



**TO:** Mayor and Councilmembers

**FROM:** Luke Rioux, Finance Director

**CONTACT:** Luke Rioux, Finance Director

**SUBJECT:** Transient Occupancy Tax (TOT) and Tourism Business Improvement District (TBID) Assessment Penalty and Interest Deferment

**RECOMMENDATION:**

Consider adoption of Resolution No. 20-\_\_ entitled “A Resolution of the City Council of the City of Goleta, California Authorizing Hotel Operators to Defer the Payment and Reporting of the Transient Occupancy Tax as an Exercise of Emergency Powers Pursuant to the City’s Emergency Declaration.”

**BACKGROUND:**

The COVID-19 pandemic has created significant and unprecedented financial impacts worldwide. Local businesses and residents in Goleta are experiencing economic loss because of the situation. The City of Goleta collects transient occupancy taxes (TOT) from hotel, motel, and short-term vacation rental operators within its jurisdiction. The City’s TOT rate is equivalent to 12 percent of the cost of a room per night and is a tax imposed on visitors occupying a room in a hotel, motel, inn, or similar establishment. Pursuant to State of California Revenue and Taxation Code Sections 7280-81, a city may impose TOT on persons staying 30 days or less in a room or rooms in a hotel, inn, motel, tourist home, non-membership campground, or other lodging facility. The tax is a debt owned by the transient person to the City.

Owners or operators of hotels and similar businesses collect the TOT when the room night is paid for by a customer and the tax is stated separately from the room charge. The tax collected is required to be held in trust until remitted. The hotel remits the TOT collected along with a completed monthly TOT return to the City on a monthly basis. TOT payments are due to the City on the last day of the month that follows the collection month. For example, TOT collected for March are due by April 30. Failure to pay TOT by the due date will result in a 10 percent penalty. If payment of the tax is delinquent more than 30 days, an additional 10 percent penalty will be added plus interest at the rate of one-half of one percent (0.5%) per month.

## **DISCUSSION:**

The statewide shelter in place/at home orders have significantly impacted consumer behavior and economic activity as restaurants are serving take-out only, events have been cancelled, schools, colleges, and businesses remain closed, and consumers stay home to slow the spread of the pandemic. Local hotels are experiencing sharp declines in business with low occupancy rates, a trend that is likely to continue until the statewide restrictions are eased. As of the publishing of this report, the City has received inquiries from five of its hotels/motels about whether we were planning to defer TOT remittance to the City, similar to the City of Santa Barbara. The City is only aware of City of Santa Barbara allowing TOT deferment.

Staff seeks direction from the City Council whether it desires to allow TOT deferrals to assist hotels in Goleta through this time. If the City Council supports TOT deferrals, staff recommends the City Council adopt the attached resolution, which authorizes hotel operators, upon written request, to defer their March and April TOT payments as long as payments are made on or before June 30, 2020. Additionally, staff recommends granting authority to the City Manager to defer payment of TOT, upon written request, for months subsequent to April 2020, in two-month increments. For example, if the hotel operator requests deferral of TOT for the months of May 2020 and June 2020, the due date for those months would be August 31, 2020. With this recommendation, hotels would continue to submit their monthly TOT return to the City on their regular due dates with all applicable information reported, so that the City could book them as receivables due at a later time. The March 2020 return is due by April 30, 2020 and the April 2020 return is due by May 31, 2020. If fully paid by the deferral due date, the City will not impose any penalties or interest on the payments. If the hotel operator fails to make timely and full payment by the due date, the hotel operator will be immediately liable for full amount of taxes, assessments, penalties, and interest prescribed by law, going back to the dates upon which the original payments were due.

The attached resolution provides authority for the City Manager as Director of Emergency Services to provide temporary financial relief to hotels within the City during, and immediately following, the City's response to the COVID-19 pandemic, and can be viewed in its entirety as Attachment 1.

## **FISCAL IMPACTS:**

The TOT is City's largest and most volatile General Fund revenue source and has historically accounted for approximately 36 to 39 percent of the City's total General Fund. On average, the City receives between \$2.3 million - \$3.6 million per quarter in TOT revenues from the 10 hotels/motels located within its boundaries. This amount fluctuates based on higher and lower tourism months. For Fiscal Year (FY) 2019/20, the City's adopted budget anticipated approximately \$10.4 million in TOT revenues. With lower occupancy rates presently being experienced and expected to continue during the COVID-19 pandemic, current and future TOT due to the City will be significantly less than this amount. Currently, staff is anticipating an approximate \$2.1 million decrease for a total of \$8.3 million in TOT revenues through the end of the fiscal year. Given the

extreme uncertainty, staff will continue to monitor and revise its forecast as needed as it receives information from the local hotels and industry.

For the initial March and April deferral period, staff anticipates TOT receipts to be in the approximate range of \$250,000 to \$600,000. Should City Council approve the resolution, the TOT deferred revenues would be realized by the City at a later date (one to two months later). Deferring collection of TOT would impact the City's cash and liquidity position by the approximate amount stated above. The City's cash and liquidity position for the General Fund is considered strong, as it is primarily backed by its contingency reserve of approximately \$8.5 million. The contingency reserve is set at 33 percent (approximately four months) of the City's operating budget, which is above the recommended reserve requirement of two months or 16.7 percent. Additionally, the City has an unassigned fund balance of approximately \$6 million, which serves as a revenue (economic) stabilizer to address short-term revenue shortfalls and one-time appropriations that may be needed during the fiscal year. Actual decreases in TOT revenue will affect the unassigned fund balance.

Given that this is a short-term deferral by one to two months and that TOT is expected to be collected by the deferral due date, the City may be able to absorb delayed payments, assuming no major interruptions to other major cash flows such as sales tax and property tax. The deferral will provide a cash flow bridge to support local hotels to weather these unprecedented circumstances.

#### **ALTERNATIVES:**

The City Council could choose not to allow hotels to defer their transient occupancy tax revenues, and to require them to pay the TOT owed by the scheduled due dates or be subject to penalties and interest. Hotels exhibiting good business practices should be separating their TOT collections from transients and held in trust, separate from other income sources. However, the reality may be that some hotels/motels are depending on TOT collections to help with cash flow during this tough economic time. If the City does not provide for this deferral, hotels may experience continued financial hardship if other relief is not made immediately available. Although staff cannot predict the specific impact to each hotel, the businesses' staffing and/or operations may be affected.

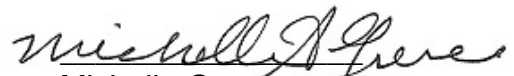
**Reviewed By:**

  
Kristine Schmidt  
Assistant City Manager

**Legal Review By:**

  
Michael Jenkins  
City Attorney

**Approved By:**

  
Michelle Greene  
City Manager

**ATTACHMENTS:**

1. Resolution No. 20-\_\_ entitled "A Resolution of the City Council of the City of Goleta, California Authorizing Hotel Operators to Defer the Payment and Reporting of the Transient Occupancy Tax as an Exercise of Emergency Powers Pursuant to the City's Emergency Declaration"

## **ATTACHMENT 1**

Resolution No. 20-\_\_ entitled "A Resolution of the City Council of the City of Goleta, California Authorizing the City Manager to Enter into Agreement with Hotel Operators to Defer the Transient Occupancy Tax as an Exercise of Emergency Powers Pursuant to the City's Emergency Declaration"

## RESOLUTION NO. 20-\_\_

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA AUTHORIZING HOTEL OPERATORS TO DEFER THE PAYMENT AND REPORTING OF TRANSIENT OCCUPANCY TAX AS AN EXERCISE OF EMERGENCY POWERS PURSUANT TO THE CITY'S EMERGENCY DECLARATION**

The City Council of the City of Goleta does hereby find, order and resolve as follows:

#### **SECTION 1. Recitals.**

- A. A severe acute respiratory illness caused by a novel (new) coronavirus, known as COVID-19, has spread globally and rapidly, resulting in severe illness and death around the world. The World Health Organization has described COVID-19 as a global pandemic.
- B. On March 4, 2020, California Governor Gavin Newsom declared a State of Emergency in response to the increased spread of COVID-19. Additionally, on March 12, 2020, the Santa Barbara County Board of Supervisors and the Department of Public Health all declared a local and public health emergency in response to increased spread of COVID-19 across the country and in Santa Barbara County. The President of the United States has declared a federal emergency as a result of the spread of the COVID-19.
- C. On March 14, the City Manager, as the Director of Emergency Services, declared an existence of local emergency, activated its Emergency Operations Center and, out of an abundance of caution, cancelled or postponed all non-essential City-hosted and sponsored programs and events until April 30, 2020 to help prevent further spread of coronavirus and protect its vulnerable populations, such as seniors and people with compromised immune systems, from infection.
- D. On March 17, 2020, the City Council adopted Resolution 20-18 which ratified the City Manager's emergency declaration and imposed attendant orders to close restaurants, gyms, movie theaters and the like; to prohibit the use of City play structures and exercise equipment in its parks; and to prohibit residential and commercial evictions based on nonpayment of rent due to loss of income from COVID-19.
- E. On March 19, 2020, the Governor issued Executive Order 33-20,

which ordered all residents to immediately heed current State public health directives to stay home, except as needed to maintain continuity of operations of essential critical infrastructure sectors and additional sectors as the State Public Health Officer may designate as critical to protect health and well-being of all Californians.

- F. Hotels and motels are allowed to remain open pursuant to the Governor's Executive Order 33-20; however, they have all suffered significant revenue losses as a result of loss of business due to the pandemic.
- G. Hotels in the City are subject to Chapter 3.06 of the Goleta Municipal Code, which requires them to collect from hotel guests 12 percent occupancy tax, referred to as the transient occupancy tax ("TOT"), and hold such tax revenue in trust for the City and remit such tax on a scheduled basis to the City.
- H. During this time of economic uncertainty and declining hotel revenues, the City Council finds that it is vital to assist the hotels in the City to remain open and viable businesses so that visitors can stay in hotels during this period of local emergency but also so that they will be able to successfully operate again once all state and local orders are lifted.
- I. The City desires to help hotels continue in business and can do so by allowing for a deferral in the due dates of scheduled TOT payments to the City.
- J. This Resolution is an exercise of the City's emergency powers as provided for under State law and Chapter 2.10 of the Goleta Municipal Code, is temporary in nature and is intended to provide temporary financial relief to hotels within the City of Goleta during, and immediately following, the City's response to the COVID-19 pandemic.

**SECTION 2. Action.** The City Council hereby resolves:

- A. To authorize hotel operators who make a written request with the City to defer payment of the TOT for the months of March and April 2020 to June 30, 2020.
- B. To authorize the City Manager to allow a hotel operator, upon written request, to defer payment of the TOT for months subsequent to April 2020, in two month increments. For example, if the City Manager allows for the deferral of TOT for the months of May 2020 and June 2020, the due date for those months would be August 31, 2020.
- C. If a hotel operator who has requested a deferral does not remit payment and reports required by Chapter 3.06 of the Goleta Municipal Code upon the modified due date, the hotel operator shall be subject to the penalties and interest pursuant to Section 3.06.050 with the penalties and interest to apply as of the date that the TOT was originally due, notwithstanding any deferral allowed by this Resolution.

- D. For any hotel operator that has elected to obtain a deferral pursuant to this Resolution, section 3.06.050 of the Goleta Municipal Code concerning penalties for failure to remit the TOT when due is hereby suspended, except as provided in Paragraph C and shall be in full force and effect again as set forth in Paragraph E.
- E. For any hotel operator who has elected to obtain a deferral pursuant to this Resolution, section 3.06.060 of the Goleta Municipal Code requiring the Tax Collector to take certain actions when an operator fails to remit the TOT collected, including the assessment of penalties and interest, sending notice to the operator, and allowing the operator to have a hearing, is hereby suspended, except as provided in Paragraph C, and shall be in full force and effect again as set forth in Paragraph E.
- F. Upon cessation of the local emergency, all operators who collected the TOT shall remit all payments owed to the City by the end of the following month pursuant to Chapter 3.06. From and after the date the tax is owed, all applicable interest and penalties set forth in Section 3.06.050 shall begin accruing, and the enforcement provisions in Section 3.06.060 may be enforced by the Tax Collector.
- G. Nothing in this resolution shall relieve an operator from collecting from transients the amounts required to be collected, as specified in Section 3.06.020 of the Goleta Municipal Code, and all operators shall continue doing so regardless of any deferrals requested under this Resolution. This resolution also does not relieve any operator from its obligation to remit to the City the TOT collected.
- H. Each operator that collects, or has collected, TOT shall continue to comply with Section 3.06.040 of the Goleta Municipal Code requiring an operator to report to the City's Tax Collector the total rents charged and received and the amount of tax collected for transient occupancies.

**SECTION 3.** The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

**PASSED, APPROVED AND ADOPTED** this 7<sup>th</sup> day of April 2020.

---

PAULA PEROTTE  
MAYOR

ATTEST:

APPROVED AS TO FORM:

---

DEBORAH S. LOPEZ  
CITY CLERK

---

MICHAEL JENKINS  
CITY ATTORNEY



STATE OF CALIFORNIA) COUNTY OF  
SANTA BARBARA ) ss.  
CITY OF GOLETA)

I, DEBORAH S. LOPEZ, City Clerk of the City of Goleta, California, DO  
HEREBY CERTIFY that the foregoing Resolution No. 20-\_\_ was duly adopted by the  
City Council of the City of Goleta at a regular meeting held on the 7<sup>th</sup> day of April,  
2020 by the following vote of the Council:

AYES: NONE

ABSENT: NONE

ABSTENTIONS: NONE

(SEAL)

---

DEBORAH S. LOPEZ  
CITY CLERK