


City of Calistoga

Staff Report

TO: Honorable Mayor and City Council
FROM: James C. McCann, City Manager 
DATE: January 22, 2009
SUBJECT: Amendment to the Professional Services Agreement with Calistoga Affordable Housing, Inc.

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2 **ISSUE:** Consider a Resolution authorizing an amendment to a provision of the
3 Professional Services Agreement with Calistoga Affordable Housing, Inc.
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5 **RECOMMENDATION:** Adopt Resolution.
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7 **BACKGROUND:** It is common for private and public organizations to utilize
8 consultant services for specialized work and to supplement full time staff
9 capabilities. When the City of Calistoga finds such assistance appropriate, we
10 execute a professional services agreement with the consultant. This agreement
11 outlines the terms of employment regarding scope of work, compensation, and
12 typical risk management liability matters. The agreement also includes standard
13 language to limit the potential for conflicts of interest. This latter interest is
14 accomplished in our agreements through the inclusion of a provision which
15 prohibits the consultant from owning or having an interest in property in the City
16 which might be affected by the work which is to be performed by the consultant.
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18 **DISCUSSION:**
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20 In the case of Calistoga Affordable Housing, Inc. (CAH), the City has contracted
21 for a variety of affordable housing services. These services include general
22 affordable housing policy assistance and advice relative to new and emerging
23 housing practices and legislation as well as specific specialized assistance in the
24 research and development of housing policies and regulations for application in
25 Calistoga (see attached agreement). Presently, CAH is engaged in assisting the
26 Planning & Building Department with work related to the Housing Element
27 update. Their work will be in the form of base level research and compiling
28 preliminary suggestions for aspects of the Housing Element update. It is
29 important to note that the work from CAH will not be conclusive nor will it be a
30 stand alone product. Rather, CAH's role is to perform initial data gathering and
31 to compile preliminary materials for the Planning staff who will then determine

32 through the public process the appropriate additions and changes to our policies.
33 It is the Planning staff who will determine which policies and procedural
34 recommendations will be brought forward for Commission and Council
35 discussion and consideration.

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37 CAH is a private non-profit organization with an affordable housing advocacy role
38 as well as being an active developer of affordable housing projects. CAH
39 presently owns and has financial or ownership interests in land in Calistoga. The
40 professional services agreement includes a provision, Paragraph 6, Interest of
41 Consultant, which prohibits such ownership in order to prevent the potential or
42 appearance of a conflict of interest. This clash with this boilerplate provision was
43 not recognized by the Planning staff or CAH until recently. Clearly, this conflict in
44 the terms of the agreement must be reconciled.

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46 There are a few options available for consideration:

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48 1. Determine that the nature of the work in question pursuant to the scope of
49 services in the agreement does not present the potential or appearance
50 for a conflict of interest given the ownership interests present; or
- 51 2. Modify the agreement to permit CAH to carry on with their assistance but
52 freely acknowledge that they have ownership interests in land within
53 Calistoga; or
- 54 3. Amend the scope of services in the agreement to delete those services
55 which might be more prone to conflict of interest concerns; or
- 56 4. Terminate the agreement.

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58 Staff recommends the second option. This approach clearly daylight the
59 situation and acknowledges the ownership interests of CAH and allows the City
60 to retain and benefit from the valuable contributions from the organization as we
61 move forward with our affordable housing efforts. Again, it is important to note
62 that the services and products from CAH in regard to housing policy will be
63 preliminary input to staff for consideration and use in developing formal staff
64 recommendations to the Planning Commission during public meetings and
65 ultimately recommendations to the City Council. Should Council find this
66 approach to be acceptable, amendment to Paragraph 6 of the agreement will be
67 in order.

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69 **FISCAL IMPACT:** None.

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71 **ATTACHMENTS:**

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73 1. Draft Resolution
- 74 2. Professional Services Agreement between Calistoga Affordable Housing,
75 Inc. and the City of Calistoga

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