

ORDINANCE NO. 024-2012

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCFARLAND AMENDING ORDINANCE NUMBERS 285, 002-2010, AND 021-012 AND MCFARLAND MUNICIPAL CODE CHAPTER 2.24 DEALING WITH PURCHASE OF SUPPLIES, MATERIALS AND EQUIPMENT

THE CITY COUNCIL OF THE CITY OF MCFARLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. AMENDMENTS.

(a) Ordinance Nos. 285, 002-210, and 021-012 and McFarland Municipal Code Chapter 2.24 is hereby amended by replacing the phrase "supplies and equipment" every place that it appears with "supplies, materials, and equipment."

(b) Section 1 of Ordinances 285, 002-2010, and 021-012 and McFarland Municipal Code Section 2.24.070.A is hereby amended by replacing the first sentence with the following: "Purchases of fifteen thousand dollars or less may be made by the employees of the city by force account, by negotiated contract or by blank or open purchase order upon the authority of the purchasing officer."

(c) Section 1 of Ordinance Nos. 285, 002-2010, and 021-012 and McFarland Municipal Code Section 2.24.070.C is hereby deleted in its entirety and each lettered paragraph thereafter is re-lettered in succession accordingly.

(d) Portions of Section 1 of Ordinance Nos. 285, 002-2010, and 021-012 and McFarland Municipal Code Section 2.24.070 are hereby amended by adding Subsection "H" as follows:

"H. Certain purchases are not readily adaptable to the open market and bidding process. These purchases are generally for items where the competitive bid process is not applicable or where a check is required to accompany the order. The following purchases are exempt from the provisions set forth in this Section 2.24.070: debt payments, services, advertisements and notices, attorney services, consultant services, courier/delivery/messenger services, fuel, insurance claims and premiums, medical payments, membership dues, payments to other governmental units, petty cash replenishment, property rentals, real property/easement acquisition, subscriptions trade circulars or books, travel

expense/advances, utility payments and credit card purchases. Exemptions are limited to the foregoing except as otherwise described in this Chapter 2.24. "

(e) Portions of Section 1 of Ordinance Nos. 285, 002-2010, and 021-012 and McFarland Municipal Code Section 2.24.110.24 is hereby replaced with the following: "Equipment" and Material" shall mean personal property necessary to conduct the city's business, including but not limited to machinery, vehicles, rolling stock, supplies, and other property used to conduct the city's business."

SECTION 2. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 3. EFFECTIVE DATE.

This ordinance shall take effect thirty (30) days after the date of its passage and within fifteen (15) days of the date of its passage shall be posted in the three designated public posting places in the City of McFarland.

INTRODUCED at a regular meeting of the City Council of the City of McFarland, California on the 25th day of October, 2012.


PASSED AND ADOPTED at a regular meeting of the City Council of the City of McFarland, California on the 11th day of November, 2012, by the following vote:

AYES: Cantu, Martin, McFarland, Santillano, Coker

NOES: None


ABSENT: None

ABSTAIN: None



MANUEL CANTU, Mayor,
City of McFarland, California

ATTEST:



BLANCA REYES-GARZA, City Clerk,
City of McFarland, California

POSTED: November 13, 2012



Chapter 2.24
PURCHASING SYSTEM

Sections:

- 2.24.010 PURPOSE**
- 2.24.020 POLICY STATEMENT**
- 2.24.030 UNAUTHORIZED PURCHASES**
- 2.24.040 RESPONSIBILITIES OF THE PURCHASING OFFICER**
- 2.24.050 RESPONSIBILITIES OF DEPARTMENTS**
- 2.24.060 VENDOR RELATIONS**
- 2.24.070 PURCHASING METHODS**
- 2.24.080 INFORMAL AND FORMAL BID PROCESS**
- 2.24.090 SPECIFICATIONS**
- 2.24.100 PROFESSIONAL CONSULTANT SELECTION**
- 2.24.110 SURPLUS PROPERTY**
- 2.24.120 DEFINITIONS**

2.24.010 Purpose. The purpose of this policy is to provide the city a means of assuring continuity and uniformity in its purchasing operation and to define the responsibilities for purchasing supplies, materials, and equipment for the city. These guidelines are not intended to address every issue, exception, or contingency that may arise in the course of purchasing activities. The basic standard that should always prevail is to exercise good judgment in the use and stewardship of city resources, including keeping within the budget authorized by the city council.

2.24.020 Policy Statement The city manager is designated as the purchasing officer for the city and may delegate the administration of the program. The purchasing officer is charged with the responsibility and authority for coordinating and managing the procurement of the city's supplies, materials, and equipment according to this policy. The policy outlined herein is to be adhered to by the purchasing officer and all departments when procuring supplies, materials, and equipment. This policy strives to define decision-making with prudent review and internal control procedures and to maintain departmental responsibility and flexibility in evaluating, selecting and purchasing supplies, materials, and equipment.

A. Excluded from this policy is the purchase of supplies, materials, and equipment which is included within a "public works" project as defined in the California Public Contract Code.

2.24.030 Unauthorized Purchases. Except for authorized exemptions stated herein, no purchase of supplies, materials, or equipment shall be made without an authorized purchase order. Otherwise such purchases are void and not considered an obligation of the city. Invoices without an authorized purchase order may be returned to the vendor unpaid. The person ordering the unauthorized purchase may be held personally liable for the costs of the purchase or contract. Purchase orders shall be issued prior to ordering supplies, materials, and equipment and not for work already done or materials already ordered.

2.24.040 Responsibilities of the purchasing officer. The purchasing officer is responsible for the procurement of supplies, materials, and equipment; the administration of the purchasing policies; and the management of surplus city property. To perform these functions efficiently and assist departments, the purchasing officer shall:

A. Be charged with the responsibility and authority for coordinating and managing the procurement of the city's supplies, materials, and equipment from the lowest responsive and responsible bidder when required by this policy:

B. Ensure full and open competition of all purchases as required by this policy:

C. Identify evaluate and utilize purchasing methods which best meet the needs of the city (such as cooperative purchases, blanket purchase orders and contractual agreements):

D. Assist all departments with research and recommendations in developing specifications and review specifications for completeness of information to ensure specifications are not unnecessarily restrictive:

E. Coordinate vendor relations, locate sources of supply and evaluate vendor performance:

F. Recommend revisions to purchasing procedures when necessary and keep informed of current development in the field of public purchasing.

G. Prescribe and maintain all forms and records necessary for the efficient operation of the purchasing function:

H. Act as the city's agent in the transfer and disposal of surplus equipment and materials:

I. Investigate the cost of recycled and non-recycled products to determine if the purchase of recycle products is practical and economical. To be considered economical the added costs should not exceed 10% of the lowest non-recycled product price; and

J. Make purchase award recommendations to the city council.

2.24.050 Responsibilities of departments. Departments are charged with the following responsibilities in the purchasing process:

A. To provide to the purchasing officer at the beginning of each fiscal year, an updated authorized signature list designating those individuals who are delegated the authority to make purchase pursuant to the policies and procedures described herein:

B. To anticipate requirements sufficiently in advance to allow adequate time to obtain goods in accordance with the best purchasing practices:

C. To communicate and coordinate purchases with the purchasing officer as necessary:

D. To provide detailed accurate specifications to ensure goods obtained are consistent with requirements and expectations:

E. To prepare requisitions in accordance with instructions so as to minimize the processing effort:

F. To inform the purchasing division of any vendor relations problems, shipping problems and situations which could affect the purchasing function:

G. To minimize urgent and sole source purchases and to provide written documentation when such purchases may be necessary:

H. To assist the purchasing division with the review of all bids received for compliance with specifications and provide the purchasing division with written documentation regarding their findings:

I. To notify vendors of purchase awards when authorized by the purchasing officer:

J. To not split orders for the purpose of avoiding procurement requirements: and

K. To consider the use of recycled products when practical and economically feasible. To be consider economical the added costs should not exceed 10% of the lowest non-recycled product price.

2.24.060 Vendor relations: It is to the city's advantage to promote and maintain good relations with vendors. The purchasing division and operating department staff shall conduct their dealings with vendors in a professional manner and shall promote equal opportunity and

demonstrate fairness, integrity and courtesy in all vendor relations. When feasible to do so vendors within the city should be utilized for supplies, materials, and equipment.

2.24.070 Purchasing methods: All supplies purchased by the city shall be purchased in one of the following ways:

A. Purchases of fifteen thousand dollars or less may be made by the employees of the city by force account, by negotiated contract or by blanket or open purchase orders upon the authority of the purchasing officer. Prudent judgment shall be used at all times.

B. For purchase of between \$15,000.01 - \$34,999.99 the purchasing officer shall attempt to obtain three competitive quotations whenever reasonably possible for purchase. The purchasing officer shall submit a requisition which includes the recommended vendor with all supporting documentation to the city council. The city council may award purchase to the lowest responsive and responsible bidder whose quote fulfills the intended purpose, quality, and delivery needs of the solicitation provided that an unencumbered appropriation for that item exists. In lieu of awarding the purchase the city council may reject bids, or authorize the purchasing officer to negotiate further to obtain terms more acceptable to the city.

C. Another method of purchasing items is by contract purchase orders. Contract purchase orders are the preferred method of purchasing repetitive-use items which may be common to several departments or within one department. Establishing contract purchase orders provides a means of obtaining volume pricing based upon the combined needs of all departments reduces the administrative costs associated with seeking redundant competitive bids and processing a purchase order each time an order is placed, and allows departments to order as needed, reducing the requirement to maintain large to inventories of stock. All contract purchase orders shall be approved by the city council. If a contract purchase order exists departments shall order all of their requirements from the successful vendor. No other source shall be used without prior approval of the purchasing officer, and where required hereunder, the city council. Departments shall submit in writing to the purchasing division any performance problem encountered immediately following the occurrence so that corrective action may be taken. Contract purchase orders are annual and may include options for renewal for specific products, product type, or services at agreed upon prices or pricing structure and for a specified period of time. All renewals of contract purchase orders shall be approved by the city council.

D. The city may participate in purchases and contracts established by other political jurisdictions provided the cooperative agreement is established following a competitive bid process. The city council shall authorize the award of any such cooperative purchase agreements.

E. Commodities which can be obtained from only one vendor as determined by city are exempt from competitive bidding. Sole source purchases may include proprietary items sold directly from the manufacturer items that have only one distributor authorized to sell in this area or where a certain product has been proven to be the only product that has proven to be acceptable. All sole source purchases shall be supported by written documentation signed by the appropriate department head and forwarded to the purchasing officer. Final determination that an item as a valid sole source purchase will be made by the purchasing officer or designee.

F. Urgency purchases are defined herein as purchases for any of the following reasons: to preserve or protect life, health or property, or in the event of a natural disaster, or to forestall a shutdown of essential public services. Urgency purchases do not require competitive quotes or properly encumbered funds be committed. The city manager may approve urgency purchases without city council action or approval. The city manager shall use sound judgment in keeping such orders to an absolute minimum. The following requirements shall apply to urgency purchases:

1. The purchasing officer shall be contacted as soon as possible for an advance purchase order number which may be given verbally to cover the urgent transaction.

2. A completed purchase requisition shall be submitted to the purchasing officer within two working days or as soon as the information is available. All purchase requisitions for urgent purchases shall be signed by the appropriate department head.

3. Documentation explaining the circumstances and nature of the urgency purchase shall be submitted as follows: For purchases of the Competitive Bid Amount hereinafter described or more the city manager shall report the purchase to the city council at its next scheduled meeting for ratification.

4. If the urgency purchase causes any budget line item to exceed the approved budget the city manager shall obtain subsequent city council approval for an additional appropriation or to make a transfer to cover the purchase.

G. With regard to purchases at or exceeding thirty-five thousand dollars (the "Competitive Bid Amount") the following provisions shall apply:

1. Bids shall be awarded to the "responsive" and "qualified" bidder who submits the lowest bid.

2. In determining the lowest "responsive" bid the following elements shall be considered in addition to price.

(a) A responsive bid is one which is in substantial conformance with the requirements of the invitation to bid, including specification and city's contractual terms and conditions. Bidders who substitute terms and conditions or who qualify their bids in such a manner as to nullify or limit their liability shall be considered non-responsive bidders.

(b) Conformance with the requirements of the invitation to bid may also include providing proof of insurance, completing all forms, including references and providing all other information as requested in the bid document.

(c) The successful bidder must demonstrate the ability to fulfill a contract successfully including rendering of subsequent and continuing service. Staff may request proof of a prospective bidder's reliability. Prospective bidders may be requested to furnish proof of financial resources, a list of current or previous customers and other pertinent data. Such action may also be taken after receipt of bids.

(d) A bidder may be determined to be non-responsive if a prospective bidder fails to furnish proof of qualifications when required.

3. In determining the lowest "qualified" bidder the following elements shall be considered in addition to price:

(a) That the products offered provide the quality, fitness, and capacity for the required usage.

(b) That the bidder has the ability, capacity and skill to perform the contract satisfactorily and within the time required.

(c) That the bidder's experience(s) regarding past purchases by the city or other public agencies demonstrates the reliability of the bidder to perform the contract.

4. That city council may reject any or all bids if it is determined to be in the best interests of the city. Reasons for rejection may include but are not limited to the following: a bid is determined to be non-responsive, the number of bids received is inadequate and bids received are not reasonably uniform in price, or the lowest bid received is deemed to be too high. The city council may in any given case reject all bids with or without cause and submit the supplies, equipment or service involved to a new bidding process. If all bids are rejected the purchasing officer may be authorized to re-solicit bids negotiate a contract for the purchase or abandon the purchase.

5. If two or more bids are received which are in all respects equal, the city council may accept the one deemed to be in the best interest of the city.

H. Certain purchases are not readily adaptable to the open market and bidding process. These purchases are generally for items where the competitive bid process is not applicable or where a

check is required to accompany the order. The following purchases are exempt from the provisions set forth in this Section 2.24.070: debt payments, services, advertisements and notices, attorney services, consultant services, courier/delivery/messenger services, fuel, insurance claims and premiums, medical payments, membership dues, payments to other governmental units, petty cash replenishment, property rentals, real property/easement acquisition, subscriptions trade circulars or books, travel expense/advances, utility payments and credit card purchases. Exemptions are limited to the foregoing except as otherwise described in this Chapter 2.24.

I. Purchase orders represent a contract between the city and the vendor. Any substantial change to a purchase order shall be documented as a change order. Change orders shall be reviewed and approved by the city administrator. A purchase order may not be increased by more than ten percent or one thousand five hundred dollars whichever is less without a change order, except for taxes, shipping and handling. Taxes, shipping and handling may cause the purchase order to exceed the authorized purchase order amount. These items do not require a change order even if they exceed the lesser of ten percent or one thousand five hundred dollars of the original purchase order amount. The requisition form shall be used to change a quantity, description, size, color, vendor name or address, unit price, delivery location, or terms and conditions and to delete or add to the order. It shall also be used to terminate a purchase order and to correct in the original purchase order.

J. The city council may adjust the amounts described in subsections A and B of this section 2.24.070 and the Competitive Bid Amount by either resolution or ordinance.

2.24.080 Informal and formal bid process: Except as otherwise exempted in this ordinance, supplies, materials, or equipment with an estimated value equal to or greater than the Competitive Bid Amount shall be made by following formal bid process.

A. To initiate the each bid process the department making the request shall provide specifications for the item to be purchased and documentation showing the existence of an unencumbered appropriation for the item in the current approved budget. The purchasing officer or requesting department shall solicit bids as prescribed below.

B. Informal bids may be posted at city hall, mailed to prospective bidders a minimum of ten calendar days before the due date, or solicited over the phone, or by electronic means. Formal bids shall be posted at city hall and shall be published at least once in a newspaper of general circulation, and if applicable in appropriate trade publications. The date of publication shall be at least ten days before the due date of the bids. All formal bids shall be sealed and shall be publicly opened and read at the date, time, and place indicated in the published notice.

C. Bids shall be reviewed for compliance with specifications by the requesting department. All deviations from the specifications shall be fully documented by the requesting department and the impact of the deviations on the performance or suitability of the bid item shall be detailed. Staff will prepare and forward as recommendation for approval of purchase. Acceptance of informal and formal bids shall be by the city council.

2.24.090 Specifications. It is the responsibility of each department to provide detailed accurate specifications when requisitioning supplies, materials, and equipment. Accurate specifications are essential for effective bidding and shall include the following:

A. Sole source specifications shall be avoided whenever possible as they minimize or eliminate competition. Whether or not a purchase is a sole source purchase shall be determined by the purchasing officer. An example of sole source is where equipment, materials, or supplies are required to be compatible with existing equipment or to perform a complex or unique function. Written documentation signed by the appropriate department head shall accompany the requisition for any sole source request.

B. Standardization of specifications for items common to several divisions and or departments can facilitate the purchasing process. The purchasing officer and departments shall work together to establish standard specifications for such items.

C. In purchasing equipment, materials, or supplies needed to be compatible with existing equipment, or to perform complex or unique functions the appropriate authority may limit bidding

to a specific product type or a brand name product. Use of brand names in specifications shall be for the purpose of describing the standard of quality, performance, and characteristics the city desires and not be intended to limit or restrict competition. If a brand name is incorporated into a specification a minimum of two acceptable brands shall be listed whenever possible and shall be followed by the statement "or approved equal" unless the sole source rule applies. Using specifications provided by specific manufacturer should be avoided; however, if used the name of the manufacturer, model number and other pertinent information should be indicated. The bid document shall clearly state that the use of the manufacturer's specifications are for the sole purpose of establishing the level of quality desired. The city council shall determine and approve any product submitted as an "approved equal" as to such purchases.

D. There may be occasions when vendor assistance is required to develop a specification. Such specifications shall be written in general terms and the vendor shall be informed that the information they provide may be used to develop specifications for a competitive bid process. The vendor shall be allowed to submit a bid, but will not be given any preference over the other bids.

2.24.100 Surplus property Each department shall periodically review its equipment, material, and inventory and shall promptly notify the city administrator of any surplus property. A surplus property form shall be completed and submitted for each surplus property item. Surplus property forms are to be made available from the finance division. The purchasing officer or designee shall determine or approve the method of disposition that is most appropriate and in the best interests of the city.

2.24.110 Definitions. A. The following definitions shall apply to this Chapter 2.24.120

1. "Agreement" shall mean an understanding or arrangement between two or more parties.
2. "Appropriation" shall mean city council authorization to expend public funds for a specific purpose.
3. "As Is" shall mean that goods are offered for sale in existing condition without warranty or guaranty.
4. "Award" shall mean the acceptance of a bid or proposal.
5. "Bid" shall mean the executed documents submitted by a *Bidder* in response to a *Notice Inviting Bids (NIB)*, *Proposals*, or *Requests for Quotations*.
6. "Bidder" shall mean a person or legal entity who submits a bid in response to a solicitation.
7. "Blanket Purchase Order" shall mean an *Agreement* of no more than one year between the *City* and a *Vendor* allowing authorized *City* employees to charge repetitive *Purchases* of supplies, equipment or services at pre-arranged prices, dollar limits and/or other terms and conditions.
8. "Brand Name" shall mean a trade name which serves to identify a product or particular manufacturer.
9. "Change Order" shall mean written modification or addition to a *purchase order* or *contract agreement* authorized by the appropriate authority.
10. "City" shall mean the City of McFarland as governed by the members of the City of McFarland *city council*.
11. "City Attorney" shall mean and include the *city attorney* of the City of McFarland.
12. "City Council" shall mean and include the *city council* of the City of McFarland. It shall also mean the governing boards of such other districts, authorities, or agencies as may be governed by the *city council* of the City of McFarland.
13. "City Administrator" shall mean and include the *city administrator* of the City of McFarland.

14. "Competitive Bid Amount" shall mean purchases in the amount of \$35,000.00.
15. "Contract" shall mean a verbal or written legally binding mutual promise between two parties. e.g. an accepted *purchase order*.
16. "Contract Purchase Order" shall mean a *purchase order* (usually issued for one year) which outlines unit prices to be charged by the *vendor* for the term of the *purchase order*. This type of *purchase order* is generally used for such things as electrical, plumbing and other goods and services which are anticipated to be needed periodically throughout the year. The *bids* are usually expressed at hourly rates plus parts expressed at a specific *discount* below list price
17. "Contract Tracking Form" a form used to communicate to the purchasing officer that a contract has been awarded and that certain dollar values, representing the amount expected to be spent during the current and future fiscal years are to be encumbered. The form precedes the issuance of an encumbrance order.
18. "Designee" shall mean a duly authorized and appointed representative of an employee that holds a superior position to the person appointed to represent him or her.
19. "Dispose OF" shall mean to transfer or part with, to sell: to get rid: to throw out.
20. "Discount" shall mean an allowance or deduction from a normal or list price extended by a seller to a buyer to make the unit price more competitive.
21. "Emergency Purchase" shall mean see Urgency Purchase.
22. "Encumbrance" shall mean committing budgeted funds prior to receiving supplies, equipment or services: funds are shown as an encumbrance until supplies, equipment or services are received at which time funds are actually expended.
23. "Encumbrance Order" shall mean direction provided to the purchasing division using a contract tracking form to encumber contracts without the issuance of a purchase order.
24. "Equipment" or "Material" shall mean personal property necessary to conduct the City's business, including but not limited to machinery, vehicles, rolling stock, supplies, and other property used to conduct the City's business.
25. "Formal Bid" shall mean a *Bid* which must be submitted in a sealed envelope and in conformance with a prescribed format, to be opened and announced at a specified time at a public opening.
26. "General Services" shall mean services such as janitorial, uniform cleaning, maintenance and other services for which the performance of such activities do not require any unique skill, special background or training.
27. "Guarantee" shall mean a pledge or assurance that something is as represented and will be replaced or repaired if it fails to meet the stated *Specifications*.
28. "Informal Bid" shall mean written or verbal *Quotations* for supplies, equipment and services which pursuant to this policy are not required to meet the formal bidding requirements. *Informal Bids* include unsealed written quotes, verbal quotes and quotes received via fax.
29. "Lowest (Responsive And) Responsible Bidder" shall mean the *Bidder* submitting the lowest price and capable of performing the proposed *Contract*. See also "*Responsive Bidder*" and "*Responsible Bidder*".
30. "Non-Responsive Bid" shall mean a *Bid* that does not conform to the essential requirements of the *Notice Inviting Bids*.
31. "*Notice of Inviting Bids (NIB)*" shall mean a formal notice published in the newspaper or elsewhere or sent directly to potential *Bidders*, notifying them that the *City* is accepting bids for a specific purpose.

32. "Professional Services" shall mean any work performed by an auditor, attorney, doctor, architect, engineer, land surveyor, construction project manager, appraiser, expert, or consultant for example.
33. "Proposal" shall mean the executed document submitted by an offer or in response to a *Request for Proposals* (and the basis for subsequent negotiation).
34. "Public Contract Code" shall mean the *Public Contract Code* of the State of California.
35. "Public Project" (definitions is from State of California Public Contract Code).
36. "Public Owned, Leased or Operated Facility" shall mean any plant, building, structure, ground facility, utility system, real property, streets and highways or other capital improvement which project is to be undertaken by the *City*.
37. "Purchase" shall mean renting, leasing, purchasing, licensing or a trade of *Equipment, Material, or Supplies*.
38. "Purchase Officer" shall mean the city administrator or his/her designated representative.
39. "Qualified Bidder" shall mean a bidder that demonstrates the following characteristics, can provide product quality, fitness and capacity for the required usage, has the ability, capacity and skill to perform the contract or provide the service required, has demonstrated character, integrity, reputation, judgment, experience and efficiency, particularly with reference to past purchases by the city or other public agencies: has the ability to perform within the time required: has shown quality of performance and/ or of products provided in previous contracts or services with the city or other public agencies: and has no previous documented incidents of unsatisfactory performance and/or unsatisfactory delivery, materials, or services that may result in determination of unqualified.
40. "Quotation" shall mean a *Bid*. A statement of price, terms of sale, and description of goods or services offered by a prospective seller to a prospective *Purchaser*, usually for *Purchases* below the amount requiring *Formal Bidding*.
41. "Request for Proposal (RFP)" shall mean all documents, whether attached or incorporated by reference, utilized for soliciting competitive *Proposals*. The *RFP* procedure permits negotiation of *Proposal* and prices as distinguished from *Competitive Bidding* and a Notice Inviting *Bids*. The procedure allows changes to be made after *Proposals* are opened and contemplates that the nature of the *Proposals* and/ or prices offered will be negotiated prior to *Award*.
42. "Request for Quotation (RFQ)" shall mean the document generally used for seeking competition on small *Purchases* or on any *Purchase* that does not require competitive *Sealed Bidding*, can be used for obtaining price and delivery information for *Sole Source* and emergencies. Also, see *Quotation*.
43. "Responsible Bidder" shall mean a person who has the capability in all respects to perform in full the *Contract* requirements, and the integrity and reliability which will assure good faith performance.
44. "Responsive Bidder" shall mean (1) a person who has submitted a *Bid* which conforms in all material respects to the Notice Inviting *Bids* (NIB) or (2) one whose *Bid* conforms in all material respects to the term and conditions. *Specifications* and other requirements of the NIB
45. "Sealed Bid" shall mean a *Bid* which has been submitted in a sealed enveloped to prevent its contents from being revealed or known before the deadline for the submission of all *Bids* required on *Formal Bids*.
46. "Sole Source" shall mean an *Award* for a commodity or service to the only reasonably known capable supplier due to the unique nature of the requirement, the supplier, or market conditions.

47. "Specifications" shall mean a description of what the *Purchaser* seeks to buy or accomplish and consequently, what a *Bidder* must be responsive to in order to be considered for *Award* of a *Contract*. A *Specification* may be a description of the physical or functional characteristics, or the nature of a supply or service. It may include a description of any requirements for inspecting, testing, or preparing a supply or service item for delivery.

48. "Split" shall mean to divide a *Purchase* into two or more parts in order to void the requirements of the Purchasing Policy.

49. "Supplies" shall mean office *supplies*, janitorial *supplies*, *Materials*, goods, tools or other commodities used in the general conduct of the *City's* business, excepting *supplies* or *Materials* for a *Public Work* which is regulated under the *Public Contract Code* section 20160, et seq.

50. "Surplus Property" shall mean any city personal property that is no longer needed or useable by the holding department.

51. "Vendor" shall mean a supplier of goods or services.

52. "Warranty" shall mean the representation that something is true. Not to be confused with "Guarantee". A representation of utility, condition and durability made by a *Bidder* or offerer for product offered.

2.24.120 Violation.

A violation of this Chapter 2.24 punishable under Chapter 1.20 of the McFarland Municipal Code shall occur only if the violation is a knowing and willful violation, and any such violation shall constitute an infraction punishable as described in Section 1.20.010 C and Section 1.20.010 D.