

**CITY OF DANA POINT
AGENDA REPORT**

Reviewed By:	
DH	X
CM	X
CA	—

DATE: NOVEMBER 15, 2016

TO: CITY MANAGER/CITY COUNCIL

**FROM: URSULA LUNA-REYNOSA, DIRECTOR OF COMMUNITY DEVELOPMENT
KELLY REENDERS, ECONOMIC DEVELOPMENT MANAGER**

**SUBJECT: DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT
ANNUAL REPORT AND RENEWAL FOR 2017**

RECOMMENDED ACTION:

That the City Council

- 1) Conduct a Public Hearing; and
- 2) Adopt Resolution Entitled:

A RESOLUTION OF THE CITY OF DANA POINT, CALIFORNIA, CONFIRMING THE 2017 ANNUAL REPORT AND DECLARING THE INTENTION OF THE CITY COUNCIL TO CONTINUE THE PROGRAM AND ASSESSMENTS FOR THE 2017 CALENDAR YEAR FOR THE DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT (TBID).

BACKGROUND:

The four largest Dana Point hotels comprise the Dana Point Tourism Business Improvement District (TBID), including: the Doubletree Suites by Hilton Doheny Beach, Laguna Cliffs Marriott Resort & Spa, Ritz Carlton Laguna Niguel and Monarch Beach Resort (former St. Regis). The TBID are established with the intent that any hotel in Dana Point with 190 rooms or more are included. The General Managers of the TBID hotels direct spending and activities to promote Dana Point as an overnight destination, and are seeking renewal for the 2017 Calendar Year.

Tourism is the primary industry in Dana Point and the hotel industry generates over 40% of municipal revenues, including: transient occupancy tax (TOT), property tax, sales tax, and supports restaurants and retail businesses which in turn generate additional tax revenue. These revenues fund essential municipal services such as public safety, park maintenance, recreation, street improvements and other public capital improvements.

Tourism promotion is a specific purpose named in California Business Improvement District (BID) law. A BID is a benefit district where an industry or area assesses itself to

spend collective funds on goals for mutually-beneficial purposes. BIDs are frequently used by hotels to fund tourism marketing and promotion efforts. Through BID self-assessment, business owners collectively pay for activities which may not be afforded by any single business and which serve to champion a destination area, as opposed to typical marketing efforts designed to promote an individual business.

The 1989 California Streets and Highway Code sets forth specific actions to renew Business Improvement Districts annually. State law makes it clear that BID assessments are not taxes:

California Streets and Highways Code §36501: (d) The Legislature finds and declares that tourism is a large and growing contributor to California's economy, and that promotion of a city's or county's scenic, recreational, cultural and other attractions as a tourist destination is an important public purpose.

(e) The Legislature also finds and declares that assessments levied for the purpose of providing improvements and promoting activities which benefit individual businesses may also benefit the property within the area directly or indirectly and that *those assessments are not taxes* for the general benefit of a city, but are benefits upon the businesses for which the improvements and activities are provided (emphasis added).

As a public-private partnership initiated by the hotels, in 2009 the City Council affirmed the creation of the Dana Point TBID and approved assessments levied by the hotels which began January 1, 2010.

The TBID hotels began collecting \$3 per night room assessments in 2010 to collectively brand and promote Dana Point, including related activities such as advertising, public relations and marketing to attract and extend overnight stays. The City collects assessments, on behalf of the TBID, as a separate line item with monthly transient occupancy tax transmittals and subsequently transmits funds for TBID activities identified in the City Council approved annual report. The TBID assessment can be passed on to the customer or paid for by the hotel. It is a marketing fee self-imposed by the hotels and facilitated through the City as required by State law.

Pursuant to the 1989 Streets and Highways Code, a TBID is required to go through an annual renewal process. The first step was the City Council adopting a resolution declaring the TBID's intent to renew and establishing a date for a subsequent public hearing. The next step is for the City Council to hold a Public Hearing at the City Council meeting on November 15, 2016, and consider adoption of the resolution to continue the TBID program and assessments for the 2017 calendar year.

DISCUSSION:**Dana Point Tourism Industry as Economic Engine**

For the City's 2015-2016 fiscal year ending June 30, 2016, tourism revenues included transient occupancy tax (TOT) collections of just over \$11,648,000. TBID strategies and initiatives continue to contribute to TOT revenues and have directly boosted revenues to both the resorts and the City.

The four largest hotel properties represent approximately 90% of the TOT and 70% of the Dana Point hotel rooms. These larger Dana Point hotels have similar marketing objectives to brand market Dana Point as an upscale, resort overnight destination. The collective Dana Point branding and marketing activities are also intended to benefit smaller hotels, motels and other local visitor-serving businesses.

With the addition of the Monarch Beach Resort (former St. Regis) and its 400 hotel rooms in 2001, Dana Point has become an undisputed resort destination with nearly 1,900 hotel rooms. Hotel revenues provide funding for enhanced public improvements throughout Dana Point. The success of the larger hotels has provided funding necessary to achieve many of the public amenities that otherwise would not have been possible. A summary of the transient occupancy tax revenues commencing in 2001 through 2016 to date is provided in the chart below.

FY	Total TOT From All Hotels
2001	\$6,250,000
2002	\$7,103,000
2003	\$8,110,000
2004	\$8,367,000
2005	\$7,660,000
2006	\$9,338,000
2007	\$10,852,000
2008	\$11,298,000
2009	\$8,630,000
2010	\$7,221,000
2011	\$8,272,000
2012	\$9,382,000
2013	\$10,086,000
2014	\$11,007,000
2015	\$12,071,000
2016	\$11,648,000

In addition to substantial revenues, the tourism industry provides the greatest number of jobs in the community as the TBID hotels are the largest employers in Dana Point. In addition to hotels, visitor-serving employers include retail stores, restaurants, coffee shops, beach lifeguards and water activity companies such as fishing, whale watching, kayak rentals and sailing. Many of these employers are small businesses which provide services to visitors and residents. Overnight visitors enhance the Dana Point quality of life

and resort lifestyle by helping to support shops, restaurants, and businesses that residents also enjoy.

Tourism Business Improvement Districts

Since a BID fee is a benefit assessment and not a tax, BIDs are able to pay for programs and activities without relying on public funding. Tourism BIDs can provide destination marketing in ways distinctly different from municipal governments or individual businesses. TBIDs are public-private partnerships which benefit both destination cities and businesses located in those cities. BIDs are an effective finance tool available to the business community through cooperation with local government, as outlined in state law.

The larger hotels requested the City's assistance to form a Tourism Business Improvement District in 2008. The TBID allows these essential businesses to better compete by assessing themselves to collectively market Dana Point as a destination. An increasing supply of luxury accommodations along the coast has threatened to reduce the Dana Point market share. It cannot be taken for granted that Dana Point hotels would be able to continue the same level of success without the destination marketing to support them; and their success directly allows the City to fund quality public amenities.

There are more than 90 Tourism Business Improvement Districts in California, with newly-created TBIDs forming each year to compete for group and leisure visitor business. Nearby destination cities marketing to visitors through TBIDs include: Anaheim, Carlsbad, Costa Mesa, Del Mar, Garden Grove, Huntington Beach, Laguna Beach, Newport Beach and Oceanside. Larger cities with TBIDs include Long Beach, Los Angeles, Sacramento, San Diego and San Francisco.

Dana Point Tourism Business Improvement District Activities and Renewal

The City Council has received quarterly updates on 2016 TBID activities, which included forming the destination marketing organization (DMO) Visit Dana Point, a separate 501(c)6 nonprofit corporation. In addition, the DMO has hired an Executive Director and has continued with its successful meeting planner incentive program. Copies of the quarterly update reports are attached as Supporting Document B. An Operating Agreement (the "Agreement") between the City and Visit Dana Point was approved by the City Council on May 17, 2016 that outlines the funding arrangement and expected duties of each entity. The Agreement provides for the quarterly transfer of funds collected through the TBID to Visit Dana Point for use as identified in the annual budget to be approved by the City Council in conjunction with renewal of the TBID. The Agreement automatically renews with the renewal of the TBID.

State law requires City Council approval of an annual report prepared with input from the Advisory Board. The annual report describes TBID activities to include: advertising, public relations and marketing activities which attract and extend overnight stays in Dana Point hotels. The annual report is included as Exhibit A in the proposed resolution attached as Action Document A. State law requires a public hearing to enable the City Council to hear and consider all comments regarding the renewal of the BID, affected businesses, or types of activities. The TBID Advisory Board approved the 2017 Annual Report. The

attached resolution sets the public hearing for the November 15, 2016 City Council meeting.

For 2017, the four TBID hotels propose to continue to collect a \$3 per night room assessment to brand and promote Dana Point as an overnight destination. The TBID balance beginning the fiscal year is estimated at \$1,800,000. TBID assessments are expected to generate an estimated \$850,000 - \$950,000 in the 2017 calendar year. The DMO is estimating that it will spend up to \$1,100,000 during the fiscal year as enumerated in the attached Annual Report.

The Advisory Board has directed that 2017 activities include continuation of its new DMO Visit Dana Point and its successful meetings marketing programs, leisure marketing, video, digital and social media promotions and public relations initiatives. The DMO also intends on developing a 5-Year Strategic Plan focusing on attracting both business and leisure travelers to create economic impact to the City.

CONCLUSION:

State law requires the City Council to annually renew Business Improvement Districts and approve annual reports for each fiscal year. The General Managers of the Doubletree Suites by Hilton Doheny Beach, Laguna Cliffs Marriott Resort & Spa, Ritz Carlton Laguna Niguel and Monarch Beach Resort, acting as the Board of the DMO and in conjunction with its operating agreement with the City, will continue to serve as the Dana Point Tourism Business Improvement District Advisory Board and continue their work to promote Dana Point as an overnight destination for the 2017 Calendar Year.

NOTIFICATION AND FOLLOW UP:

Doubletree Suites by Hilton Doheny Beach
Laguna Cliffs Marriott Resort & Spa
Monarch Beach Resort
Ritz Carlton Laguna Niguel

FISCAL IMPACT:

The purpose of the Dana Point Tourism Business Improvement District is to maintain and increase market share and occupancy of Dana Point hotels, resulting in continued and enhanced transient occupancy tax and other visitor-supported revenues. Other than administrative support and collections, there are no costs to the City of Dana Point associated with renewal of the Dana Point Tourism Business Improvement District.

ACTION DOCUMENT:

Page No.

- A. [Resolution with 2016 Annual Report as Exhibit A](#)7

SUPPORTING DOCUMENTS:

- B. [Operating Agreement Between the City of Dana Point and Dana Point Resorts Association, Inc. for Tourism Promotion](#).....13
- C. [2016 Quarterly TBID Reports and Project Updates](#)19

ACTION DOCUMENT A: Resolution with 2016 Annual Report as Exhibit A**RESOLUTION NO. 16-10-04-xx****A RESOLUTION OF THE CITY OF DANA POINT, CALIFORNIA, CONFIRMING THE 2017 ANNUAL REPORT AND DECLARING THE INTENTION OF THE CITY COUNCIL TO CONTINUE THE PROGRAM AND ASSESSMENTS FOR THE 2017 CALENDAR YEAR FOR THE DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT (TBID)**

WHEREAS, the Parking and Business Improvement Area Law of 1989 Section 36500 et seq. of the California Streets and Highway Code authorizes cities to establish and renew business improvement areas for the purpose of promoting tourism; and

WHEREAS, on March 9, 2009, the City Council conducted a public hearing and approved Ordinance 09-01 to establish the Dana Point Tourism Business Improvement District (TBID) beginning in the 2010 Calendar Year; and

WHEREAS, on November 22, 2010, the City Council conducted a public hearing and approved Resolution 10-11-22-02 to renew the TBID for the 2011 Calendar Year; and

WHEREAS, on December 12, 2011, the City Council conducted a public hearing and approved Resolution 11-12-12-01 to renew the TBID for the 2012 Calendar Year; and

WHEREAS, on December 4, 2012, the City Council conducted a public hearing and approved Resolution 12-12-04-04 to renew the TBID for the 2013 Calendar Year; and

WHEREAS, on December 3, 2013, the City Council conducted a public hearing and approved Resolution 13-12-03-05 to renew the TBID for the 2014 Calendar Year; and

WHEREAS, on November 18, 2014, the City Council conducted a public hearing and approved Resolution 14-11-18-05 to renew the TBID for the 2015 Calendar Year; and

WHEREAS, on December 1, 2015, the City Council conducted a public hearing and approved Resolution 15-12-01-01 to renew the TBID for the 2015 Calendar Year; and

WHEREAS, on April 13, 2016, The Resorts of Dana Point Association, Inc. (dba Visit Dana Point) was established as a Destination Marketing Organization (DMO); and

WHEREAS, on May 17, 2016, the City Council approved an Operating Agreement with the Resorts of Dana Point Association, Inc., to carry out the functions for which TBID funds are allowed to be spent; and

WHEREAS, the DMO Board has requested the renewal of the TBID for the 2017 Calendar Year to continue its activities; and

WHEREAS, all other findings contained within Resolution 09-02-09-01 to establish the TBID remain unchanged; and

WHEREAS, the Advisory Board has prepared an annual report for the 2017 Calendar Year, which is attached as Exhibit A to this resolution; and

WHEREAS, the annual report generally describes 2017 activities to be advertising, public relations and marketing activities which attract and extend overnight stays in Dana Point hotels; and

WHEREAS, the annual report is on file with the City Clerk and provides a detailed description of the improvements and activities to be provided in the 2017 Calendar Year, including the boundaries of the area and the proposed assessments to be levied upon the businesses within the area; and

WHEREAS, it is the intention of the City Council to levy and collect assessments from the four businesses within the TBID for the 2017 Calendar Year; and

WHEREAS, the City Council conducted a public meeting on October 18, 2016 to affirm the annual report and set the public hearing date for November 15, 2016, according to state law Sections 36524 and 36530 of California Streets and Highway Code; and

WHEREAS, on November 15, 2016, the City Council will conduct a public hearing to renew the TBID at 6:00 p.m. (or as soon thereafter as possible), in the Dana Point City Council Chamber, 33282 Golden Lantern, Ste. 210, Dana Point, CA 92629; and

WHEREAS, at the public hearing, affected businesses will have the opportunity to protest the TBID renewal; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Dana Point as follows:

- A) That the above recitations are true and correct and incorporated herein by reference.
- B) With the approval of the DMO Operating Agreement, the City Council designates the DMO Board as its advisory board in accordance with California Streets and Highways Code Section 36530.
- C) The City Council confirms the annual report and declares its intention to renew the Dana Point Tourism Business Improvement District for the 2017 Calendar Year and to levy and collect assessments from affected businesses listed in Exhibit A and described as all hotels with greater than 190 hotel rooms within the boundaries of the City of Dana Point.

PASSED, APPROVED, AND ADOPTED this 15th day of November, 2016.

JOHN A. TOMLINSON
MAYOR

ATTEST:

KATHY M. WARD
CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF DANA POINT)

I, Kathy M. Ward, City Clerk of the City of Dana Point, do hereby certify that the foregoing Resolution No. 16-11-15-xx was duly adopted and passed at a regular meeting of the City Council on the 15th day of November, 2016, by the following roll-call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

KATHY M. WARD
CITY CLERK

EXHIBIT A
DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT
ANNUAL REPORT AND BUSINESS PLAN FOR 2017 CALENDAR YEAR

<u>Purpose</u>	To collectively market Dana Point as an overnight destination
<u>Expected Revenue</u>	\$850,000 - \$950,000
<u>Estimate of Surplus Carried Over from 2016 Fiscal Year</u>	\$1,800,000

Activities: The DMO will conduct sales, marketing, advertising, and public relations activities that attract and extend overnight stays in Dana Point hotel properties. In 2017, the DMO plans to implement defined strategies with a strategic Sales and Marketing Business Plan executed by the DMO's new Executive Director. These activities include:

- Contract with a PR/marketing firm to enhance awareness and branding of its new DMO by seeking targeted meetings/conference and leisure business opportunities to retain and grow market share
- Research and capture qualified new meetings business opportunities
- Host familiarization tour(s) with meeting planners showcasing the hotel properties and key community establishments
- Attend qualified tradeshow and other customer engagement opportunities for a grassroots selling approach and communicate awareness of the destination
- Be a catalyst in driving growth of economic prosperity for the destination by increasing incremental bookings and room nights from meetings and conferences and leisure visitors to increase length of stay
- Increase web and social media presence through organic and paid search optimization respectively
- Promote Dana Point as a year round meetings and leisure destination
- Expand and leverage cooperative marketing and partnership opportunities within the tourism industry
- Explore paid and earned media channels that drive and increase brand and destination awareness. Create visitor driven economic stimulus.

The DMO will conduct market research in order to guide decisions for targeted markets, as well as, develop appealing collateral for distribution at trade shows and client events.

These activities are specifically listed with anticipated costs for each:

Meeting Marketing, Sales & Communication	\$500,000
Leisure Marketing , Promotions & Communication	100,000
PR/Marketing:	
Website Maintenance & Hosting	30,000
Digital Assets Creation	60,000
Digital Paid Search (SEM/SEO)	60,000
Public Relations	50,000
Agency Services & Support	70,000
Partnerships	30,000
Admin & Operating	200,000
TOTAL EXPENSES	\$1,100,000

The 2017 Activities Plan may be modified within these categories according to opportunities and strategic direction from the Advisory Board and/or DMO Board.

Fiscal Year January 1, 2017 to December 31, 2017

This Annual Report of the Dana Point Tourism Business Improvement District (TBID) for the 2017 Calendar Year and is filed with the City Clerk, according to California Streets and Highways Code Sections 36533-36537.

The City Council approved an ordinance to establish the Dana Point Tourism Business Improvement District on March 9, 2009 to implement a program to promote Dana Point as an overnight destination as of January 1, 2010. The 2017 Calendar Year will be the TBID's seventh year of operation.

The TBID Advisory Board prepared this Annual Report for the 2017 Calendar year, for which assessments are to be levied and collected to pay the costs of activities described in this report.

Assessment and Boundaries – No changes in assessment or boundaries are proposed. The assessment is to be levied on all existing hotel businesses with greater than 190 rooms within the City of Dana Point at a rate of \$3.00 per occupied room night subject to City of Dana Point transient occupancy tax. No contributions are made from sources other than TBID assessments levied.

Advisory Board

General Manager Bill Reider or Designee
 Doubletree Suites by Hilton Doheny Beach
 34402 Pacific Coast Highway
 Dana Point, CA 92629

General Manager Bruce Brainerd or Designee
Ritz-Carlton Laguna Niguel
One Ritz-Carlton Drive
Dana Point, CA 92629

General Manager Jim Samuels or Designee
Laguna Cliffs Marriott Resort & Spa
25135 Park Lantern
Dana Point, CA 92629

General Manager Ian Pullan or Designee
Monarch Beach Resort
One Monarch Beach resort
Dana Point, CA 92629

SUPPORTING DOCUMENT B: Operating Agreement Between the City of Dana Point and Dana Point Resorts Association, Inc. for Tourism Promotion

OPERATING AGREEMENT BETWEEN THE CITY OF DANA POINT AND DANA POINT RESORTS ASSOCIATION, INC. FOR TOURISM PROMOTION

This Agreement is made and entered into on June 1, 2016 by and between the City of Dana Point, a California Municipal Corporation (the "City") and the Dana Point Resorts Association, Inc., a California non-profit 501c6 Corporation doing business as Visit Dana Point (the "Corporation").

WHEREAS, on April 27, 2009, City established the Dana Point Tourism Business Improvement District (the "TBID") to collectively promote Dana Point as an overnight destination, including activities such as marketing, advertising, and public relations;

WHEREAS, the TBID assessment is \$3.00 per overnight room night for hotels in City with 190 rooms or more. Currently, the TBID hotels consist of Doubletree Guest Suites Doheny Beach, Laguna Cliffs Marriott Resort & Spa, Ritz Carlton Laguna Niguel, and the Monarch Beach Resort Dana Point (the "TBID Hotels");

WHEREAS, on April 27, 2009, the City Council appointed the General Managers of the TBID Hotels to serve as the members of the TBID Advisory Board (the "Board") in order to direct spending and activities to promote Dana Point as an overnight destination;

WHEREAS, on March 1, 2016, the Board determined it would be in the TBID Hotels' best interest to form the Corporation to promote Dana Point as an overnight destination;

WHEREAS, on March 26, 2016, Articles of Incorporation were conditionally approved by the State of California thereby creating the Corporation and designating the TBID Hotel General Managers as its Board Members (the "Corporation Board");

WHEREAS, on April 13, 2016, Corporation Board approved its Bylaws and elected its Officers; and

WHEREAS, City designates the Corporation to carry out the objectives of developing Dana Point's visitor economy, including but not limited to, marketing the TBID Hotels through meetings and group initiatives, tourism related research and planning, providing visitor services and information, managing the tourism brand and working with stakeholders to leverage the brand to attract visitors to Dana Point.

NOW THEREFORE, the parties agree as follows:

1. **TERM.** The term of this agreement shall be until December 31, 2016, and shall be renewed annually upon renewal of the TBID by City.

2. SERVICES RENDERED BY CORPORATION: The Corporation shall provide the following services:
- a. Market Dana Point as a tourism destination through promotional and other activities that will result in the attraction of tourists, conference and meeting attendees, and other event attendees.
 - b. Develop and implement a strategic marketing plan to attract overnight stays and market the City as a destination for conferences and meetings.
 - c. Conduct market research to guide marketing activities and tourism planning and development.
 - d. Conduct activities as necessary to monitor and develop the long-term interests of Dana Point as a visitor destination.
 - e. Attract group and meetings bookings to increase transient occupancy revenue and increase exposure to Dana Point as an overnight destination.
 - f. Create and distribute physical and/or electronic brochures, maps and guides of Dana Point and tourism attractions/activities to potential visitors and event planners.
 - g. Manage and enhance the Corporation website and social media, and promote the destination in various media outlets to encourage visits to Dana Point.
 - h. Provide day-to-day management activities, including planning, acquisition of services, equipment, supplies and facilities to fulfill the Annual Business and Marketing Plan (the "Business Plan") for the Corporation. Corporation shall be responsible for maintaining capable and competent staff. Corporation's Executive Director or designee shall attend any City Council and/or City Committee meetings as requested by City to provide updates, information or other data on Visit Dana Point plans and services.
3. BUSINESS PLAN: Corporation shall submit an annual Business Plan and Budget to the City Council by the first City Council meeting of October of each year, which shall first be reviewed and recommended to the City Council by the Corporation Board. The Business Plan shall contain a review of the current year's performance to date, and a detailed description of the proposed services to be provided in the next calendar year, as well as a proposed budget for the next calendar year. The format and detail of the budget shall be submitted to the City in advance for approval. The Business Plan shall identify activities and

performance goals. The City may provide general input regarding the funding of various services or programs, which Corporation will consider in its use of TBID funds. Corporation shall remain fully responsible for the implementation of services and programs, and the City shall not control the day-to-day activities and operation of Corporation and its employees and agents.

The City shall review the Business Plan and Budget when received and, after a public hearing by the City Council, must consider, and if deemed acceptable, approve the Plan before it authorizes continued funding for the next calendar year. Corporation shall expend funds received from the City under this Agreement only as authorized by the Business Plan. Corporation shall provide City in writing of any proposed significant changes to the Business Plan and receive City approval prior to enacting said change(s). If requested by ten (10) day written notice from City, the Corporation shall make its financial records, including source documents, available to the City for examination on the Corporation's premises. Further, Corporation shall notify City of all Corporation meetings.

- 4. CITY FUNDING. City agrees to provide proceeds from the TBID assessment currently equal to \$3.00 per room night consumed. Beginning June 1, 2016, funds will be distributed to the Corporation from the TBID assessments collected through March 31, 2016, not to exceed the unspent balance remaining from the current City approved 2016 Business Plan. Thereafter, fund disbursements will be quarterly per the following schedule:

<u>Collection Period</u>	<u>Disbursement Date</u>
April 1-June 30	August 15
July 1-September 30	November 15
October 1-December 31	February 15
January 1-March 30	May 15

Should the DMO initiate a program within the parameters of their City approved 2016 Business Plan that requires funds beyond the scheduled quarterly disbursements per the Agreement this calendar year, the City may disperse additional funds in an amount not to exceed the City Council approved TBID budget of \$1,382,000.

The City shall maintain a separate accounting of the funds collected from the TBID special assessment, and all penalties collected thereunder; and this shall be known as the "Tourism Business Improvement District Fund." The City shall provide, upon each disbursement date as stated above, a reconciliation report of the funds collected under the special assessment, including penalties collected and interest accrued thereunder. If the Corporation requests information for a particular TBID Hotel payee or payees, it must provide to the City a written waiver of Government Code Section 6254(i) signed by each TBID Hotel payee for whom the information is requested. The City shall make its

books and records regarding the special assessment available to the Corporation upon ten (10) days written notice for examination on City premises.

Corporation must prepare and submit to City annual financial statements audited by an independent Certified Public Accountant. Said statements shall be prepared in accordance with Generally Accepted Auditing Principles ("GAAP") and audited using Generally Accepted Auditing Standards ("GAAS"). The audited financial statements must be provided to City and made available to the public no later than nine (9) months after the close of the Corporation's fiscal year.

5. **INSURANCE:** The Corporation shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Corporation, his/her agents, representatives or employees. Insurance requirements are as follows:

(a) General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement, or the general aggregate limit shall be twice the required occurrence limit. Contractor shall name the City of Dana Point, its officials, officers, employees, and agents as additional insureds under the required insurance. For any claims related to this Agreement, Contractor's insurance shall be primary insurance as respect to the City, its officers, officials, employees, and agents. Any insurance of self-insurance maintained by City shall be excess of the Contractor's insurance.

Insurance shall be placed with carriers authorized and admitted to do business in the State of California with a current A.M. Best's rating of A- or better and a financial size of VII or greater. The Certificate of Liability Insurance and additional insured endorsement shall be provided to the City prior to the commencement of the Agreement.

(b) Automobile Liability: \$1,000,000 per occurrence per accident for bodily injury and property damage for owned, non-owned, and hired autos. If Contractor owns no vehicles, this requirement may be met through a non-owned auto endorsement to the Commercial General Liability.

(c) Workers Compensation/Employer's Liability Insurance: Written on a policy form providing workers' compensation statutory benefits as required by the State of California. Employer's liability limits shall be no less than \$1,000,000 per accident or disease. Employer's Liability coverage shall be scheduled under any umbrella policy described above. Unless otherwise agreed, this policy shall be endorsed to waive any right of subrogation as respects to City, its officers, officials, employees, and agents.

Contractor shall give City 30 days advance written notice by certified mail of any cancellation, non-renewal or reduction in available limits or changes in the terms of coverage, except where all required coverage remains continuously in force under replacement or renewal policies of an essentially similar nature.

6. ASSETS: Corporation is an independent entity and shall be responsible for acquiring real and personal property related to provision of services under this Agreement. Corporation shall own all such real and personal property acquired by it. Corporation shall keep and account for all funds and assets acquired using TBID funds separate from other Corporation funds and assets. Upon termination of this Agreement, Corporation shall transfer any City TBID funds, assets, intellectual property or promotional materials collected and/or procured under this Agreement to City.
7. INDEPENDENT CONTRACTOR: Corporation is an independent contractor, holding itself out to the general public as an independent contractor. The parties intend that an independent contractor relationship will be created by this Agreement. The City is interested only in the results to be achieved; all conduct and control of the work will lie with the Corporation. Corporation is not to be considered an agent or employee of City for any purpose, and employees of Corporation are neither employees of City nor entitled to any of the benefits that City provides for its employees.
8. NO THIRD PARTY BENEFICIARIES: City and Corporation are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
9. LIMITATIONS: As provided in Section 7, Corporation is an independent contractor in the performance of this Agreement, and shall comply with all laws regarding unemployment insurance, disability insurance and worker's compensation. As such, Corporation shall have no authorization, express or implied, to bind City to any agreement, settlement, liability or understanding, whatsoever, and agrees not to perform any acts as agent for the City.

10. NOTICE: Any notice or notices provided for this Agreement or by law to be given or served upon either party shall be addressed to:

City of Dana Point
City Clerk
33282 Golden Lantern
Dana Point, CA 92629

Dana Point Resorts Association, Inc.
Jim Samuels, Laguna Cliffs Marriott
Resort & Spa
25135 Park Lantern
Dana Point, CA 92629

11. ASSIGNMENT: Neither party may assign, subcontract or otherwise transfer any rights and responsibilities under this Agreement except upon the written consent of the other party. If any assignment is made, both the assigning party and assignee shall be bound by the terms of this Agreement. The City may terminate the Agreement if transferred or assigned without the prior written consent of the City.

12. AMENDMENTS: This Agreement may be amended by written agreement of both parties.

13. WAIVER: The City's failure to enforce a provision of this Agreement shall not constitute a continuing waiver, shall not constitute a relinquishment of the City's right to performance in the future and shall not operate as a waiver of the City's right to enforce any other provision of this Agreement.

CITY OF DANA POINT

DANA POINT RESORTS
ASSOCIATION, INC.

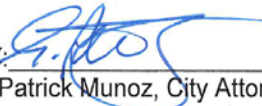
BY: 
Douglas C. Chotkevys, City Manager

BY: 
Jim Samuels, Board Chair

DATE: 19 May 2016

DATE: 5/25/16

APPROVED AS TO FORM:

BY: 
A. Patrick Munoz, City Attorney

SUPPORTING DOCUMENT C: 2016 Quarterly TBID Reports and Project Updates

Quarterly Reports - Q1:

BACKGROUND:

The City Council requested quarterly reports on the City's Tourism Business Improvement District ("TBID") progress and accomplishments. This report provides an update on TBID activities for the months of January through March 2016.

DISCUSSION:

The past three months have been a period of transition for the TBID as a result of the expiration of the marketing and management contract. The City is now tasked with management of the daily activities and inquiries relating to the business of the TBID, including agenda preparation, ongoing communication with the resort General Managers, website maintenance, etc. This transition has presented the TBID Advisory Board and Staff an opportunity to evaluate the management of the TBID and explore other options to better position Dana Point as a premier destination in the tourism industry.

The TBID Advisory Board recommended that the City enter into a contract with an Interim Manager, Judith Bijlani, who is a seasoned executive with a resume that includes management of Visit Laguna for approximately 10 years. In the short time that Ms. Bijlani has been under contract, the Advisory Board has agreed to consider moving toward establishing a 501c-6 non-profit organization (i.e. Destination Marketing Organization) that would be managed by an experienced, professional executive director. Civitas, a firm that specializes in Tourism Business Improvement Districts, was retained to assist in creating the required legal documents to enable the formation of a 501c-6 named Dana Point Resorts Association, Inc. (dba Visit Dana Point) (the "Corporation"). Civitas has assisted in creating over 90% of the TBIDs in the United States, of which the majority are incorporated as 501C-6 organizations. The Corporation will be responsible for management of all activities as approved by its Board of Directors, including staffing, meetings and agendas of the Board, and third party contracts to carry-out eligible activities.

The Articles of Incorporation for the 501c-6 have been filed with the State of California, giving the new Corporation temporary status which enables the Board of the Corporation to hire an Executive Director and begin to develop the required annual operating plan and budget. An Operating Agreement between the City and the Corporation will be required and will outline the funding arrangement and expected duties of the parties. Said agreement will provide for the annual transfer of funds collected through the TBID to the 501c-6 for use as identified in the annual budget to be approved by the City Council in conjunction with renewal of the TBID.

Key objectives of the Corporation for the balance of the calendar year will be to: hire an Executive Director; develop a well-defined strategic plan with clear goals, objectives and measurements; and develop an operating budget to reflect those priorities.

Efforts are currently underway to recruit for the Executive Director position in order to advance the objectives of the Corporation. In addition, the Dana Point Resorts website is undergoing review, update and maintenance until such time as the new Executive Director is retained and has an opportunity to determine what approaches are best to enhance usage of social media outlets. The Interim Manager has also advanced several new incentive agreements with third party group and meeting providers to increase awareness of the opportunities at the resorts. Finally, the TBID has secured a contract with Trip Advisor and sponsorship of a luxury leisure conference to be held at the St. Regis where the TBID can promote Dana Point and its resorts to key industry participants.

Financial Summary

Below is a summary of the TBID income and expenses for the first quarter of 2016:

Beginning Balance 1/1/16	\$1,697,886
First Quarter 2016 TBID Funds Collected	205,143
Miscellaneous Revenue Collected	125,000
TBID Expenditures	<u>(74,234)</u>
Ending Balance 3/31/16	<u>\$1,953,795</u>

CONCLUSION:

The TBID has made substantial progress during this transition period, most notably the decision to evolve into a 501c-6 to become a Destination Marketing Organization which will better enable it to enhance Dana Point's position in the visitor and lodging industry.

STRATEGIC PLAN:

The TBID activities support the City's Strategic Planning Objective to foster a vibrant business climate.

FISCAL IMPACT:

The purpose of the TBID is to promote Dana Point as an overnight destination, resulting in enhanced transient occupancy tax and other visitor-supported revenues. Besides administrative support and collections, there are no costs to the City associated with the TBID.

Quarterly Report – Q2

DISCUSSION:

The past three months have continued to be a period of transition for the TBID as a result of the expiration of the marketing and management contract at the end of December 2015. In February 2016, the City entered into a contract with an Interim Manager, Judith Bijlani, a seasoned executive with a resume that includes management of Visit Laguna Beach for approximately 10 years. Ms. Bijlani was charged with updating the TBID website, securing new contracts with third party meetings and group planners to increase overnight stays, evaluating marketing opportunities for the resorts through media such as Trip Advisor, management of the Advisory Board agendas and meetings, and handling a variety of administrative duties as needed.

A key accomplishment during the past quarter was the formation of a 501(c)(6) named Dana Point Resorts Association, Inc. (dba Visit Dana Point). Visit Dana Point is now responsible for management of all activities as approved by its Board of Directors, including staffing, meetings and agendas of the Board, and third party contracts to carry out eligible activities.

An Operating Agreement (the "Agreement") between the City and Visit Dana Point was approved by the City Council on May 17, 2016 which outlines the funding arrangement and expected duties of the parties. The Agreement provides for the quarterly transfer of funds collected through the TBID to Visit Dana Point for use as identified in the annual budget to be approved by the City Council in conjunction with renewal of the TBID.

Key objectives of Visit Dana Point for the balance of the calendar year were to: hire an Executive Director; develop a well-defined strategic plan with clear goals, objectives and measurements; and develop an operating budget to reflect those priorities.

The Visit Dana Point Board of Directors hired an Executive Director, Sean Keliioholokai, who begins work on August 15 (see media release attached as Supporting Document A). Mr. Keliioholokai will initially work remotely, spending time at each of the resorts to become familiar with the properties and the community of Dana Point. Visit Dana Point intends to release in the near future a Request for Proposal for a marketing firm to assist the Board that addresses key goals, including but not limited to:

1. Destination brand review
2. Increase overnight stays
3. Increase meeting bookings
4. Increase referrals from third party sites
5. Maximize activity to the DMO and resort websites
6. Generate visitor-related economic growth of the destination

Ms. Bijlani will remain under contract through August 31, 2016 to assist the new Executive Director with the transition.

It should be noted that a new General Manager, Bill Reider, is in place at the Doubletree Hotel Doheny Beach and will begin participating in Visit Dana Point meetings and activities.

Financial Summary

Below is a summary of the TBID income and expenses for the second quarter of 2016:

Beginning Balance April 1, 2016	\$1,953,795
Second Quarter 2016 TBID Funds Collected	261,489
Miscellaneous Revenue Collected	50,000
TBID Expenditures	114,037
Transfers to Visit Dana Point	244,347
Ending Balance 6/30/16	\$1,906,900

CONCLUSION:

The TBID has made substantial progress during this transition period, most notably the decision to form a 501(c)(6) to become a Destination Marketing Organization which will better enable it to enhance Dana Point's position in the visitor and lodging industry.

FISCAL IMPACT:

The purpose of the TBID is to promote Dana Point as an overnight destination, resulting in enhanced transient occupancy tax and other visitor-supported revenues. Besides administrative support and collections, there are no costs to the City associated with the TBID.

Quarterly Report – Q3

DISCUSSION:

The past three months have continued to be an evolution and transition for the TBID which as noted in past quarterly reports has formed Dana Point Resorts Association, Inc. (dba Visit Dana Point), a Destination Marketing Organization (DMO). A key accomplishment for Visit Dana Point is that it has received tax exempt status from the IRS. This achievement continues to set the stage for the DMO to promote Dana Point and actively compete in the marketplace as an organization focused on active sales and marketing to increase hotel stays. Visit Dana Point will look to set future campaigns to drive more awareness of the destination in both the meetings and leisure markets, where applicable.

Sean Keliioholokai, newly hired Executive Director, started August 15, 2016 and has had an extensive immersion program to become familiar with the hotel properties, community stakeholders and venues. Mr. Keliioholokai has been in the process of managing the various 3rd party meeting planning company promotions as well as defining a specific Visit Dana Point initiative to drive meetings and conference business over softer demand periods. He has assisted in booking a 600 room night corporate group for January 2017. He has personally connected with over 100 meeting professionals to inform them of the new DMO with the intent of bringing new business to the hotel properties within the city. Mr. Keliioholokai took part in a 3-day luxury leisure forum event showcasing Dana Point to over 130 luxury decision makers who are from some of the most important luxury leisure buyers in the world.

Visit Dana Point intends to issue a Request for Proposals (RFP) in the 4th quarter of this calendar year to solicit services of a marketing firm to assist the DMO Board and Executive Director in public relations and marketing related activities beginning January 1, 2017.

Financial Summary

A summary of the TBID financial information for July-September 2016 is provided below:

7/1/16	TBID Beginning Balance	\$1,906,795
3rd Quarter	TBID Assessments Collected	\$275,000*

*Estimate – Final Payments are made in October for Q3

Expenses:

Consultant	(\$ 8,500)
Executive Director Recruitment	(\$ 23,500)
Holiday Lighting Storage Costs	(\$ 2,956)
DMO Quarterly Installments	(\$ 254,025)

Income:

Settlement Receipt	\$25,000
Supplies Reimbursement	\$2,618

9/30/16	Ending Balance	\$1,920,432
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CONCLUSION:

The TBID continues to make substantial progress as it has fully transitioned into a DMO, hired a full time Executive Director and formed a non-profit 501(c)(6) with tax exempt status. These steps continue to poise and align the DMO to increase its marketing, sales and advertising initiatives for Dana Point to position it as a premier destination within the visitor and lodging industry all year long.

FISCAL IMPACT:

The purpose of the TBID and DMO is to promote Dana Point as an overnight destination, resulting in enhanced visitor spending, creating beneficial economic impact through increased transient occupancy tax. Besides administrative support and collections, there are no costs to the City associated with the TBID and its initiatives.