

**Calais City Council – Calais City Building
March 24, 2022 - Call to Order – 6:00 pm
Pledge of Allegiance – Moment of Silence**

Mayor: Billy Howard

Councilors:

Elery Beale

Mark Carr

James Macdonald

Billy Quinn

Marcia Rogers

Michael Sherrard

1. Consent Agenda

- A. Previous Minutes (pages 2 – 4)*
- B. Treasurer's Warrants City through March 23, 2022 §*
- C. Treasurer's Warrants School through March 23, 2022 §*
- D. Treasurer's Warrant Water through March 23, 2022 §*
- E. Perpetual Care Application – Dana & Laverne Redding Lot*
- F. Dunkin Easter Egg Hunt Easter Sunday 12:00 Noon – Triangle Park (pages 5 – 6)*

2. Public Hearing

- A. Liquor License Application – Mama Lola's Mexican Food*

3. Old Business

- A. City Manager's Report*
- B. Follow Ups (pages 7 - 8)*
- C. Committee Reports*
 - 1. Finance Committee- Sherrard*
 - 2. Property Committee- Carr*
 - 3. Public Safety Committee- Sherrard*
 - 4. Public Works Committee- Carr*
 - 5. School Liaison Committee- Rogers*
 - 6. Economic/Community Development Committee- Sherrard*
- D. Tax Acquired Property Bids*
- E. Mowing and Trimming Bids*
- F. City Building Fascia & Soffit Bids*
- G. Downtown Public WiFi*

4. Public Input on Agenda Items

5. New Business

- A. Triangle Park Free WiFi Proposals*
- B. Consideration to Adopt Federal Procurement Policy (pages 9 – 23)*
- C. Permission to Fill Vacant Fulltime Fire/EMS Chief Position*
- D. Permission to Schedule Hearing to Adopt Medical Marijuana Ordinance*
- E. Permission to Solicit Bids for City Insurance*
- F. Permission to Solicit Bids for Audit Services*
- G. Permission to Amend City Procurement Policy (pages 24 – 30)*
- H. Nomination of Member Rep for DBU*
- I. Consideration of "Free" Dump Day – April 23, 2022*
- J. Consideration of Weekly Flea Market at Lowell Street Parking Lot*

6. Executive Session

- A. Union Negotiations – Mediation Report*
- B. City Real Estate – American Tower Corp, Lease Buy-out Offer*
- C. Personnel Matter – City Manager Annual Evaluation*

CALAIS CITY COUNCIL
MARCH 10, 2022

The first regular monthly meeting of the Calais City Council was held this date in the Council Chambers of the Calais City Building at 6:00 p.m.

Present were Councilors Quinn, Sherrard, Rogers, Beale, Carr, and Macdonald.

The City Clerk opened the meeting, asking for nominations for Mayor Pro Tempore. On a motion by Councilor Sherrard and a second by Councilor Quinn, it was unanimously voted to appoint Council Marcia Rogers as Mayor Pro tempore.

It was moved by Councilor Sherrard, seconded by Councilor Quinn, and unanimously voted to approve the following Consent Agenda:

- A. *Previous Minutes*
- B. *Monthly Departmental Reports*
- C. *Treasurer's Warrants City through March 9, 2022*
\$227,055.10
- D. *Treasurer's Warrants School through March 9, 2022*
\$267215.61
- E. *Treasurer's Warrant Water through March 9, 2022*
\$ 10,492.26
- F. *Chase Fund - March, 2022 - \$300.00*

The City Manager then gave his report on the following:

- scheduling a Public Works Committee meeting on March 23rd at 1:00 p.m. at the Public Safety Building.
- Medical Marijuana Workshop at 5:30 p.m. on March 24th
- Equipment List provided by Public Works Director
- Federal Procurement Policy
- Finance Committee to meet on March 24th at 5:00 p.m.
- Main Street Wtr/Swr Project to begin on 04/11/22

The City Manager then asked the Council to consider suspending the Council rules to add Fire Chief Retirement and PW Truck purchase change in price to the agenda.

This was so moved by Councilor Carr, seconded by Councilor Macdonald, and unanimously approved.

Attendance

Mayor Pro Tempore

Consent Agenda

City Manager Report

Suspend Rules – add agenda items

The City Clerk presented the Council with a list and recommendation from the Property Committee to put the following tax acquired properties out for sale by sealed bid:

1609 River Rd	Map 037, Block 239, Lot 1
574 Main St	Map 007, Block 002, Lot 012
180 Union St	Map 005, Block 008, Lots 002 & 003
1 Baring St	Map 002, Block 001, Lot 010-001
171 South St	Map 009, block 003, Lot 007

Also recommended by the property committee, was to solicit bids for the demolition of 71 Germain Street.

On a motion by Councilor Macdonald and a second by Councilor Quinn, it was unanimously voted to approve the above listed Property Committee recommendations.

On a motion by Councilor Sherrard and a second by Councilor Macdonald, it was unanimously voted to accept the final Fiscal Year 2020/2021 audit presented by our Auditors.

It was moved by Councilor Carr and seconded by Councilor Beale to authorize Woodland Baptist Church to hold a Voluntary Road Toll on at the Walmart South Street Location for the benefit of Humanitarian Aid for Ukraine. All in favor.

Following a brief discussion, it was moved by Councilor Carr, seconded by Councilor Quinn, and unanimously voted to donate \$10,000 to the Princeton Regional Airport Association, to go toward the purchase of a snowplow to be used on the runway. These funds will be taken from the ARPA or undesignated fund balance.

The next agenda item was a discussion on City Building closures, due to snowstorms. It was the consensus on the Council that this should be an administrative decision by the City Manager.

It was moved by Councilor Quinn and seconded by Councilor Macdonald to purchase an ad in the annual Chamber of Commerce Magazine for \$1200.00. This amount will be charged to Economic Development. Voting in favor we Councilors Quinn, Beale, Carr, Macdonald, and Mayor Pro Tempore Rogers. Councilor Sherrard was opposed. Motion carried.

On a motion by Councilor Carr and a second by Councilor Quinn, it was unanimously voted to authorize the City Manager to solicit bids for the mowing contract of City Parks and for planting of flowers at the Milltown round-a-bout.

Tax Acquired Property

Approval of Audit

Voluntary Road Toll – Aid for Ukraine

Princeton Airport Snowplow donation

City Building closures

Chamber of Commerce Ad

Solicit mowing and planting

On a motion by Councilor Sherrard and a second by Councilor Quinn, it was unanimously voted to authorize the City Manager to solicit bids for the repair of the City Building Facia and Soffit.

On a motion by Councilor Quinn and a second by Councilor Macdonald, it was unanimously voted to accept with regret, the July 30, 2022, retirement letter from Fire Chief Ken Clark.

Following some discussion, it was moved by Councilor Sherrard, seconded by Councilor Carr, and unanimously voted to authorize the City Manager to sign the new contract with H P Fairfield, for the plow equipment to be put on the new dump truck. Also, required will be a letter to guarantee that the price will not increase any further.

Other items addressed with no Council action being taken at this time included:

- disappointment with the County for not helping Princeton Airport.
- Planned Little League T Ball Field
- Need for Gym use schedule at Rec Center.
- Thanks and Congrats to Chief Ken Clark
- New additional provider for DBU

On a motion by Councilor Quinn and a second by Councilor Beale, it was unanimously voted to retire into Executive Session at 6:53pm for 2 poverty abatement requests.

Open session resumed at 7:00 p.m.

On a motion by Councilor Quinn and second by Councilor Sherrard, it was unanimously voted to grant 2 Poverty Abatements for 2019 Taxes plus interest and costs.

It was then moved by Councilor Carr and seconded by Councilor Macdonald to retire into executive session, for a discussion on the Seavey/Young Property at 7:02 p.m.

There being no further business to come before the City Council at this time, it was moved by Councilor Quinn, seconded by Councilor Sherrard, and unanimously voted to adjourn this meeting at 7:10 p.m.

ATTEST: Theresa M Porter
Theresa M Porter, City Clerk

Solicit Bids – City Bldg.
Facia & Soffit

Retirement – Fire Chief Ken
Clark

New Contract H P Fairfield

Other items

Exec. Session

Poverty Abatements

Exec. Session

Adjourn

Date Submitted 3/16/22

SPECIAL EVENT PERMIT APPLICATION

All special events applications will be reviewed and interpreted as a major or minor event by the City Manager, City Clerk, Police Chief and other appropriate department managers. No person may conduct a Major or Minor Special Event on City Property without a Special Events Permit issued by the Calais City Council pursuant to the Special Events Permit Ordinance.

Special Event shall mean any event, sponsored by an individual, corporation, partnership or other entity or organization intended primarily for recreational, entertainment or charitable purposes, which requires the use of City Property of the City of Calais, Maine.

- Minor Event shall mean an event not exceeding four hours in duration and/or less than 100 people affiliated with the event. (i.e. wedding ceremony with equipment such as tent, chairs, sound, etc.)
- Major Event shall mean an event exceeding four hours in duration and/or more than 100 people affiliated with the event. (i.e. community festival; carnival; street dance; charitable walk for a cause) Also, a major event clearly involves additional city services (i.e. police protection; more than one vendor needing electrical usage; etc.)

City Property shall mean any land owned by the City of Calais, Maine.

I/We hereby request from the Calais City Council to hold a special event.

Date of Event: Sunday April 17th Time of Event: 12pm -

Location: TRIANGLE PARK

Estimated number of People Attending: 65

Summary of Event: Dunkin Easter Egg Hunt

Alcoholic Beverages ? YES NO (Circle one)

Amplified Sound ? YES NO (Circle one)

➡
(Over)

Street Closure Requirements: (if applicable)

N/A

Plan for Security, Parking and Traffic: (if applicable)

N/A

City Services Required: (Utilities, police, cleanup, etc.) (if applicable)

N/A

Sanitary Facilities Plan: (if applicable)

Table for Munchkins & hot chocolate maybe

List of Proposed Vendors: (if known and applicable)

Calais Dunkin

Organization: Calais Dunkin

Tax Status:

Officers: John Cowell

Signature of President or Event Chair: John Cowell

Contact Person: John Cowell

Address: 131 North St. Calais, ME 04619

Telephone: 454-3301

Date Submitted: 3/15/2022

--Return completed application to Calais City Clerk, P.O. Box 413, Calais, ME 04619.

--Applications for "Minor Events" must be submitted thirty (30) days prior to event.

--Applications for "Major Events" must be submitted four (4) months prior to event.

--Applicants must attach certificate of general liability insurance with application.

--Events serving alcoholic beverages require alcohol insurance with the City of Calais listed as additional insured on liability policy of not less than \$400,000.

--Applicants to be responsible for additional costs for clean up and street closure.

FOLLOW UP ITEM	STATUS
ATV access along RT. 1 through the Moosehorn 9/23/21	Applying to MDOT to allow ATV traffic along RT 1 from the Icehouse Rd North to the Calais /Baring town line. Council support letter and meeting minutes are ready for submission to State ATV Program.
Calais Waterfront Improvements 9/23/21	Investigating grant options and related costs to upgrade the waterfront dock and boat landing, rip-wrap/enhance the old pier up river to connect to current dock, and clean up area behind the bowling club for viewing area/greenspace. Met with the city engineer to develop a plan on 3/8/22.
City ARPA Funds 7/1/21	Submitted ARPA funds request 9/20. City share now adjusted to 317,000. Approved allocations-\$158,720. for Main St. Water/Sewer Project, \$33,319. for City Employee Bonuses, and phase 1 IT upgrades approved for \$44,710. Princeton Airport Plow donation- \$10,000. ARPA Fund Balance- \$70,251.
City Building and Library Brick Repair 7/12/21	The City Building brick repair to the front of the building is complete. The Library brick repairs are still on going. Library repairs to resume April 1.
City Comp Plan Update 4/1/2010	Currently working with Hancock County Planning Commission to update the transportation chapter of the City Comp Plan. Plan required to be updated every 10 years. In preliminary stages to update the entire plan with SSEC. The last partial update was 2010.
City Lot (former Karplus property) 59 acres MAP/LOT 029-167 2/10/22	Council voted to go to bid for lot harvest at 2/10/22 meeting. Contacted local Forester to inspect the lot.
Comprehensive PW Equipment Plan 1/13/22	PW Director to prepare equipment list with model years and dates purchased. Provided to council 3/8/22
Main Street Sewer/Water Project 5/1/21	Council voted to accept the project low bid.Low bid and project award to Gordon Contracting from Sangerville, ME. for \$5,367,065. Test digging to begin week of 4/11/22.
Medical Marijuana Ordinance 4/1/21	Workshop #2 scheduled for 3/24 at 5:30 pm.
Milltown Dam Decommissioning 4/1/2018	*Demo and deconstruction phase to begin Spring 2022
Nash's Lake Fiber Project 8/12/21	All pole licenses have been acquired for Nashs Lake and construction has begun. EMEC scheduled to set two utility poles coming off of Shain Pt for remaining addresses on Chisolm Blvd to be able to receive service.
New School Buses 1/13/22	Searching for best option to locate new buses, and potentially a shared diesel mechanic between school and city.
Opportunity Zone Update 9/23/21	City is designated as an OZ region and has a certified OZ fund established.
Parks and Playgrounds Mowing Bids	Advertised in paper week of 3/14

FOLLOW UP ITEM	STATUS
Police Dept Building 9/1/20	All current options are on the table- New building construction, upgrading the current Public Safety building, acquisition of building and property in the city. Public Safety Committee Meeting scheduled for 1 pm at the Public Safety Building on 3/23.
Regional Cell Service 10/1/21	Recent activity 2/10/22- County level meeting with Sen Collins reps to be scheduled, us cellular mapping dead zones, and request for building permits to add 5G equipment to towers. Received call from Verizon in response to letter as well.
Seavey & Young Property 1/1/19	Initiated Legal Process 10/24/21.
St. Croix #1 8/1/20	Ceiling repairs in Truck Bays have been completed. Shingles lifted from recent storm. Contacted insurance company and roof repair scheduled for 3/9/22.
Waterfront Walkway Sand 7/1/21	Scheduled for Spring 2022.
Working Communities Grant for Washington County 10/1/20	The Federal Reserve Bank of Boston has announced that the Wash Cty and Passamquoddy Tribe team has successfully advanced to the implementation round and will receive a 375k grant to address childhood poverty and employment challenges in Wash Cty and for the Pass Tribe.

Federal Procurement Manual

(For City Procurements Using Federal Awards Subject to Uniform Grant Guidance)

This Federal Procurement Manual governs the procurement and purchase of property, goods and services using any federal award¹, in whole or in part, that is subject to the Uniform Grant Guidance, codified at 2 CFR Part 200.

To the extent necessary or convenient, the Manager or his/her designee, shall implement further written measures to ensure compliance with these procedures and any applicable federal laws and rules, including any applicable provisions of the Uniform Grant Guidance and the federal award terms and conditions. Any such written measures shall be made part of this manual.

A. OVERVIEW

The Council expects all procurements of property, goods or services made by the City using federal awards to be consistent with sound business practices and applicable federal laws and rules, including the Uniform Grant Guidance.

These administrative procedures, in combination with the City's written policies – including but not limited to the City's Procurement Policy – are intended to comply with the federal requirement that the City must (1) use its own documented procurement procedures which reflect applicable federal, state, and local laws and regulations and (2) maintain written standards of conduct covering conflicts of interest – real and perceived – for staff engaged in the selection, awarding or administration of a contract. (2 CFR § 200.318(a), (c).)

The Manager or his/her designee, acting singly, (the "Purchasing Agent") shall be responsible for implementing these administrative procedures and shall have direction and control over the purchasing of property, good and services for the City using federal funds.

Wherever these administrative procedures are inconsistent with applicable federal laws and rules or the terms and conditions of a federal award, the provisions of the applicable federal laws, rules or award terms and conditions shall control.

B. GENERAL PROCUREMENT PROCEDURES

- 1. Full and Open Competition.** All procurements must be conducted in a manner that provides full and open competition. Real or perceived unfair advantages will be avoided. Accordingly, the City will not (i) place unreasonable requirements on firms or vendors to qualify for a procurement, (ii)

¹ A "federal award" is any federal financial assistance (including cost-reimbursement contracts) that the City receives either directly from a federal agency or indirectly from a pass-through entity such as the State of Maine. See 2 CFR §200.38. Most, but not all, federal awards received by the City are subject to the Uniform Grant Guidance. To confirm whether a federal award is subject to the Uniform Grant Guidance, review the terms and conditions of the applicable grant agreement or cooperative agreement and the applicability provisions of the Uniform Grant Guidance, codified at 2 CFR § 200.101.

require unnecessary experience or use excessive bonding, (iii) use noncompetitive pricing practices between firms or affiliated companies, (iv) allow organizational conflicts of interest, (v) specify a "brand name" product without allowing firms or vendors to offer an equal alternate product, or (vi) allow any arbitrary action in the procurement process. To ensure objective contractor performance and eliminate unfair competitive advantage, firms or vendors that develop or draft specifications, requirements, statements of work, invitations for bids, or requests for proposals must be excluded from competing for such procurements. (2 CFR § 200.319(a))

2. **Responsible Contractors.** The City must award contracts only to responsible contractors who are able to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. (2 CFR § 200.318(h))
3. **Oversight of Contractors.** The City must maintain a contract administration and oversight system to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. (2 CFR § 200.318(b))
4. **Fostering Economy and Efficiency.** The City must avoid purchasing unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase, and to using federal surplus equipment and property. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach. To foster greater economy and efficiency, consideration should also be given to: (i) entering into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services, (ii) using federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs, and (iii) using value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. (2 CFR § 200.318(d)-(g))
5. **Geographical Preferences Prohibited.** The City must conduct procurements so as to prohibit the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except (i) where applicable federal statutes expressly mandate or encourage geographic preference or (ii) when contracting for architectural and engineering (A/E) services, so long as its application leaves an appropriate number of qualified firms to compete for the contract given the nature and size of the project. (2 CFR § 200.319(b))
6. **Clear and Accurate Technical Requirements.** The City must have written selection procedures for procurements that incorporate a clear and accurate description of the technical requirements for the goods or services to be procured, identify all requirements which offerors must fulfill, and identify all other factors to be used in evaluating solicitations. Technical descriptions (i) must not, in competitive procurements, contain features which unduly restrict competition; (ii) may include a statement of the qualitative nature of the goods or services to be procured; (iii) when necessary, must set forth those minimum essential characteristics and standards to which goods or services

must conform if they are to satisfy their intended use; (iv) should avoid detailed product specifications if possible; and (v) may use a brand name or equivalent description as a means to define performance or other salient requirements of procurement when it is impractical or uneconomical to make a clear and accurate description of the technical requirements (the specific features of the named brand which must be met by offerors must be clearly stated). (2 CFR § 200.319(c))

C. PROCUREMENT METHODS AND THRESHOLDS

1. **Methods of Procurement.** The City must use one of the following five methods of procuring goods or services: micropurchases, small purchases, sealed bids, competitive proposals (a.k.a. requests for proposals), and non-competitive proposals (a.k.a. sole source procurement). (2 CFR § 200.320)

a. Micropurchases (less than \$10,000 as of August 31, 2020). Micropurchases up to the federal micropurchase threshold (\$10,000 as of August 31, 2020)² may be made without soliciting competitive quotations if the Purchasing Agent considers the price to be reasonable. To the extent practicable, the Purchasing Agent must distribute repurchases equitably among qualified suppliers, vendors, or firms. (2 CFR §§ 200.67, 200.320(a))

b. Small Purchases (\$250,000 or less as of August 31, 2020). Small purchases up to the federal simplified acquisition threshold (\$250,000 as of August 31, 2020)³ may be made using simple, informal procurement methods and without requiring sealed bids. For any such purchases, the Purchasing Agent must obtain price or rate quotes from an adequate number of qualified vendors or firms (preferable, from at least three qualified vendors or firms). The Purchasing Agent shall document any price or rate quotes received, whether written or oral. (2 CFR §§ 200.88, 200.320(b))

c. Sealed bids (over \$250,000 as of August 31, 2020). For purchases in excess of the federal simplified acquisition threshold (\$250,000 as of August 31, 2020), where a complete, adequate, and realistic specification or purchase description is available, the Purchasing Agent shall issue a notice of written invitation for sealed bids in a manner reasonably calculated to attract qualified bidders and provide the bidders with sufficient response time. The invitation for bids shall provide a complete specification of the goods or services to be purchased. Bids shall be opened at the time and place prescribed in the invitation for bids. A firm fixed price (lump sum or unit price) contract award shall be made in writing to the lowest responsive and responsible bidder whose bid conforms to

² For procurements utilizing federal funds obtained prior to August 31, 2020, the micropurchase threshold is \$3,500. The threshold is subject to adjustment every five years in the Federal Acquisition Regulations.

³ For procurements utilizing federal funds obtained prior to August 31, 2020, the simplified acquisition threshold is \$150,000. The threshold is subject to adjustment every five years in the Federal Acquisition Regulations.

all material terms and conditions of the invitation to bid. Any or all bids may be rejected if there is a sound documented reason. (2 CFR §§ 200.88, 200.320 (c))

d. Requests for Proposals (over \$250,000 as of August 31, 2020). For purchases in excess of the simplified acquisition threshold (\$250,000 as of August 31, 2020), when conditions are not appropriate for the use of sealed bids because the goods or services sought cannot be defined or specified such that bids will not be comparable, the Purchasing Agent shall issue a request for proposals (“RFP”) to solicit the goods or services. Typically, the RFP seeks proposals that are evaluated qualitatively such that price is not the primary evaluation criterion. Contracts may be awarded on either a fixed price or cost-reimbursement basis. If this procurement method is used, the following requirements apply:

- RFPs must be publicized in a manner reasonably calculated to attract qualified vendors or firms, and RFPs must identify all evaluation factors and their relative importance. Proposals shall be reviewed by the Purchasing Agent or a selection committee identified in the RFP. Any response to an RFP must be considered to the maximum extent practical;
- Proposals must be solicited from at least two qualified sources; and
- The Purchasing Agent shall award a contract to the responsible vendor or firm whose proposal is most advantageous to the City, with price and other factors considered; however, any and all proposals may be rejected if there is a sound documented reason.

The Purchasing Agent may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors’ qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, may only be used in procurement of A/E professional services. It cannot be used to purchase other types of services even if A/E firms are a potential source to perform the proposed effort. (2 CFR § 200.320(d))

e. Non-Competitive Proposals (Sole Source); Emergencies. Procurements may be made through a non-competitive process (i.e., through the solicitation of a proposal from only one source) only when one or more of the following circumstances apply:

- The item is available only from a single source;
- An exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

- The federal awarding agency or pass-through entity expressly authorizes non-competitive proposals in response to a written request; or
- After solicitation of a number of vendors or firms, competition is determined inadequate.

The Purchasing Agent must document the basis for the sole source procurement by documenting the basis for any exigency or emergency, obtaining express authorization from the federal awarding agency or pass-through entity, or demonstrating a good faith effort on the part of the City to solicit proposals from a number of sources. (2 CFR §§ 200.320(e), 200.324(b)(2))

2. **Purchases Over \$25,000.** For purchases exceeding \$25,000, prior to contracting with a vendor, the Purchasing Agent shall use the System for Award Management (SAM) to search for the vendor by name, tax identification number, or another characteristic to make sure that the vendor has not been suspended or debarred from performing federally funded work (2 CFR § 200.205)
3. **Purchases Over the Simplified Acquisition Threshold (\$250,000 as of August 31, 2020).** The following additional procedures apply to purchases exceeding the simplified acquisition threshold:

a. Cost/Price Analysis.

- (i) The Purchasing Agent must perform a cost or price analysis in connection with every procurement in excess of the simplified acquisition threshold, including contract modifications. The method and degree of analysis depends on the facts surrounding the particular situation, but as a starting point, the Purchasing Agent must make independent estimates before receiving bids or proposals.
- (ii) The Purchasing Agent must negotiate profit as a separate element of the price for each contract in which there is no price competition and, in all cases, where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
- (iii) Costs or prices based on estimated costs for contracts under a federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable under Subpart E (Cost Principles) of 2 CFR Part 200. The City may reference its own cost principles that comply with the federal cost principles.

- (iv) The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

(2 CFR § 200.323)

b. Bonding Requirements. For construction or facility improvement contracts or subcontracts in excess of the simplified acquisition threshold, the following bonds, or equivalent, are required:

- (i) A bid guarantee from each bidder equivalent to 5% of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified;
- (ii) A performance bond on the part of the contractor for 100% of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor’s obligations under such contract; and
- (iii) A payment bond on the part of the contractor for 100% of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(2 CFR § 200.325)

D. CONTRACTING WITH SMALL & MINORITY BUSINESSES, WOMEN’S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS

The Purchasing Agent must take all necessary affirmative steps to assure that small & minority businesses, women’s business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include:

1. Placing qualified small & minority businesses and women’s business enterprises on solicitation lists;
2. Assuring that small & minority businesses and women’s business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small & minority businesses and women’s business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small & minority businesses and women’s business enterprises;

5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
6. Requiring the prime contractor, if subcontracts are to be allowed, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

(2 CFR § 200.321)

E. CONTRACTS ARISING FROM PROCUREMENTS

1. **Contract Administrator.** Prior to the execution of a contract funded by a federal award, the City should name a Contract Administrator. The Contract Administrator shall be responsible for the tasks, technical requirements, service performance, and verification that payments are in compliance with the contract. (2 CFR § 200.319)
2. **Contract Provisions.** Any contract entered into between the City and a firm or vendor who is to be compensated using a federal award or a portion thereof must contain the applicable contract provisions described in Appendix I. (2 CFR § 200.326)
3. **Subrecipient and Contractor Determinations.** The City must make case-by-case determinations whether each agreement it makes for the disbursement of federal funds casts the party receiving the funds in the role of a subrecipient or a contractor. The City shall make this classification using its judgment based on the following factors, as well as any additional guidance supplied by the federal awarding agency:
 - a. **Contractors.** A contract is for the purpose of obtaining goods and services for the party's own use and creates a procurement relationship with the contractor. (See 2 CFR § 200.22) Characteristics indicative of a procurement relationship between the City and a contractor are when the contractor (i) provides the goods and services within normal business operations; (ii) provides similar goods or services to many different purchasers; (iii) normally operates in a competitive environment; (iv) provides goods or services that are ancillary to the operation of the federal program; and (v) is not subject to compliance requirements of the federal program as a result of the agreement, though similar requirements may apply for other reasons.
 - b. **Subrecipients.** A subaward is for the purpose of carrying out a portion of a federal award and creates a federal assistance relationship with the subrecipient. (See 2 CFR § 200.92) Characteristics which support the classification of a party receiving federal funds as a subrecipient include when the party (i) determines who is eligible to receive what federal assistance; (ii) has its performance measured in relation to whether objectives of a federal program were met; (iii) has responsibility for programmatic decision making; (iv) is responsible for adherence to applicable federal program requirements specified in the federal award; and (v) in accordance with its agreement, uses the federal funds to carry out a program for a public purpose specified in

authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

If the party receiving the funds is classified by the City as a subrecipient, the City must:

- (i) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information:
 - Federal Award Identification: (a) Subrecipient name (which must match the name associated with its unique entity identifier); (b) subrecipient's unique entity identifier; (c) Federal Award Identification Number (FAIN); (d) federal award date (*see* 2 USC § 200.39) of award to the recipient by the federal agency; (e) subaward period of performance start and end date; (f) amount of federal funds obligated by this action by the City to the subrecipient; (g) total amount of federal funds obligated to the subrecipient by the City including the current obligation; (h) total amount of the federal award committed to the subrecipient by the City; (i) federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA); (j) name of federal awarding agency, City, and contact information for awarding official of the City; (k) CFDA number and name (the City must identify the dollar amount made available under each federal award and the CFDA number at time of disbursement); (l) identification of whether the award is R&D; and (m) indirect cost rate for the federal award (including if the *de minimis* rate is charged per 2 USC § 200.414).
 - All requirements imposed by the City on the subrecipient so that the federal award is used in accordance with federal statutes, regulations, and the terms and conditions of the federal award.
 - Any additional requirements that the City imposes on the subrecipient so as to meet its own responsibility to the federal awarding agency, including identification of any required financial and performance reports.
 - An approved federally recognized indirect cost rate negotiated between the subrecipient and the federal government or, if no such rate exists, either a rate negotiated between the City and the subrecipient or a *de minimis* indirect cost rate as defined in 2 USC § 200.414(f).
 - A requirement that the subrecipient permit the City and auditors to have access to the subrecipient's records and financial statements as necessary for the City to meet the requirements of 2 USC § 331.
 - Appropriate terms and conditions concerning closeout of the subaward.

- (ii) Evaluate each subrecipient's risk of noncompliance with federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring described below, which may include consideration of such factors as: (a) the subrecipient's prior experience with the same or similar subawards; (b) the result of previous audits including whether or not the subrecipient receives a Single Audit in accordance with Subpart F-Audit Requirements-of 2 USC Part 200, and the extent to which the same or similar subaward has been audited as a major program; (c) whether the subrecipient has new personnel or new or substantially changed systems; and (d) the extent and results of federal awarding agency monitoring.
 - (iii) Consider imposing specific subaward conditions upon a subrecipient as described in 2 USC § 200.207.
 - (iv) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. City monitoring of the subrecipient must include: (a) reviewing financial and performance reports required by the City; (b) following up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the federal award provided to the subrecipient from the City detected through audits, on-site reviews, and other means; and (c) issuing a management decision for audit findings as required by 2 USC § 200.521. Depending on the City's assessment of risk posed by the subrecipient, the following monitoring tools may be useful to ensure proper accountability and compliance with program requirements and performance goals: (a) providing subrecipients with training and technical assistance; (b) performing on-site reviews of the subrecipient's program operations; and (c) arranging for agreed-upon-procedures engagements as described in 2 USC § 200.425 (audit services).
 - (v) Verify that each subrecipient is audited as required by Part F (Audit Requirements) of 2 USC Part 200 when it is expected that the subrecipient's federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in 2 USC § 200.501.
 - (vi) Consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the City's own records.
 - (vii) Consider taking enforcement action against noncompliant subrecipients as described in 2 USC § 200.338.
- (2 CFR §§ 200.330, 200.331.)

F. RECORDS

- a. Recordkeeping.** The City must maintain records sufficient to detail the history of procurement. Records must include the following: (i) rationale for the method of procurement, (ii) selection of contract type, (iii) contract selection or rejection, and (iv) the basis for the contract price.
- b. Record Retention Requirements.** The City must maintain records related to each federal procurement for a period of three years from the date of submission of the final expenditure report or, for federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the federal awarding agency or City in the case of a subrecipient. The following exceptions apply:
- (i) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
 - (ii) When the City is notified in writing by the federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.
 - (iii) Records for real property and equipment acquired with federal funds must be retained for 3 years after final disposition.
 - (iv) When records are transferred to or maintained by the federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the City.
 - (v) Records for program income transactions after the period of performance. In some cases, federal fund recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the City's fiscal year in which the program income is earned.
 - (vi) Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

If the proposal, plan, or other computation is required to be submitted to the federal government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

If the proposal, plan, or other computation is not required to be submitted to the federal government (or to the pass-through entity) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

(2 CFR §§ 200.318(i), 200.333.)

G. PROTESTS AND CLAIMS

The City is solely responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements of goods or services under federal awards. Except as may be otherwise provided in a written request for proposals or other solicitation of the City, these procedures are available to proposers for the purpose of handling and resolving disputes relating to such procurements, including evaluation and selection, protests of awards, disputes, and claims relating to the selection process and contract award.⁴ A protestor must exhaust all of these administrative remedies before pursuing a protest with the federal grant agency or in any court of law. For purposes of this section, the term “proposer” means any person or entity that has submitted a bid or a proposal in response to an RFP or other solicitation to the City, or a person or entity that is a prospective bidder or offeror and who has a demonstrated direct economic interest in the results of the procurement.

- 1. Protest Submission Requirements.** To be considered by the City, a protest must be made in writing, supported by sufficient information to enable the protest to be fairly evaluated, and submitted within the time periods set forth herein. At minimum, protests must include (i) the name, phone number, and address of the protester; (ii) identification of the detailed and specific provision(s) of applicable federal or state law which would be allegedly violated by the procurement; (iii) copies of all exhibits, evidence, or documents supporting the protest; and (iv) a concise description of all remedies or relief requested.
- 2. Pre-Award Protests.** Pre-award protests are protests based upon the content of the solicitation documents. Any protest to the terms, conditions, or specifications set forth in a solicitation must be submitted to the Purchasing Agent or the contract administrator, if a contract administrator is identified in the solicitation, within 5 calendar days after the issuance of the solicitation. All such protests will be considered by the Purchasing Agent, or the contract administrator as appropriate, prior to the solicitation due date, and a written decision will be provided to the protestor. A decision of the Purchasing Agent or contract administrator is final, and no further protest or appeal of the terms, conditions, or specifications of any solicitation will be considered by the City Council.

⁴ These protest procedures are not available to contractors or third parties for the purpose of handling and resolving disputes, claims or litigation arising in the course of contract formation or contract administration. Any such disputes, claims or litigation will be handled and resolved in accordance with applicable contract terms, if any, and applicable law.

3. **Protests of Proposal Evaluations and Award Decision.** Proposers shall be notified of any award decision by a written or oral notice of the award. This notice shall be transmitted to each proposer at the address, email address, or telephone number contained in its proposal. Any proposer whose proposal has not lapsed may protest an award decision on any ground arising from the evaluation of proposals or the award decision, but not on any ground specified in the "Pre-Award Protests" category, above. Any such protest must be submitted to the Purchasing Agent or the contract administrator, if a contract administrator is identified in the solicitation, within 3 calendar days after notice of the award. All such protests will be considered by a Protest Review Subcommittee, composed of members selected by the City Council at its sole discretion. A written decision from the Protest Review Subcommittee stating the grounds for allowing or denying the protest shall be transmitted to the protestor before a final contract award is made. A decision of the Protest Review Subcommittee is final, and no further protest or appeal will be considered by the City Council.

(2 CFR § 200.318(k).)

H. FEDERAL AWARDING AGENCY OR PASS-THROUGH ENTITY REVIEW

1. The City must make available, upon request of the federal awarding agency or pass-through entity, technical specifications on proposed procurements where the federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the City desires to have the review accomplished after a solicitation has been developed, the federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.
2. The City must make available upon request, for the federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:
 - a. The City's procurement procedures or operation fails to comply with the procurement standards in 2 CFR Part 200;
 - b. The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
 - c. The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product;
 - d. The proposed contract is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

- e. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

The City is exempt from the pre-procurement review in this paragraph if the federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of 2 CFR Part 200.

- 3. The City may request that its procurement system be reviewed by the federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third-party contracts are awarded on a regular basis.
- 4. The City may self-certify its procurement system. Such self-certification must not limit the federal awarding agency's right to survey the system. Under a self-certification procedure, the federal awarding agency may rely on written assurances from the City that it is complying with these standards. The City must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

(2 CFR § 200.324.)

I. EXCEPTIONS TO THESE ADMINISTRATIVE PROCEDURES

The requirements set forth in these administrative procedures do not apply to:

- 1. Block grants awards authorized by the Omnibus Budget Reconciliation Act of 1981 (including Community Services);
- 2. Classes of federal awards identified as exceptions by the Office of Management and Budget; or
- 3. Any circumstance where the provisions of federal statutes or regulations differ from the provisions of Part 200 of Title 2 of the Code of Federal Register.

(2 C.F.R. §§ 200.101-200.102.)

Legal reference: 2 CFR Part 200 (Uniform Administrative Requirements) (for federal awards made on or after 12/26/2014)

Adopted: _____

Amended: _____

APPENDIX I. REQUIRED CONTRACT PROVISIONS

All contracts made by the City for the procurement of property, goods, or services using a federal award must contain provisions covering the following, as applicable:

- A. **Remedies (over \$250,000).** Contracts for more than the simplified acquisition threshold (currently \$250,000) must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and must provide for such sanctions and penalties as appropriate.
- B. **Termination for Cause and Convenience (over \$10,000).** All contracts in excess of \$10,000 must address termination for cause and for convenience by the City, including the manner by which it will be effected and the basis for settlement.
- C. **Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federal assisted construction contract” in 41 CFR Part 60-1.360-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR Part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
- D. **Davis-Bacon Act, Copeland “Anti-Kickback” Act (construction contracts over \$2,000).** When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by the City must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “*Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction*”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The City must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The City must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “*Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States*”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The City must report all suspected or reported violations to the Federal awarding agency.
- E. **Contract Work Hours and Safety Standards Act (over \$100,000).** Where applicable, all contracts awarded by the City in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of

Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week or 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission or intelligence.

- F. Rights to Inventions Made Under a Contract or Agreement.** If the federal award meets the definition of “funding agreement” under 37 CFR § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment, or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, *“Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,”* and any implementing regulations issued by the awarding agency.
- G. Clean Air Act; Federal Water Pollution Control Act (over \$150,000).** Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires compliance with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- H. Debarment and Suspension.** A contract award (*see* 2 CFR 180.22) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), *“Debarment and Suspension.”* SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- I. Byrd Anti-Lobbying Amendment (over \$100,000).** Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.

Procurement & Disposal Policy

City of Calais

The City of Calais hereby adopts this to be the Procurement and Disposal Policy for the City in order to promote a comprehensive, standardized and competitive purchasing procedure for the City.

Section 1 – Definitions

For the purposes of this policy, the following terms, phrases, words and their derivations shall have the meaning given herein.

City:	The City of Calais
City Council:	The Council of the City of Calais
Equipment:	All machinery, tools, apparatus, vehicles and other items of a similar nature
Improvements:	All construction, reconstruction, alteration, repair or renovation of real property owned or leased by the City
Supplies:	Supplies, materials and equipment as used by the City

Section 2 – Competitive Bidding Required

All purchases of, and contracts for, supplies, contractual services, improvements, and all sales of supplies which have become obsolete and unusable shall, except as specifically provided herein, be based whenever possible on competitive bids. The requirements outlined herein shall be considered minimum requirements of purchasing. Nothing contained herein shall prohibit or discourage additional competitive bidding practices in addition to those listed provided they are not inconsistent with the intent of this policy.

Section 3 – Purchasing Procedure (under ~~\$2,000~~ 3,000)

- a. All purchases of supplies, contractual services, and improvements estimated to be under ~~\$500~~ 1,000, may be made by the department head without prior approval of the City Manager.
 1. Requisition Procedure: The Department Head shall submit a signed purchase requisition requesting purchase of items over ~~\$500~~ 1,000 to the Finance Office to be certified that the funds are available in the account cited. The Department Head shall obtain three (3) quotes for any purchase over ~~\$1,000~~ 2,000 and justify the reason for the purchase. The Finance Office shall submit the purchase requisition order to the City Manager for approval of the purchase. The white copy of the purchase requisition order will be

retained by the Finance Office and the pink copy forwarded to the Department Head as approval of the purchase. The pink copy will be attached, by the Department Head, to the invoice submitted for payment to the Treasurer. Vendors should be told to send invoices directly to the City. The Treasurer will pay the invoices based on purchase requisition orders.

~~2. Purchase Order Procedure: The Department Head shall sign the purchase order authorizing purchase. The yellow copy of the purchase order shall be forwarded to the Treasurer within two (2) days so that a record can be established prior to the receipt of the invoice. The original purchase order will go to the vendor if necessary. Receipt slips and the pink copy of the purchase order are to be sent to the Treasurer when item/service is received. Reference must be made to the invoice number. Vendors should be told to send invoices directly to the City. The Treasurer will pay the invoices based on purchase orders and receiving reports.~~

- b. All purchases of supplies, contractual services, and improvements estimated to be under ~~\$2,000~~ 3,000 may be made by the City Manager without prior approval of the City Council. A minimum of three (3) quotes will be obtained and documented for purchases over \$2,000.

Section 4 – Exception for Obtaining Quotes

Each department head shall maintain a list of “preferred vendors.” For purposes of this section, a “preferred vendor” is a vendor with whom the City regularly does business to purchase common budgeted materials or supplies. When making a purchase from a “preferred vendor,” three (3) quotes may not be required when the purchase exceeds \$2,000 but is less than \$5,000. The department head shall provide an updated list of preferred vendors to the Finance Office at least annually.

Purchases of used items, not exceeding \$5,000, may also not require quotes, as there is often insufficient inventory available to obtain comparable pricing.

Section 4.5 – Purchasing Procedure (under \$5,000)

All purchases of supplies, contractual services, and improvements estimated to be over ~~\$2,000~~ 3,000 may be made by the City Manager with prior approval of the City Council as a budget item or special purchase.

Section 5.6 – Bidding Procedure (over \$5,000)

All supplies, contractual services, and improvements, except as otherwise provided in this policy, when the estimated cost thereof exceeds \$5,000, shall be purchased by formal written bid from the lowest responsible bidder after due notice inviting proposals. All final bid awards in excess of \$5,000 must be approved by the City Council. The above limit notwithstanding, the Council reserves the right to send any purchase of any amount out to bid.

(1) Notice Inviting Bids

- a) Newspaper: Notice inviting bids ~~shall~~ may be published in a local newspaper of general circulation at least two (2) weeks prior to the day set for the receiving of bids.
 - i. Scope of Notice – The ~~newspaper~~ notice required herein shall include a general description of the articles to be purchased or sold, shall state where bid forms and specifications may be secured, and the time and the place for opening the bids.
- b) Bidders List – The City may also solicit sealed bids from known suppliers or purchasers by sending them ~~a copy of such newspaper notice as will acquaint them with~~ a bid specification sheet for the proposed purchase or sale.

(2) Bid Deposits

When deemed necessary by the City Manager, or when project rules require such, bid deposits in a form satisfactory to the City shall be prescribed in the bid material. Unsuccessful bidders shall be entitled to return of surety where it has been required. The successful bidder shall forfeit any surety required upon failure on ~~his~~ their part to enter a contract within such time as prescribed by the City Manager or appropriate Department Head.

(3) Bid Opening Procedures

- a) Bids shall be submitted in a sealed envelope to the City Clerk and shall be identified as bids on the envelope.
- b) Bids shall be opened in public at the time and place stated in the public notice.

(4) Rejection of Bids

The City Council shall have the authority to reject any or all bids, including parts of bids, ~~or all bids~~ for any one or more supplies, contractual services or improvements included in the proposed contract, when the public interest will be served thereby in its sole discretion.

(5) Award of Bid

- a) Bids shall be awarded by majority vote of the City Council.
- b) Lowest Responsible Bidder – Bids shall be awarded to the lowest responsible bidder. In determining “lowest responsible bidder,” in addition to price and compliance with all applicable bid specifications, the City Council may consider:

- i. Whether the bidder is able to show proof that they are bonded in the event that the advertisement so requires.
 - ii. Whether the bidder carries Workmen's Compensation Insurance as required by State Law.
 - iii. The ability, capacity and skill of the bidder to perform the bid or provide the service(s) required.
 - iv. Whether the bidder can perform the bid or provide the service(s) promptly, or within the time specified, without delay or interference.
 - v. The character, integrity, reputation, judgement, experience and efficiency of the bidder.
 - vi. The quality of performance of previous bids.
 - vii. The previous and existing compliance by the bidder with laws and ordinances relating to the bid.
 - viii. The sufficiency of the financial resources and the ability of the bidder to perform the bid.
 - ix. The quality, availability, and adaptability of the supplies or contractual services to the particular use required.
 - x. The ability of the bidder to provide future maintenance and services for the use of the subject to the bid.
 - xi. The number and scope of conditions attached to the bid.
 - xii. Such other factors as may be indicated by the City Manager or appropriate department head demonstrating that the bid is not in the City's best interest and does not promote the underlying purpose of this policy.
- c) Award to Other than Low Bidder – When the award is not given to the lowest bidder, a statement of the reasons for placing the order elsewhere shall be stated by the City Council and ~~filed with the papers relating to the transaction~~ included in the meeting minutes.
 - d) Tie Bids – Where a tie bid occurs, the City Manager or the City Council, where applicable, will make the decision on the bid award.

(6) Prohibition Against Subdivision

No contract or purchase shall be subdivided to avoid the requirements of this section.

Section ~~6~~ 7 – Local Preference

A local preference shall be given to any bidder whose business is located and operated within the City limits of Calais. This local preference shall be based on the following sliding scale:

Bids under \$10,000:	10%
Bids under \$10,000 up to \$50,000:	5%
Bids over \$50,000:	2% (not to exceed \$5,000)

Location and operation shall be defined as owning, leasing, or renting physical space within the City limits and staffing the same at least twenty (20) hours per week during a period commencing thirty (30) days prior to the bid deadline and continuing through the end of the bid agreements. The municipality to which excise tax and personal property tax is paid may also be considered when determining local preference applicability. The City Council reserves the right to adjust or suspend this percentage for any purchase.

Section ~~7~~ 8 – Exemption from Bidding Procedure – Emergency Purchases

In case of an emergency which requires immediate purchase of supplies, contractual services, or improvements, whose immediate procurement is essential to prevent delays in the work of any department which may vitally affect the life or convenience of citizens or employees, the City Manager shall be empowered to secure, at the lowest obtainable price, any supplies or contractual services regardless of the amount of the expenditure.

- a) Recorded Explanation – A written report of the circumstances of an emergency purchase shall be submitted by the City Manager to the City Council no later than twenty (20) days, or the next regularly scheduled Council meeting, whichever is later, after the purchase has been made. This report shall be available for public inspection.

Section ~~8~~ 9 – Exemption from Bidding Procedure – Special Requirements

- a) The competitive bidding procedure shall not be required in connection with any purchases of supplies, contractual services or improvements funded or reimbursable by State or Federal sources where such source requires a different procurement process to be followed. (See the Federal Procurement Manual for Using Federal Awards)
- b) The competitive bidding procedure shall not be required in connection with in-kind donations and donations of money designated for a specific purpose.

Section ~~9~~ 10 – Exemption from Bidding Procedure – Negotiated Purchases

Where there has been competitive bidding, but no bids were received, or the City Council has rejected all bids because the bid prices were unreasonable, the City Council or the City Manager (or his/her designee) ~~will~~ may negotiate the purchase price.

Section ~~10~~ 11 – Exemption from Competitive Bidding – Cooperative Purchasing

The City Council may authorize the City Manager to join with other units of government in cooperative purchasing plans or utilizing the competitive bid price established by the State of Maine when the best interest of the City would be served thereby. The requirements of competitive bidding shall not apply to such cooperative arrangements.

Section ~~11~~ 12 – Exemption from Competitive Bidding – Used Items

The City Council may authorize the City Manager to purchase used items without observing the competitive bidding procedure.

Section ~~12~~ 13 – Contracts for Professional & Other Services

- a) The City Council may authorize the City Manager to contract for professional and other services which are, in their nature, unique and not subject to competition.
- b) The City Council may authorize the City Manager to contract for routine services, on an annual basis, including, but not limited to, electrical, plumbing or other day-to-day services.

Section ~~13~~ 14 – Surplus Stock

All departments shall submit to the City Manager, at such times and in such form as he/she shall prescribe, reports showing stocks of all supplies which are no longer used or which have become obsolete, worn out, or scrapped.

- (1) Sale – Once annually, the City Manager shall sell all supplies which have become obsolete, unusable, or otherwise, for the public use, or to exchange the same for, or trade the same in on, new supplies. Sale of surplus property shall be accomplished by a competitive bidding procedure, open sale, auction or direct sale. The type of sale shall be determined by the City Manager.

| Amended – March 24, 2022
Amended – January 24, 2008

MARCH - 2022

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
		1	2	3	4	5
6	7	8	9	10 Prop. Com. 5:30pm City Council 6:00pm	11	12
13	14	15	16	17	18	19
20	21	22	23 Public Safety Committee Meeting 1:00 pm @ North Street Bldg.	24 Happy St. Patrick's Day	25	26
27	28	29 Int'l Festival Committee Meeting at 5:00pm	30	31 Finance Com 5:00 pm Medical Marijuana workshop 5:30 pm City Council 6:00pm		