

City of Bixby

Purchases, Sales and Asset Management

Ordinance 2121

Effective July 1, 2013

**Contents**

2-4-1: PURPOSE AND INTENT ..... - 1 -  
2-4-2: DEFINITIONS:..... - 2 -  
2-4-3: CITY PURCHASING AGENT: ..... - 4 -  
2-4-4: COMPETITIVE BIDDING REQUIRED:..... - 7 -  
2-4-5: GENERAL BIDDING REQUIREMENTS: ..... - 7 -  
2-4-6: FORMAL BIDDING PROCEDURES: ..... - 10 -  
2-4-7: OPEN MARKET BIDDING PROCEDURE: ..... - 13 -  
2-4-8: WAIVER OF COMPETITIVE BIDDING: ..... - 15 -  
2-4-9: ALTERNATIVE COMPETITIVE BIDDING PROCEDURES: ..... - 15 -  
2-4-10: EMERGENCY PURCHASES ..... - 15 -  
2-4-11: ENCUMBRANCE AND PAYMENT PROCEDURES: ..... - 16 -  
2-4-12: MUNICIPAL CAPITAL ASSET MANAGEMENT: ..... - 17 -  
2-4-13: PAYROLL DISBURSEMENTS: ..... - 20 -

(Published in the South County Leader,  
City of Bixby, Tulsa County, Oklahoma

JUNE 20, 2013.)

ORDINANCE NO. 2121

AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF BIXBY, OKLAHOMA, TITLE 2, TITLED "FINANCE AND TAXATION", CHAPTER 4, TITLED "PURCHASES AND COMPETITIVE BIDDING", BY REPEALING CURRENT SECTION 2-4-1, TITLED "PROCEDURES SPECIFIED" AND ENACTING NEW SECTIONS 2-4-1 THROUGH 2-4-13; IDENTIFYING THE PURPOSE AND INTENT OF THIS CHAPTER; PROVIDING DEFINITIONS FOR CERTAIN WORDS, TERMS AND PHRASES; ESTABLISHING THE AUTHORITY AND DUTIES OF THE CITY'S PURCHASING AGENT; REQUIRING COMPETITIVE BIDDING FOR SUPPLIES, CONTRACTUAL SERVICES AND PUBLIC IMPROVEMENT CONSTRUCTION PROJECTS, WITH CERTAIN SPECIFIED EXCEPTIONS; ESTABLISHING GENERAL BIDDING REQUIREMENTS; ENACTING FORMAL BIDDING AND OPEN MARKET BIDDING PROCEDURES; PROVIDING COMPETITIVE PROCEDURES FOR DISPOSING OF SURPLUS OR OBSOLETE SUPPLIES; PROVIDING FOR THE WAIVER OF COMPETITIVE BIDDING FOR DE MINIMIS AMOUNTS AND SOLE SOURCE ITEMS; PROVIDING FOR ALTERNATIVE BIDDING PROCEDURES TO BE APPROVED BY THE CITY COUNCIL; PROVIDING FOR EMERGENCY PURCHASES; ESTABLISHING ENCUMBRANCE AND PAYMENT PROCEDURES; ESTABLISHING A MUNICIPAL CAPITAL ASSET MANAGEMENT SYSTEM; ESTABLISHING REQUIREMENTS AND PROCEDURES FOR PAYROLL DISBURSEMENTS; PROVIDING THAT THE OPERATIVE DATE OF THE PROVISIONS ENACTED BY THIS ORDINANCE SHALL BE JULY 1, 2013; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BIXBY, OKLAHOMA:

*Section 1. That Title 2, Chapter 4, Section 2-4-1 be and the same is now specially repealed.*

*Section 2. That Title 2, Chapter 4, Sections 2-4-1 through 2-4-13 be and the same are now enacted to read as follows:*

**"2-4-1: PURPOSE AND INTENT:**

- A. Bixby City Charter, Article 4, Section 4.7, titled 'Purchases, Sales and Asset Management':

1. Empowers the City Manager to contract for and purchase all construction, labor, supplies, material and equipment for the offices, departments and agencies of the city's government, subject to regulations adopted by the City Council, provided that such contracts and purchases shall not exceed the amount established by the Council, without prior approval by the Council and shall be made after providing 'ample opportunity for competitive bidding, under such regulations prescribed by state statutes, and with such exceptions as the Council may prescribe;'
  2. Provides that the City's sale of any surplus or obsolete supplies, material or equipment shall be made after providing 'ample opportunity for competitive bidding, under such regulations prescribed by state statutes, and with such exceptions as the Council may prescribe;' and
  3. Provides that the City Council shall establish by ordinance an asset management control system, including a minimum monetary limit for an item to be listed as an asset of the City.
- B. Bixby City Charter, Article 4, Section 4.1, titled 'City Clerk', requires the maintenance of an accounting system for the city government to provide for the regularity and correctness of all payrolls.
- C. It is the purpose and intent of this chapter to provide regulations governing competitive bidding for contracts, purchases and the sale of surplus or obsolete supplies or equipment of the City, to provide certain exceptions to competitive bidding for contracts, purchases and the sale of surplus or obsolete supplies or equipment, to establish an asset management control system, and to establish an accounting system to provide for the regularity and correctness of all payrolls consistent with the Bixby City Charter.

#### **2-4-2: DEFINITIONS:**

Unless otherwise provided in this chapter, for purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings provided in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, and words in the singular number include the plural. The word 'shall' is always mandatory.

**'Change Order'** means written authorization from the City directing an addition, deletion, or revision to the scope of an awarded purchase order or contract.

**'City'** refers to the City of Bixby, Oklahoma and means the City government in all its forms, including not only all City departments but also any agency, public trust, commission, board or other person or entity acting for or on behalf of the City of Bixby, provided that any improvement district created pursuant to title 11 Oklahoma Statutes, Sections 39-101, *et seq.*, shall not be included in this definition and shall be exempt from the provisions of this chapter.

**'City Council'** or **'Council'** means the governing body of the City of Bixby, Oklahoma.

**'City Manager'** means the chief executive officer and the contracting authority for the City or the City Manager's designee.

**'Competitive Bidding'** means all purchasing and contracting procedures provided in this chapter, including but not limited to formal bidding procedures, open market bidding procedures and other competitive procedures approved by the City Council.

**'Contractual Services'** means and includes, but is not limited to all communication services, including telephone, long distance, cell phone, internet and video services; janitorial, towel and cleaning services; mowing and landscaping services; pest control and exterminator services; printing and publishing services; sign manufacturing services; leases for all grounds, buildings, office or other space required by the using agencies, except leases from the state, a state agency, or a political subdivision; leases for all personal property required by the using agencies; and the rental, repair or maintenance of equipment, machinery and other city-owned personal property. Contractual services shall not include professional services and travel services.

**'Cooperative Purchasing Plan'** means an agreement entered into between two or more entities of government for acquisitions pursuant to a single or joint contract obtained through a competitive bidding process or issued in accordance with the authority granted to a governmental entity. Government entities include all federal, state and county entities and municipalities with a population of 10,000 or greater.

**'Lowest and best'** bidder and **'best value'** bidder shall have those meanings attributed to them by the laws of the state of Oklahoma.

**'Political Subdivision'** means a municipality, school district, county, or public trust with a city, town, school district or county as its beneficiary, and all their institutions, instrumentalities or agencies.

**'Professional Services'** means services, which are predominantly mental or intellectual in character rather than physical or manual and which do not involve the supplying of products. Professional services shall include but not be limited to services to support or improve municipal policy development, decision-making, management, administration, or the operation of management systems, accountants, actuaries, appraisers, financial consultants, architects, attorneys, engineers, surveyors, computer programmers, information technology specialists and communications technology specialists. Professional services also includes those defined in title 18 Oklahoma Statutes, Section 803, those which are in their nature unique and not subject to competition and services or maintenance authorized and provided for an improvement district pursuant to title 11 Oklahoma Statutes, Section 39-103.1.

**'Purchasing Agent'** or **'Agent'** shall mean the City Manager or the designee of the City Manager.

**'Purchasing Card'** or **'Procurement Card'** means and includes any commercial credit card issued to authorized City employees for the purchase of supplies and services.

**'Supplies'** means and includes, but is not limited to all office, cleaning and safety provisions, materials, commodities, vehicles, parts, fuel, equipment, and standard computer hardware, communications equipment and software.

**'Using Agency'** means any department, board, commission, agency division, section, bureau or other unit in the City government using supplies or procuring contractual services as provided in this chapter, except as otherwise exempted in this chapter.

**2-4-3: CITY PURCHASING AGENT:**

The Purchasing Agent shall have the following authority, powers and duties:

**A. Scope of Purchasing Authority.**

1. The authority and duty to purchase or contract for all supplies, contractual and professional services needed by any using agency which derives its support wholly or in part from the City.

2. The authority to purchase or contract for supplies and contractual services in accordance with:

a. Purchasing procedures as prescribed by this chapter;

b. Such written rules and regulations as the Agent shall adopt for the internal management and operation of the City;

c. Such other written rules and regulations as shall be prescribed by charter and ordinances of the City of Bixby.

3. Except as provided in this chapter, it shall be unlawful for any City officer or employee to order the purchase of any supplies or make any contract within the purview of this chapter, other than through the Purchasing Agent. Any such purchase ordered or any contract made contrary to the provisions of this chapter shall not be approved by City officers and the City shall not be bound thereby.

**B. Additional Powers and Duties**

In addition to the purchasing authority conferred in subsection A. above and any other powers and duties conferred by this chapter, the Agent shall have the authority and power to perform the following duties and actions:

1. **Minimum Expenditure.** The Agent shall act to procure for the City the highest quality in supplies and contractual services at the least expense to the City.
2. **Encourage Competition.** The Agent shall discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases and sales.
3. **Purchasing Analysis.** The Agent shall keep informed of current developments in purchasing, prices, market conditions and new products and shall secure for the City the benefits of research done in the field of purchasing by other governmental jurisdictions, national technical societies, trade associations having national recognition and by private businesses and organizations.
4. **Supplier Catalog File.** The Agent shall prepare, adopt and maintain a supplier catalog file, indexed according to materials and containing descriptions of vendors' commodities, prices and discounts.
5. **Bulk Purchases.** The Agent shall exploit the possibilities of buying in bulk so as to take full advantage of discounts.
6. **Federal and State Tax Exemptions.** The Agent shall act so as to procure for the City all federal and state tax exemptions to which it is entitled.
7. **Disqualification of Bidders.** The Agent shall have the authority to declare that vendors who default on their quotations are unsecured bidders and to disqualify them from receiving any business from the City for a stated period of time.
8. **Written Specifications.** The Agent shall adopt and enforce written specifications as required to procure all supplies, equipment and services.
9. **Standardization.** The Agent shall adopt a minimum number of standard qualities, sizes, and varieties of supplies consistent with the successful operation of the City government.
10. **Effects of Adoption.** After its adoption, each standard specification shall, until revised or rescinded, apply alike in terms and effect to every future purchase and contract for the supply described in such specification.
11. **Pre-Bid Conference.** The Agent shall have the authority to conduct pre-bid conferences and make attendance mandatory for contractors wishing to submit a bid.
12. **Purchase Documentation.** The Agent shall have the authority, by written policy, to establish purchase limits for those purchases that require purchase orders or written contracts and to establish purchasing guidelines for employee usage of city-issued purchase or procurement cards.

13. Advanced Purchasing Methods. The Agent shall have the authority to implement advanced purchasing methods, in lieu of traditional means of advertising and bidding. Methods may take advantage of modern modes of electronic communication, through the use of email, internet and other electronic devices or systems that may be available. Advertising methods that provide bidding opportunities to a broad base of bidders, so long as the goals and objectives of this chapter are accomplished, may be utilized. These methods include but are not limited to reverse auctions, online bidding and other similar electronic procurement methods.
14. The authority to represent the City at any court ordered mediation or settlement conference, with full settlement authority without additional approval of the Council, within the purchasing authority limit for the City Manager established by the Council.
15. The authority to contract for the purpose of filling what have traditionally been employee positions, with either employees or independent contractors, subject to limitations provided by charter and if the expenditure will be within the limits of the budgeted funds.
16. The authority to negotiate with one or more bidders for more favorable terms prior to the award of a contract.
17. The authority to accept gifts, donations or grants to the City when the amount involved is within the purchasing authority limits for the City Manager established by the Council, provided that the acceptance of such shall be reported to the City Council at their next regular meeting.
18. The authority to execute change orders and extensions of quantities, without the approval of the City Council, for contracts for supplies, contractual services and public improvement construction projects having a total cost less than ten thousand dollars (\$10,000.00), when necessary to save money for the City or to expedite a project, provided that the total cost of the contract, including the change order(s) and extension(s) of quantities, shall not exceed ten thousand dollars (\$10,000.00).
19. The authority to execute change orders and extensions of quantities for public improvement construction contracts, which are subject to competitive bidding requirements prescribed in the Oklahoma Public Competitive Bidding Act of 1974, title 61 Oklahoma Statutes, Sections 101 *et seq.*, provided the change order(s) and extension(s) of quantities shall not exceed a total cost of ten thousand dollars (\$10,000.00) or ten percent (10%) of the contract, whichever is less, consistent with the Oklahoma Public Competitive Bidding Act of 1974, title 61 Oklahoma Statutes, Section 121.
20. Acquire supplies or contractual services purchased from another unit of government at a price deemed below that obtainable from private dealers and whose cost does not exceed ten thousand dollars (\$10,000.00) in a single transaction.



21. Acquire supplies whose cost does not exceed ten thousand dollars (\$10,000.00) in a single transaction, when the same is sold through auction or solicited bidding.
22. The authority to contract with public utilities, which are not subject to competition, without using competitive procedures.

**2-4-4: COMPETITIVE BIDDING REQUIRED:**

All contracts for supplies and contractual services, and all sales of personal property which have become obsolete and unusable, shall be based on competitive bids whenever possible, except as specifically provided in this chapter, or as approved by the City Council, or otherwise required by law. Purchases and contracts related to public improvement construction projects, labor, equipment, material and repairs by public trusts shall comply with title 60 Oklahoma Statutes, subsection 176(H), as amended, and with the Oklahoma Public Competitive Bidding Act of 1974, title 61 Oklahoma Statutes, Sections 101 *et. seq.*

**2-4-5: GENERAL BIDDING REQUIREMENTS:**

Except as otherwise required by law, the bidding requirements of the City shall be as follows:

**A. Contractual Service Purchases**

Except as otherwise provided by charter or in this chapter, contractual services shall be purchased by formal written contract as follows:

1. Contractual services, when the estimated cost exceeds fifty thousand dollars (\$50,000.00), shall be purchased using formal bidding procedures as provided for in Section 2-4-6 of this chapter.
2. Contractual services, when the estimated cost is fifty thousand dollars (\$50,000.00) or less may be purchased using open market procedures as provided for in Section 2-4-7 of this chapter.

**B. Professional Services Exception from Competitive Bidding**

Contracts, purchases and payments for professional services shall be exempt from competitive bidding requirements provided by charter and in this chapter. The City Manager shall have the authority to award contracts or authorize payments for professional services, provided that prior approval of the City Council shall be required for such contracts and payments greater than ten thousand dollars (\$10,000.00).

**C. Supply Purchases**

Except as otherwise provided by charter or in this chapter, supplies shall be purchased as follows:

1. All contractual purchases of supplies, when the estimated cost exceeds fifty thousand dollars (\$50,000.00), shall be purchased by formal written contract or by purchase order, after using formal bidding procedures as provided for in Section 2-4-6 of this chapter.

2. All contractual purchases of supplies, when the estimated cost is fifty thousand dollars (\$50,000.00) or less may be purchased using open market procedures as provided for in Section 2-4-7 of this chapter.

#### **D. Public Improvement Construction Projects**

Public improvement construction projects shall be purchased as follows:

1. All public improvement construction projects, when the estimated cost is over the amount set by the Oklahoma Public Competitive Bidding Act of 1974, title 61 Oklahoma Statutes, Sections 101 *et seq.*, shall be bid in accordance with the requirements of that Act.

2. All public improvement construction projects, when the estimated cost is less than the amount set by the Oklahoma Public Competitive Bidding Act of 1974, title 61 Oklahoma Statutes, Sections 101 *et seq.*, may be procured by written contract or by purchase order, using open market procedures as provided for in Section 2-4-7 of this chapter.

#### **E. Exceptions for Cooperative Purchases and Outside Competitive Processes**

Notwithstanding the foregoing limitations, competitive bidding shall not be required and the City Council and the Purchasing Agent shall have the authority instead to make purchases from a Cooperative Purchasing Plan or from a vendor which has been awarded a bid pursuant to a competitive bidding process conducted by any federal, state and county entities and municipalities with a population of 10,000 or greater, when the best interests of the City would be served.

#### **F. Trade-Ins**

The City may trade-in supplies that it owns for new or used supplies, if it is in the best interests of the City, provided that they have not been declared either surplus or salvage. Before any trade-in, the Purchasing Agent shall document the age, condition, make, model and serial number (if applicable) of the trade-in and estimate its approximate value. If the City could reasonably realize greater cost savings by declaring the supplies as surplus or salvage, the supplies shall be disposed of as required for surplus property. However, if the Purchasing Agent determines that a trade-in offers the best value to the City, the Purchasing Agent shall include in any competitive bidding procedure documentation the following:

1. Less trade-in at the City's option: to be picked up by the successful bidder, where is, as is, pursuant to the Purchasing Agent's terms and conditions, providing a deadline in the terms of the number of days for the vendor to remove the used supplies.
2. Each type of trade-in allowance must be shown on the competitive bidding documentation as an individual line item.
3. Used supplies shall not be released to the vendor on a trade-in until the purchased supplies are received, unless the Purchasing Agent receives a bond, letter of credit or similar instrument as collateral.

**F. Surplus Property**

1. No surplus or obsolete supplies of a fair market value of more than one thousand dollars (\$1,000.00) may be sold until the Council shall have declared them obsolete or surplus. Before the sale of any surplus or obsolete supplies, except as otherwise provided in this chapter, the City shall give notice in such manner as deemed necessary to adequately reach prospective buyers and give them an opportunity to make bids. Except when the sale is by a live or internet-based public auction, all bids shall be sealed and shall be opened in public at a designated time and place. The City may repeatedly reject all bids and advertise or give notice again. The City may sell such supplies only to the highest responsible bidder for cash or cash equivalents. In case of a tie, the City may sell to either of the bidders tying, or may divide the sale among the two or more tying, always selling to the highest responsible bidder or bidders for cash, or cash equivalents.
2. Property which is damaged and title to which is required to be transferred to an insurance company as a requirement to settlement of the City's insurance claim shall be exempt from the trade-in and surplus property requirements of this chapter, provided that the Purchasing Agent determines that the transfer of title is in the best interest of the City.

**G. Local Preference**

When the City Council or the City Manager is making the determination of which bid is most advantageous to the City, such a determination may include a preference in favor of supplies or contractual services available from businesses within the City; provided, that such preference shall be of equal quality and of a price differential not to exceed three percent (3%).

**H. Prohibition of Interest**

1. Any purchase order or contract within the purview of this chapter in which the Agent or any officer or employee, or spouse thereof, of the City is financially interested, directly or indirectly, shall be prohibited and void, except as may be authorized by state statute.

2. For purposes of this subsection 'financially interested' shall mean ownership of more than twenty-five percent (25%) of the business or of the common stock therein or any percentage which constitutes a controlling interest, but shall not include any such interest held by a blind trust.

#### **2-4-6: FORMAL BIDDING PROCEDURES:**

The following bidding procedures shall apply to those purchases that require a formal competitive bidding procedure and shall not be required when the estimated cost is fifty thousand dollars (\$50,000.00) or less.

##### **A. Notice Inviting Bids**

1. **Type of Notice.** The Agent shall cause to be published notice inviting bids on the City's web site or in at least one (1) newspaper of general circulation within the City at least five (5) days preceding the last day set for the receipt of bids or conducting an auction. The notice required shall include a general description of the services required or the articles to be purchased or sold and shall state where bid forms and specifications may be obtained and the time and place for opening bids or the public auction.

2. **Bidders' List.** The Agent may also solicit sealed bids from all responsible prospective suppliers who have requested their names to be added to a 'Bidders' List' maintained by the Agent. In any case, invitations sent to the vendors on the Bidders' List shall be limited to supplies and contractual services that are similar in character and ordinarily handled by the trade group to which the invitations are sent.

##### **B. Bid Deposits**

When deemed necessary by the Agent, bid deposits shall be prescribed in public notices inviting bids. Unsuccessful bidders shall be entitled to return of surety where it has been required. A successful bidder shall forfeit any surety required upon failure on the bidder's part to enter a contract within ten (10) days after the award.

##### **C. Bid Opening Procedures**

1. **Sealed.** Except in the case of public auctions, bids shall be submitted sealed to the office of the City Clerk and shall be identified on the envelopes as bids.

2. **Opening.** Bids for supplies or contractual services shall be opened in public at the time and place stated in the public notices.

3. **Tabulation.** A tabulation of all bids received shall be made by the Agent and the tabulation shall be available for public inspection in the office of the City Clerk at all reasonable times.

**D. Rejection of Bids**

1. **Public Interest.** The City shall have the authority to reject all bids, parts of any or all bids, or all bids for any one or more supplies or contractual services, or public improvement construction project when the estimated cost is less than the amount set by the Oklahoma Public Competitive Bidding Act of 1974, title 61 Oklahoma Statutes, Sections 101 *et seq.* included in the proposed contract, when the public interest will be served.
2. **Undue Influence.** Bids shall be rejected if any bidder has attempted to exert undue influence over the results of the bid including:
  - a. The bidder or anyone subject to the bidder's direction or control attempts to pay, give or donate to any officer or employee of the City any money or other thing of value, either directly or indirectly, in procuring the bid; or
  - b. The bidder or anyone subject to the bidder's direction or control attempts to influence the award of the bid by threat, force or intimidation; or
  - c. Any other contact by bidder to any officer or employee of the City other than the designated agent, which in the opinion of the Agent was an attempt to unduly influence the award of the bid.
3. **Bidders in Default to City.** The City shall not accept the bids of a contractor who is in default on the payment of taxes, licenses or other monies due the City.
4. **Bidders Not Attending Pre-Bid Conference.** The City, in its discretion, may not accept the bids of a contractor which did not attend a mandatory pre-bid conference.

**E. Award of Contract**

1. **Authority in the City Council.** Except as otherwise provided in this chapter, only the City Council shall have the authority to award contracts or authorize payments greater than ten thousand dollars (\$10,000.00).
2. **Lowest and Best Bidder and Best Value Bidder.** Contracts shall be awarded to the lowest and best bidder or the best value bidder meeting specifications. Bid Specifications may include a point system for evaluating the bid. In addition to those factors established by state law, the following factors shall be considered:
  - a. The price;
  - b. The ability, capacity and skill of the bidder to perform the contract or provide the service required;

- c. Whether the bidder can perform the contract or provide the service promptly or within the time specified, without delay or interference;
- d. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- e. The quality of performance of previous contracts or services;
- f. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
- g. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
- h. The quality, availability and adaptability of the supplies or contractual services to the particular use required;
- i. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
- j. Where an earlier delivery date would be of great benefit to the requisitioning agency, the date and terms of delivery may be considered in the bid award;
- k. The number and scope of conditions attached to the bid; and
- l. If a point system has been utilized in the bid specifications, the number of points earned by the bidder.

**F. Award to Other than Lowest Bidder**

When the award is not given to the lowest bidder meeting specifications, such award must be approved by the Council and a full and complete statement of reasons for placing the order with one other than the lowest bidder shall be entered in the minutes of the Council.

**G. Tie Bids**

1. Local Bidders. If two or more bids received are for the same total amount of unit price, quality and service being equal, the contract shall be awarded to the local bidder.
2. Bidders of Equal Status. Where paragraph G.1. of this section is not determinative, the Agent shall award the contract to one of the tie bidders by drawing lots in public.

## H. **Quantity Extensions**

If a bid has been based on a unit price bid, quantity extensions shall be allowed based on the bid unit price without additional advertisement or bidding.

## I. **Performance Bonds**

Before entering a contract, the Agent shall have the authority to require a performance bond in such amount as the Agent shall find reasonably necessary to protect the best interests of the City.

## J. **Prohibition Against Subdivision**

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

## **2-4-7: OPEN MARKET BIDDING PROCEDURE:**

### A. **Basic Procedures**

1. Authority in the City Council and City Manager. Except as otherwise provided in this chapter, only the City Council shall have the authority to award contracts or authorize payments greater than ten thousand dollars (\$10,000.00), using open market procedures provided for in this section. The City Manager shall have the authority to award contracts or authorize payments of ten thousand dollars (\$10,000.00) or less, except as otherwise provided in this chapter, using open market procedures provided for in this section, and shall have the authority to bind the City and its agencies in that regard. Notwithstanding this authority, the City Manager, in the Manager's discretion, may refer the award of such a contract or payment to the City Council for their decision. The limit for the City Manager set forth in this section shall not apply to (a) emergency purchases as outlined in Section 2-4-10 of this chapter; (b) the purchase of regular city utilities and the approval of contracts for those utilities; (c) payroll and independent contract labor expenses agreed to in accordance with existing contracts, or otherwise within the authority of the City Manager; and (d) payment of debt obligations when the underlying debt has been approved by the City Council and the amounts owed have been approved in the budget.

2. Unless otherwise provided in this section, all purchases of supplies, contractual services and public improvement construction projects having an estimated cost of fifty thousand dollars (\$50,000.00) or less, and all sales of personal property which have become obsolete and unusable, with an estimated value of one thousand dollars (\$1,000.00) or less, may be made on the open market, without newspaper or web site advertisement and without observing the procedures prescribed in this chapter for formal competitive bidding.

3. Minimum Number of Bids. For purchases in excess of two thousand five hundred dollars (\$2,500.00) but less than or equal to fifty thousand dollars (\$50,000.00), the Purchasing Agent shall solicit at least three (3) written bids, via mail, e-mail or fax, for

competitive market quotations and the purchase shall then be awarded to the lowest and best bidder.

4. Recording. The Agent shall keep a record of all open market orders and the bids submitted in competition, and such records shall be open to public inspection at all reasonable times.

**B. Award to Other than Lowest Bidder**

When the award is not given to the lowest bidder meeting specifications, such award must be approved by the City Manager and a statement of reasons for placing the order with one other than the lowest bidder shall be submitted to the Council for their information, regarding bids of ten thousand dollars (\$10,000.00) or less, or the City Council's action, regarding bids greater than ten thousand dollars (\$10,000.00).

**C. Tie Bids**

1. Local Bidders. If two or more bids received are for the same total amount of unit price, quality and service being equal, the contract shall be awarded to the local bidder.

2. Bidders of Equal Status. Where paragraph C.1. of this section is not determinative, the Agent shall award the contract to one of the tie bidders by drawing lots.

**2-4-8: WAIVER OF COMPETITIVE BIDDING:**

**A. Sole Source Waiver by the City Council**

The City Council, by an affirmative vote of four (4) members, may waive the requirement for competitive bidding for the purchase of supplies or contractual services, or public improvement construction project when the estimated cost is less than the amount set by the Oklahoma Public Competitive Bidding Act of 1974, title 61 Oklahoma Statutes, Sections 101 *et seq.*, when some material feature or characteristic of the item or service or project sought to be purchased is unique and the Purchasing Agent has certified that to the best of the City's knowledge, after diligent inquiry, the item or service or project is available from only one source. The City may require the department head or official requesting the bid waiver to submit an affidavit identifying the unique and material features or characteristics of the item or service or project. A full and complete statement of the reasons for approving each waiver of competitive bidding shall be filed with the City Clerk.

**B. Waiver of De Minimis Amounts**

Any purchase of supplies, contractual services, or public improvement construction projects in an amount less than or equal to the estimated value of two thousand five hundred dollars (\$2,500.00) shall, by this section, be waived and excepted from



competitive bidding procedures prescribed by charter and this chapter, provided that the reporting procedures prescribed in subsection 2-4-11.F of this chapter shall be required.

**2-4-9: ALTERNATIVE COMPETITIVE BIDDING PROCEDURES:**

Notwithstanding any competitive bidding requirements prescribed in this chapter, the City Council may approve any alternative competitive bidding procedures for the purchase of supplies and contractual services it deems reasonable and proper, that is consistent with the Bixby City Charter and state law.

**2-4-10: EMERGENCY PURCHASES**

In the event of an imminent or existing threat to the preservation of the peace, health, or safety of the public, an emergency may be deemed to exist by the City Manager or the Purchasing Agent, which requires the immediate purchase of supplies, contractual services, or a public improvement construction project. In such cases, the City Manager, the Purchasing Agent or their designees shall be empowered to secure by open market procedures, or such procedures as may be warranted by the nature of the emergency, any supplies or contractual services, regardless of the amount of the expenditure, or a public improvement construction project, provided that the estimated cost of the construction project is fifty thousand dollars (\$50,000.00) or less. A full report of the circumstances of the emergency purchase shall be filed by the Agent with the City Clerk and shall be open to public inspection. In addition, the report shall be provided to the City Council for their information at its next regular or special meeting.

**2-4-11: ENCUMBRANCE AND PAYMENT PROCEDURES:**

- A. For all purchases of supplies, contractual services and public improvement construction projects (all purchases or disbursements other than payroll and debt service) requisition forms, purchase orders or contracts shall be prepared and approved, in writing, by Purchasing Agent prior to the time the purchase commitment is made.
- B. For all purchases of supplies, contractual services and public improvement construction projects, the approved requisition, purchase order or contract shall be forwarded to an officer or employee charged with keeping the appropriation and expenditure records (encumbering clerk) who shall determine that there exists available unencumbered appropriation in the accounts to be charged. Upon such determination, the encumbering clerk shall attest to that fact in writing. If an appropriation is not available for the proposed purchase or commitment, the purchase or commitment shall not proceed until budget amendments are authorized to provide a sufficient appropriation. Upon approval of the purchasing officer and encumbering clerk, an encumbrance shall be recorded in the appropriation and expenditure records in the amount or estimated amount of the commitment. These encumbering requirements shall not apply to the following type of purchases or commitments:
  1. Payroll and personal services;

2. Utility and telephone services governed by the Oklahoma Corporation Commission;
  3. Insurance coverage governed by contract; and
  4. Debt service.
- C. After satisfactory delivery of the supplies or completion of contract provisions, an invoice or claim form shall be obtained adequately documenting a request for payment. The officer or employee receiving satisfactory delivery of supplies or contract service shall acknowledge such fact by signing the invoice, claim form, delivery ticket or receiving advice. The invoice or claims form, along with the written acknowledgment of receipt, shall be forwarded to the officer or employee responsible for processing accounts payable who shall review the invoice for accuracy and propriety, including comparison to the authorized requisition, purchase order or contract, if applicable. Upon completion of the accounts payable officer review, the invoices along with the related supporting documents shall be attached to a copy of the purchase order and shall be submitted to the City Manager or the Manager's designee for consideration and approval of payment, along with an accompanying invoice or claims listing, which shall be approved in writing, without further approval of the City Council.
- D. Upon approval of the invoices or claims for payment, checks or other payment documents as authorized by title 11 Oklahoma Statutes, Section 17-102 shall be prepared and submitted to the City Treasurer, along with a copy of the approved invoice or claims listing. The Treasurer shall compare the checks or other payment documents to the invoice or claims listing and verify their accuracy. Upon verification, the Treasurer or the Treasurer's designee shall issue properly signed checks, or other authorized forms of payment. In addition, the Treasurer shall prepare or cause to be prepared a check register.
- E. The City Treasurer shall record or cause to be recorded in the appropriate journals and ledgers the purchases and cash disbursements incurred and paid.
- F. A copy of the claims list or check register shall be provided to the City Council for informational purposes; however, City Council approval is not required prior to the payment of the invoices or claims if incurred and paid in accordance with the provisions above.

**2-4-12: MUNICIPAL CAPITAL ASSET MANAGEMENT:**

As required by Bixby City Charter Article 4, Section 4.7, a municipal capital asset management system is established as provided in this section.

**A. Definitions**

As used in this section, the following words and phrases shall have the meanings defined below:

'Capital Asset' means a specific piece of property or equipment which is primarily tangible in nature, has a useful life longer than one (1) year and a significant value having an initial cost in excess of five thousand dollars (\$5,000.00), including but not limited to land, buildings, other improvements, machinery, furniture, equipment, utility infrastructure (water and sewer lines, treatment plants, lift stations, etc.) and general infrastructure (streets, bridges, drainage systems, etc.)

'Building' means a classification of capital asset which is a facility permanently affixed to the land designed with a foundation and roof, which may or may not be fully enclosed, but is used to house and safeguard public property and personnel.

'General Infrastructure' means a classification of capital asset which includes immovable structures of value only to the City, including roads, bridges, curbs, gutters, streets, sidewalks, drainage systems, lighting systems, fire hydrants and similar objects.

'Land' means a classification of capital asset which is an interest in real property, including but not limited to the surface and contents of land, fee simple ownership, easements and air rights.

'Machinery, Furniture and Equipment' means a classification of capital asset which includes furniture (tables, chairs, book shelves, cabinets, etc.), rolling stock (cars, trucks, tractors, etc.) and apparatus which is not permanently affixed to the land buildings or improvements.

'Other Improvements' means a classification of capital asset which are improvements to realty, not attached or mounted on or in a building, and are not chargeable to the land or building.

'Utility Infrastructure' means a classification of capital asset that is generally used by the public, including water towers, water pipelines, sanitary sewer pipelines, storm sewer pipelines and are primarily accounted for in the City's utility enterprise fund.

## **B. Asset Management Controls**

Department heads shall be responsible for managing and accounting for their department's capital assets and shall appoint a Capital Asset Liaison who shall have the primary responsibility for maintaining the accuracy and completeness of the capital asset records for the department. Liaisons shall have the following responsibilities:

1. Assign an asset number to each departmental capital asset, which may, as deemed practical, be affixed to each existing asset and new assets upon acquisition.
2. Exercise control over all departmental capital assets in terms of knowledge of its location, disposition and transfer approval.

3. Participation in maintaining an accurate, permanent, physical inventory for the department by periodically performing asset versus report verification, noting the date of purchase, cost, when the City disposed of such item and at what price. This permanent inventory record must be completed and signed by the department head, the City Treasurer, the City Clerk, and the City Manager at the time of purchase and disposal. A copy of the record must be kept by the city clerk for a minimum of five (5) years after disposal of an asset.

**C. Annual Inventory**

An annual inventory of assets shall be taken by the end of each fiscal year and a report, including any variances, shall be submitted to the City Council with proper justification of any shortages. The City Manager shall be responsible for substantiating the existence of each asset.

**D. Special Inclusions to Asset Management Controls**

The following are exceptions to the five thousand dollar (\$5,000.00) minimum for inclusion in the capital asset management control system;

1. Utility customer meters: All meters used to measure utility consumption, which are owned by the City are classified as capital assets as a block asset, regardless of cost (*i.e.*, 60 meters at a cost of \$2,000.00 each may be recorded as one (1) asset with a value of \$120,000.00);
2. Computer equipment: All computer equipment (tablets, laptops, personal computers printers, etc.) with a per item cost of more than two hundred dollars (\$200.00) shall be included;
3. Firearms: pistols, rifles and shotguns; and
4. Portable radios.

**E. Exceptions to Asset Management Controls**

The following items of property shall be exceptions to the asset management controls prescribed by this section:

1. Supplies: stationery, forms, envelopes, paper clips and other commonly consumable office provisions and ammunition;
2. Automotive needs: tires, batteries, fuel lubricating needs and spare parts;
3. Maintenance items: paint, light bulbs, pipe and fittings, wire, lumber, screws, nails, brooms, mops and pails;

4. Data processing supplies: reels, blank tapes, computer disks (CDs), digital versatile disks (DVDs), and flash drives;
5. Recreation equipment: bats, balls, nets, and stands;
6. Kitchen utensils: dishes, pots, pans, and flatware;
7. Bedding: linens, blankets and pillows;
8. Health aid equipment: first aid kits, emergency oxygen units, resuscitators, stretchers and similar items;
9. Minor office and desk items: letter trays, wastebaskets, desk sets, calendars, hand staplers, hand type dispensers, pencil holders, pencil sharpeners, rubber stamps, stamp pads, folding tables, plastic covered chairs and 4-drawer file cabinets;
10. Uniforms: pants, shirts, shoes, boots, hats, coats, badges and belts;
11. Hand tools: hammers, wrenches, saws, etc.; and
12. Animals: police dogs.

**2-4-13: PAYROLL DISBURSEMENTS:**

- A. For all employees and officers of the City, a documented record shall be maintained in a personnel file of the authorized rate of pay or salary for each employee or officer.
- B. For each pay period, a documented record of time worked and leave taken shall be prepared, in the form of time sheets, cards or logs, for each employee and officer to be paid. For employees exempt from the overtime provisions of the Fair Labor Standards Act, the record may exclude time worked. Such record of time worked and leave taken shall be verified as to its accuracy in writing by the employee or officer and supervisor or department head.
- C. Upon verification of the work record, a payroll statement or register, including the amount of gross pay, authorized deductions, and net pay, shall be prepared and submitted to the City Treasurer for review and written approval.
- D. Upon approval of the payroll statement or register, the net payroll checks or direct deposit statements shall be prepared along with checks for payment of related payroll taxes and other payroll benefits, required by law or contract.
- E. The checks or direct deposit statements shall be presented to the City Treasurer along with the approved payroll statement or register. The City Treasurer shall compare the checks or direct deposit statements to the payroll statement or register, verify their accuracy and approve them for distribution. In addition, the City Treasurer shall prepare

or caused to be prepared a check register. When direct deposit statements are issued, the City Treasurer shall process the file to the bank.

- F. No payroll related encumbrances are required to be recorded in the budgetary accounting records as long as the payroll costs are recorded as expenditures at the time they become due and payable. However, no payroll costs may be incurred or paid if they exceed the available appropriation for the accounts to be charged at the legal level of control as defined by the City resolution which adopted the budget.
- G. The City Treasurer shall record or cause to be recorded in the appropriate journals and ledgers the payroll costs incurred or paid for the pay period.
- H. A copy of the payroll statement, register or payroll check register may be provided to the City Council for informational purposes; however, City Council approval is not required prior to the payment of payroll related costs if incurred and paid in accordance with the provisions above."

*Section 3. OPERATIVE CLAUSE. Following passage of this ordinance by the City Council, with separate approval of its Emergency Clause, this ordinance shall be operative on and after JULY 1, 2013.*

*Section 4. SEVERABILITY CLAUSE. If any section, sentence, clause or phrase of this ordinance or any part thereof is for any reason found to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance or any part thereof.*

*Section 5. REPEAL OF CONFLICTING ORDINANCES. That all ordinances or parts of ordinances in conflict herewith be and the same are now expressly repealed.*

*Section 6. EMERGENCY CLAUSE. That an emergency is hereby declared to exist for the preservation of the public peace, health and safety, and more particularly to provide compliance with requirements imposed by the Bixby City Charter and Oklahoma statutes enacted to protect the public fisc, by reason whereof this ordinance shall take effect immediately from and after its passage and approval.*

ADOPTED by the Council: JUNE 10, 2013.

---

Mayor

ADOPTED as an Emergency Measure ruled upon separately and approved by an affirmative vote of at least four-fifths (4/5) of the City Council: JUNE 10, 2013.

---

Mayor

(Seal)  
ATTEST:

---

City Clerk

APPROVED:

---

City Attorney