



## City Council Agenda Item Staff Report

CITY OF SAN BRUNO

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**DATE:** September 27, 2022

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Jovan D. Grogan, City Manager

**SUBJECT:** Adopt Resolution Authorizing the City Manager to Execute Agreements With Airbnb and HomeAway for Payment of Transient Occupancy Tax

**BACKGROUND:** Like many other cities, San Bruno offers a variety of lodging options for those visiting the City and the greater Bay Area. Some of these rooms are in private homes owned or operated by “hosts” and are booked by “guests” on internet platforms such as Airbnb and HomeAway (also known as VRBO).

San Bruno Municipal Code section 3.32.030 adopted in 2019, requires hosts to remit transient occupancy tax (“TOT”) to the City, as do traditional hotels and motels. However, hosts may not have been aware of their obligation to do so, as the City had not yet set up a registration system, and the internet platforms generally did not collect the tax unless compelled to do so by legal action. The City began exploring regulation of short term rentals (STRs) in 2018, and then engaged in a series of public meetings in January 2020, May 2020, and July 2020, culminating in adoption of section 12.270 of the City’s Zoning Code, Short Term Residential Rentals, on August 25, 2020. This ordinance established a comprehensive system to register and regulate these short term rentals (STRs). However, such programs, while reasonable and necessary to provide appropriate zoning and operational regulations, require substantial staff or consultant effort to identify each host and then collect the tax individually from each, resulting in the City incurring both administrative and collection costs.

Staff therefore approached the two primary internet platforms, Airbnb and Home Away, which contain virtually all of the listings in the City. Both expressed a desire to enter into a voluntary collection agreement (VCA) with the City by which the platform would collect the tax from the hosts and then remit it to the City. Such agreements are relatively common, as they provide an efficient mechanism to collect TOT from a large number of hosts, without the attendant expenditure of staff time and resources. This report presents the key deal terms negotiated by staff in the agreements for review by the City Council.

**DISCUSSION:** The VCAs proposed by both platforms are similar in that they provide:

- The platform will collect and remit TOT while the agreement is in effect.
- The platform will be liable for any TOT, penalties, and interest that it does not collect and remit while the agreement is in effect.

- Hosts of the platform will not have to register with the City or collect and remit TOT while the agreement is in effect.
- The City's ability to audit the platform will be limited, in particular the platform will not have to provide any personal information of its guests or hosts while the agreement is in effect.
- The City waives any claims against the platform for TOT not collected before the effective date of the agreement.

While there are some differences between the agreements, the main difference is that Airbnb reserves the ability to create a category of "Registered Hosts" for which Airbnb would collect TOT, but then turn the TOT over to the Registered Host for remittance to the City. Airbnb would provide the City with tax and business identification information of the Registered Hosts.

In all, these terms are consistent with those in other similar agreements with many other cities in California.

**FISCAL IMPACT:** While the amount of TOT paid by businesses and individuals are confidential per city ordinance, the VCAs will likely provide some modest revenue to the City on an ongoing basis.

**RECOMMENDATION:** Adopt Resolution Authorizing the City Manager to Execute Agreements With Airbnb and HomeAway for Payment of Transient Occupancy Tax

**ALTERNATIVES:**

1. Decline to adopt the Resolution, and provide alternative direction to staff regarding the VCAs.

**ATTACHMENTS:**

1. Resolution