

City of Calistoga

Staff Report

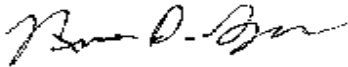
TO: Honorable Mayor and City Council

FROM: Gloria Leon, Administrative Services Director
Richard Spitler, City Manager

DATE: March 17, 2015

SUBJECT: Consideration of a Resolution Authorizing the City Manager to Execute a Professional Services Agreement with HdL Software LLC, for an Audit Engagement of Transient Occupancy Tax Operators in conjunction with Calistoga Municipal Code Chapter 3.16 for an Amount Not to Exceed \$34,500

APPROVAL FOR FORWARDING:



Richard D. Spitler, City Manager

1

2 **ISSUE:** To consider a Resolution Authorizing the City Manager to Execute a

3 Professional Services Agreement with HdL Software LLC, (HdL) for an Audit

4 Engagement of Transient Occupancy Tax Operators in conjunction with Calistoga

5 Municipal Code Chapter 3.16.

6

7 **RECOMMENDATION:** Staff recommends that the City Council adopt the Resolution

8 approving HdL Software LLC, to conduct an audit on Transient Occupancy Tax

9 Operators.

10

11 **DISCUSSION:** As a resort community, the City has an estimated 39 lodging operators of

12 691 rooms. In FY 13-14, the annual Transient Occupancy Tax (TOT) revenues were

13 \$4.5 million or 50% of the total annual General Fund operating revenue. A listing of the

14 current lodging operators can be found in Attachment #3.

15

16 The Calistoga Municipal Code Chapter 3.16 requires the collection by the lodging

17 operators a municipal transient occupancy tax which is 12% of the room rental rate. An

18 additional 2% is collected for marketing efforts through the Tourism Bureau Improvement

19 District. The tax is remitted to the City on monthly reporting forms, which the staff

20 reviews for errors and compliance with the code. Over the years, there have been several
21 non-compliance incidents ranging from delinquent payments of taxes or penalties,
22 violations of use permits and fraud. The City, with the assistance of the City Attorney and
23 District Attorney Offices, have pursued and prosecuted operators for the more serious
24 violations of the City code. Currently there are no pending violations known to staff.
25

26 It is a good practice to periodically conduct an independent "audit" of the records and
27 reporting of all of the lodging operators. The last such review was in 2007. Any type of
28 an "audit" or review process by others of past records can be stressful to a business,
29 even if they are fully complying with the regulations. However, the process can be done
30 in a manner that has the least disruption to the business and provides a full review of the
31 records.
32

33 A request for proposal was sent out on January 2, 2015 to three firms who specialize in
34 revenue audits and revenue recovery for cities. The scope of the audit is to evaluate the
35 accuracy and reasonableness of the TOT revenue payments received by the City for
36 calendar years 2012, 2013 and 2014. The selected firm would represent the City for
37 purposes of examining records to identify and confirm any errors/omissions leading to
38 deficient payment to the City; for each error/omission identified and confirmed, prepare
39 the appropriate documentation to facilitate recovery of revenue due to the City including
40 any applicable penalties and interest; prepare and forward to the appropriate parties
41 requests for corrective action and revenue recovery; meet with designated City officials
42 as necessary to review consultant's findings and recommendations; and provide any
43 additional assistance as necessary to support the City in recovering and preventing tax
44 delinquencies.
45

46 A letter of interest with statement of qualifications, resumes of staff, client list of
47 references, scope of services and a cost summary of the cost to provide a revenue audit
48 was submitted by MUNISERVICES, Brownell & Duffey and HdL. After thorough review
49 staff is recommending the firm of HdL to perform the audit. HdL is currently providing the
50 City with the business license module and has a good relationship with City staff.
51

52 Attachment # 2 is a proposal letter from HdL describing the review procedures and
53 providing additional services. The fee is \$400 per operator for Phase I and III and \$500
54 for Phase II. HdL will be reviewing 48 months of transient occupancy tax filings. Travel
55 expenses will be reasonable and will not exceed \$2,000.
56

57 Phase I of the study includes analysis of TOT ordinances and review of City procedures
58 is conducted to identify possible deficiencies or other administration related issues. An
59 analysis report will be presented to staff which includes data review of the most recent 48
60 months of TOT filings.
61

62 Phase II of the study is a compliance analysis audit on selected lodging providers by HdL
63 and approved by City staff. HdL will review the books and records of the lodging provider
64 to determine compliance with TOT regulations. Businesses that are found to have
65 deficiencies are notified of the findings as well as payment and appeal processes.

66 Appointments will be scheduled to review the findings and educate taxpayers on proper
67 filing procedures designed to prevent future errors and deficiencies.

68
69 Phase III of the study includes continuous monitoring and reports no less than quarterly
70 on potential legislative changes and court cases that may impact the City. HdL will work
71 with the City during implementation to identify the standard and custom reports required
72 by the City to assist the City with monitoring and budget forecasting of TOT.

73
74 There are several optional services that HdL offers designed to promote compliance in
75 the lodging provider community as well as to maximize TOT revenues. Discovery
76 services can be performed to identify those entities that are subjected to the TOT but are
77 not filing and paying taxes. Continued monitoring of TOT reporting is essential to
78 increasing compliance and mitigating errors that may lead to long and drawn out battles
79 for collections. HdL can provide a full administration program in addition to providing
80 monthly monitoring of each TOT return which can also remove the burden of
81 administration from the City. Should the City choose the optional compliance service the
82 cost would be 35% contingency fee and \$700 per property for administration service.

83
84 It is proposed to begin the TOT review process during the latter month of March 2015.
85 The actual reviews of all operators will be scheduled to begin in April 2015.

86
87 **FISCAL IMPACT:** The estimated cost of the review is \$32,500 plus travel expenses not
88 to exceed \$2,000 for a total of \$34,500. This amount is included in the FY 14-15 budget
89 under Account 01-4119-4414.

90
91 **ATTACHMENTS:**

1. Resolution
2. HdL Software LLC, proposal letter – February 2, 2015
3. List of current Lodging Operators
4. Consultant Services Agreement

RESOLUTION NO. 2015- XXX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA, AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH HdL SOFTWARE LLC, FOR AUDIT SERVICES OF TRANSIENT OCCUPANCY TAX OPERATORS

Authorizing Agreement No.

WHEREAS, the City Municipal Code Chapter 3.16 requires a Transient Occupancy Tax of 12% applied to occupancy of lodging facilities in the City; and

WHEREAS, the Lodging Operators are required to collect Transient Occupancy Tax payments, maintain adequate records and accurately report and remit payments to the City; and

WHEREAS, the City reviews the monthly reports and payments from the Lodging Operators for compliance with the Municipal Code; and

WHEREAS, it is appropriate for a more comprehensive formal periodic review of the Lodging Operator records to insure compliance with the Municipal Code; and

WHEREAS, HdL Software LLC, is an experienced auditing firm in Transient Occupancy Tax reporting and compliance with municipal codes and has performed similar services for local Cities.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Calistoga authorizes the City Manager to execute the professional services agreement for audit services of Transient Occupancy Tax Operators with HdL Software LLC, for an amount not to exceed \$32,500, plus travel expenses not to exceed \$2,000 for a total not to exceed \$34,500.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Calistoga at a regular meeting held this **17th day of March, 2015** following vote:

- AYES:**
- NOES:**
- ABSTAIN:**
- ABSENT:**

CHRIS CANNING, Mayor

ATTEST:

KATHY FLAMSON, City Clerk