



VENTURA
PORT DISTRICT
Established 1952

BOARD OF PORT COMMISSIONERS

JUNE 14, 2017

STANDARD AGENDA ITEM 3

APPROVAL OF AMENDMENT TO
PROFESSIONAL SERVICES AGREEMENT
FOR SPECIAL LEGAL SERVICES FOR THE
VENTURA SHELLFISH ENTERPRISE

**VENTURA PORT DISTRICT
BOARD COMMUNICATION**

STANDARD AGENDA ITEM 3
Meeting Date: June 14, 2017

TO: Board of Port Commissioners
FROM: Brian Pendleton, Business Operations Manager
SUBJECT: Approval of Amendment to Professional Services Agreement for Special Legal Services for the Venture Shellfish Enterprise

RECOMMENDATION:

That the Board of Port Commissioners authorize funding in the amount of \$15,000 for continued outside legal services provided by *Plauché & Carr, LLP* regarding the Ventura Shellfish Enterprise project.

SUMMARY:

On January 11, 2017, the Board of Port Commissioners received a memorandum by the outside legal services of *Plauché & Carr, LLP* analyzing leasing alternatives and operational structures available to the District related to the Shellfish Grant. This followed the September 28, 2016 Board action authorizing funding in the amount of \$8,500 to retain *Plauché & Carr, LLP* for this purpose. As a follow up task, Mr. Smith identified, at that time, a preliminary budget of \$10,000 to prepare draft lease documents and negotiate with CDFW. Additionally, *Plauché & Carr, LLP* has been tasked with providing legal assistance to the District for a 2017 Sea Grant application, submission of which was authorized by the Board. The costs for these tasks are currently estimated at \$15,000 plus the original \$8,500 for a total of \$23,500 and are beyond the scope of the 2015 Sea Grant.

BACKGROUND:

The Ventura Port District, in collaboration with the Ventura Shellfish Enterprise (VSE), was awarded a two year, approximately \$300,000 2015 Sea Grant sub award (\$265,000 funding directly to the District) to contract with qualified consultant(s) that will enable development of a permitting strategy and all necessary permitting components required for sustainably cultivated shellfish production to be landed at Ventura Harbor.

Task 1 of the Shellfish Grant has now been completed, which is the research and development of a permitting strategy as outlined above and the subject of a separate board communication. However, it has become evident that the scope and funding allocated from the Sea Grant for Task 1 legal services is insufficient. Given that the State California Department of Fish and Wildlife ("CDFW") has issued very few leases for offshore aquaculture over the past two decades (primarily renewals), there is a lack of clarity as to what leasing structures may be available to this District, or other government entities, and cooperatives such as the VSE.

Plauché & Carr, LLP is a Seattle-based law firm with a practice focused on environmental, land use, and natural resource-based issues. *Plauché & Carr, LLP* has represented a number of non-profit, private, and governmental entities regarding environmental and regulatory matters ranging from regulatory compliance/permitting, to administrative litigation, to litigation in state and federal courts, to conservation land acquisition. On October 14, 2015, the District selected *Plauché & Carr, LLP* and Robert Smith as lead counsel to provide the Task 1 legal services for the Shellfish Grant.

For these additional tasks, Robert Smith will also serve as lead counsel. Mr. Smith is an attorney with ten years' experience working in California on land use and environmental issues, on behalf of both private and public clients. During his previous employment at two Los

Angeles-based firms, Robert advised and represented numerous clients regarding compliance with the California Environmental Quality Act (“CEQA”) and National Environmental Policy Act (“NEPA”) and represented several coastal cities and private clients before the California Coastal Commission (“CCC”), California Department of Fish and Wildlife (“CDFW”), Los Angeles County, and U.S. Army Corps of Engineers (“Corps”).

FISCAL IMPACT:

The additional legal services for *Plauché & Carr, LLP* are not to exceed \$23,500. The District has funds available for the professional services in the FY16-17 budget.