

CITY OF PALM DESERT STAFF REPORT

MEETING DATE: February 15, 2024

PREPARED BY: Veronica Chavez, Director of Finance

REQUEST: RECEIVE AND FILE REPORT RELATED TO TRANSIENT OCCUPANCY TAX COMPLIANCE PROGRAM PERFORMED ON COLLECTIONS RECEIVED DURING FISCAL YEARS 2018-2019 THROUGH 2020-2021 AND WAIVE CERTAIN FINDINGS

RECOMMENDATION:

1. Receive and file report related to Transient Occupancy Tax (TOT) Compliance Program for collections during Fiscal Years 2018-2019 through 2020-2021.
2. Authorize Director of Finance to waive collection of findings related to attrition and cancellation charges and issue a one-time Notice of Forgiveness.
3. Authorize Director of Finance to collect all other findings and authorize payment to Avenu for completion of Compliance Review Final Report.

BACKGROUND/ANALYSIS:

In September 2022, City staff engaged Avenu Insights and Analytics (Avenu) to conduct a TOT compliance program on the major hotels within Palm Desert. Avenu is a trusted vendor that provides various municipal consulting services and has conducted our Sales Tax analysis and compliance reviews for many years.

The hotels were notified of the review and asked to provide documentation to substantiate TOT amounts remitted to the City from the period of January 2019 through December 2021. Of the 13 hotels selected, 5 hotels were found to have no deficiencies during the period of time under review. The remaining 8 hotels were found to have been underreported in one area or another in a total amount of \$225,092.07 in under-reported tax.

Under-Reported TOT

Name	Finding	Attrition Fees	Cancellation Fees	Other Guest Charges	Accounting Errors	Over Deduction	Total	11% Tax Due	Mgmt Agrees
Best Western Plus P.D. Resort	Commendation								N/A
Courtyard by Marriott	Deficiency				\$ 57,329.06		\$ 57,329.06	\$ 6,306.20	NO
Fairfield Inn & Suites	Deficiency				\$ 75,008.95		\$ 75,008.95	\$ 8,250.98	NO
Hampton Inn & Suites	Deficiency			\$ 76,498.68			\$ 76,498.68	\$ 8,414.85	YES
Holiday Inn Express & Suites	Deficiency			\$ 4,183.53			\$ 4,183.53	\$ 460.19	YES
Homewood Suites by Hilton	Deficiency		\$ 12,560.05				\$ 12,560.05	\$ 1,381.61	NO
Hotel Paseo Autograph Collection	Deficiency			\$ 184,190.43			\$ 184,190.43	\$ 20,260.95	YES
JW Marriott Desert Springs Resort	Deficiency	\$ 537,318.67	\$ 913,121.52				\$ 1,450,440.19	\$ 159,548.42	NO
Marriott's Desert Springs Villas	Commendation						\$ -	\$ -	N/A
Marriott's Shadow Ridge	Commendation						\$ -	\$ -	N/A
Residence Inn by Marriott	Deficiency	\$ 38,273.00			\$ 144,391.63	\$ 3,416.00	\$ 186,080.63	\$ 20,468.87	YES
Springhill Suites by Marriott	Commendation						\$ -	\$ -	N/A
The Westin Desert Willow Villas	Commendation						\$ -	\$ -	N/A
		\$ 575,591.67	\$ 925,681.57	\$ 264,872.64	\$ 276,729.64	\$ 3,416.00	\$ 2,046,291.52	\$ 225,092.07	

City of Palm Desert
Receive and File TOT Compliance Report

The City’s TOT Ordinance requires that collections be made on attrition fees, cancellation fees, and extra guest charges. JW Marriott Desert Springs Resort has submitted a dispute relative to collection made on attrition and/or cancellation fees. Following discussion on the dispute issue with legal counsel, staff believes the best course of action, given the interpretation ambiguity asserted in the ordinance, is to provide a one-time waiver of findings related to attrition/cancellation fees and work with legal counsel to further clarify those areas of the code.

If council agrees with staff’s recommendation, collections will be pursued on the remaining findings of under-reported TOT:

HOTEL	UNPAID TAX
Courtyard by Marriott	\$6,306.20
Fairfield Inn & Suites	\$8,250.98
Hampton Inn & Suites	\$8,414.85
Holiday Inn Express & Suites	\$460.19
Hotel Paseo Autograph Collection	\$20,260.95
Residence Inn*	\$16,258.84
TOTAL	\$59,952.01

*\$4,210.03 is related attrition/cancellation fees.

Staff further wants to recognize the five hotels who received commendation from the compliance review. Those hotels are as follows:

- Best Western Plus Palm Desert Resort
- Marriott’s Desert Springs Villas
- Marriott’ Shadow Ridge
- Springhill Suites by Marriott
- The Westin Desert Willow Villas

The agreement with Avenu is based on the value of their findings. Therefore, Avenu having completed their compliance review report would be entitled to a 30% contingency fee based on the total amount identified as underreported and recovered by the City, for a total of \$67,527.62. Staff recommends Avenu be paid in full for the work provided in full compliance, including those which may receive a one-time waiver.

Legal Review:

This report has been reviewed by the City Attorney’s office.

FINANCIAL IMPACT:

The impact to the General Fund includes collection of \$59,952.01 in underreported TOT, a one-time waiver of payment in the amount of \$165,140.06, plus the amount due to Avenu based on their findings in the amount of \$67,527.62.

ATTACHMENT:

TOT Compliance Review Final Report