



Office of the City Manager

CONSENT CALENDAR

June 9, 2026

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Eleanor Hollander, Economic Development Manager

Subject: Contract No 32400063 Amendment: *Community Agency Agreement-Transient Occupancy Tax (TOT) Berkeley Convention and Visitors Bureau* with the Berkeley Convention and Visitors Bureau d.b.a. Visit Berkeley

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 32400063 between Visit Berkeley and the City of Berkeley. This amendment intends to modify the existing Not-to-Exceed (NTE) amount of the contract to allow all pass-through amounts of Transient Occupancy Tax (TOT) collected on behalf of Visit Berkeley above the existing NTE amount to be paid to Visit Berkeley when received. This amendment to the contract with Visit Berkeley will increase the contract amount by \$1,114,351 for a new contract amount NTE \$4,614,351.

FISCAL IMPACTS OF RECOMMENDATION

Transient Occupancy Tax (TOT) is assessed on the room charge for rental of transient lodging when the period of occupancy is 30 days or less. Hotel guests pay the tax and it is often referred to as a “hotel tax”. In 1991, the TOT collected by the City of Berkeley was raised from 11% to 12% in order to create and fund a Convention and Visitors Bureau (CVB). The City retained their original 11% TOT to the general fund and there was no out-of-pocket expense to the City for the organization’s creation.

Simultaneously, the lodging industry agreed to raise the TOT 1% with a goal that strategic marketing and sales outreach would increase revenues to lodging businesses and financially benefit the City by increasing general fund revenues, sales tax, and overall economic impacts from visitor spending.

Every year, the City of Berkeley collects twelve percent (12%) TOT from lodging establishments’ short-term room rental revenues and distributes one-twelfth of the amount collected via a “TOT contract” with the Berkeley CVB, d.b.a. Visit Berkeley. The revenues are collected and the funds are expended from the General Fund using the budget code 011-21-208-251-0000-000-446-636110-.

While historically, a new contract was signed every fiscal year with a Not to Exceed (NTE) amount provided by the Budget Office based on the City’s projections for TOT revenues, the city transitioned to a multi-year contract model in 2023. Now the NTE

amount authorized under that contract is insufficient to distribute TOT funds owed to Visit Berkeley for the remainder of FY26. OED needs to revise the NTE amount of this existing contract (No. 32400063) with Visit Berkeley to make these pass-through payments. While the contract will initially included the NTE amount of \$3,500,000 (based on City staff's proposed budget revenue projections for TOT and Visit Berkeley's estimate for 2023-2027), the actual funds distributed have now surpassed this amount based on actual TOT revenues received and thus a contract amendment is needed.

The City is obligated to pass through all TOT amounts collected on behalf of Visit Berkeley, to do this through the term of the open contract, the NTE amount stated in Contract No. 32400063 must be modified. Currently there is only \$3,293.79 available in the contract, and an open invoice of \$117,644 of TOT revenues to be paid though to Visit Berkeley. Less the \$3,293.79 available in the contract, the NTE must be increased by the amount needed to pay the current open invoice plus \$200,000 (remaining anticipated collection for FY26) and \$800,000 (anticipated collection for FY27) for a total contract increase of \$1,114,351. That amount plus the existing contract NTE (of \$3.5M established in 2023) makes for a revised NTE of \$4,614,351.

CURRENT SITUATION AND ITS EFFECTS

The concept of a Berkeley CVB was presented to and approved by City Council as a Consent Item on September 24, 1991 and the CVB was incorporated as a 501(c)6, Not for Profit Mutual Benefit Corporation that same year. Ever since, there has been a contract between the City of Berkeley and Visit Berkeley to enable the pass-through of TOT funds collected. While the total contract amount may be amended throughout the multi-year period (the subject of this item), the cumulative funds distributed to Visit Berkeley will always be reconciled so they equal one twelfth of the TOT revenues collected by the City of Berkeley. For example, if an advance payment to enable Visit Berkeley's operations in any given year exceeds the TOT amount due to Visit Berkeley for that year, the following year's distributions will be adjusted to reflect the prior year's overpayment.

BACKGROUND

TOT is levied on all lodging establishments with five rooms or more in Berkeley. As of 2025, there are 18 such establishments. The origin of the arrangement with Visit Berkeley is detailed in the March 1991 *Convention and Visitors Bureau Creation Documents* and Berkeley City Council Consent Calendar, September 24, 1991. The forecasted TOT collection amount is codified in the City's Biennial Budget and one-twelfth of the TOT collected annually is devoted to Visit Berkeley. OED staff receives the TOT revenue projection from Budget staff in the City Manager's Office, calculates one-twelfth of that number, and produces a contract with Visit Berkeley with a corresponding scope of work and payment schedule.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None.

RATIONALE FOR RECOMMENDATION

Council must now pass a Resolution to amend the not-to-exceed (or NTE) amount in the contract between the City and Visit Berkeley to allow all pass-through amounts collected on behalf of Visit Berkeley above the existing not to exceed amount in contract to be paid to Visit Berkeley when received through the term of the contract.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Eleanor Hollander, Office of Economic Development, (510) 981-7536

Attachment

1: Resolution

RESOLUTION NO. ##,###-N.S.

CONTRACT NO. 32400063 AMENDMENT: COMMUNITY AGENCY AGREEMENT-TRANSIENT OCCUPANCY TAX (TOT) WITH THE BERKELEY CONVENTION AND VISITORS BUREAU D.B.A. VISIT BERKELEY

WHEREAS, the arrangement with Visit Berkeley is detailed in the March 1991 *Convention and Visitors Bureau Creation Documents* and Berkeley City Council Consent Calendar, September 24, 1991 that one-twelfth of Transient Occupancy Tax (TOT) collected is to be passed through to Visit Berkeley, the City's Convention and Visitor's Bureau;

WHEREAS, in 2023, the City Council authorized the City Manager to execute a contract and any amendments with Visit Berkeley, not to exceed \$3,500,000 of TOT revenues, to market Berkeley as a destination with sales goals to increase revenues to lodging businesses and financially benefit the City by increasing general fund revenues via transient occupancy tax (or TOT) revenue for the period July 1, 2023 to June 30, 2027 (Contract No. 32400063); and

WHEREAS, the City of Berkeley Office of Economic Development (OED) is obligated to distribute 1/12 of the TOT amount collected to Visit Berkeley via a multi-year contract; and

WHEREAS, payments due to Visit Berkeley have exceeded the not to exceed (or NTE) amount of the existing Contract Number 32400063; and

WHEREAS, an amendment to modify the NTE amount of Contract No. 32400063 between Visit Berkeley and the City of Berkeley is now needed to disburse the balance.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to amend Contract No. 32400063 between Visit Berkeley and the City of Berkeley to increase the NTE to \$4,614,351 to align with budget revenue projections for TOT for the remainder of the term of the contract (through FY27).

BE IT FURTHER RESOLVED that though the remaining term of the contract period all amounts collected on behalf of Visit Berkeley above the contract's modified NTE amount are to be paid or "passed through" to Visit Berkeley by the City of Berkeley when received.