



**DATE:** June 30, 2020

**TO:** Mayor and City Council

**FROM:** Director of Finance

**SUBJECT:** TOT (Hotel Tax) Ballot Measure: Direction on Potential November 2020  
Transient Occupancy Tax Ballot Measure

## **RECOMMENDATION**

That the Council reviews prior polling and updated data for a potential revenue measure increasing the City's Transient Occupancy Tax (TOT) and directs staff to prepare proposed ballot measure language to be presented to Council for consideration.

## **SUMMARY**

In 2017, Council was presented with several strategies for consideration to ensure the City's long-term fiscal sustainability. One of the strategies presented to Council for consideration was the placement of an increase to Transient Occupancy Tax (TOT) on the November 2018 ballot. Under Council review and consideration, the increase to TOT was not placed on the November 2018 ballot, and is being considered for placement on the November 2020 ballot.

This report includes a comparative analysis of TOT rates and revenues in neighboring agencies, as well as presenting the results of 2017 voter polling in comparison with election results from Bay Area cities that have recently put ballot measures to voters. The analysis finds that Hayward has the lowest TOT rate and ranks eleventh in per-capita TOT revenues of the sixteen Bay Area cities with populations over 100,000. Past polling found that an increase to TOT was supported by approximately two-thirds of registered Hayward voters.

## **BACKGROUND**

On October 3, 2017, staff presented Council with an updated Long-Range Financial Model (Model) for the City's General Fund. The updated Model, developed in conjunction with consultant Management Partners, predicted a structural General Fund deficit by FY 2019. According to the Model, the General Fund reserve would be exhausted completely by FY 2021.

At a subsequent work session, on October 14, 2017, staff presented strategies for closing the structural deficit and achieving long-term fiscal sustainability. Among the strategies presented

were increases to the TOT and the Real Property Transfer Tax (RPTT). Of these two options, the Model projected an RPTT increase as generating the greatest amount of revenue.

At Council direction, polling of voters was conducted in the fall of 2017 and spring of 2018. Polling was favorable for a TOT increase but mixed for an RPTT increase. Proposed language for both the TOT and RPTT ballot measures was presented to Council for direction and approval on July 17, 2018. In order to increase the likelihood of passing the larger revenue generator, Council approved a motion to shelve the TOT increase measure and place only the RPTT increase on the ballot. On November 6, 2018, City of Hayward Measure T, increasing the RPTT to \$8.50 per \$1,000 of assessed value was approved with 59% of the vote.

On January 15, 2020, staff presented the Council Budget and Finance Committee with an update to the Model. Staff assumptions included a mild recession in FY 2021, resulting in a structural deficit in FY 2021, falling below the 20% target General Fund reserve in FY 2022, and depletion of the General Fund reserve by FY 2024. The Council Budget and Finance Committee requested that updated analysis of a potential ballot measure increasing TOT and a request for direction be presented to the full Council. The COVID-19 pandemic and locally declared emergency have created drastic downward changes in the City's revenue projections, given the almost complete shutdown of the economy due to the Shelter-in-Place Order issued by the County Health Officer. Initially, the Council paused on consideration of the TOT ballot measure in early March. However, as part of the FY 2021 adoption process, the Council asked staff to return for further discussion of the potential ballot measure.

For a complete timeline of TOT action, including future steps, please see Attachment II.

## DISCUSSION

### Comparative Analysis of TOT Rates and Revenues

In 2017, staff compared the City's TOT rate of 8.5 percent to that of sixteen other cities in the Bay Area with populations over 100,000. Updated TOT rates and revenues find that the City's rate has remained the lowest among neighboring agencies, even as two cities, Sunnyvale and Daly City have increased their rates from 10.5 percent and 10.0 percent to 12.5 percent and 13.0 percent, respectively. The TOT rates for these cities are shown in Table 1, below:

**Table 1: Comparison of Current TOT Rates<sup>1</sup>**

City	TOT Rate
San Francisco	14.0%
Oakland	14.0%
Fairfield <sup>2</sup>	13.0%
Daly City <sup>3</sup>	13.0%

<sup>1</sup> Rates provided by the Office of the State Controller, based on data compiled for FY 2018 and published November 7, 2019. [https://www.sco.ca.gov/Files-ARD-Local/LocRep/2017-18\\_Cities\\_TOT.pdf](https://www.sco.ca.gov/Files-ARD-Local/LocRep/2017-18_Cities_TOT.pdf)

<sup>2</sup> Fairfield's total TOT rate of 13.0 percent includes a 3.0 percent tourism tax levied on all temporary lodging.

<sup>3</sup> Daly City's TOT rate taken from Daly City Municipal Code § 3.32.020, updated in December 2018.

City	TOT Rate
Sunnyvale <sup>4</sup>	12.5%
San Mateo	12.0%
Berkeley	12.0%
Vallejo	11.0%
San Jose	10.0%
Fremont	10.0%
Concord	10.0%
Richmond	10.0%
Antioch	10.0%
Santa Clara	9.5%
Santa Rosa	9.0%
Hayward	8.5%

The 2017 analysis found that the City ranked twelfth among these cities for TOT revenue per capita, based on data from FY 2015. Updated revenue data compiled by the State Controller’s Office indicates that the City’s relative TOT per capita increased for FY 2018, ranking it eleventh in per-capita TOT revenues among Bay Area cities with populations over 100,000. Gross revenues and per-capita revenues reported to the state are shown in Table 2, below:

**Table 2: Comparison of FY 2018 TOT Revenue and Revenue per Capita**

City	TOT Revenue	Revenue per Capita
San Francisco	\$ 382,175,695	\$ 432.67
Santa Clara	\$ 20,579,504	\$ 158.93
Sunnyvale <sup>5</sup>	\$ 21,121,327	\$ 137.88
San Mateo	\$ 8,750,353	\$ 83.32
Berkeley	\$ 8,754,269	\$ 71.97
Oakland	\$ 30,038,746	\$ 70.01
Santa Rosa	\$ 6,506,175	\$ 55.33
San Jose	\$ 48,850,879	\$ 47.42
Fairfield	\$ 5,120,365	\$ 43.81
Fremont	\$ 8,620,269	\$ 36.25
Hayward	\$ 3,761,062	\$ 23.56
Concord	\$ 3,039,725	\$ 23.44
Vallejo	\$ 2,621,192	\$ 21.50
Richmond	\$ 1,536,041	\$ 13.95
Daly City <sup>6</sup>	\$ 1,464,520	\$ 13.69
Antioch	\$ 209,345	\$ 1.88

San Francisco and Antioch represent outliers among these cities, given San Francisco’s status as an international tourist destination and Antioch’s relatively small number of lodging businesses. Discarding the two outliers, the remaining medium-to-large cities have an average

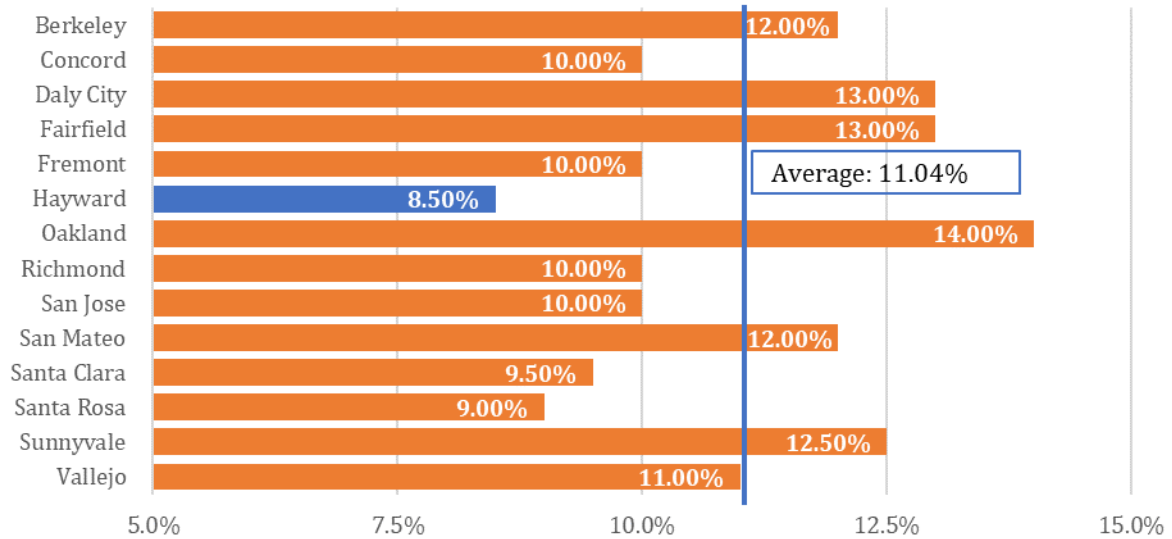
<sup>4</sup> Sunnyvale’s TOT rate taken from Sunnyvale Municipal Code § 3.16.040, updated in December 2018.

<sup>5</sup> Sunnyvale revenues adjusted to reflect current TOT rate.

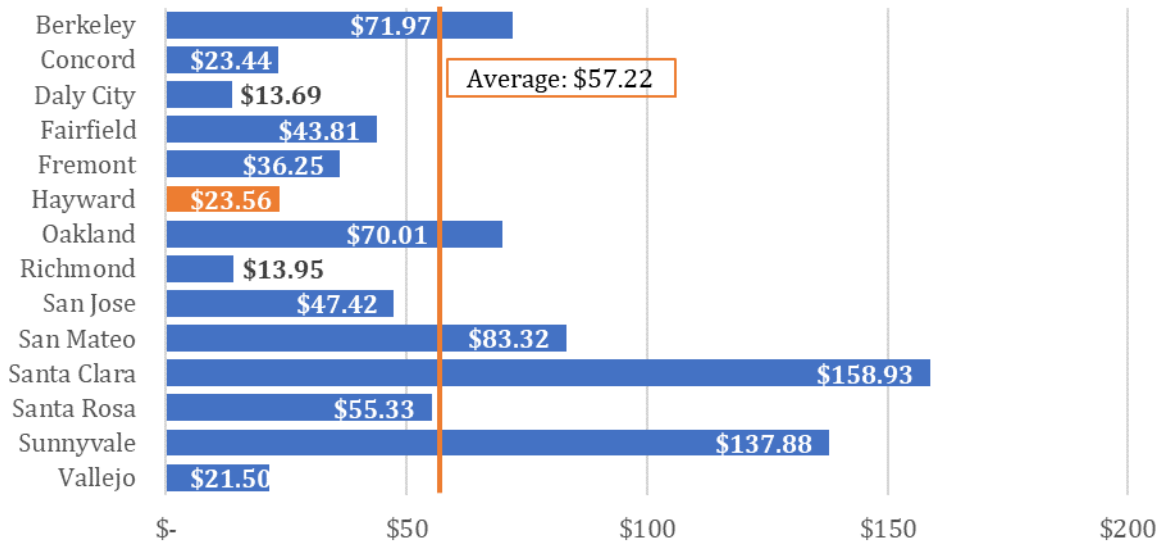
<sup>6</sup> Daly City revenues adjusted to reflect current TOT rate.

TOT rate of 11.04 percent and per-capita TOT revenue of \$57.22, compared to Hayward's 8.5 percent and \$23.56, respectively. These averages, less outliers, are shown in the charts below:

**Chart 1: TOT Rates with Average**



**Chart 2: TOT Revenue per Capita with Average**



*Polling Results and Recent Bay Area TOT Measures*

On October 18, 2017, the Council Budget and Finance Committee directed staff to conduct a preliminary qualitative survey of likely Hayward voters to evaluate the feasibility of both TOT and RPTT increases as potential ballot measures. Staff reached out to voters via direct mail, The Stack newsletter, and digital advertising. Voters were asked to complete a two-question

response card or respond on [www.HaywardListens.com](http://www.HaywardListens.com). The questions and responses are summarized in the tables below.

**Table 3: Hayward Listens Survey Question 1 Results (767 Responses)**

Is the City fulfilling its promise to provide essential City Services?		
Yes	No	Do Not Know
390 (50.85%)	176 (22.95%)	201 (26.20%)

**Table 4: Hayward Listens Survey Question 2 Results (767 Responses)**

What do you think about the proposals to increase the City's Transient Occupancy Tax (also known as "Hotel Tax" and/or the City's Real Property Transfer Tax)?	
I support the City's proposals	I have concerns
339 (44.20%)	428 (55.80%)

In order to understand voter support of the proposed measures both together and individually, the Council Budget and Finance committee initiated a second survey. Staff contracted with Godbe Research, Inc. to evaluate two potential versions of the proposed ballot language. In each case, voters were presented with identical TOT measure language, but variations in RPTT measure language. Results of this poll were presented to Council on July 10, 2018.

The TOT survey question was posed to two sample groups. The question in Sample A was paired with RPTT language expressed in dollars (“from \$4.50 to \$10 per \$1,000”). Sample B participants received RPTT language expressed in percentage (“from 0.45% to 1% per \$1,000”). Support for a TOT increase ranged from 59.7 percent to 70.9 percent within these two groups. The results of this polling were presented to the Council Budget and Finance Committee on December 6, 2017. Results for TOT polling are summarized in Table 5 below:

**Table 5: Voter Support for TOT Increase by Paired RPTT Language**

	RPTT "\$10 per \$1,000"	RPTT "1% per \$1,000"
Uninformed Voters	<b>70.1 % Yes</b> 24.4% No	<b>59.7% Yes</b> 30.4% No
Informed Voters	<b>70.9% Yes</b> 21.5% No	<b>63.5% Yes</b> 26.7% No

Polling showed clear support for the TOT measure, with some variation based on whether the respondent was part of Sample A or Sample B on the RPTT language. Respondents were also asked to provide feedback on messaging. Voters were read a series of statements and asked

whether the statement made them “Much more likely to Vote Yes,” “Somewhat more likely to Vote Yes,” had “No effect,” or did not know. With each statement, voters were asked to evaluate the TOT and RPTT together. The five statements with the highest “Much more likely” and “Somewhat more likely” ratings are shown in Table 6, below:

**Table 6: Top Five Positive Statements by Percent of Respondents**

Statement	Much More Likely	Somewhat More Likely	Total
Mandatory financial audits and yearly reports to the community are required to ensure the funds are spent as promised	51.4%	22.5%	<b>73.9%</b>
Businesses would pay their fair share too	45.7%	23.2%	<b>68.9%</b>
The measures would generate locally controlled funds for critical Hayward needs that cannot be taken by the State	42.0%	26.6%	<b>68.6%</b>
The measures would maintain response times for Police, Fire, and 911 emergency services	35.7%	31.3%	<b>67.0%</b>
The measures would not be paid by the average resident but only by visitors and those transferring property	37.1%	26.4%	<b>63.5%</b>

The survey included one additional statement that was specific to TOT, “Oakland, Santa Clara, and San Mateo already charge hotel and motel guests 12 percent or more” - 63.5 percent of voters replied that this statement made them more likely to vote for the measure. While the top four statements are applicable to any tax measure, there is clear support for features exclusive to a TOT increase: the impact of Transient Occupancy Taxes falling only on visitors, and a comparison to other local TOT tax rates.

Voters in the Bay Area generally support TOT taxes. Of the 45 TOT measures brought before Bay Area voters since 2008, 43 have passed. TOT increase measures averaged 73.21 percent voter approval and increased TOT by an average of 2.43 percent. In particular, the City of Colma did not have a TOT prior to passing 2018’s Measure PP, which imposed a 12 percent tax and passed with 77.12 percent of the vote.

Of the two failed measures, American Canyon Measure H in 2018 garnered 66.41 percent approval, but fell short of the two-thirds vote required to pass. The other failed measure, San Francisco Measure J in 2010, received 45.52 percent of the vote, but may have been impacted by confusion due to a competing measure.

Table 7 below, provides a list of six Bay Area cities with populations over 100,000 residents that have placed TOT increase measures on the ballot since 2008.

**Table 7: TOT Ballot Measures Since 2008, Bay Area Cities with Over 100,000 Residents**

City	Year	Measure	Yes Votes	Rate Increase
San Francisco	2010	J	45.52%	2%
Sunnyvale	2013	B	68.58%	1%
Sunnyvale	2018	K	78.53%	2%
San Mateo	2009	MM	74.60%	2%
Oakland	2009	C	76.79%	3%
Fremont	2008	MM	66.45%	2%
Daly City	2018	VV	79.78%	3%

**FISCAL IMPACT**

The TOT at 8.5 percent has generated approximately \$2.5 million in General Fund revenue per year over the last five fiscal years, based on actual receipts. Given uncertainties surrounding COVID-19, FY 2020 and FY 2021 revenues cannot be accurately predicted. However, if a 12 percent TOT had been in place since FY 2015, it would have generated an average of \$3.6 million per year, or a projected increase between \$0.8 million and \$1.1 million annually. Projections for prior years, assuming higher rates had been in place, can be seen in Table 8, below.

**Table 8: TOT Revenue Under Different Rate Scenarios in Prior Fiscal Years**

Fiscal Year	8.5% (Actual)	10%	12%	14%
FY 2015	\$ 2,033,057	\$ 2,391,831	\$ 2,870,197	\$ 3,348,564
FY 2016	\$ 2,591,468	\$ 3,048,786	\$ 3,658,543	\$ 4,268,300
FY 2017	\$ 2,559,873	\$ 3,011,615	\$ 3,613,938	\$ 4,216,261
FY 2018	\$ 2,808,158	\$ 3,303,715	\$ 3,964,458	\$ 4,625,201
FY 2019	\$ 2,822,564	\$ 3,320,663	\$ 3,984,796	\$ 4,648,929
Average	\$ 2,563,024	\$ 3,015,322	\$ 3,618,387	\$ 4,221,451

The fiscal impact related to adding this measure to the November 2020 ballot and cost of adding this information to the printed voter pamphlet and translation services are estimated at approximately \$7,200. Staff does not anticipate that the addition of this measure to the 2020 ballot will impact the election costs paid to the Alameda County Registrar of voters.

## **STRATEGIC ROADMAP**

This agenda item supports the Strategic Priority of Improve Organizational Health. Specifically, this item relates to the implementation of the following project(s):

Project 1, Part 1.a: Maintain and Expand Fiscal Sustainability: Evaluate an increase in the Transient Occupancy Tax.

## **NEXT STEPS**

If Council directs staff to prepare the documents to place a TOT increase measure on the November 2020 ballot, a resolution and accompanying ballot language must be filed with the County Registrar of Voters no later than August 7, 2020. If the decision is to move forward a TOT increase measure, staff will return to the Council at the July 21, 2020, meeting for approval of the required documents to place the measure on the November 2020 ballot. Staff also requests that Council provide direction on the new TOT level to be presented to voters. After discussion at this meeting, staff will take the Council's feedback on this question and incorporate it into the ballot language.

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*Approved by:*



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Kelly McAdoo, City Manager