

## ORDINANCE NO. 1060

### AN ORDINANCE OF THE CITY OF BEAUMONT APPROVING AMENDMENTS TO THE CITY OF BEAUMONT MUNICIPAL CODE PERTAINING TO THE PROCUREMENT OF PROFESSIONAL SERVICES

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BEAUMONT DOES ORDAIN AS FOLLOWS:

**SECTION 1. CEQA.** The City Council finds that the actions contemplated by this Ordinance are exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

**SECTION 2. Severability.** The City Council hereby declares that if any provision, section, paragraph, sentence, or word of this Ordinance is rendered or declared to be invalid or unconstitutional by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, such invalidity shall not affect the other provisions, sections, paragraphs, sentences or words of this Ordinance, and to this end the provisions of this Ordinance are severable. The City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance enforced.

**SECTION 3. Prosecution of Prior Ordinances.** Neither the adoption of this Ordinance nor the repeal of any other ordinance of this City shall in any manner affect the prosecution of any violation of any City ordinance or provision of the City of Beaumont Municipal Code, committed prior to the effective date hereof, nor be construed as a waiver of any penalty or the penal provisions applicable to any violation thereof.

**SECTION 4.** The City Council hereby amends Title 3, Chapter 3.01 “Procurement of Professional Services” to read as follows:

#### **Chapter 3.01** **PROCUREMENT OF PROFESSIONAL SERVICES**

Sections:

- 3.01.010 Purpose and Policy.
- 3.01.020 Procurement Officer-Office Created.
- 3.01.030 Procurement Officer-Duties.
- 3.01.040 Competitive Procurement Procedures.
- 3.01.050 Exemptions to Competitive Procurement Procedures.
- 3.01.060 Award of Contract.

- 3.01.070 Term of Professional Services.
- 3.01.080 City Council Discretion.
- 3.01.090 Contracts Under Ten Thousand Dollars (\$10,000.00).

**3.01.010 Purpose and Policy.** It shall be the policy of the City that the procurement of professional services, including engineering, architectural, landscape architectural, environmental, land surveying, or construction project management services shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required, and on the fairness and reasonableness of the costs of services to the City, but shall not be awarded solely on the basis of cost.

**3.01.020 Procurement Officer-Office Created.** There is created the position of Procurement Officer. The duties of this Officer shall be administered by the City Manager or such person as he or she may designate.

**3.01.030 Procurement Officer-Duties.** The duties of the Procurement Officer shall be:

A. The promulgation of administrative regulations and the adoption of such other rules and regulations as may be prescribed by the City Manager and approved by the City Council. Such regulations shall specifically prohibit practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration, and shall specifically prohibit City employees from participating in the selection process when those employees have a relationship with a person or business entity seeking a contract under this Section which would subject those employees to the prohibitions of the conflict of interest laws.

B. The negotiation and recommendation of execution of contracts for professional services.

**3.01.040 Competitive Procurement Procedures.** The Procurement Officer shall comply with the following procedure for the procurement of professional services:

A. Request for Proposal: Prepare a request for proposal and submit the request for proposal to the City Council for approval. The request for proposal shall identify all significant evaluation factors, including price or costs when required, and their relative importance.

B. Solicitation of Proposal: The request for proposals shall be publicized and disclosed publically on the City website. Any properly qualified firm or professional shall be permitted to timely submit a responsive proposal for consideration.

C. Evaluation: The Procurement Officer shall develop mechanisms for the technical evaluation of proposals received, and shall conduct discussions with the proposers regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services.

D. Compilation: The Procurement Officer shall compile the proposals for consideration by the City Council.

**3.01.050 Exemptions to Competitive Procurement Procedure.** Upon obtaining approval from the City Council, the Procurement Officer may engage services of a professional firm or individual without complying with the Competitive Procurement Procedures in the following circumstances:

- A. The services are available only from a single source; or
- B. Public exigency or emergency will not permit delay; or
- C. State or federal grant or loan requirements authorize noncompetitive procurement of such services; or
- D. After solicitation of a number of sources, competition is deemed inadequate.

In circumstances of public exigency or emergency where prior approval of the City Council cannot be reasonably obtained, the City Manager may engage services of a professional firm or individual. The professional services contract shall be submitted to the City Council at the next regularly scheduled City Council meeting.

**3.01.060 Award of Contract.** City Council approval is required for all contracts for professional services when the cost of the services is ten thousand dollars (\$10,000.00) or more. The contract shall clearly state the names of the professionals that will provide services under the contract, along with their hourly rate. The contract shall also state a “not to exceed” sum. The professional shall not exceed the “not to exceed” sum without the City Council’s prior approval.

**3.01.070 Term of Professional Services.** The term of any professional services contract awarded shall not exceed one (1) year. Contracts shall be submitted to the City Council annually for approval, renewal, termination, non-renewal or extension. Professional services contracts shall not contain “evergreen” type clauses that allow for automatic renewal without City Council approval.

**3.01.080. City Council Discretion.** The award of a contract for professional services shall be within the City Council’s discretion. The City Council may, in its discretion, modify or extend a request for proposal for professional services. The City Council reserves the right to reject any and all proposals.

**3.01.090 Contracts Under Ten Thousand Dollars (\$10,000.00).** Professional services contracts under ten thousand dollars (\$10,000.00) may be awarded by the Procurement Officer without City Council approval. Professional services contracts shall not be divided into smaller contracts or subcontracts to avoid the competitive procedures set forth in Sections 3.01.040 and 3.01.060.

**SECTION 5. Effective Date and Publication.** The Mayor shall sign and the City Clerk shall certify to the passage of this Ordinance and cause the same or a summary thereof to be published within 15 days after adoption in accordance with Government Code Section 36933. This Ordinance shall take effect 30 days after adoption in accordance with Government Code Section 36937.

NOW, THEREFORE, BE IT ORDAINED that the City Council of the City of Beaumont, California, approves an amendment to the City Code.

AYES: Fox, Lara, Knight, Orozco, White  
NOES: None  
ABSENT: None  
ABSTAIN: None

**PASSED, APPROVED AND ADOPTED** at a regular meeting of the City Council of the City of Beaumont, California, held on the 21st day of July, 2015.

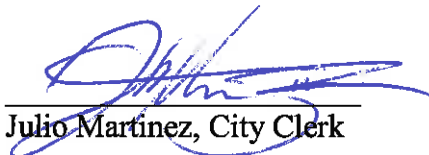
AYES: Fox, Lara, Knight, Orozco, White  
NOES: None  
ABSENT: None  
ABSTAIN: None



Brenda Knight, Mayor

(Seal)

Attest:



Julio Martinez, City Clerk

Approved as to form:



John O. Pinkney, Interim City Attorney



# CITY OF BEAUMONT

## LEGAL NOTICE

**NOTICE IS HEREBY GIVEN**, that the Beaumont City Council will conduct a public hearing on Tuesday, July 7, 2015 in room 5 at the Beaumont Civic Center, 550 E. 6<sup>th</sup> Street, Beaumont, California 92223, to receive testimony and comments from all interested persons regarding the adoption of the following matter(s):

**AN ORDINANCE OF THE CITY OF BEAUMONT  
APPROVING AMENDMENTS TO THE CITY OF  
BEAUMONT MUNICIPAL CODE PERTAINING TO THE  
PROCUREMENT OF PROFESSIONAL SERVICES**

The ordinance to be considered for adoption is summarized as follows:

Ordinance amends Title 3, Chapter 3.01 of the City of Beaumont Municipal Code relating to the procurement of professional services (as defined). This ordinance amends existing law pertaining to competitive procurement of professional services and requires City Council approval on all professional services contracts over ten thousand dollars (\$10,000.00). The ordinance also establishes substantive requirements for professional services contracts and places a term limit on professional services contracts. This ordinance also places discretion in the City Council to modify and extend professional services contracts. This ordinance finally provides that professional services contracts for less than ten thousand dollars (\$10,000.00) may be awarded by the Procurement Officer, but that such contracts cannot be divided so as to avoid the competitive procurement procedures.

Date: June 8, 2015

Publish one time only in the Record Gazette on June 19, 2015

**STAFF REPORT**

**To: Mayor and Council Members**

**Through: City Manager**

**From: Interim City Attorney**

**Date: July 7, 2015**

**Subject: Ordinance - Procurement of Professional Services**

**Background:**

Our office has been directed by City staff to revise the current procurement of professional services code to provide for more direct oversight and involvement by the City Council. The revised ordinance, attached hereto as Exhibit "A", does the following:

The ordinance amends Title 3, Chapter 3.01 of the City of Beaumont Municipal Code pertaining to competitive procurement of professional services and requires City Council approval on all professional services contracts over ten thousand dollars (\$10,000.00). The ordinance also establishes substantive requirements for professional services contracts and places a term limit on professional services contracts. The ordinance also places discretion in the City Council to modify and extend professional services contracts. The ordinance finally provides that professional services contracts for less than ten thousand dollars (\$10,000.00) may be awarded by the Procurement Officer, but that such contracts cannot be divided so as to avoid the competitive procurement procedures.

**Options:** The City Council has three options:

- (1) Pass the attached ordinance, as is.

If the Council supports the proposed ordinance, it may introduce and read the ordinance for the first time after a public hearing on the matter. The ordinance may then be approved by the Council on the second read.

- (2) Recommend changes to the proposed ordinance.

The Council may also recommend changes to the proposed ordinance. Our office would then implement those changes and submit a new proposed ordinance for the Council to consider at a continued public hearing.

- (3) Leave the existing law in place.

Finally, the Council may desire to reject the proposed ordinance and leave the existing law in place.