

AGREEMENT BETWEEN THE DOWNTOWN MANHATTAN BEACH
BUSINESS IMPROVEMENT DISTRICT, THE CITY OF MANHATTAN
BEACH, AND THE DOWNTOWN MANHATTAN BEACH BUSINESS &
PROFESSIONAL ASSOCIATION FOR PROFESSIONAL SERVICES

This agreement is entered into on this ____ day of _____, 2018, by and between the Downtown Manhattan Beach Business Improvement District ("DISTRICT"), the City of Manhattan Beach ("CITY"), and the Downtown Manhattan Beach Business & Professional Association ("ASSOCIATION") (collectively, the "Parties").

RECITALS

- A. The City Council of the City of Manhattan Beach established a Business Improvement Area known as the Downtown Manhattan Beach Business Improvement District pursuant to Section 36500 et seq. of the California Streets and Highway Code ("Act"), by and through the adoption of Ordinance No. 1989 on October 6, 1998. That Ordinance authorized the levy of a special assessment to support improvements within the DISTRICT.
- B. On June 19, 2018, the City Council adopted Resolution No. 18-0064 overriding protests and providing for the collection of assessments within the DISTRICT for improvements and activities to be conducted during Fiscal Year 2018-2019.
- C. Pursuant to the Ordinance, assessments have been levied by the CITY upon the various businesses located within the DISTRICT.
- D. Said assessments are collected by the CITY and shall be used only for the benefit of the DISTRICT.
- E. The funds collected pursuant to the assessment shall be used to provide the services identified in the Downtown Manhattan Beach Business & Professional Association's "Business Improvement & Activity Plan May 2018" attached hereto as Attachment "1" and incorporated herein.

NOW, THEREFORE, in consideration of the recitals, mutual promises, covenants, representations and agreement set forth below, the Parties hereby promise, covenant, agree and represent as follows:

Section 1. TERM OF AGREEMENT

- 1.1 The term of this agreement shall be from July 1, 2018 through June 30, 2019.

Section 2. **ASSOCIATION RESPONSIBILITIES.**

- 2.1 The ASSOCIATION or an agent of the ASSOCIATION shall render professional services and shall cooperate with the DISTRICT to provide work program coordination consisting of program development and implementation, program administration, and financial reports.
- 2.2 The ASSOCIATION shall submit to the DISTRICT program plans and reports, including the following:

Proposed Program Report

A program plan detailing services to be provided and operational/program budgets for each fiscal year. The report shall be submitted 30 days prior to the end of each fiscal year outlining the plans, goals and budgets for the ensuing fiscal year. The report shall include all documentation as required by Section 36533 of the Act, as well as all other pertinent provisions of the Act.

Quarterly Reports

The ASSOCIATION shall provide the CITY with updated quarterly reports outlining revenue and expenditures for the quarter. These reports shall be submitted to, and reviewed by, the Chairperson of the Downtown Manhattan Beach Advisory Committee & the CITY.

End of Year Report

By July 31, 2018, the ASSOCIATION shall submit to the CITY a complete end-of-year report which includes the following:

- A) A full disclosure financial statement including supporting documentation of all expenditures covering the period from July 1, 2017 to June 30, 2018.
- B) A statement by the President of the Downtown Manhattan Beach Business & Professional Association certifying that staff time expended and payment requested was for services performed in accordance with the provisions of this Agreement.

- 2.3 The ASSOCIATION shall administer the entire program in a prudent manner, within the parameters of the work program and budget approved by the City Council through the adoption of Resolution No. 18-0050, a Resolution of Intention, on May 15, 2018. The ASSOCIATION assumes full responsibility for contracting support services as required, and paying for all such direct out-of-pocket expenses as may be necessary for the timely completion of work. Obligations or expenditures for items not budgeted shall not be paid through assessments collected by the DISTRICT.
- 2.4 The Chairperson of the Downtown Manhattan Beach Business Improvement District Advisory Committee or his or her designee shall have the authority to make reasonable budget and program adjustments, not to exceed 15 percent of the total budget, between

the program elements as necessary, and as limited by the total annual budget for the DISTRICT. Any budgetary changes in excess of 15 percent must be reviewed and approved by the entirety of the Downtown Manhattan Beach Business Improvement District Advisory Committee.

For fiscal year 2018-2019 the program elements shall include:

- A. Parking, Transportation & Community Programs
- B. Marketing & Advertising
- C. Promotions & Special Events
- D. Professional Management & Communications

2.5 The disbursement of funds to the ASSOCIATION does not constitute approval by the CITY for any individual project or program that requires City Council and/or Planning Commission approval, requires use of CITY property or requires appropriate permits/approval from the CITY or any other governmental agency.

2.6 The Advisory Board of the DISTRICT shall be responsible for preparation of a Resolution of Intent to continue the establishment of the Business Improvement District and the levying of assessments for the next fiscal year. The Advisory Board shall participate in the public hearing process and make any recommendations to modify boundaries, benefit zones, methodology and activities.

Section 3. CITY RESPONSIBILITIES.

3.1 The CITY shall be responsible for collection of assessments, for effecting the collection of delinquent assessments, and for authorizing the disbursement of funds collected by the CITY, on behalf of the DISTRICT, to the ASSOCIATION.

3.2 The CITY shall review the ASSOCIATION'S quarterly progress reports and end-of-year financial report.

Section 4. DISBURSEMENTS.

4.1 Upon the execution of this agreement, the DISTRICT shall disburse FY 2017-2018 Downtown Business Improvement District assessments to the ASSOCIATION, as approved by the City Council on June 19, 2018.

Section 5. NOTICES.

5.1 Notice to the parties shall, unless otherwise requested in writing, be sent to:

DISTRICT: Chair, Downtown Manhattan Beach Business Improvement District Advisory Committee
Attn: Mr. Mike Zislis
321 12th Street, Suite 112

Manhattan Beach, CA 90266

CITY: City of Manhattan Beach
Attn: Steve S. Charelian, Interim Finance Director
1400 Highland Avenue
Manhattan Beach, CA 90266

With one copy to: City of Manhattan Beach
Attn: City Manager
1400 Highland Avenue
Manhattan Beach, CA 90266

ASSOCIATION: Downtown Manhattan Beach Business & Professional Assoc.
Attn: Kelly Stroman
PO Box 3298
Manhattan Beach, CA 90266

Section 6. CONFLICT OF INTEREST

6.1 For the duration of this agreement, the DISTRICT or its employees will not act as consultant or perform services of any kind for any person or entity in regard to the CITY without the prior written consent of the CITY.

Section 7. COST RECORDS.

7.1 In accordance with Generally Accepted Accounting Principles, the ASSOCIATION shall maintain full and complete records of services performed under this agreement. Such records shall be open to inspection by the DISTRICT at any time.

7.2 The records maintained by the ASSOCIATION shall include all receipts for expenditures incurred. The DISTRICT reserves the right to perform a contract compliance audit at least once annually. The DISTRICT shall pay the cost of such an audit. The ASSOCIATION agrees to keep all receipts and other supporting documents available for inspection for a period of two years.

Section 8. FINANCIAL POLICIES

8.1 To maintain fiduciary responsibility, the ASSOCIATION shall, at all times, comply with the established financial policies.

Section 9. EQUAL OPPORTUNITY PROGRAM

9.1 Nondiscrimination and Affirmative Action. The ASSOCIATION shall comply with the applicable nondiscrimination and affirmative action provisions of the laws of the United

States of America, the State of California, and the City of Manhattan Beach. In performing this Agreement, the ASSOCIATION shall not discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, physical handicap, marital status or medical conditions. The ASSOCIATION shall also comply with all rules, regulations, and policies of the United States of America, the State of California and the City of Manhattan Beach, relating to nondiscrimination and affirmative action, including the filing of all forms required by said agencies. Any subcontract entered into by the ASSOCIATION relating to the agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

Section 10. AMENDMENTS

10.1 The ASSOCIATION may periodically request a change in the scope of services of the contract to be performed hereunder. Such changes, which are mutually agreed upon by and between the DISTRICT and the ASSOCIATION, shall be incorporated in written amendments to this agreement. This agreement may not be amended except in writing by mutual agreement of both parties. A failure to object to a breach of this agreement shall not constitute an amendment thereof, and it shall not waive any future breach of the agreement.

Section 11. ASSIGNMENT

11.1 Neither this agreement, nor any portion thereof, shall be assigned by ASSOCIATION without prior written consent of DISTRICT.

Section 12. PRESERVATION OF AGREEMENT

12.1 Should any provisions of this Agreement be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

Section 13. ENTIRE AGREEMENT

13.1 This agreement supersedes any and all other agreements, either oral or in writing, between the parties with respect to the subject matter herein. Each party to this agreement acknowledges that representations by any party not embodied herein, and any other agreements, statements or promises concerning the subject matter of this Agreement, not contained in this Agreement, shall not be valid and binding. Any modification of this Agreement will be effective only if it is in writing signed by all parties. Any issues with respect to the interpretation or construction of this Agreement are to be resolved without resorting to the presumption that ambiguities should be construed against the drafter.

Section 14. AUTHORIZATION TO EXECUTE AGREEMENT

14.1 The Chair of the Downtown Manhattan Beach Business Improvement District & the President of the Downtown Manhattan Beach Business & Professional Association declare that they are authorized to execute this agreement on behalf of the parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first written above.

DISTRICT:


Chair, Downtown MB Business Improvement District

ASSOCIATION:


President, DMBBPA LINDA MCLOUGHLIN RIBER

CITY:

City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:


City Attorney

APPROVED BY FINANCE DEPARTMENT:

By:


Steve S. Charelian
Interim Finance Director

Attachment 1

Business Improvement Plan & Activity Plan and Budget

May 2018

DOWNTOWN MANHATTAN BEACH BUSINESS IMPROVEMENT DISTRICT

Business Improvement & Activity Plan May 2018

*Prepared pursuant to the State of California
And The Parking and Business Improvement Area Law of 1989
To maintain the Business Improvement District for
Downtown Manhattan Beach, California.*

Prepared by

Downtown Manhattan Beach Business & Professional Association

**DOWNTOWN MANHATTAN BEACH
BUSINESS IMPROVEMENT DISTRICT
INFORMATION AT-A-GLANCE**

This Business Improvement District has been in existence since April of 1969 under the authority of the “Parking and Business Improvement Area Law of 1965”. This law was restrictive with respect to the use of funds. In 1989 the State Legislature adopted Senate Bill 1424, “Parking and Business Improvement Area Law of 1989”. In 1998 a group of concerned merchants and a growing coalition of downtown stakeholders, developed the proposal to establish a new Downtown Manhattan Beach Business Improvement District (BID) under the new legislation. In October 1998, that legislation was approved and adopted as City Ordinance No. 1989. In January 1999, the BID contracted with the Downtown Manhattan Beach Business & Professional Association (DBPA), a 501 (c) 6 not-for-profit corporation established in 1985, to provide specific benefits to the members of the BID.

Location: The Existing Business District of Downtown Manhattan Beach.

Stakeholders: Downtown Businesses - All business license holders in the Downtown area except commercial property owners.

***Improvements
And Activities:***

- A. Parking, Transportation & Community Programs
- B. Marketing & Advertising
- C. Promotions & Special Events
- D. Professional Management & Communications

***Method of
Financing:*** Benefit-based assessments on City Business License Tax.

Assessment: Based on the existing assessment. An 80% surcharge on the City Business License Tax not to exceed \$600.

***Collection of
Assessment:*** The fees are collected in March/April of each year and disbursed through contract, to the Downtown Manhattan Beach Business & Professional Association (DBPA).

Governance: **Advisory Board:** Annual recommendations on Downtown Manhattan Beach Business Improvement District (BID) budgets and assessments will be submitted to the Manhattan Beach City Council by a seven-nine (7-9) member Advisory Board composed of business owners located within the boundaries of the BID. The Advisory Board will also monitor the delivery of improvements and activities, which will be the day-to-day responsibility of the Downtown Manhattan Beach Business and Professional Association (DBPA).

Business owners that are assessed within the BID, and, per State law, appointed by the Manhattan Beach City Council can nominate members of the Advisory Board.

Representation should consist of business on Manhattan Beach Boulevard, Manhattan Avenue and Highland Avenue. It should also contain a mix of retail, service and restaurants.

It is anticipated that the Advisory Board will meet at least once annually.

Downtown Association: The BID will contract with the DBPA to carry out improvements and activities described in the Plan, as well as the day-to-day operations.

In delivering BID improvements and activities, the DBPA will aim to meet the following objectives:

- Maximize coordination with the City and other civic organizations to leverage resources;
- Deliver programs through a cost-effective and non-bureaucratic organization that features one executive director that works for all Downtown Manhattan Beach stakeholders;
- Provide for accountability to business owners who pay assessments.

Maintaining the District:

The City Council can maintain the district by adopting a Resolution of Intention. A public hearing shall be held not less than 20 or more than 30 days after the adoption of the Resolution of Intention. If there is not written protest from owners representing over 50% of the assessments to be paid, the BID assessment will continue.

Benefits Of the District:

The BID costs no more than the prior assessment and allows the district's funds to be self-governed and to go beyond parking issues.

The BID allows for integrated marketing efforts such as valet parking, cooperative promotions, advertising and publishing downtown directories and calendars of events.

The DBPA provides key promotional and organizational support through a variety of functions that directly benefit its ratepayers as well as the City. Such as:

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- Creating a public/private partnership to manage the Downtown environment to ensure high standards for signage, security, maintenance, parking and marketing;
- Increasing sales and revenues throughout the district as well as tax and parking revenue to the City;
- Advocating Downtown interests and for the City at large;
- Establishing and implementing a Downtown vision, an image of a thriving city center that reflects the good health and economic vitality of the entire city, making the city an attractive venue for businesses;
- Assisting the City in policy making, administration and implementation of City programs;
- Streamlining communications and saving time and energy, by providing the City with a single, unified Downtown entity.

BUSINESS IMPROVEMENT. GOALS ACHIEVED, ACTIVITY PLAN 2017-2018

As a result of the concerns identified through surveying business owners and the accomplishments of the DBPA since 1999, the DBPA Board of Directors proposes the following plan.

A. Parking, Transportation & Community Programs

- Continue working with the City & PPIC to promote Downtown-parking alternatives for both merchants', employees, customers, and residents.
- Work with the City and MBPD to identify desired "drop off" zones for Ride-share and taxi transportation
- **Maintain the valet parking** service operating Friday – Saturday
- **The Downtowner** ride-hailing operation discontinued service in January 2018
 - The Downtown transported 55K passengers in just 11 months of service
 - The Downtowner created zero emissions, zero waste and had a flawless safety record. No alternative has been identified
- **The Ocean Express** Shuttle Service discontinued service in October 2017
 - NOTE: DBPA contribution was \$10K/year and the City of Manhattan Beach contributed \$12,000 annually. Over 850,000 passengers visited the downtown area in the past 14 years of the partnership.
 - Explore a partnership with Rideshare services and the LAX hotels to continue to attract the LAX traveler to Manhattan Beach
 - No alternative has been identified
- Continue promoting and supporting the weekly **Manhattan Beach Certified Farmers' Market**.
 - NOTE: The Farmers Market is working in conjunction with City MB on their employee wellness program.
 - NOTE: The MBFM hosts monthly Chef driven cooking demos
- Support non-profit organizations that benefit the community through proceeds from the Farmers' Market and other events, not to exceed 10% of Gross combined revenue of BID funds and MB Farmers Market funds
 - NOTE: The Farmers Market continues to support the community, youth and wellness by contributing a percentage of quarterly market proceeds to MBEF, Growing Great, and Grades of Green. In addition the Farmers Market income also contributes to the Roundhouse Aquarium, MBLL, MBX, MCHS Drug and Alcohol Prevention, Coordinating Council, Catalina Classic and more
- Continue to work with the Public Works Department to support the CART Trash & Recycling Programs for Downtown businesses and Waste Management on programs they offer that benefit our businesses and environmental goals
 - NOTE: The DBPA continues to support and encourage all Sustainable MB practices including, but limited to Recycling, Trash and Food Waste, Breathe Free MB, Wellness and Earth Day initiatives
 - Strawless Saturdays was created in April 2018 in anticipation of the City Council exploring a city-wide ban of single use plastic straws.

Parking, Transportation & Community Programs cont'd

- Continue to support the Fireworks Festival, Jimmy Miller Foundation, Neptunian Women's Club, Tour de Pier, Skechers' Friendship Walk, CHOICE Program, Pumpkin Races, Walk With Sally, American Red Cross and in-kind donations when appropriate
- Work with the City & Public Works Department to improve the Downtown curb appeal through signage, landscaping, lighting, and Way-finding program

B. Marketing & Advertising

Continue to promote the downtown as a special place with quaint shops, dining & services. Downtown is the heart & soul of the City and community needs to be reminded that the charm comes through independent business owners offering unique merchandise and personal service

- The DBPA recently took on a re-branding and launched a new and more merchant friendly and interactive website.
 - The new logo was developed by Graphic Element, a downtown business
 - The re-branding and website design project was executed by Buckland Co. Two former Dealer.com employees are a part of the Buckland Co. team that is leading the effort
 - Employ new social media tactics to maximize advertising/marketing reach
- Keep visitor guides fresh to reflect the tenant changes
- Continue to cultivate the Concierge and hotel relationships in the area
- Develop a Blogger relationship program similar to the Concierge program
- Work with the City to update the permanent Way-Finding program and to make sure directional signage in the Downtown BID is effective for the merchants as well as the visitors
- Continue to support the Chamber of Commerce and their various advertising and marketing mechanisms, such as the Chamber Map and Destination Guide
- Utilize social media to promote downtown (i.e. facebook, Instagram, Twitter)
- Continue to negotiate and make available cooperative advertising opportunities.
 - NOTE: The DBPA requests that the City of Manhattan Beach allocate the \$20K, formerly contributed to the Ocean Express Program, to the DBPA so that we might engage ride-share partners and advertising partnerships outside of the South Bay
- Continue working with the Chamber of Commerce to promote commerce in Manhattan Beach & seek their continued support of how important small business is to our City and local economy

C. Promotions & Special Events

- Sponsor the (3) annual "Sidewalk Sales" to promote Downtown merchants
- Family Movie Nights with Parks & Recreation Department
- Sunset Beach Party at the AVP/MB Open with a portion of proceeds being donated to the Roundhouse Aquarium educational programs
- Weekly Farmers Market and monthly Chef demos

BUSINESS IMPROVEMENT & ACTIVITY PLAN BUDGET

I. INCOME

A. 2018-2019 Operating Budget

The 2018-2019 operating budget breakdown of income for the Downtown Manhattan Beach BID is provided in the following. The improvement and activity plan budget is projected at approximately \$303,000 with the following components:

- **Assessments**

\$110,000 has been budgeted. The assessment methodology will remain the same, a surcharge on the City of Manhattan Beach Business License Tax. Calculation of individual assessments for one year is determined by one factor; an 80% surcharge on the business license tax, not to exceed \$600.00.

- **DBPA Contribution**

- *\$11,000 Holiday income for the Open House/Pier Lighting
- *HOH income is a suggested \$100 contribution from each business and is allocated towards entertainment and activities that evening as well as Small Business Saturday and December Advertising
- The Annual Sunset Beach Party income is projected at \$20,000

- **Farmers Market**

- \$156,000 Please note the market will be closed for both Christmas Day and New Year's Day as they fall on a Tuesday. This will represent an approximate loss of \$5600.
- \$6,000 from the Trackless Train operated at the Market

II. FISCAL YEAR

- Net income for 2017-2018 was \$15,000 and the net retained earnings are \$98,690 of which approximately the following is allocated:
 - \$31,510 in BID reserves
 - \$1,400 in BID funds to be used for Interpretive Services for the hearing impaired member of the DBPA
 - Approximately \$35,000 is allocated for operating costs and payroll expense thru July of 2018 and until the BID funds are received in July 2018
 - \$10,000 is allocated towards transportation solutions
 - \$23,000 is allocated towards Community Relations
 - Approximately \$64,000 is appropriated for marketing and advertising in the fiscal year 2018-19

BUSINESS IMPROVEMENT & ACTIVITY PLAN BUDGET CONT...

III. EXPENSES

A. 2018-2019 Operating Budget

The 2018-2019 operating budget breakdowns of expense for the Downtown Manhattan Beach BID are provided below. The improvement and activity plan budget is projected at *\$303,000.00

- Community Relations/Programs:**

- \$66,000 is provided which accounts for approximately 22% of the budget, including the Farmers Market

\$23,101 is community donations and sponsorships, representing 7.6% of the budget

(Comprised of expenses under the Farmers Market and the Community Relations sections on the DBPA 2018-2019 Proposed Budget)

- Marketing, Promotion & Misc:**

- \$70,250 is provided which accounts for 23% of the budget.

(This number is comprised of the expenses under the Marketing & Promotion and the Misc. heading on the DBPA 2018-2019 Proposed Budget)

- Special Events:**

- \$22,127 is provided which accounts for 7% of the budget.

*Does not include advertising for each event as relevant

(This number is solely comprised of the Special Events and Event Income headings on the DBPA 2018-2019 Proposed Budget)

- Professional Mgt., Rent, Supplies, Insurance & Communications:**

- \$121,522 is provided which accounts for 40% of the budget.

(This number is solely comprised of the General Administration heading on the DBPA 2018-2019 Proposed Budget)

Downtown Manhattan Beach Business & Professional Association

2018-2019 PROPOSED BUDGET

	Projected Income	Projected Expense	Net Funds
General Administration			
BID Contribution	110,000	0	110,000
Payroll Totals		-74,500	-74,500
Medical Allowance		-6,000	-6,000
Interpretive Services		-1400	-1400
Rent		-11,000	-11,000
Insurance Premiums		-7,000	-7,000
Operating Expenses		-11,500	-11,500
SUBTOTAL	110,000	-111,400	-1,400
Farmers Market Income			
Farmers' Market	156,000	-66,000	90,000 closed 12/25 and 1/1/2019
A 1 Promotions/Train	6,000		6,000
SUBTOTAL	162,000	-66,000	96,000
Event Income			
Holiday Open House	11,000	-8200	2,800
(MBO) SUNSET BEACH PARTY	20,000	-12,000	8,000
SUBTOTAL	31,000	-20,200	10,800
Special Events			
Pumpkin Race		-200	-200
Small Business Saturday		-727	-727
January Sidewalk Sale		-200	-200
April Sidewalk Sale		-200	-200
August Sidewalk Sale		-200	-200
Misc. Events		-200	-200
Easter		-200	-200
SUBTOTAL		-1927	-1927
Parking/Transportation			
Ride share options		-10,000	-10,000
SUBTOTAL		-10,000	-10,000
Community Relations			
Dig 4 Kids		-221	-221
Coordinating Council		-500	-500
Fireworks Festival		-1000	-1000
MBEF		-4700	-4700
Grades of Green		-4700	-4700
Growing Great		-4700	-4700
GRAD Nite		-250	-250
MB Little League		-500	-500
Roundhouse Aquarium		-4000	-4000
Chamber Events		-2300	-2300
Chamber Dues		-230	-230
SUBTOTAL		-23101	-23101
Marketing & Promotion			
Website Mgmt Fees		-12,500	-12,500
Website/Logo Design		-5000	-5000
Advertising		-10,000	-10,000
Banners		-6,000	-6,000
Banner Permits		-2000	-2000
Chamber Advertising		-3,000	-3,000
Design/Agency Fees		-10,000	-10,000
Visitor's Guide Brochure		-5,000	-5,000
Blogger Program		-4,000	-4,000
Downtown Maps/Directory		-850	-850
Holiday Lights		-5400	-5400
Holiday Décor/Metlox		-500	-500
SUBTOTAL		-64,250	-64,250
Misc		-6,000	-6,000
TOTAL	303,000	-302,878	122