



# City of Oceanside

300 North Coast Highway,  
Oceanside, California 92054

## Staff Report

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**File #:** 25-747

**Agenda Date:** 4/23/2025

**Agenda #:** 12.

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**DATE:** April 23, 2025

**TO:** Honorable Mayor and City Councilmembers

**FROM:** City Attorney's Office

**TITLE: APPROVAL OF LEGAL SERVICES AGREEMENT WITH BROWN AND WINTERS FOR INSURANCE COVERAGE TASKS RELATED TO CITY OF OCEANSIDE ENVIRONMENTAL SITES**

### **RECOMMENDATION**

Staff recommends that the City Council approve a Legal Services Agreement ("Agreement") with Brown and Winters ("B&W") on a contingency fee basis for various insurance coverage related tasks related to City of Oceanside environmental sites and authorize the City Attorney to execute all necessary documents for implementation of same.

### **BACKGROUND AND ANALYSIS**

The City has historically maintained insurance policies covering a broad range of liability exposures, including various policies that cover potential regulatory and clean-up costs pertaining to environmental cleanup orders. In recent years, California courts have interpreted the language commonly found in some older insurance policies to include the obligation to cover "expenses" beyond court ordered "damages", including costs incurred in complying with administrative orders of regulatory agencies. B&W is an Encinitas based law firm with specific expertise in reviewing historic insurance policies and evaluating whether there may be potential insurance proceeds available to offset regulatory costs incurred by the City over time. Because the work is specialized and there is no guarantee of any recovery, B&W proposes a contingency-fee based contract to perform the work of identifying potential insurance coverage, tendering and negotiating claims on behalf of the City, and if necessary (and subject to further written approval) litigating potential insurance coverage claims. As is the case here, the City Attorney's Office recommends outside specialty counsel where appropriate and where there is a benefit to the City.

### **FISCAL IMPACT**

None at this time. Incurred expenses shall be covered by the funds recovered, if any. Should either Party terminate the Agreement prior to the recovery any funds, the City will be responsible for payment of reimbursable costs, which are not expected to be significant at this stage.

### **COMMISSION OR COMMITTEE REPORT**

Does not apply.

**CITY ATTORNEY'S ANALYSIS**

Legal services agreements are exempt from competitive bidding processes under Section VI(D) of Administrative Directive 21 addressing the City's procurement policies. Contingency fee agreements are appropriate where the public agency acts in the traditional role of claimant or plaintiff and the City retains ultimate authority over the outcome of the action.

The proposed contract has been reviewed and approved as to form.

Prepared by: T. Steven Burke, Jr., City Attorney  
Submitted by: Jonathan Borrego, City Manager

**ATTACHMENTS:**

1. Staff Report
2. Agreement