



## **CITY MANAGER'S OFFICE**

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## **CITY COUNCIL STAFF REPORT**

Meeting: September 3, 2019

### **Subject**

Amendment to existing voluntary collection agreement with Airbnb regarding transient occupancy taxes to allow certain short-term rental hosts to remit taxes directly to the City.

### **Recommended Action**

Authorize the City Manager to enter into Amendment No. 1 to the voluntary collection agreement with Airbnb and to enter into other minor amendments to the voluntary collection agreement in the future.

### **Background**

People or “transients” occupying short-term rentals for 30 days or less are subject to a 12% Transient Occupancy Tax (TOT) on the rent charged. In June 2018, the City entered into a voluntary collection agreement (VCA) with Airbnb under which Airbnb agreed to collect and remit transient occupancy tax (TOT) on behalf of short-term rental hosts using their platform. Due to this agreement, the City received about \$400,000 in TOT from Airbnb in FY 2018-19. For additional information regarding the VCA, please see the staff report for the original agreement in Attachment B.

### **Discussion**

Airbnb has requested an amendment to the VCA (Attachment A) that allows certain short-term rental hosts to register and opt-in to receive TOT directly. Once the TOT is provided to the host, it then becomes the host’s responsibility to ultimately remit the TOT to the City. Airbnb has developed this opt-in program with the intention to meet the needs of hosts in the traditional hospitality industry, such as hotels and other professionals, which enables such hosts to control the collection and remittance of TOT to the City. Traditional hospitality hosts such as hotels often already have a practice in place to remit TOT to the City, and Airbnb’s remittance on the host’s behalf can distort their records. Other platforms already offer this capability and Airbnb has an interest in maintaining services comparable to their competitors.

Airbnb requires that hosts that opt-in to this program must:

- Provide their tax identification or registration number;
- Provide their business identification number; and
- Acknowledge their obligation to collect, remit, and report taxes owed to the City.

Once every twelve months, Airbnb will provide documentation regarding these hosts with information including gross receipts and taxable receipts from Airbnb short-term rentals in Cupertino. This information would allow the City to identify any hosts that were abusing the program and not appropriately remitting TOT. While Airbnb has not determined what actions they would take to address bad actors, they intend to develop a workable solution to discourage hosts from failing to pay all TOT owed to the City.

If hosts that opt-in to this program fail to remit TOT appropriately, TOT revenue may decrease. However, only a subset of hosts would opt-in to this program. In addition, Airbnb has expressed that while they are hopeful that we can continue our agreement, it will be difficult for them to continue operating under the VCA if the amendment is not approved. If Airbnb terminates the VCA, the City would no longer receive any TOT through Airbnb.

#### **Sustainability Impact**

No sustainability impact.

#### **Fiscal Impact**

In FY 2018-19, Airbnb remitted about \$400,000 in TOT to the City on behalf of its users. With this proposed amendment to the VCA, it is possible for the City to receive less TOT if hosts who opt-in fail to remit TOT to the City. However, Airbnb has expressed that it would be difficult to continue operating under the VCA if the amendment is not approved.

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Prepared by: Katy Nomura, Assistant to the City Manager

Reviewed by: Dianne Thompson, Interim Assistant City Manager

Approved for Submission by: Deborah Feng, City Manager

Attachments:

A – Draft Amendment to VCA

B – VCA Staff Report 6.19.18