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# Draft

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DATE: January 20, 2010

TO: Honorable Mayor and City Councilmembers

FROM: Economic and Community Development Department

**SUBJECT: ACCEPTANCE OF PETITIONS REQUESTING THE FORMATION OF A TOURISM MARKETING DISTRICT; CERTIFICATION OF THE RESULTS OF THE PETITIONS; AND APPROVAL OF A RESOLUTION OF INTENTION TO CREATE A TOURISM MARKETING DISTRICT**

## **SYNOPSIS**

Staff recommends that the City Council accept petitions submitted by hotels within the City of Oceanside to form a Tourism Marketing District; certify that there are sufficient petitions from more than fifty percent of the lodging Businesses to be assessed; and approve a Resolution of Intention to create a Tourism Marketing District.

## **BACKGROUND**

A Tourism Marketing District, TMD, is a special benefits district permitted under California law (Property and Business Improvement District Law of 1994, Streets and Highways code Section 36600) in order to provide funding for a collective marketing effort to benefit tourism. To create such a district, lodging businesses within the City may petition the city to create such a district see Attachment 1. To begin the formation process, petitions requesting formation of a TMD must be signed and submitted by businesses that collectively will pay 50% or more of the assessment. The weight of each petition is based upon the gross revenue of the business with each dollar of gross revenue equaling one vote. The total proposed annual assessment would be 1.5% of the hotels' gross revenue.

In the proposed TMD all hotels in the City of Oceanside that have 30 rooms or more and all vacation rentals subject to TOT would pay 1.5% of their gross revenue into the Tourism Marketing District. The funds would be used according to the Management District Plan, MDP (Attachment 2). The payments would be made to the City of Oceanside at the same time and in the same manner as the TOT is paid. The City would pass-through the 1.5% to a new nonprofit group to be called the Visit Oceanside or VO organization. The VO would manage the Oceanside Welcome Center, and plan and execute the MDP, which is effectively the sales and marketing plan. The City contract that is currently with the Oceanside Chamber of Commerce would be transferred to the VO organization.

By participating in the TMD, Oceanside hoteliers have committed to a joint marketing program with an intention of increasing their hotel occupancy and average daily rates. The industry expectation is that there will continue to be funding from the City, however, in a reduced amount. From the City's perspective, the TMD will provide a greater commitment from the affected hotels and a reduction in financial support from the City while still having a joint marketing effort in place.

After the City Council approves a Resolution of Intention, a Notice of Public Hearing will be posted for 45 days and mailed to all Oceanside lodging business owners that would be subject to the special assessment. The notice would also include a summary of the proposed MDP. A listing of all the lodging businesses that paid TOT in FY 2008-09 is included in the MDP, Attachment 2, including vacation rentals, although, all of the vacation rentals may not necessarily be vacation rentals in the future, it is required to be listed. A public meeting would be held on February 3, 2010, and a final hearing on March 17, 2010. The affected business owners have an opportunity in that 45 day period to protest the formation of the district. The protest must be in writing, and presented to the City Clerk on or before the public hearing date. If there is a majority written protest, the TMD would not be formed. If there is no majority written protest, the City Council may adopt a resolution forming the TMD at the public hearing.

## **ANALYSIS**

A TMD is a benefit district similar to a Business Improvement District and under the same general laws and principles. In this case the hotel owners would remit the 1.5% to the City in the same manner and time as the TOT and the City would pass the money through to the VO. The City will be paid a \$10,000 per year fee for administration costs. The TMD funds will be utilized according to the MDP as implemented by the VO Board. According to the proposed budget (Attachment 3) an estimated 72.9% of the funds would be used for sales and marketing and 20% for administrative purposes including personnel. The City administrative fee is 2.11% and there is a proposed 5% contingency. The Board of the VO organization may change the budget allocation per line item by up to 15% within a year.

The VO Board will create an annual budget for the use of the TMD funds. The sales and marketing activities would include items such as lead generation, trade shows, familiarization (fam) tours, advertising, collateral materials, property visits, sales meetings and professional conferences. The administrative and operations portion of the budget would be used for office administration, operational expenses, legal and accounting services, and staffing services.

The VO will be established as a California non-profit corporation. The organizational structure of the proposed VO is that they will have a 13 to 17 member Board of Directors, who will create the annual marketing plan and direct the operations of the VO and the California Welcome Center. The VO will continue to purchase the franchise for the California Welcome Center brand because of the advantages the brand offers including state collateral materials, internet and website exposure and highway signage.

The VO shall present an annual report to the City according to the requirements of Streets and Highways Code 36650.

The TMD would be valid for five years. The current plan is to have the TMD become effective April 1, 2010. Once per year beginning on the anniversary of the formation of the TMD, there is a thirty day period in which lodging businesses paying more than 50% of the assessment may submit protests to the City Clerk to terminate the district. Toward the end of the five year expiration period for the TMD, the affected lodging business owners may petition the City to create it again.

Current 2009-2010 City funding for the Oceanside Welcome Center is \$246,000 with \$108,000 from the General Fund and \$138,000 from Redevelopment funds. It was proposed that in 2010-2011 the amount funded from the City be limited to \$108,000. Since approximately 50% of the hotel rooms are located in the Redevelopment area, it is appropriate that equal amounts should be funded from the Redevelopment fund and the General fund. Additionally, if the TMD is approved, the VO will take over the contract with San Diego North Convention and Visitors Bureau paying them \$47,000 in FY 2010-11 and relieving the City's General fund and Redevelopment fund of the \$12,500 payments that total \$25,000 annually.

While the City's investment into the Welcome Center was proposed to be \$108,000 for the 2010-2011 fiscal year, rather than an absolute number, it has been suggested that the City investment be expressed in terms of a percentage of the TOT to assure a long term commitment tied to performance. The amount of \$108,000 is approximately 3% of the 2008-2009 TOT final post audit revenues. Most of the increase in the TOT revenue over the last 10 years has come from new hotel rooms, not an increase in the hotels average daily rate or hotel occupancy. While a more complex methodology to hold the increase to an amount net of new rooms would be more accurate, it would also make it harder to plan and budget. For that reason, and to encourage more involvement and commitment from the existing hoteliers, it is proposed that the City investment be indexed at 3% from \$3 million in gross TOT revenues up to \$4.5 million. Once the gross TOT revenues exceed \$4.5 million the percentage will drop to 2.5%. As there are several large hotel projects in the pipeline, this methodology would manage an automatic increase in City commitment to the TMD due to increased hotel rooms. Realistically, however, as the TMD is effective for a 5 year period and two of the proposed hotels may be finished construction but not at stabilization, the decrease in the percentage allocated to the TMD may not take place until the second 5 year effective period of the TMD.

### **FISCAL IMPACT**

The VO's revenue projection for the TMD, based upon fiscal year 2008-09 TOT revenues, shows it will raise approximately \$472,500. The hoteliers and vacation rentals that are subject to the City's TOT ordinance would pay 1.5% to the City at the same time and in the same manner as the TOT is paid. The TMD annual assessment

projection excludes revenue from domestic or international governmental employees on government business, which is the same as the current TOT regulations.

The City has proposed to fund the California Welcome Center \$108,000 or 3% of the total prior fiscal year TOT amount collected (2008-09) with 50% being paid from the General Fund (170176101-5395) and 50% being paid from the Redevelopment Fund (300305591-5305). In addition there would not be any TMD payment by hoteliers for hotel rooms that were booked or contracts in existence prior to April 1, 2010. For purposes of the calculation of the petitions from the hoteliers and to assure that there is more than 50% in favor of forming the TMD, every dollar of TOT paid in fiscal year 2008-2009 equals one vote.

With the creation of the TMD in Fiscal year 2010-11 the General Fund will save \$66,500 (\$12,500 from account 170177101.5305, and \$54,000 from account 170176101.5395) and the Redevelopment fund will save \$96,500 (300305591-5305). The City will also receive \$10,000 per year to administer the TMD. In addition, the City paid \$21,750 to hire Civitas, an expert in the creation of a Tourism Marketing District. Once the TMD is formed and revenue is collected, the TMD will reimburse the City's General fund \$10,000 (310332101-5305) and the Redevelopment fund \$11,750 (300305591-5305).

#### **INSURANCE REQUIREMENTS**

Does not apply.

#### **COMMISSION OR COMMITTEE REPORT**

The Economic Development Commission will have reviewed the proposal at its January 5<sup>th</sup> meeting.

#### **CITY ATTORNEY'S ANALYSIS**

Text.

**RECOMMENDATION**

Staff recommends that the City Council accept petitions submitted by hotels within the City of Oceanside to form a Tourism Marketing District; certify that there are sufficient petitions from more than fifty percent of the lodging Businesses to be assessed; and approve a Resolution of Intention to create a Tourism Marketing District.

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Attachments:

1. Petition to the City of Oceanside to form the Oceanside Tourism Marketing District. Exhibit A. Management District Plan Summary.
2. Management District Plan. Appendix 1. The Property and Business Improvement District Law of 1994. Appendix 2. City of Oceanside Transient Occupancy Tax. Appendix 3. Format for Annual Report
3. Proposed Oceanside Welcome Center Budget including the TMD
4. Resolution of Intention, including Exhibit A, Map of the District