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March 12, 2015

Honorable City Council  
c/o Office of the City Clerk  
Room 395, City Hall  
Los Angeles, CA 90012

**RE: LEGAL CHANGES REQUIRED TO UPDATE THE LOS ANGELES  
ADMINISTRATIVE AND MUNICIPAL CODES FOR THE ADMINISTRATION OF  
THE BUSINESS IMPROVEMENT DISTRICT PROGRAM**

Attached for your consideration are proposed amendments to the City's Business Improvement District (BID) Trust Fund Los Angeles Administrative Code (LAAC) Section 5.490 (Attachment 1); addition to the Los Angeles Municipal Code (LAMC) to authorize the City Clerk to collect assessments on behalf of the BIDs with assistance from the Office of Finance (Attachment 2); a request for the City Attorney to update the City's BID Ordinance and remove obsolete language (Sample Ordinance language provided in Attachment 3); and the updated BID Policy (Attachment 4).

**SUMMARY**

Various legislative actions are required to execute the responsibilities in administering the 40 BIDs located throughout the City and oversight of the BID Trust Fund No. 659. The City Clerk is requesting an amendment to the LAAC to authorize payment of general benefits (pursuant to Proposition 218) from the BID Trust Fund and the retention of interest in the Fund. The City Clerk is requesting an addition to the LAMC to add regulations for assessment invoicing and collections for business improvement districts and authorization to collect those assessments. The City's BID or "Alpha" Ordinance (173167) was adopted in March 2000 and has outdated qualifications for creation of business improvement districts. The Alpha Ordinance must be replaced or updated. The BID Policy was adopted by the Council in May of 2000. Attached is a revised BID Policy that was updated to accommodate state law changes and administrative changes for business improvement districts. These legislative actions are required to insure the continuity of operations, efficient financial management, and to reflect current practices within the BID Program.

## **BACKGROUND**

As stipulated by Section 5.490 of the LAAC, the purpose of the BID Trust Fund is to provide financial assistance to business groups who wish to establish a business improvement district; any other activities which promote the establishment of proposed business improvement districts within the City, including salaries for positions administering the program, and payment of assessments levied on City-owned real property located within the boundaries of the business improvement districts, and for auditing of the BIDs. The LAAC Section 5.490 relative to the administration of the BID Trust Fund No. 659 requires an amendment to permit general benefit payments to the business improvement districts and to retain earned interest in the Fund. Proposition 218 (Article XIII C and D of the California Constitution) requires a certified Engineer to stipulate the special benefits to assessed parcels and to quantify and separate the general benefit portion from those special benefits. Recent court cases have further instructed the separation and quantification of general benefits and their payment from sources other than assessment funding.

As the City's Budget allocates the funds for the general benefits, these funds will be deposited in the BID Trust Fund. If funds are donated or granted for business improvement district activities, the funds should also be deposited in the BID Trust Fund. The LAAC must be amended to allow expenditures from the Fund for the separated general benefits and deposits of donations/grants. This Office is also requesting the deposit/retention of accumulated interest into the BID Trust Fund No 659. In addition, a request is made to correct the name of the responsible Council Committee to the Economic Development Committee rather than the Community and Economic Development Committee. See Attachment 1 for suggested amendment language.

## **ASSESSMENT COLLECTION**

Authority is required, pursuant to the LAMC, to invoice and collect delinquent assessments on behalf of the City's business improvement districts. The presence of municipal code sections which support the City Clerk's authority to collect assessments, as well as the City Attorney and Office of Finance assistance in the collection of assessments for the Business Improvement Districts will strengthen the City's position and document current practices. The City Clerk's Neighborhood and Business Improvement District (N&BID) Division administers the collection and processing of assessments amounting to more than \$54 million annually. When invoices are processed and prepared by the City Clerk's Office for the business improvement districts, there is little recourse for the collection of delinquent accounts. The City Attorney's assistance is required in preparing or amending the LAAC and LAMC to ensure the City Clerk has adequate authority to invoice and collect assessments on behalf of the City's business improvement districts, as well as authority for the Office of Finance to assist with those collections. On occasion, it may be more effective for the Office of Finance to collect merchant-based business improvement district assessments along with business taxes. A sample LAMC section has been prepared for City Attorney review. See Attachment 2 for proposed language.

### **CITY'S BID ORDINANCE**

The City's Landscaping, Security, Programming and Maintenance District (LSPMD) property-based assessment law does not reflect changing guidelines on assessment districts and must be amended. A request is made for the City Attorney to prepare updated BID legislation. On March 31, 2000, the Council adopted Ordinance 173167 (Division 6, Chapter 9, Section 6.600 through 6.620 of the LAAC) which was established to permit a lower petition threshold for BID establishment in commercial areas with absentee landlords. This Ordinance, also called the Alpha law, allowed the use of this lower threshold within specific areas that met certain qualifications (e.g., Enterprise Zones, State Designated Transit Corridors). Some of those guidelines/qualifications are obsolete due to law changes and court decisions, therefore the LAAC must be amended to reflect changes in the law and changes in City policy. With the decision by the State to remove the Community Redevelopment Agency and Enterprise Zones, the creation of business improvement districts is one of the last economic development tools remaining for the City's use. Sample language for the enabling Ordinance has been provided based on the City and County of San Francisco's assessment law for City Attorney review. The City Clerk requests the City Attorney to review the legality of the LSPMD and to prepare a revised LSPMD. See Attachment 3 for sample amendment language and current language.

### **BID POLICY**

The City Clerk requests the Council to consider and adopt the attached revised Business Improvement District Policy. The policy was last adopted on May 30, 2000. The BID Policy revision is required to ensure funding is available for proposed business improvement district feasibility studies; to ensure funds are unencumbered on a timely basis; to reflect the recovery fee policy in line with supporting the established business improvement districts and to stipulate changes to the Business Improvement District establishment process. The recovery fee reflects the elimination of the .5% level with the lowest level of recovery fee at 1%. See Attachment 4 for the proposed policy.

### **RECOMMENDATIONS**

Recommendations for Council action, SUBJECT TO THE APPROVAL OF THE MAYOR:

1. REQUEST the City Attorney to prepare an Ordinance amending the Los Angeles Administrative Code (LAAC) to effect a change in the Business Improvement District (BID) Trust Fund No.659, allowing the fund to be used to accept the funds from the General Fund and pay a portion of the general benefits, retain its interest and accept grants and donations for business improvement districts.
2. REQUEST the City Attorney to prepare an Ordinance amending the LAAC and LAMC authorize the City Clerk to collect assessments for the business improvement districts and Office of Finance Tax and Permit Division to assist with the collection of assessments for merchant-based BIDs; provide substantial authorization for the City Clerk to collect assessments on behalf of the BIDs and to disburse the collections to the relative business improvement districts pursuant to contractual obligations and BID Policy.

3. ADOPT the updated BID District Policy.
4. REQUEST the City Attorney to prepare a report relative to the legality of the City creating an Ordinance which amends the LAAC code relative to the City's Landscaping, Security, Programming and Maintenance District to allow a 30% petition threshold and otherwise complies with the State of California Streets and Highways Code and Proposition 218 and ensures the legality of the enabling legislation.
5. REQUEST the City Attorney to prepare an ordinance which authorizes a lower petition threshold in areas with absentee landlords.
6. AUTHORIZE the Controller to create a separate fund in the BID Trust Fund for the acceptance of grants, fundraising and other funds for business improvement district activities that would assist with their economic development activities and training.

Sincerely,



Holly L. Wolcott  
City Clerk

Attachments: Attachment 1 BID Trust Fund - Amendment to the LAAC  
Attachment 2 LAMC Amendment to collect assessments for BIDs  
Attachment 3 City's BID Ordinance and Sample New Ordinance  
Attachment 4 Updated BID Policy

HLW:GRA:MCP:mp:amm

EXE-008-15