



Staff Report

TO: City Council
FROM: Elizabeth Gibbs, City Manager
DATE: January 17, 2023
SUBJECT: Discussion on Modifications to the Procurement of Professional Services Ordinance – Beaumont Municipal Code Chapter 3.02

Description Review and discussion of proposed amendments to Beaumont Municipal Code Chapter 3.02 – Procurement of Professional Services

Background and Analysis:

Ordinance Number 1096 codifies Beaumont Municipal Code (BMC) Chapter 3.02 – Procurement of Professional Services. Included in that chapter is the adopted policy for procuring professional services, the competitive procurement procedures, exemptions to using the competitive procedures, award of contract procedures, sets the maximum term for professional services and authorizes the City Manager to award contracts under \$25,000.

There are exemptions outlined in the ordinance that allow procurement of professional services without complying with the competitive procedures, in certain circumstances and upon obtaining approval from City Council. These exemptions include:

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

The term limit of any professional services contract is set at a maximum of five (5) years. Additionally, the code requires that contracts be submitted to City Council annually for approval, renewal, termination, non-renewal or extension. Any contract beyond the initial term shall be approved by four-fifth vote of the City Council and contracts shall never contain an “evergreen” type clause that allow for automatic renewal without City Council approval.

One area of professional services that City Council has full control over is legal services provided to the City. Staff does not have the authority to retain legal services for any reason and in fact, the City Attorney reports directly to the City Council, much like the City Manager position. Legal services for local government operate closely with City Council on a day-to-day basis providing legal advice, representing the City in litigation, mediation and arbitration, and attending all City Council meetings. Furthermore, the City Attorney coordinates and monitors all specialty legal services and reports updates directly to City Council. As with all contracts, City Council can exercise their right to terminate any legal services agreement with a simple majority vote of the Council. Staff does not have the authority over any aspect of legal services.

Finally, the State of California Public Contract Code Division 2, Part 2, Chapter 2 Article 4(c)(4) states, in part *“The following consulting services contracts are exempt from the advertising and bidding requirements of this article:*

Contracts for legal defense, legal advice, or legal services.”

For these reasons, staff is proposing that the BMC be modified to include legal services in the list of exemptions outlined in the current code as well as exempt legal services from the five (5) year term of service.

The proposed changes are highlighted in the attachment for review (Attachment A).

Should City Council direct staff to prepare an ordinance with modifications for adoption, a public hearing will be scheduled for February 21, 2023.

Fiscal Impact:

The cost to prepare this staff report is approximately \$500.

Recommended Action:

Discussion and direction to staff.

Attachments:

- A. Proposed ordinance