



**DATE:** November 16, 2022

**TO:** Council Budget and Finance Committee

**FROM:** Director of Finance

**SUBJECT:** Transient Occupancy Tax (TOT) Review

### **RECOMMENDATION**

That the Committee provides feedback on this analysis and considers whether or not to adjust the City's TOT rate that Hayward voters approved by passing Measure NN in November 2020, allowing for a rate up to 14 percent.

### **SUMMARY**

This report provides a review of the City's current TOT rate, and consideration for increasing the TOT rate in accordance with Measure NN, a voter-approved ballot measure, which authorized Council to adjust the TOT rate from 8.5 percent up to a maximum of 14 percent. In November 2020, the City continued to balance the impacts related to the economic uncertainties around the COVID crisis. At that time, Council directed staff to keep the TOT rate at its current rate of 8.5 percent to allow hoteliers time to recover from the pandemic. Council requested that an adjustment to the TOT rate be reviewed and considered when the economy recovered from the impacts of the pandemic.

The report provides an overview of the TOT rate and consideration for adjusting the TOT rate from 8.5 percent up to no more than 14 percent.

### **BACKGROUND**

In January 2020, staff updated the Council Budget and Finance Committee on the City's Long-Range Financial Model. At the time, 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 an updated analysis of a potential ballot measure increasing the TOT and that direction be presented to the full Council.

In June 2020<sup>1</sup>, Council was presented with a comparative analysis of TOT rates and revenues in neighboring agencies, as well as the presentation of the results of 2017 voter polling in comparison with election results from Bay Area cities that had previously presented ballot measures to voters. The analysis found that Hayward had the lowest TOT rate and ranked eleventh in per-capita TOT revenues of the sixteen Bay Area cities with populations over 100,000. At the time, past polling found that an increase in TOT was supported by approximately two-thirds of registered Hayward voters.

On July 14, 2020<sup>2</sup>, Council authorized actions to place an increase in the City's TOT from 8.5 percent up to 14 percent before the voters of Hayward at the November 3, 2020, election. In November 2020, the voters of Hayward passed Measure NN, which allowed for an increase to the TOT from 8.5 percent to no more than 14 percent.

## DISCUSSION

Recently, 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. The City's current TOT rate remains the lowest among neighboring agencies. However, with the passage of Measure NN, Council has the authority to adjust the TOT rate up to 14 percent, which would place the City TOT rate within the highest rate compared to neighboring cities. In 2020, when Measure NN was approved by the Hayward voters, Council directed staff to hold the rate at 8.5 percent to allow local hoteliers to recover from the impacts of the pandemic. Table 1 below provides a comparison of current TOT rates among neighboring cities:

**Table 1: Comparison of Current TOT Rates**

City	TOT Rate
San Francisco	14.00%
Oakland	14.00%
San Mateo	14.00%
Fairfield	13.00%
Daly City	13.00%
Sunnyvale	12.50%
Berkeley	12.00%
Santa Clara	11.50%
Vallejo	11.00%
San Jose	10.00%
Fremont	10.00%
Concord	10.00%
Richmond	10.00%
Antioch	10.00%
Santa Rosa	9.00%
Hayward	8.50%

<sup>1</sup> [CITY OF HAYWARD - File #: LB 20-030 \(legistar.com\)](#)

<sup>2</sup> [CITY OF HAYWARD - File #: LB 20-038 \(legistar.com\)](#)

Prior to the pandemic, the TOT rate was set at 8.5 percent, generating approximately \$2.5 million in General Fund revenue per year in the five fiscal years proceeding that time. Projections for prior years, assuming higher rates had been in place, can be seen in Table 2, below. These rates reflect pre-pandemic revenue collection.

**Table 2: TOT Revenue Under Different Rate Scenarios in FY 2015 through FY 2019**

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

However, directly impacted by the implication of the COVID crisis, FY 2020 and FY 2021 revenues significantly declined. In FY 2022, TOT revenue is beginning to show signs of recovery with an increase of approximately \$0.5 million over FY 2021 in actual revenue collected. Table 3, below, provides updated projections for the last three years, since Measure NN was approved by Hayward voters. The table illustrates the impacts on the revenue source should higher rates have been in place during the past three fiscal years.

**Table 3: TOT Revenue Under Different Rate Scenarios in FY 2020 through FY 2022**

Fiscal Year	8.5% (Actual)	10%	12%	14%
FY 2020	\$2,186,926	\$2,572,854	\$3,087,425	\$3,601,996
FY 2021	\$1,552,148	\$1,826,056	\$2,191,268	\$2,556,479
FY 2022	\$1,978,905	\$2,328,124	\$2,793,748	\$3,259,373
Average	\$1,905,993	\$2,242,345	\$2,690,814	\$3,139,283

As illustrated in Table 3, if a 12 percent TOT had been in place since FY 2020, it would have generated an average of \$2.6 million per year, or a projected increase between \$0.6 million and \$0.9 million annually.

Staff would like to receive input from the Committee as to whether an increase in the TOT should be recommended to the City Council at this time.

## **FISCAL IMPACT**

Prior to the COVID crisis, the TOT rate was set at 8.5 percent and generated approximately \$2.5 million in General Fund revenue per year in the five fiscal years proceeding that time.

As the City continues to recover from the impacts of the pandemic, the TOT revenue is expected to return to pre-pandemic levels, where the City collected on average \$2.5 million annually at a TOT rate of 8.5 percent. Should the City Council choose to exercise its right to

adjust the TOT rate up to 14 percent, the increase would result in positive impacts on the General Fund. If a 12 percent TOT rate was approved, using the pre-pandemic TOT annual average revenue, shown in Table 2, the City could potentially realize an increase of approximately \$1.0 annually in General Fund revenue.

## **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 the Committee supports the consideration of adjusting the TOT rate in accordance with the voter-approved Measure NN, staff will provide the full City Council with an update and review of the TOT rate and analysis for consideration.

*Prepared by:* Nicole Gonzales, Deputy Director of Finance

*Recommended by:* Dustin Claussen, Director of Finance

*Approved by:*



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Kelly McAdoo, City Manager