

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 16th day of August, 2022, 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 August 16, 2022, the City Council adopted Resolution No. 22-0120 overriding protests and providing for the collection of assessments within the DISTRICT for improvements and activities to be conducted during Fiscal Year 2022-2023.
- 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,” July 2022 attached hereto as Attachment “1” and incorporated herein.
- F. Due to the COVID-19 pandemic, the Parties have been delayed in preparing and executing this Agreement.

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, 2022 through June 30, 2023.

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

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, 2021 to June 30, 2022.
- 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. 22-0095, a Resolution of Intention, on July 19, 2022. 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 2022-2023 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 monies from the Downtown Business Improvement District assessments to the ASSOCIATION, as approved by the City Council on August 16, 2022.

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. Michael Zislis
321 12th Street, Suite 112
Manhattan Beach, CA 90266

CITY: City of Manhattan Beach
Attn: Steve S. Charelian, 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: Jill Lamkin
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 its 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:

DocuSigned by:

Mike Eislis

CAGBF12A60F54C6...
Chair, Downtown MB Business Improvement District

ASSOCIATION:

DocuSigned by:

Lori Ford

25D136226A9F40D...
President, DMBBPA

CITY:

City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

APPROVED BY FINANCE DEPARTMENT:

Finance Director

ATTACHMENT 1

BUSINESS IMPROVEMENT & ACTIVITY PLAN JULY 2022

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 businesses 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 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:

- 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.

**DOWNTOWN MANHATTAN BEACH
BUSINESS IMPROVEMENT DISTRICT**

Business Improvement & Activity Plan
July 2022

*Prepared by the **Downtown Manhattan Beach Business & Professional Association**
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.*

BID ACTIVITY PLAN 2022-2023

A. Board of Directors

- a. Determine nominees to suggest to Council for appointment at BID Public Hearing
- b. Discuss potential candidates for PPIC position for Business Owner

B. Downtown Manhattan Beach Beautification

- a. Partner with City MB Public Works to ensure continued maintenance, signage, landscaping and cleaning objectives are met
- b. Propose improvements based on Public Works' 2022-23 budget items for Downtown MB (lighting, services, repairs, etc.)
- c. Replace current shopping directories

C. Parking and Transportation Strategies

- a. Analyze funding and service options to create a proposal for Circuit, coordinating with the Chamber of Commerce, North Manhattan Beach BID and Manhattan Village.
- b. Explore off-site parking solutions for City and Downtown MB business employees to allow for revenue generating parking for customers and visitors.
- c. Summer parking meter strategy for Manhattan Avenue
- d. Partner with City MB to implement bike valet pilot for a portion of summer. 2022 and potentially 2023.

D. Downtown Future Plan

- a. Promote the City hiring a consultant to manage design process
- b. What happens when State Emergency Order ends
- c. Membership vote
- d. Assist with Downtown business, landlord and resident engagement

E. Business License Tax Calculation Revision

- a. Work with Chamber of Commerce to explore revision to better support small businesses, ensuring the changes are revenue neutral or positive for City MB
- b. Investigate attorney to assist with this process

F. City Planning & Code Amendments

- a. Sidewalk signage and clothing racks
- b. Benches or seating on sidewalks
- c. Increased total restaurant capacity based on indoor + outdoor dining
- d. Creating streamlined, business-friendly planning/building process
 - i. Streamlining process
 - ii. Timeline
 - iii. Number of revisions/clearer expectations
 - iv. Beer & wine permits included in CUPs
 - v. What can/cannot be included in CUPs
 - vi. Making “common sense” exceptions

G. Marketing & Advertising - Ongoing

Goal: The DBPA is directed to continue with marketing programs that benefits all businesses in the BID, including:

- Create and distribute materials in print, social media, posters, banners
- Visitor and destination guides; hotels, social media travel
- Maintain the website and email database to ensure promotion and ease of use for public and businesses.
- Maintain social media presence and increase number of social media followers, as of 7/19/20: Instagram – 18.7K; Twitter – 2,986; Facebook – 8,524
- Work in tandem with the Chamber of Commerce for marketing and visitor communications, particularly their Destination Guide

H. Promotions & Special Events - Ongoing

Goal: The DBPA is directed to successfully promote and execute any Special Events that would make sense and work to ensure the events support our businesses.

Goal:

- Sponsor (3) annual “Sidewalk Sales” to promote Downtown merchants
- Operate Sunset Beach Party at the AVP/MB Open with a portion of proceeds being donated to the Roundhouse Aquarium educational programs
- Conduct weekly Farmers Market including DBPA business promotion booths
- Host the “Holiday Open House together with the Pier Lighting to kick-off the holiday shopping season
- Continue to work with the ‘Beach Events’ such as 6-Man/International Surf Festival, Catalina Classic & Manhattan Open to ensure the downtown benefits from the events and that communications regarding street and parking impacts are effectively communicated to businesses.
- Co-Sponsor MBPD K-9 Car show in September

I. Professional Management & Communications - Ongoing

Goal: The DBPA is directed to continue to meet with and provide regular, professional and effective communications with the MB Residents' Association, various City employees, Department Directors, MBPD/MBFD, City Council, DBPA membership and the BID Board.

Goal: The DBPA is directed to continue to provide affordable resources to businesses within the BID to assist with government mandated training or HR related issues through private vendors or coordination with the Chamber of Commerce, as well keep members apprised of important issues affecting their businesses.

Goal: The DBPA is directed to maintain professional management to ensure this cohesive Business Improvement and Activity Plan is implemented, that new businesses in the District are welcomed and their participation is invited to ensure an economically thriving Downtown and that the BID Board is aware of larger concerns and opportunities such as parking and revenue streams.

ACTIVITY PLAN BUDGET

I. INCOME

2022-2023 Operating Budget

\$300,332 total income has been budgeted.

This fiscal year's operating budget breakdown of income for the Downtown Manhattan Beach BID is outlined below.

BID Contribution

\$90,000 has been budgeted.

The assessment methodology is 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 Event Income

\$5,000 projected income for the Holiday 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.

Farmers Market Sales

\$205,200 projected income in total sales (food, merchandise and sales from additional vendors, Carrot Coins).

II. FISCAL YEAR CAPITAL PLANS

Net income for 2021-2022 was \$42,337 contributing to total equity of \$262,287, of which approximately the following \$79,075 is allocated:

- \$37,075 in BID reserves
- \$30,000 is allocated towards Lighting & Beautification
- \$12,000 is allocated toward redesign of Downtown directories

III. EXPENSES

2022-2023 Operating Budget

\$328,606 is the Activity Plan budget

- **Professional Management & Administration (Rent, Supplies, Insurance, Payroll, Accounting, Permits, Utilities, etc.):**
\$107,229 is provided which accounts for 33% of the budget
- **Farmers Market Operations:**
\$94,030 is projected, comprising approximately 29% of the budget
- **Marketing, Advertising:**
\$80,670 is projected, comprising 25% of the budget, which includes \$12,000 to design new Directories to align with the revised Wayfinding style guidelines for the City of MB
- **Lighting/Beautification/Landscape**
\$30,000 is projected, comprising 9% of the budget
- **Special Events:**
\$16,677 is projected, comprising 5% of the budget (does not include advertising or marketing associated with events)
- **Budgeted Deficit:**
\$-28,33274 is budgeted due to intended capital expenditures. This can be offset by changing expenditures or drawing from retained earnings.