba, MI 49829

The Council has adopted a policy to use a Consent Agenda, when appropriate. All items listed with an asterisk (\*) are considered routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member or citizen so requests, in which event the item will be removed from the General Order of Business and considered in its normal sequence on the Agenda.

### Study Session - Catherine Bonifas Civic Center

Wednesday, June 29, 2016, 12:00 p.m. to 1:15 p.m.

CALL TO ORDER  
ROLL CALL  
APPROVAL/ADJUSTMENTS TO THE AGENDA  
CONFLICT OF INTEREST DECLARATION

#### NEW BUSINESS

1. **Review/Discussion - Revised Purchasing Policy and Procedures Manual.**  
**Explanation:** Administration will lead a review and discussion concerning a revised Purchasing Policy and Procedure Manual.

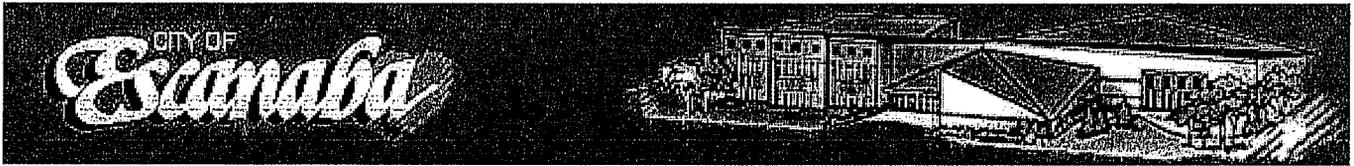
GENERAL PUBLIC COMMENT  
ANNOUNCEMENTS  
ADJOURNMENT

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'J. O'Toole', is written over a horizontal line.

James V. O'Toole  
City Manager

PLEASE NOTE THAT THE MEETING IS BEING CONDUCTED AT THE CATHERINE BONIFAS CIVIC CENTER,  
225 NORTH 21<sup>ST</sup>. STREET.



**COUNTY OF DELTA**

**STATE OF MICHIGAN**

**NOTICE OF CITY COUNCIL STUDY SESSION**

PLEASE TAKE NOTICE that a Study Session will be conducted by the Escanaba City Council on June 29, 2016; 12:00 p.m. Civic Center, Main Meeting Room, 225 North 21<sup>st</sup> Street, Escanaba, Michigan. The purpose of the meeting will be to review a revision to the City Purchasing Policy, and/or act on any other items to be brought up by Council.

**June 29, 2016; 12:00 p.m.,  
Civic Center, Main Meeting Room, 225 North 21<sup>st</sup> Street**

This notice is given in accordance with Act 267 of the 1976 Public Acts of State of Michigan and Chapter II, Section 5, of the Escanaba City Charter.

The City of Escanaba will provide necessary, reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting/hearing upon five (5) days notice to the City of Escanaba. Individuals with disabilities requiring auxiliary aids or services should contact the City of Escanaba by writing or calling the below named City Clerk.

Public notice will be given regarding any changes of the above meeting.

James V. O'Toole, City Manager  
(906) 786-9402

or

Robert S. Richards, CMC  
(906) 786-1194  
410 Ludington Street  
Escanaba, MI 49829

RSR/bms  
Posted 6/8/2016 11:03 AM



**OFFICIAL PROCEEDINGS  
CITY COUNCIL  
CITY OF ESCANABA, MICHIGAN  
Study Session Meeting  
Tuesday, December 9, 2014**

Pursuit to a special meeting notice posted November 19, 2014, the meeting was called to order by the Honorable Mayor Marc D. Tall at 8:00 a.m. in the Council Chambers of City Hall located at 410 Ludington Street.

Present: Mayor Marc D. Tall, Council Members, Patricia A. Baribeau, Ronald J. Beauchamp, Ralph B. Blasier, and Michael R. Sattem.

Absent: None

Also Present: City Manager James V. O'Toole, City Clerk Richards, and media.

**ADJUSTMENTS TO THE AGENDA**

Blasier moved, Beauchamp seconded, to approve the agenda as submitted.

**CONFLICT OF INTEREST DECLARATION** – None

**BRIEF PUBLIC COMMENT** – None

**NEW BUSINESS**

**Discussion – City Purchasing Policy.**

Administration led a discussion with Council Members regarding the possibility of updating the City of Escanaba Purchasing Policy involving the buying of goods and services. The following was discussed:

- Reviewed the history of City purchasing. Purchasing Department was dissolved back in 2005. Department Heads currently made their own purchases following the \$6,000 spending limit;
- In the current economy, the spending limit of \$6,000 hampered Department Heads in today's purchasing requirements;
- Manager O'Toole reviewed current purchasing practices that were involved with purchases over the current ordinance limit of \$6,000. With the current time requirements, the whole bid process could take as long as 6 weeks. The current spending limit, in certain instances, did not allow departments to respond appropriately or efficiently;
- A proposed revised purchasing practice was reviewed with Council. (See attachment – A);
- Relaxing of Council oversight would be more efficient. Council members already reviewed and approved Departmental purchasing requests during the annual budget hearings;
- There were two issues, the purchasing process and City Council approval;

- City Controller Mike Dewar reviewed history of ordinance amendments that led to the 1992 Ordinance amendment of a spending limit of \$6,000 for approval;
- Relaxing of Council oversight would be appropriate as long as Council reviewed the proposed purchases during the annual budget process. Administration recommended increasing the budget purchasing limit. An increase would allow Departments to function more efficiently in the current economy;
- A revised spending limit of \$25,000 was discussed. Administration stated the proposed \$25,000 amount would allow the Electric and Water/Wastewater departments to function more efficiently.

It was Council consensus to have Administration submit a formal proposal to Council for approval which included examples where the current spending limit hampered the purchasing process.

**Discussion – Michigan Tax Tribunal Final Opinion and Judgment – Menards Inc., (Petitioner) vs. City of Escanaba, (Respondent).**

Administration reviewed the recent Michigan Tax Tribunal Final Opinion and Judgment on the ad valorem property tax assessment levied by the City of Escanaba against Menards, Inc. for 2012, 2013, and 2014 tax years.

- City Assessor Daina Norden reviewed the method to which the Menards property was assessed, and the arguments used at the Tax Tribunal process, (See Attachment – B);
- Reviewed opinion given by the Tax Tribunal;
- Administration questioned whether the City should appeal the Tax Tribunal decision which could cost thousands of dollars;
- Reviewed City and County monetary losses based on the Tax Tribunal decision. Administration advised meetings with the County Officials were scheduled for later in the week to review their reimbursement costs to Menards and to review future tax loses;
- Reviewed other Tax Tribunal Appeals for stores in the community, but Assessor Norden advised their requests and potential losses were not to the size of the loss from Menards;
- Discussed possible new state laws that would fix the loop holes used by the Big Box Stores;
- There was a \$50 filing fee for a Menards Tax Tribunal rehearing to review the same information with the Tax Tribunal. Assessor Norden stated there was a \$3,000 Judge mathematical error, in the City of Escanaba's favor, in the Menards decision. Assessor Norden recommended approval of the rehearing process just to correct the math error and to have the City side heard again;
- An appeal process on the Menard's decision and another denial by the Tax Tribunal, would lead to a formal Court of Appeals process which would cost the City thousands of dollars in attorney fees;
- The best solution would be for our legislators to fix the loop hole in the State laws. Administration was encouraged to continue to contact our State Legislations;

- If the box stores continue to have the assessments reduced, it eventually hurts the municipalities and middle class that would ultimately force municipalities to raise its millage rates.

After further discussion, it was Council consensus to pay the \$50 fee for the rehearing of the Menard's Tax Tribunal decision.

**APPOINTMENT(S) TO CITY BOARDS, COMMISSIONS, AND COMMITTEES – None**

**BOARD, COMMISSION, AND COMMITTEE REPORTS**

Council Members reviewed City Board and Commission meetings each attended since the last City Council Meeting.

**GENERAL PUBLIC COMMENT – None**

**ANNOUNCEMENTS – None**

Hearing no further public comment, the Council adjourned at 9:05 a.m.

Respectfully submitted,

Robert S. Richards, CMC  
City Clerk

Approved: \_\_\_\_\_  
Marc D. Tall, Mayor

**City of Escanaba Assessor**

# Memo

**To:** City Council  
**CC:** Jim O'Toole, Manager  
**From:** Daina Norden, Assessor  
**Date:** 12/02/2014  
**Re:** December 9<sup>th</sup> Special Meeting

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## Michigan Tax Tribunal Update Regarding Menards Appeal

As the City Council is aware, Menards Inc. recently appealed their property tax assessment levied by the City of Escanaba on their store located at 3300 Ludington Street to the Michigan Tax Tribunal. The Menard's store in Escanaba is a 166,196 square foot building consisting of 57,948 square feet of garden center, material warehouse, and overhangs storage/shipping and is located on 18.35 acres.

As the Council is also aware, a hearing was held on August 14, 2014 at the Michigan Tax Tribunal in Lansing before Tribunal Judge Marcus L. Abood, SRA. This division of the Michigan Tax Tribunal is in place to hold formal hearings to resolve the more complicated appeals. As part of this process, there is a formal record of the hearing and attorneys typically represent the parties. These hearings can range in length from one day to two months or more. The presiding judge is either a Tribunal member or a hearing officer (i.e. an administrative law judge). The Tribunal currently consists of five members. These members are appointed by the Governor, with the advice and consent of the Senate, to serve terms of four years, with one member appointed to serve as chairperson.

In our case, the Petitioner (Menards, Inc.) was represented by Paul Bach of Paradigm Tax Group, LLC and Carl Rashid of Dykema Gossett, PLLC. Their appraisal was conducted by Joseph L. Torzewski, MAI. Representing the City of Escanaba were myself and Russell W. Hall of DeGrand, Reardon, & Hall, PC. We **also** had a review appraisal conducted by Miles Anderson, SRA, MMAO.

Over the last several months, there has been a lot of discussion regarding the "Dark Store" theory. To that end, I want to point out that our intent was not to re-argue this same case in that the Tribunal has already made a ruling regarding this theory in favor of the "Big Box" Stores in a different town with a different Corporation. That ruling has already been made by the Tribunal and is going through the appeals process.

The argument the City of Escanaba made with regards to the Menards was different. It was our position that the petitioner determined a "Dark Store" valuation using a flawed Sales Comparison approach to value. When I reviewed the sales used in the petitioner's appraisal to determine if I agreed with their valuation based on law and current court decisions, I realized that many properties had extensive restrictions on the use of the property placed on them by the seller of the property. It was our position that these restrictions were not disclosed in the appraisal and no adjustment had been made for these restrictions. In the appraisal submitted by Menards there are sales that are considered "but excluded from [the] analysis for various reasons." One that stands out is "[t]he fourth sale is a former Target in Warren that sold with use restrictions in place..." "This negatively impacted the sale price, as no retail uses were allowed." This unused sale had an unadjusted price per square foot of \$21.19 and a gross building area of 106,165 built in 1990. I have attached the Special Warranty Deed which demonstrates what type of use restrictions were in place and included in the sales comparison approach on that particular matter.

As you know by now, Mr. Abood stated in his Final Opinion and Judgment that "Mr. Torzewski's testimony regarding the consideration of deed restrictions is meaningful to his overall analysis." Further; "Mr. Torzewski explained that all of his comparable sales had some type of deed restrictions but none that impacted their sale prices."

As you have also heard, the Tax Tribunal ruled in Menards. Inc. favor which resulted in us having to adjust our values for years 2012- to \$20/sq. ft. (down from \$48.43), 2013- \$21/sq. ft. (Down from \$49.54), and 2014- \$22/sq. ft. (Down from \$ 50.88)

At the Special Study Session of City Council scheduled for December 9, 2014, I would like to discuss this matter in more detail so that there is an understanding of the overall situation, its impact and talk about what our options are so that I have a clear understanding of the direction the City Council would like me to go.

# CITY OF ESCANABA

## Purchasing Policies and Procedures Manual

March 1, 2016

Approved by Escanaba City Council \_\_\_\_\_

DRAFT  
6/20/16

## CITY OF ESCANABA PURCHASING POLICIES AND PROCEDURES MANUAL

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## INTRODUCTION

The purchasing system of the City of Escanaba, administered by the City Manager or his designee, provides for the proper and orderly control of the City's expenditures. This manual defines the policies and procedures which are currently in place to accomplish this objective. While this manual does not answer all questions relating to purchasing, it is designed to provide a basic foundation for the purchasing system.

The primary objective of the purchasing process is to help provide the highest quality *goods* and services to our citizens at the lowest possible cost, in an environment providing free and open *competition* to the *vendors* providing these services. The following objectives foster this purpose:

Purchase of the proper material in the proper quantity at the appropriate time from the best source.

Conservation of public funds in acquiring *goods* and services through the reduction in cost and the improvement in the quality.

Development of subsystems which provide simplification and standardization for the acquisition of materials and supplies throughout the City.

Arrangement for the delivery of materials and supplies to the point where those items are to be utilized, in the most efficient manner, while still maintaining safeguards for the maintenance of a purchasing system of quality and integrity.

Providing public confidence in all procedures utilized in the purchasing process.

Complying with all legal requirements, including Federal, State and local laws.

The cooperation of all employees is essential if the City is to obtain maximum value for all public expenditures, while at the same time complying with all applicable laws. Suggestions which help reduce costs, promote efficiency, improve control or improve supplier's service or satisfaction are both welcome and requested.

## GLOSSARY

*Award* – The acceptance of a bid or proposal, including the presentation of a *purchase order* or the signing of a contract.

*Bid* – An offer to provide goods or services at a particular price.

*Bid Bond or Check* – A deposit which may be required of entities responding to an advertised *bid*. Its purpose is to show good faith on behalf of the bidder, as well as to help ensure that the transaction is consummated. At bidder's option, funds can be in the form of a bond, certified check or cashier's check. Each RFP and RFB shall specifically identify the amount of the deposit required, if any.

*Bid Evaluation* – The process of examining a *bid* after the *bid opening*, to determine the bidder's responsibility, responsiveness to requirements and such other characteristics that relate to the determination of a successful bidder.

*Bid Opening* – The formal process through which bids are publicly opened and the contents revealed for the first time.

*Bid Response* – A *vendor's* offer to provide *goods* or services to the City, in response to a *formal solicitation*. The response should include all of the information that is requested within the *formal solicitation*.

*Capital Outlay* – any article having a useful life of one year or more and with a unit cost of \$250 or more. *Capital outlay* can include both real and personal property of a durable nature that retains its identity throughout its useful life.

*Competition* – The process by which two or more *vendors* vie to secure the business of the city by offering the most favorable *goods* and services, in terms of price, quality, delivery and/or service.

*Conflict of Interest* – A situation where the personal interests of a contractor, public official or employee are, or appear to be, at odds with the best interest of the City.

*Contracts* – Written agreements between two or more legally competent parties for the performance of work or the furnishing of services, materials or supplies.

*Cooperative Purchasing* – The process of acquiring *goods* or services without a *solicitation* process, by obtaining the *goods* or services at a price which has been established through a prior *solicitation* by another qualified entity.

*Emergency* – An *emergency* is defined as a situation where the normal operations of the City would cease, or be seriously impaired, if immediate action were not undertaken to correct the situation. *Emergencies* can include extraordinary conditions or contingencies that could not reasonably be foreseen and guarded against or exist due to unusual trade or market conditions. In order to qualify as an *emergency*, the City Manager must make such declaration in writing.

*Emergency Purchase* – A purchase made under *emergency* conditions in which the normal competitive purchasing procedures have been waived, by a written declaration of the City Manager. Under such conditions, alternative purchasing procedures may apply.

*Formal Solicitation* – is the process that is required for all non-exempt purchases which will total \$25,000 or more; *formal solicitations* may be used for purchases below this threshold, at the Department Head's discretion. *Formal solicitations* require the preparation and dissemination of documents which define the *goods* or services the City intends to procure, including detailed terms and conditions which will apply to the acquisition.

*Goods* – A tangible product, either supply or equipment.

*Informal Solicitation* – is the process that can be used for purchases which will total less than the *formal solicitation* threshold. These *solicitations* can be either non-competitive (under \$2,000) or competitive (between \$2,000.00 and \$24,999.99). *Competitive informal solicitations* require that a minimum of three *vendors* be invited into the process, unless there is an approved exemption to this requirement.

*Joint Purchasing* – The process of combining the requirements of two or more political entities in a *solicitation* process for the purpose of obtaining the advantage of volume purchases, the reduction in administrative expenses and/or the obtaining of other public benefits.

*Performance Bond* – A legal document, provided by a qualified third party, which guarantees the performance of another party (*vendor*).

*Professional Service* – A service performed by an individual, partnership or corporation of a professional or technical nature. Personal services include, but are not limited to, accounting, consulting, engineering and legal services.

*Purchase* – as defined in the policy, includes the purchase, lease, rental or lease-purchase of *goods* or services.

*Purchase Order* – The purchaser's document used to formalize a purchase transaction with a *vendor*. A *purchase order* should contain statements as to quantity, description and the price of the *goods* or services ordered, along with any additional pertinent terms, such as payment, discounts and transportation terms.

*Purchasing Agent* – Each City Department Head is deemed to be a *Purchasing Agent* of the city.

*Request for Bid (RFB)* – The document used to seek *proposals* in a *formal solicitation* process where the *goods* or services can be readily defined and compared to alternative *proposals*. Although non-cost factors may be weighed in determining the successful bidder, factors involving cost and quality are the predominant evaluation criteria.

*Request for Proposal (RFP)* – The document used to seek *proposals* in a *formal solicitation* process in those cases where there may be multiple approaches to providing solutions to a complex need. While the approach and content may vary depending on the purchase, *vendors* are typically provided with the end result or goal and are asked to offer a technical and price proposal to meet that goal. While cost will be a factor in evaluating proposals, this form of *solicitation* relies more heavily on non-cost factors in evaluating the proposals and determining the successful bidder. A weighted point assignment method of evaluation may be used, if considered appropriate.

*Responsible Bidder* – A bidder who is determined to have the ability, capacity and skill to provide the *goods* and/or services that are requested by the City. Considerations in making such a determination may include, but would not be limited to, reputation, judgment, experience, timeframe to perform, quality of prior performance and financial condition.

*Responsive Bidder* – A *vendor* whose bid conforms in all material respects to the terms and conditions, the *specifications* and other requirements of the *solicitation*.

*Sealed Bid* – A bid that has been submitted in a sealed manner, to prevent its contents from being revealed before the deadline for publicly opening the *bids*.

*Sole Brand* – Goods or services which are only available from a specific manufacturer; *sole brands* may be available only from a *sole source* or they may be available from multiple sources / distributors.

*Sole Source* – Goods or services which are clearly and legitimately limited to a single source of supply (supplier, distributor, *vendor*).

*Solicitation* – The process of notifying prospective *vendors* of the City's desire to purchase *goods* or services. *Solicitations* may be verbal, in a non-competitive purchasing process, or they may be written. This term also refers to the document used in that process.

*Specifications* – The explicit requirements furnished with a competitive *solicitation* upon which a *purchase order* or contract is to be based. *Specifications* set forth the characteristics of the *goods/services* to be purchased, so as to enable *vendors* to determine the needs of the City and their ability to meet those needs. *Specifications* should be prepared in such a manner so as to provide a prospective *vendor* with the knowledge that if the *specifications* are adhered to, the City will determine their *goods* and/or services to be acceptable.

*Splitting* – The process of purchasing and/or invoicing *goods* or services into multiple instances, for the specific purpose of avoiding a competitive purchasing procedure or in order to avoid dollar expenditure limits.

*Vendor* – A provider of materials, supplies, services and/or equipment.

## 1.0 – LEGAL / PROCEDURAL

There are a variety of laws which govern both the purchasing process and the employees operating within it. The following summarizes the legal criteria and requirements which currently govern the purchasing process. It is important to note that these summarizations may require further investigation in order to assure full compliance with the law.

### 1.1 Charter Provisions

Chapter VIII - Sec 3...The chief accounting officer shall examine all...bills and other claims and demands against the city,...and shall issue no warrant unless he finds that the claim is in proper form, correctly computed and duly certified, and that it is justly and legally due and payable, that an appropriation has been made therefor which has not been exhausted or that the payment has been otherwise legally authorized and that there is money in the City treasury to make payment....

Chapter VIII - Sec 8...No liabilities shall be incurred by any officer or employ of the city, except in accordance with the provisions of the annual appropriations ordinance, or under continuing *contracts* and loans authorized under the provisions of the Charter....

Chapter VIII - Sec 16- No public work or improvement shall be commenced, or expenditure made,...,excepting as herein provided, until an appropriation has been made therefor...

Chapter XIV - Sec 1 - Any public work or improvement costing more than One Thousand Dollars, shall be executed by contract, except where a special work or improvement is authorized by the Council, based on detailed estimates, submitted by the department authorized to execute such work or improvement. Contract shall be *awarded* to a *responsible bidder*. Bids for such *contracts* shall be opened not less than three days after advertisement therefor in some newspaper published and circulated in the city, but the Council shall have the right to reject any and all bids...

Chapter XIV - Sec 4 - When it becomes necessary, in the prosecution of any work or improvement under contract,...such alterations, changes or modifications shall be made only on the written order of the Manager.

Charter XIV - Sec 5 - No such order shall be made until the price to be paid for the work or material or both,...,shall have been agreed upon in writing, and signed by the contractor and by the Manager.

Charter XIV - Sec 9 - No public improvement costing more than One Thousand Dollars shall be contracted for or commenced, until drawings, profiles and estimates for same shall be submitted to the Council and approved by it, and the same, or a copy thereof, shall remain on file in the office of the Clerk, subject to inspection by the Public.

Charter XIV - Sec 12 - The Council shall, by ordinance, prescribe the methods to more efficiently carry out the foregoing provisions.

### 1.2 Code of Ordinances

#### Code of Ordinances Section 2-22. Controller

(c) The Controller shall issue warrants for the payment of accounts against the City only when such accounts shall be evidenced by a voucher approved by the head of the department for which the indebtedness was incurred and after the warrant shall be countersigned by the Treasurer.

(d) Before issuing such voucher, the supplies and materials delivered, or work done, shall be duly inspected and certified to by the head of the proper department or office, or by a person designated by him.

(f) ...The Controller shall, at his discretion, investigate or inspect, in person or through someone designated by him, all such services rendered and *goods* purchased on behalf of the City in order to determine quantity or quality or any other factors involving value received by the City, and to suspend payment for *goods* and services of questionable value pending reference to the City Manager.

(g) No contract, agreement or other obligation involving the expenditure of money shall be entered into or authorized by any officer of the City, unless the Controller first verifies that there is an unencumbered balance in the fund to be charged.

#### Code of Ordinances Section 2-23. Purchasing Department

(a) The purchasing department is charged with the purchase, storage and distribution of supplies needed by the various departments. The purchasing department is administered by the City Manager or his designee, with each department head acting as the purchasing agent for his/her operations.

(b) The purchasing agents shall purchase or arrange for the procurement of all supplies and materials for the city and issue purchase orders covering all purchases. All purchasing activities will be conducted in a manner established by the City's Purchasing Policies and Procedures Manual. The Purchasing Policies and Procedures Manual will be adopted by resolution by the City Council and may be amended as needed by further action by the City Council. The Purchasing Policies and Procedures Manual will be reviewed by administration and the City Council on a regular basis, but no less often than every four years. The Purchasing Policies and Procedures Manual will be available to the public at the City Clerk's office and will be placed on the City's website.

(c) Before making purchases or sales, purchasing agents shall give opportunity for competition. All proposals are to be on precise specifications.

(e) Purchasing agents shall not make purchases unless there is an unexpended budget balance to the credit of the department, in excess of all unpaid obligations, sufficient to pay for the purchase.

(f) Any purchase involving twenty-five thousand dollars (\$25,000.00) or over must be approved by the City Council, and no requisition or purchase shall be divided so as to keep expenditures below the amount needing such approval. The City Manager is hereby authorized to expend funds in excess of twenty-five thousand dollars (\$25,000.00) to make emergency repairs without City Council authorization, as long as the City Council is provided with a declaration of the emergency.

(g) Each purchase order shall be signed by the City Manager or one of the purchasing agents.

### **1.3 Federal and State Grant Provisions**

In the normal course of business, the city is the recipient of a number of federal and state grant funds; the purpose of these funds is related to specific grant objectives. Typically, these grant funds are accepted subject to the city's compliance with specific requirements, sometimes including requirements related to the procurement of goods and services.

In order to comply with both the provisions of the grants and city purchasing policy, the City's purchasing policy requires that the city abide by the more restrictive of the two policies, in each instance. Doing so will ensure that the minimum requirements of both policies are adhered to.

It shall be the responsibility of each department head in receipt of grant funds to (1) understand the terms and conditions of each grant receipt and (2) assure compliance with both city purchasing policy and the requirements of the grant.

#### 1.4 Code of Conduct

No employee, officer or agent of the City of Escanaba shall accept any gift, frank, free ticket, pass, reduced price or reduced rate of service from any person, firm or corporation operating a public utility within the City, or from any person known to him to have or to be endeavoring to secure a *contract* with the City.

No employee, officer or agent of the City of Escanaba shall participate in the selection, award or expenditure of city funds if a *conflict of interest*, real or apparent, would be involved. Such conflict could arise if the employee, officer or agent; any member of his/her immediate family; his/her partner; or an organization which employs or is about to employ any of the above, has a financial or other interest in the *vendor* selected for the award,

Any employee, officer or agent of the City of Escanaba who has concerns about a possible *conflict of interest* should discuss the specifics of the situation with the City Manager. The City Manager shall make a determination on the issue or can forward the issue to the City Attorney. If the matter appears before the City Council, public disclosure of the outcome of the review process would be required.

Any alleged and / or undisclosed violations of these standards of conduct shall be referred to the City of Escanaba Attorney. Where violations have occurred, the offending employee, officer or agent shall be subject to disciplinary action, including, but not limited to, dismissal; where violations or infractions appear to be substantial in nature, the matter may be referred to the appropriate officials for criminal investigation and possible prosecution.

## 2.0 - EXEMPT TRANSACTIONS

Certain transactions cannot be handled by the competitive purchasing process. Additionally, certain transactions are more effectively handled outside of the competitive purchasing process. These exempt transactions include:

Acquisition of real property, such as land, easements, right-of-ways, and existing buildings, structures or improvements. Reference to other City policy is appropriate.

Court ordered fines and judgements, resulting from litigation

Cash transfers and investment transactions for fiscal management purposes, processed through the City Treasurer's office

Accrued or current liabilities already charged against the budget and recorded against the general ledger accounts

Debt service payments charged against budgetary accounts

Grant disbursements to federal, state or local government agencies, or to private groups and agencies

Inter-fund or interdepartmental transfers or reimbursements within or among City departments

Insurance, including, but not limited to, liability, property, medical and workers' compensation insurance or payments from any loss fund established for such a purpose

Utilities, advertising, travel and postage

Dues and memberships in trade or professional organizations, subscriptions for periodicals, advertisements, copyrighted material, seminars, tuition registration and training

Medical services

Legal services

Commodity purchases, but only when specifically identified within this document

### 3.0 -METHODS OF PROCUREMENT

Chapter VIII - Sec 3...The Controller shall examine all...bills and other claims and demands against the City,...and shall issue no warrant unless he finds that the claim is in proper form, correctly computed and duly certified, and that it is justly and legally due and payable, that an appropriation has been made therefor which has not been exhausted or that the payment has been otherwise legally authorized and that there is money in the City treasury to make payment....

Chapter VIII - Sec 8...No liabilities shall be incurred by any officer or employee of the City, except in accordance with the provisions of the annual appropriations ordinance, or under continuing *contracts* and loans authorized under the provisions of the Charter....

Chapter VIII - Sec 16-No public work or improvement shall be commenced, or expenditure made,...,excepting as herein provided, until an appropriation has been made therefor...

Chapter XIV - Sec 1 - Any public work or improvement costing more than twenty-five thousand dollars, shall be executed by contract, except where a special work or improvement is authorized by the Council, based on detailed estimates, submitted by the department authorized to execute such work or improvement. Contract shall be *awarded* to a *responsible bidder*. Bids for such *contracts* shall be opened not less than three days after advertisement therefor in some newspaper published and circulated in the city, but the Council shall have the right to reject any and all bids...

#### Code of Ordinances Section 2-22. Controller

(c) The Controller shall issue warrants for the payment of accounts against the City only when such accounts shall be evidenced by a voucher approved by the head of the department for which the indebtedness was incurred and after the warrant shall be countersigned by the Treasurer.

(d) Before issuing such voucher, the supplies and materials delivered, or work done, shall be duly inspected and certified to by the Department Head or by a person designated by him.

(f) Any purchase involving twenty-five thousand dollars (\$25,000.00) or over must be approved by the City Council, and no requisition or purchase shall be divided so as to keep expenditures below the amount needing such approval.

### **3.1 General**

All department heads are authorized to make transactions for the City of Escanaba, subject to the City's purchasing policies. Department heads may assign some or all of their purchasing responsibilities to other employees within the department, but ultimate responsibility for purchasing issues remains with the department head. Department head approval is required for any non-exempt expenditure prior to payment for the transaction.

No purchasing transactions shall be initiated unless there are legally authorized, and unexpended, budgeted funds available. The only exception to this requirement is where the City Manager has authorized, in writing, authority to expend funds.

No *capital outlay* shall be made, unless such expenditure is specifically authorized with the current budget. The only exception to this requirement is where the City Manager has authorized, in writing, authority to expend funds.

Payment for purchasing transactions may occur in a number of ways, including, but not limited to, petty cash, check, credit card and funds transfers; regardless of the method of payment, the City's purchasing policies apply to all transactions.

Purchasing transactions may not be split, or in any way manipulated, for the sole purpose of avoiding expenditure limits. The City Manager shall be the final authority on any disputes involving this policy.

Any actual or prospective *vendor*, who believes they have been aggrieved in connection with any purchase transaction or price *solicitation*, may protest their concerns to the City Manager

### 3.2 Small Purchases

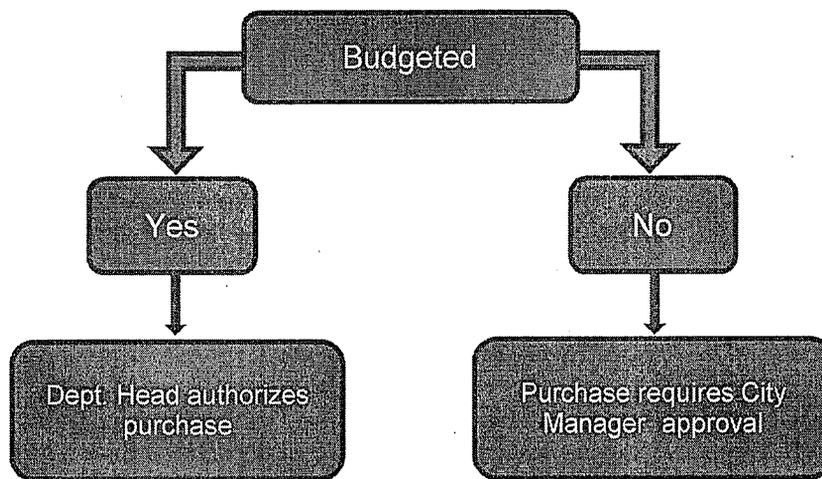
Department heads have the sole authority to enter into purchase transactions in amounts up to \$25,000.00, assuming that all other purchasing policies are followed. Small purchases consist of two (3) distinct categories:

#### 3.2.1 Purchases under \$2,000.00

Purchasing transactions totaling less than \$2,000.00 can be made by department heads with no requirements. Department heads are encouraged to provide open *competition* and to research pricing in order to obtain the best product at the lowest price.

The only exception to this authority is where the purchase is of a capital nature; in order to expend funds under this criterion, the capital acquisition has to either (1) be included in that department's current fiscal year budget or (2) authorized by the City Manager in writing.

### Purchase of Under \$2,000



#### 3.2.2. Purchases from \$2,000.00 up to \$7,999.99

Purchasing transactions totaling between \$1,999.99 and \$8,000.00 require an informal quotation process. The following rules apply to this process:

In soliciting informal quotes, department heads should encourage *competition* by contacting as many *vendors* as is reasonably possible; except as noted below, quotes must be obtained from a minimum of three *vendors*. Care should be taken by the department to ensure that *vendors* are given exactly the same information and that prices are not disclosed from one *vendor* to the other until after an *award* has been made.

Informal quotes may be obtained by telephone, fax, e-mail, in person or in any other standard method of business communication.

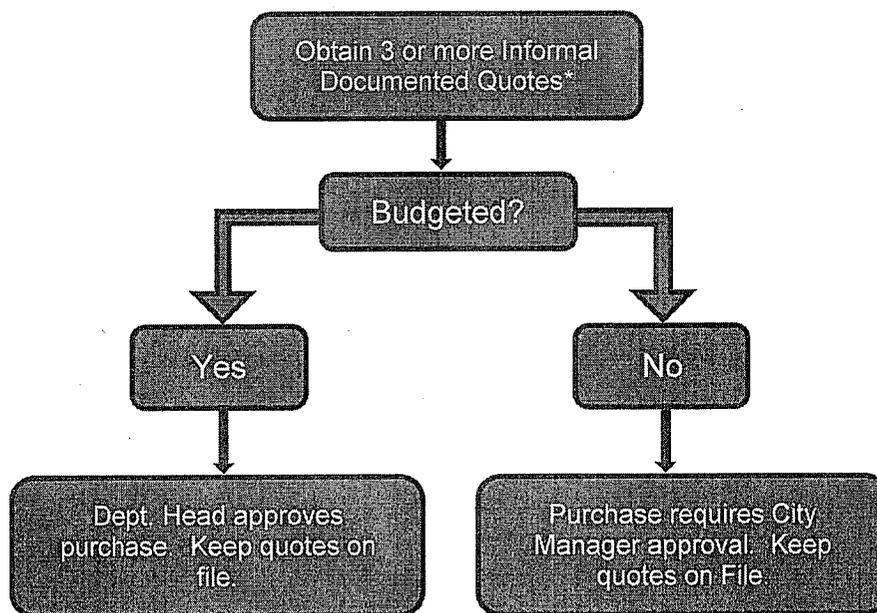
The department must prepare a written record of the quote *solicitation* process and this document must be retained for a minimum of three years after the transaction is completed.

If a department contacts a *vendor* and receives no response, a second contact shall be made. If the *vendor* does not respond after two contacts, the department may include the *vendor* as one of their minimum number of contacts.

The only exception to the requirement that a minimum of three (3) *vendors* be contacted is where the City Manager has authorized, in writing, the authority to expend funds based on a smaller number of quotes.

An exception to this authority is where the purchase is of a capital nature; in order to expend funds under this criterion, the capital acquisition has to either (1) be included in that department's current fiscal year budget or (2) authorized by the City Manager in writing.

### Purchase of \$2,000 - \$7, 999.99



#### 3.2.3 Purchases from \$8,000.00 up to \$24,999.99

Purchasing transactions totaling between \$7,999.99 and \$25,000.00 require a formal quotation process. The following rules apply to this process:

In soliciting formal quotes, department heads should encourage *competition* by contacting as many *vendors* as is reasonably possible; except as noted below, quotes must be obtained from a minimum of three *vendors*. Care should be taken by the department to ensure that vendors are given exactly the same information and that prices are not disclosed from one *vendor* to the other until after an *award* has been made.

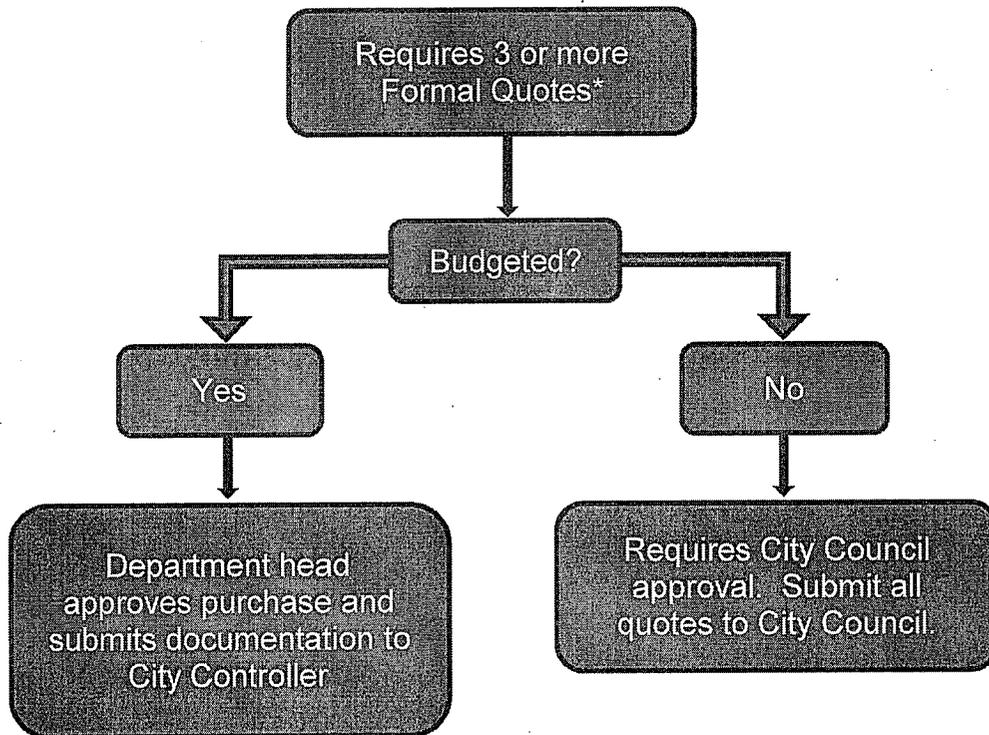
Formal quotes may be obtained by telephone, fax, e-mail, in person or in any other standard method of business communication. Regardless of the manner in which the quotations are solicited, however, the formal quotation process requires departments to obtain written documentation for each *vendor* which supports and verifies their quotes. These documents are required to be submitted by the department when they process the invoice(s) which approves the payment of said invoices.

If a department contacts a *vendor* and receives no response, a second contact shall be made. If the *vendor* does not respond after two contacts, the department shall submit written documentation which supports the *vendor* being contacted. Based on this documentation, the department may include the *vendor* as one of their minimum number of contacts.

The only exception to the requirement that a minimum of three (3) vendors be contacted is where the City Manager has authorized, in writing, the authority to expend funds based on a smaller number of quotes.

An exception to this authority is where the purchase is of a capital nature; in order to expend funds under this criterion, the capital acquisition has to either (1) be included in that department's current fiscal year budget or (2) authorized by the City Manager in writing.

### Purchase of \$8,000 - \$24,999.99



\*Quotes can be obtained on Vendor letterhead with signature or by e-mail. In the event an item is only available from one source, the formal quote process will be waived.

### 3.3 Large Purchases

All non-exempt purchasing transactions which are expected to equal or exceed \$25,000.00 require a *formal solicitation* process. Additionally, these transactions require formal approval by the City Council. A large purchase transaction requires the preparation and dissemination of a document which provides potential *vendors* with as much information about the transaction as is reasonably possible. The intent of the document is to provide all potential *vendors* with an appropriate understanding of what they are required to do in order to be successful in the *solicitation* process. Documents should always be prepared in order to assure maximum *competition* and *vendor* responses.

*Formal solicitations* will be specific to each proposed purchase; at a minimum, however, each *formal solicitation* will contain the following:

Identification of the good or service which the City is seeking

The due date for submission of *vendor's* proposals

The time and place for the *bid opening*, where applicable (this is commonly the same time as the due date)

Proposal submission requirements

Boilerplate language which defines the rights and responsibilities of the City

*Formal solicitations* may include, but are not limited to, the following:

Statement of objectives

Scope of work

Special conditions

Request for *vendor* information

General instructions and conditions

A *formal solicitation* requires publication in the local newspaper and on the City's web site; publication in other appropriate media is at the discretion of the department.

*Vendors'* responses in the *formal solicitation* process are provided to the City by sealed documents; the sealed documents are all to be opened publicly at a time and place established in the *solicitation* process. In order to be considered for *bid evaluation*, all *vendors* must be determined to be a *responsible bidder*. Once *responsible bidders* are identified, a process is conducted to identify all *responsive bidders*. All *bid responses* must then be reviewed and evaluated based upon the requirements set forth in the *formal solicitation*. Based upon the evaluation, an *award* is generally made to the low cost, *responsible* and *responsive bidder*.

**In any and all cases where the lowest cost bid is not recommended for the purchase, the evaluation must include the reason(s) for that recommendation.**

The *bid evaluation* shall be conducted at the direction of the department head who has responsibility for the *goods* or *services* being requested; the department head can delegate all or a portion of the *bid evaluation* process to an appropriate party, but they shall maintain overall responsibility for the *solicitation process*. The City Manager has the authority to assign responsibility for the *solicitation process* in those situations where the benefit of the purchase extends beyond traditional departmental borders.

The process of the *bid evaluation* will vary from purchase to purchase, depending on the good or service that is being *solicited*. In each instance, the department head should be capable of providing the basis of their recommendation to any party requesting that information. For that reason, evaluation criteria and, if applicable, weighting of the criteria, are preferably reduced to writing and provided to potential *vendors* in the *formal solicitation* documents.

There may be occasions when it is necessary to correct, clarify or amend *formal solicitation* documents. In any such case, those alterations will be made using an Addendum to *Specifications*. The respective department head shall be responsible for ensuring that any prospective vendors receive a notice of such Addendum. No Addendum shall be issued five (5) days prior to a *bid opening* without extending the due date for *vendor's* proposals, unless the alteration does not materially affect the bid.

Depending on the nature of the transaction, the *formal solicitation* process can take several forms:

### 3.3.1 Request for Bids

Requests for Bids (RFB) are used for the acquisition of *goods* and services that are easily defined as comparable. RFB's define in very specific terms (*specifications*) what good or service the City is interested in obtaining and any of the rules or criteria the *vendor* must address in order to be included in the pool of **vendors** from which the City will *award* the business to. While each RFB will be unique, based on the *goods* or services desired by the City, all RFB's require that certain rules are followed and specific language is included.

Typically, the *awarding* of the business to a *vendor* is based upon the lowest priced response which meets all of the bid specs, although other evaluation criteria can be used to determine the best *vendor*. If the department recommends a *vendor* which is not the lowest cost qualified bid, they will be required to provide justification for their recommendation.

### 3.3.2 Request for Proposal

Request for Proposals (RFP) are used for the acquisition of *goods* and services where they may be more than one approach to providing a solution to a complex need or where precise definition of the good or service is impractical. While RFPs will vary depending on the project, *vendors* are typically provided with the goal or end result that the City desires and are asked to provide a technical and price proposal to meet that goal. The scope of the project and the *specifications* in the RFP should be as specific as possible, with the intent to provide *vendors* with as much relevant information as is possible. While each RFP will be unique, based on the *goods* or services desired by the City, all RFP's require that certain rules are followed and specific language is included.

## Purchase of \$25,000 or more



### 3.4 Joint Purchasing / Cooperative Purchasing

Obtaining *goods* or services through the use of *joint purchasing* and *cooperative purchasing* processes is an acceptable procurement method for City departments.

*Joint purchasing* is the process where the City joins together with one or more other political subdivision(s) and jointly conducts a *solicitation* process. The benefits which can be obtained through the utilization of this method of procurement is that it may result in lower prices, due to volume purchases; it may decrease the administrative costs associated with each groups purchasing process and it may result in additional *vendor* participation, by increasing the overall value of the transaction that they are hoping to be *awarded*.

*Joint purchasing solicitations* typically involve the identification of each political subdivision participating in the process; in any case, in order for the *solicitation* to be acceptable under City purchasing policies, the *solicitation* process must meet the same guidelines as if the *solicitation* was being conducted solely by the City.

*Cooperative purchasing* involves the acquisition of *goods* or services through specific approved organizations. Once an organization is approved for City purchasing activities, any good or service may be obtained through that organization, without any other procurement process required.

As an alternative, *cooperative purchasing* organization's prices may be utilized as a base for purchasing the same good or service from another entity.

Currently, the following organizations are qualified for *cooperative purchasing*:

MiDeal

Delta County, Michigan

Delta County Road Commission

Delta Schoolcraft ISD

City of Gladstone

While *joint purchasing* and *cooperative purchasing* are acceptable procurement procedures, the use of these methods does not eliminate the need for City Council approval of the purchase in those instances where the value of the purchase exceeds the threshold for approval (\$25,000.00).

### 3.5 Professional Services

*Professional services*, due to the nature of the activities and the product, are exempt from the City's procurement process. Despite this exemption, the issuance of Requests for Proposals (RFP) is encouraged for all activities that lend themselves to the process. In the review and recommendation process, cost of the proposals is usually not a determining factor in making a recommendation.

Based on Charter language and the nature of this form of procurement, all *Professional services* valued at \$1,000 or more requires City Council approval.

The activities included under the *Professional Services* exemption would include, but not be limited to:

Legal services

Auditing and Accounting services

Engineering services

Environmental sciences services

There are a variety of services which are provided by individuals and organizations whom are highly trained and/or skilled – both licensed and unlicensed – which are not included under the *Professional Services* exemption; these would include, but not be limited to:

Electrician's services

Plumbing, heating and cooling services

Building trades' services

In each of these cases, standard City *solicitation* processes must be observed.

### **3.6 Sole Brand / Sole Source**

*Sole source* is a purchasing situation where a *vendor* is the only source from which a particular good or service can be acquired. *Sole brand* occurs when similar types of *goods* or services may exist, but for a variety of reasons, there is only one acceptable good or service which is practical or acceptable. While the two terms have some similarity, their implications on the procurement process are completely different.

Because purchasing processes that involve *sole sources* or *sole brands* result in the reduction or elimination of *competition* in the purchasing process, the standards required to meet these exceptions to the purchasing process are necessarily set very strictly.

The identification of these purchasing limitations can occur at various steps in the procurement process; until the limitation is identified, standard *solicitation* processes are to be followed.

#### **3.6.1 Sole Brand**

Identification of a *sole brand* in the procurement process will usually result in the elimination of *competition* and should be avoided for that reason. Examples of *sole brand* procurement could include, but not be limited to:

Proprietary items which must be compatible with existing equipment or systems

Items retaining specific features essential for the completion of the task or project at hand

When changing brands or manufacturers would compromise the continuity and integrity of the project

When changing brands or manufacturers would compromise any warranties

Standardization of equipment for purposes of minimizing stocks of repair parts

In some procurement processes, the acquisition of substitute *goods* and services will only require that the acquisition needs to be "equal to or better" than the good or service desired. In those cases, the standard *solicitation* should be conducted, using that attribute as one of the qualifications of any *vendor's* responses.

In some procurement processes, the acquisition of *sole brand goods* and services can be accomplished through a number of *vendors*. In those cases, the standard *solicitation* process should be conducted, using that attribute as one of the qualifications of any *vendor's* responses.

### 3.6.2 Sole Source

In some procurement processes, the identification of a *sole brand* requirement may result in the additional identification of a *sole source* situation. This occurs only when a good or service has no acceptable substitutes and where only one *vendor* can provide the good or service. This situation may be identified prior to the initiation of the *solicitation* process or it may occur later in the process; once identified, it will act to suspend the remaining steps in the *solicitation* process and will require the acquiring department head to obtain the City Manager's approval to move the process forward.

In order to obtain the City Manager's approval, the department head must prepare documentation which demonstrates the lack of acceptable *competition*. Information provided in the documentation may include, but would not be limited to:

The unique qualifications, abilities or expertise of the recommended *vendor*

Any special circumstances involved in the procurement, including copyright restrictions, time constraints or sole availability at this location

Since *competition* was not utilized in the procurement process, an explanation of the reasonableness of the costs, which may involve the use of comparable *contracts*, market surveys or other appropriate methods of comparison

Departmental preference for a specific *vendor*, product or service is not a valid justification for the identification of a *sole source* purchasing situation. However, lack of competent *competition* may be justification, if that situation can be proven. Competency would be based on prior departmental experience or the experience of reputable sources.

Upon receipt of the City Manager's approval to proceed, the procurement would be subject to a purchasing threshold of \$7,999.99; for any transactions which exceed this amount, City Council approval is also required.

## 3.7 Commodities

Certain goods utilized in City operations do not permit the standard purchasing model of solicitation, award and City Council approval. For reasons noted below, the purchase of the following specific goods does **not** require City Council approval, even if the final expenditure exceeds \$25,000.00.

Fuel (gasoline and diesel) for operations – because market prices for these supplies can change on a daily basis, the timeline required for City Council approval would likely result in a change in price. While City Council approval is not required before the purchase is made, the competitive solicitation process is required.

Road Salt – the City has historically purchased all of its road salt needs through the State's MIDeal program. This process requires the City to commit to specific order quantities before the actual salt price is known, which prevents the City Council from approving a specific purchase amount.

Natural Gas (used to heat City Buildings) – because market prices for this supply can change on a daily basis, the timeline required for City Council approval would likely result in a change in price. While City

Council approval is not required before the purchase is made, the competitive solicitation process is required.

### **3.8 Emergency**

An *emergency* is defined as a situation where the normal operations of the City would cease, or be seriously impaired, if immediate action were not undertaken to correct the *emergency*. Emergencies can include extraordinary conditions or contingencies that could not reasonably be foreseen and guarded against or exist due to unusual trade or market conditions. In order to qualify as an *emergency*, the City Manager must make such declaration in writing and the City Council should be informed of the declaration as soon as is practical.

Once the City Manager concludes that an *emergency* purchasing situation exists, purchases may be made without following the standard procurement policy and without City Council approval. The City Manager shall apprise the City Council of the *emergency* response efforts; the City Council shall have the authority, utilizing standard meeting procedures and protocol, to override the *emergency* declaration, which would require standard purchasing policies to be complied with.

## 4.0 – CREDIT CARDS

### 4.1 Approval

Prior approval shall be obtained from the Department Head before any use of the City credit card. Notification to the City Controller's office is required even when prior approval has been granted for out of town travel, as this will provide documentation of card usage should billing problems arise.

### 4.2 Types of Purchases

The acquisition of a City credit card is designed to assist in those purchasing situations where the use of checks/cash is not available or is inconvenient. The credit card should not be used as a replacement for the purchase order/check process when that avenue is available.

Qualifying credit card uses would include, but not necessarily be limited to:

Hotel/motel reservations

Travel expenditures, including meals, lodging and gasoline for City vehicles

Purchases requiring a credit card or advance payment

Under no circumstances should the credit card be used for:

Cash advances

Personal use (circumstances may arise where a hotel or meal in conjunction with City activities contains a small personal use charge, such as movies or liquor – these must be repaid at the time receipts are turned in)

### 4.3 Tax Exemption

You must notify the vendor that your credit card transaction should be tax exempt for goods and services purchases. The City Controller's office has forms which can be used when the vendor requests documentation for tax or audit purposes.

### 4.4 Credit Card Security

The credit card should always be treated with a level of care that will ensure security for the card and the account number. The account number should not be written down or posted to keep it handy. Cards will be stored and tracked in the City Manager's office. They should be returned to this location as soon after use as is reasonably possible. If the card is lost or stolen, the City Manager's office should be notified immediately.

### 4.5 Credit Card Usage

When performing transactions, tell the vendor that you will be paying with a credit card. Transactions made in person will utilize the card; phone transactions will require that you give them the card number and expiration date. *All receipts and credit card slips shall be secured and submitted to the City Controller's office as soon as possible, accompanied by a summary of charges and the account numbers to which the transactions should be recorded.*

If you experience denials when trying to use the City credit card, you should contact the City Controller's office immediately.

#### **4.6 Billing**

Upon receipt of the monthly statement, the Controller will match the receipts to the billing to ensure that all transactions have been properly documented. Failure to forward all receipts to the Controller's office in a timely manner will result in unnecessary delays in processing payments.

#### **4.7 Misuse of Credit Card**

Departments having employees who fail to follow the above procedures shall, at minimum, be denied future use of the credit card. Depending on the type of violation, any employee or elected official of the City of Escanaba who violated the provisions of the Policies and Procedures could be subject to dismissal and appropriate criminal and/or civil action.

## 5.0 – BID SECURITY / PAYMENT AND PERFORMANCE BONDS

### 5.1 Bid Bond or Check

A *bid bond* is issued by a vendor to the City as part of a bid process to guarantee that the winning bidder will fulfill their obligation under the terms which they bid. The bid bond is subject to full or partial forfeiture if the winning bidder fails to either execute the contract or fulfill the terms of their bid.

At the vendor's option, the bid bond can be in the form of a bond, certified check or cashier's check.

As the value of a bid bond can vary greatly over the purchasing spectrum, the requirement for a bid bond for each specific bid will be made by the department head. If it is determined that a bid bond is to be required, the bid specifications shall provide a precise definition of the amount required, not to exceed 10% of the purchase price / contract value

If a bid response does not provide the bid bond as specified in the City's bid specifications, that bid response shall not be considered in the bid evaluation process. If a bid bond is provided, but does not meet the bid bond specifications, the bid response shall not be considered in the bid evaluation process.

### 5.2 Payment and Performance Bonds

Payment and Performance bonds are types of insurance that are intended to protect the City in certain purchasing transactions, most commonly construction projects. While payment and performance bonds are two distinct policies, any City transaction requiring one of the policies will also require the other.

The Payment Bond protects the workers, suppliers of materials, and subcontractors from nonpayment by the contractor. The Performance Bond provides security on the contractor's duties, including promises to perform the construction within the time frame provided and at the agreed upon price.

In general, the bonds are written obligations to pay a fixed monetary sum on the happening or non-occurrence of a specified event or condition. In the case of payment bonds, the specified event is the non-payment of workers or other parties, while in the case of performance bonds, the specified event that triggers compensation is if the project stops prior to completion.

The requirement for Payment and Performance bonds for each specific bid will be made by the department head, except that all construction projects in excess of \$25,000 shall require these bonds.

Unlike bid bonds, which are required as part of a vendor's bid submission, payment and performance bonds are not required of a successful bidder until the award of the bid is made or a contract is to be signed. Failure to provide the required bonds will terminate this transaction and, where applicable, result in a City claim against the bid bond or check.

## 6.0 - SALE / DISPOSAL OF CITY PROPERTY

The City Controller's department is responsible for the administration of all disposable and surplus property. Each department will work through the City Controller's department in disposing or selling excess City property.

### 6.1 Property Disposal / Scrapping

Disposable property is defined as property which is no longer functioning and is devoid of any value, except for scrap purposes. Wherever possible, property meeting these criteria should be scrapped or recycled. If the property is scrapped, the revenue accruing from the sale shall be returned to the department / fund where the property originated. In those situations where it is determined that landfilling of the property is the only reasonable option, all regulations and laws pertaining to the disposal must be complied with.

All City property which is disposed of or scrapped shall be reported to the City Controller's department on forms which are provided by the City Controller.

Under no circumstances is it acceptable for City employees or their family to take receipt of City property.

### 6.2 Excess / Surplus Property

#### 6.2.1 Sale to the Public

Excess / surplus property is defined as property which still is usable or functional, as opposed to property which is only suitable for disposal/scrapping. The determination of the property's status is to be made by the Department Head.

The first step in the process of excess / surplus property involves notification to all other City departments of the availability of the property; the first City department to make a claim on the property would be entitled to take possession of the property, at no charge from the originating department. The only exception to the notification process would be in those situations where trade-in of the property, toward the purchase of new property, is identified as being in the City's best interest.

If no other City department makes a claim for the excess / surplus property, then the property should be offered to the public, in a competitive process. This process currently consists of a public auction, duly advertised to ensure maximum participation, under the supervision of the City Controller's department,

#### 6.2.2 Exceptions to Public Sale

Based on the nature of City operations, some City property is of the nature where sale of the property to the general public is either illegal (example – surplus guns or chemicals) or inadvisable (specialized equipment or functionally flawed property). Under these circumstances, the department will advise the City Controller of the situation and the two departments shall work together to ensure that the property is sold/scrapped in a safe, legal manner.

Circumstances may exist that a determination is made that the public good is most appropriately served by providing the excess / surplus property to another governmental / non-profit entity. Under these circumstances, the City Council is required to publicly make this determination before the property can be transferred. Under no circumstances shall the property be donated to any private person or organization.

### 6.3 Sale of Other Property

During the course of normal operations, the City may be approached by individuals / organizations, both private and public, and asked to approve the use of City property for their operations. A determination of the availability of the

requested property will be made on a departmental level and is not subject to appeal. In order for a transaction to be considered, the following criteria must be met:

The property in question shall not be available to the requesting entity from other local sources within their required timeframe

The property in question shall not be offered if, in the department head's determination, the transfer of the property shall jeopardize the City's operations in any way

If the department head determines that the property can be transferred at no risk to departmental operations, the following alternatives are acceptable City procedures:

The property can be "loaned" to the entity; the entity will be responsible for replacing the property at their earliest opportunity with the exact same property

The property can be sold to the entity; if the City doesn't intend to replace the property, it must be sold to the entity at its original cost, plus a 15% mark-up. If the City intends to replace the property with the same property, the property should be sold at its replacement cost, plus a 15% mark-up.