

City of Los Angeles CALIFORNIA

HOLLY L. WOLCOTT
CITY CLERK

OFFICE OF THE
CITY CLERK

SHANNON D. HOPPE
EXECUTIVE OFFICER



NEIGHBORHOOD AND BUSINESS
IMPROVEMENT DISTRICT DIVISION
200 N. SPRING STREET, ROOM 395
LOS ANGELES, CA 90012
(213) 978-1099
FAX: (213) 978-1079

MIRANDA PASTER
DIVISION MANAGER

ERIC GARCETTI
MAYOR

clerk.lacity.org

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Council File 13-1493
Council District: All
Contact and Phone Numbers:
Shannon Hoppes (213) 978-1023
Rick Scott (213) 978-1121

Honorable Members of the
Los Angeles City Council
c/o Office of the City Clerk
Room 395, City Hall

COMMITTEE TRANSMITTAL: REPORT BACK ON OPTIONS TO FACILITATE THE COLLECTION OF FEES FROM PERMITTED SIDEWALK VENDORS WHO LOCATE WITHIN A BUSINESS IMPROVEMENT DISTRICT (BID)

SUMMARY

On April 17, 2018, the City Council adopted the Economic Development Committee report instructing the City Clerk, with assistance of the City Attorney, to report with options to facilitate the collection of fees from permitted sidewalk vendors who locate within a Business Improvement District (BID), with said fees to go toward the BID's operating costs.

In response to Instruction No. 7 of the Economic Development Committee report, several options have been discussed with the Office of the City Attorney. However, there is no provision in the State law that allows for the assessment of vending carts by a BID. Any options available are voluntary in nature and at the discretion of each individual BID.

RECOMMENDATION

The City Clerk, or designee, respectfully requests that the City Council and Mayor:

1. NOTE and FILE this report dated September 11, 2018, as it is provided for informational purposes only and no Council action is necessary.

BACKGROUND

The assessment of vending carts located within BIDs is not supported by State or Constitutional law which carefully prescribes the circumstances under which a property or business may be assessed and the procedures for levying assessments. Property-based BID (PBID) assessments may only be levied on the record owners of parcels benefiting from BID services. (S.H. Code 36600 et. seq., G.C. 53650,, Article XII D). Since mobile vending carts are not real property, they cannot be assessed as part of a PBID.

Assessments for Business-based BIDs (MBIDs) are levied on businesses based on the special benefit received from BID services (S.H. Code 36500 et seq. and Article XIII C). A legally defensible benefit assessment methodology requires businesses to have fixed locations with identifiable boundaries.

The formulation of a sound methodology is hampered by the transient nature of mobile food carts. The same is true for vending carts labeled "stationary". The mobile characteristic of a vending cart is not changed by assigning it a predetermined location (stationary carts) or an area (traditional carts) because all carts must be moved in at the beginning of a shift and removed at the end.

Additionally, with no fixed locations, BIDs could potentially have great difficulty in billing and collecting from vending cart operators. The result will be a shortfall in the BID's budget and provision of services. For all these reasons, assessing vending carts as part of an assessment district is not a viable option.

Vending cart related costs also cannot be recovered by levying a fee. There is no taxing authority to levy a fee to repay or cover the costs borne by BIDs.

OPTIONS AVAILABLE TO BIDs

Option 1: Reallocate BID Budget to Cover Vending Cart Related Costs

BIDs may be able to offset the cost of vending cart related services if permitted by the BID formation or renewal documents. When a BID is formed or renewed, the required documents include information regarding the services to be provided, the cost of providing those services, and the special benefit to the assesses. Depending on the parameters of the formation or renewal documents, it may be possible to shift funds from one budget category to another by no more than 10%. For example, funds could be shifted from the "Community Outreach" category to "Sidewalk Cleaning" thereby offsetting higher than expected cleaning costs. In order to utilize this option, the higher than expected costs must be for services specified in the formation or renewal documents.

Option 2: Modify Existing BIDs to Cover the Cost of Providing Vending Cart Related Services

A PBID may be able to increase its existing budget to add the cost of providing vending cart related services if done in accordance with State and Constitutional laws. PBIDs will be required to prepare a new engineer's report prepared by a State certified engineer. In preparing the report, the engineer must: (1) determine the proportional special benefit to property owners from all services, including vending cart related services; (2) determine the general benefit from all services, including the general benefit to vending cart operators; and (3) separate and quantify the special and general benefits. Additional procedural requirements not specified here include providing property owners the opportunity to vote on the proposed modification. Assessment dollars may not be used to pay for the general benefit portion of a BID's budget. It should be noted that, currently, the City pays for the general benefit amounts of all existing PBIDs.

MBIDs are not governed by Article XIII D and, therefore, the modification process is less onerous. MBIDs must comply with State law procedures for increasing assessments and Article XIII C.

Option 3: Contract for Services Between the BID and Vending Cart Operator

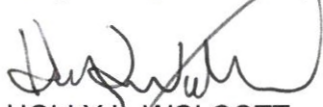
BIDs can enter into contracts with vending cart operators to receive payment for services provided. However, BIDs will likely find enforcing the contract(s) difficult.

Honorable Members of the
Los Angeles City Council
September 11, 2018
Page 3 of 3

FISCAL IMPACT STATEMENT

There is no fiscal impact to the General Fund. If option two, above, is implemented by any PBIDs, there will likely be an increase in the general benefit amount currently paid by the City, on an annual basis.

Respectfully submitted,



HOLLY L. WOLCOTT
City Clerk

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