

October 23, 2015

Los Angeles City Council
Economic Development Committee
200 N. Spring Street
Los Angeles, CA 90012
ATTN: Sharon Gin

RE: Council File 13-1493 - Citywide permit program for sidewalk vending in Los Angeles.

Dear Honorable Councilmembers:

The Los Angeles Street Vendor Campaign (LASVC) writes to express enthusiastic support for the creation of a citywide permit program for sidewalk vending in Los Angeles.

The LASVC is a coalition of 57 organizations representing street vendor, community economic development, immigrant rights, public health, food equity, safe and vibrant streets, and business perspectives. The LASVC and its supporters strongly recommend creating a citywide permit program to allow regulated vending on city sidewalks and in city parks. A comprehensive, citywide permit system will foster entrepreneurship, activate the city's sidewalks, increase public safety by having more eyes on our streets, create jobs (particularly for those with barriers to employment), increase healthy food access in communities with limited food options, and allow for significant contributions to the local economy. And for tens of thousands of working Angelenos, a citywide program of formalized vending presents an opportunity to practice a trade and build a business without fear of arrest or criminal penalties.

A program to formalize the sidewalk vending economy was last discussed by the City Council Economic Development Committee in December, 2014. Since that hearing, at the direction of the Committee, the Office of the Chief Legislative Analyst (CLA) hosted six public hearings in different neighborhoods across the city. At these hearings, the CLA presented policy scenarios and a menu of program components for what could make a permitted sidewalk vending program work for Los Angeles. The LASVC, its supporters, hundreds of individual vendors, and numerous other community stakeholders attended these meetings and provided testimony to recommend the creation of a meaningful and inclusive path towards formalization. Overall, the public comment portion of each of these meetings reflected *overwhelming* public support – from all regions of the city and all sectors of the economy – for the legalization of sidewalk vending. On October 21, 2015, the CLA released another report (the “CLA Report”) that summarizes public input and responds to the Committee’s request for a presentation of sidewalk vending policy options.

The CLA Report provides a very detailed look at the decisions the Council faces to reform our city’s sidewalk vending laws. At its core, the CLA Report asks four key questions:

- (1) Should the Council amend its sidewalk vending laws?
- (2) What model should a new sidewalk vending program follow?
- (3) What program guidelines should the Council provide?
- (4) Should the Council change how sidewalk vending laws are enforced, and if so, how?

This letter provides a response to these core questions and offers thoughtful and developed policy recommendations from the LASVC. Our policy recommendations are the result of an intentional and iterative process incorporating the input of hundreds of vendors and stakeholders. We sincerely hope that you will take these recommendations into consideration in advance of the next Committee meeting on October 27.

(1) Should the Council amend its sidewalk vending laws?

Yes. Widely permitted vending will create jobs for low-income residents, alleviate poverty, and help prevent homelessness. According to one recent report, sidewalk vending in Los Angeles generates hundreds of millions of dollars in economic activity, provides tens of thousands of jobs for Angelenos, and offers tens of millions of dollars in potential tax revenue.¹

Vendors can make Los Angeles a healthier city by selling fruits and vegetables in neighborhoods that lack adequate access to healthy food. Having convenient food and merchandise available on the streets will invigorate Los Angeles street life, encourage pedestrian activity and make our public spaces livelier, safer and more enjoyable.² Vendors can activate commercial corridors, draw foot traffic to small business districts, provide “eyes on the street,” and make sidewalks more inviting by providing refreshment to pedestrians. Sidewalk vending also promotes the use of public transit. A snack or cold beverage will transform a tedious wait for the bus into a pleasant moment to relax and enjoy the company of fellow riders. In many neighborhoods, vendors provide culturally significant products and help sustain cultural traditions and connections. Failing to create a legal framework for vending would further rob us of these benefits and would cause Los Angeles to remain the unfortunate outlier among major cities that recognize the immense value of regulated sidewalk vending.

Formalized vending also advances the key policy initiatives of the City’s General Plan. For example, vending promotes the Mobility Plan’s directive to “expand the role of the street as a public space.”³ The Health Element expressly encourages a “clear pathway for the legalization of street (sidewalk) vending to support viable economic opportunities for entrepreneurs and to increase access to healthy food in underserved neighborhoods.”⁴ Electing to perpetuate a criminal ban on vending and increasing the criminalization of vendors would be patently inconsistent with City policy.

Finally, maintaining the current complete criminal ban on sidewalk vending may unnecessarily increase confrontations and conflict between police and community members. Currently, vendors are issued costly tickets leading to onerous criminal justice debt, including bench warrants and civil assessments for failure-to-appear or failure-to-pay. Some vendors are arrested and incarcerated. Property seizure by police, BSS employees, county public health workers, and private security forces deprive vendors of their property without due process and stoke animosity between the community and public employees. Maintaining a complete prohibition on sidewalk vending will only perpetuate unjust criminalization of poverty, and further relegate thousands of low-wage workers to the underground economy. We should strive to disassemble, not fortify, unjust barriers to opportunity.

(2) What model should a new sidewalk vending program follow?

The Council should adopt a citywide vending permit program for sidewalks and parks.

A citywide permit system will allow street vendors to pursue their livelihood legitimately while protecting public health and safety, managing congestion, and generating revenue. A citywide permit system is not the same as blanket legalization or an unregulated free-for-all. In fact, a citywide program that regulates for sidewalk safety is the most efficient and targeted way to address the various concerns about the vending economy.

¹ Available at <http://economicrt.org/wp-content/uploads/2015/06/LA-Street-Vendor-Report-final-6-22-2015.pdf>

² Street vending will further the City’s goal of having “complete streets.” “The idea behind complete streets is to make streets safe, comfortable, and convenient for people of all mode types.” Mobility Plan 2035, page 63.

³ Mobility Plan 2035, page 14.

⁴ Plan for a Healthy LA, Implementation Program 45. See also, Policies 4.4 and 4.8, supporting the legalization of sidewalk vending as a strategy to improve healthy food access and food innovation.

A standard set of rules will provide clarity for vendors, residents, brick-and-mortar businesses and enforcement agencies, thereby reducing administrative costs. Moreover, a citywide permit system distributes vending opportunities more widely, which encourages greater participation. This greater participation in turn maximizes the reach and effect of important rules and regulations concerning food safety, sidewalk accessibility, debris, liability insurance, taxes, and enforcement. Conversely, we know that limiting the number of vendors or confining the trade to designated zones will only discourage or impede compliance, bringing about the very ills that regulation is intended to address. This is not mere speculation. We have seen these effects in other cities, and in our own backyard when LA’s previous attempt at vending districts failed. Let’s not repeat the mistakes of the past. Los Angeles deserves a system that works. Los Angeles needs a citywide permit system.

An opt-in district-based program is nothing more than a re-packaging of a failed strategy.

The council should not adopt an opt-in district based model. In every one of the six public hearings, an overwhelming majority of respondents supported a citywide vending model over a district-based model. Any rhetorical appeal of a “community driven” opt-in district model is misleading. Such an approach has many dangerous pitfalls and could too easily devolve into an unjust tool of exclusion. The City should not adopt a policy that allows any group to exclude vendors outright. This is counter to the purpose and spirit of a vending program, and would send a clear signal that the City continues to delegitimize vending within the small business economy. The key to a successful vending program is inclusion and participation, not exclusion.

The failed vending district program created under 42.00(m) was technically a “community driven” opt-in model. But as discussed above, the bureaucratic overhead involved in creating a vending district has proven too cumbersome to allow any real system of vending districts to succeed. Under any opt-in district model, areas that don’t create vending districts will likely continue to experience unpermitted and unregulated vending because of a lack of opportunities across the city. In light of the failure of Section 42.00(m), an opt-in district approach should not be considered. A program that maintains a citywide ban on vending while placing the onus on an undefined “community” to overcome significant procedural hurdles only to create a severely confined vending district is nothing more than a repackaging of a failed policy. Our City should not be satisfied with repeating mistakes, and the Council should avoid enacting a policy model that has already proven ineffective.

(3) What program guidelines should the Council provide?

Based on rigorous community outreach and engagement with hundreds of vendors, small businesses and stakeholders, we strongly recommend the following policy details to ensure that a citywide permit system is effective, responsive to concerns, and workable for all stakeholders:

Enable permitted vending on sidewalks and in parks. A vending ordinance should permit vending both on sidewalks and in parks. The City Council recently adopted an ordinance prohibiting vending in parks, after the previous park ordinance remained suspended for nearly ten years. The amended ordinance expressly anticipates a regime of permitted vending, allowing the City to “issue a license, permit, or contract ... to vend ... in a park.”⁵ However, this reference to permitted vending is meaningless as long as the City fails to offer a process for vendors to obtain permits to vend in in park. On June 16, Councilmember Price initiated a motion directing the Department of Recreation and Parks to “work with the CLA on the citywide effort to address regulation of street vending” and develop a compatible process

⁵ LAMC 63.44(A)(g).

for vending in parks.⁶ Allowing vending in parks, as well as on sidewalks, is important to improving the vibrancy of our parks and expanding economic opportunities.

Ensure safety and accessibility with commonsense sidewalk placement restrictions, but DO NOT confine vending to zones or districts or establish areas where vendors are categorically excluded. Any vending program must prioritize public safety and ensure sidewalk accessibility. The most effective and efficient way to achieve these policy objectives is through clear, commonsense rules governing the space and location of sidewalk placement. We recommend a set of regulations that: maintain a minimum amount of clear sidewalk space at all times; adhere to ADA standards; prohibit vending near crosswalks, curbs and fire hydrants/emergency facilities; and prevent vending operations or patrons from blocking the entrances to shops, restaurants, and other businesses. County certified food carts will also be required to identify access to a bathroom with a signed letter from a nearby brick and mortar business.

The application of these rules within a citywide permit system would actually create a *de facto cap* on the number of vending operations on any given street, effectively filtering vending out and preventing unsafe overconcentration and hazardous obstructions. But it is the narrowly tailored, *street-level application* of the rules that enable a more nimble system to better match the variations in streetscapes across our city. It would be misguided to think that simply establishing vending zones or districts would achieve the same results. The district approach has proven to impede full participation and compliance, leading to costly enforcement, lost economic opportunity, and ineffective regulations. Instead, pairing a *citywide* application with targeted sidewalk placement guidelines is the best way to distribute opportunities, incite greater participation and maximize compliance with important safety provisions.

Create an accessible and easy-to-navigate permit application process. Permits should be available for both food vending and merchandise vending. To discourage unpermitted vending and minimize enforcement cost, the permit process should be inclusive and easy to navigate, with appropriate language access, and no inquiry into immigration or citizenship status. The permit fees, which should be affordable for current vendors, should support administration without inhibiting participation. There should be no arbitrary cap on the total number of permits issued. This will encourage as many vendors as possible to obtain permits, reducing enforcement burden and maximizing revenue and employment created by the newly formalized street vending economy.

Impose meaningful rules to protect public health and safety. We recommend that any applicant proposing to vend food items be required to obtain the necessary County Health Permit and proof of commissary usage prior to receiving a permit from the City. Rules should unequivocally prohibit merchandise vendors from selling pirated or counterfeit merchandise. A state seller's permit, and City business tax registration should be required. We also support a requirement that vendors obtain general liability insurance.

Provide meaningful incentives for healthy food vending. Vendors should be encouraged to sell fresh fruit, produce, water, and healthy snacks. "Healthy Food Vendors" should be granted incentives such as reduced permit fees, special access to events sponsored by the City, and exclusive preferential vending areas, such as locations closer to schools, in front of hospitals, and in designated Healthy Food Corners. These incentives will allow the City to leverage the mobility of street vendors to improve the health of communities.

Assist community-based organizations to provide technical assistance, education, financial support, and other capacity building services to vendors. Technical assistance will help vendors comply with regulations, increasing revenue from permit fees and sales tax, and decreasing the cost of

⁶ See Council File 13-1493-S2.

enforcement. The City should prioritize effective technical assistance to bring existing vendors into compliance and make the citywide vending program a success.

Consider permit exemptions for small-scale vendors. Vendors who are not selling products that require a public health permit, with very small operations (having a length less than 4 foot and a width less than 3 foot), and whose revenue is less than \$900 per year should be eligible for a waived permit requirement, or waived permit fee from the City. This small exemption could save considerable enforcement costs for the City, while easing the burden on vendors whose incomes might make an annual permit prohibitively costly. These small vending operations with permit or fee exemptions should be required to comply with all other rules concerning sidewalk safety.

(4) Should the Council change how sidewalk vending laws are enforced, and if so, how?

Encouraging compliance is critical to the success of any new program for sidewalk vending. The citywide sidewalk vending program should include a tiered compliance regime, beginning with warnings and resource referrals, followed by reasonable fines for subsequent violations. All violations should be treated either as a warning or as an infraction. No violation should result in a misdemeanor or be subject to the Administration Citation Enforcement (ACE) program. Suspension of a permit should occur after 4 violations in one year, with an opportunity to appeal. The Citywide Sidewalk Vending Program should include a phased-in compliance program to accommodate a period of public education about the new regulations and requirements. Fines should be established with the recognition that the amount a vendor will ultimately pay for an infraction includes substantial fees equal to *several times the base fine amount*.⁷

The City can minimize compliance costs by creating a permitting process that is streamlined, affordable, and inclusive. In the initial roll out, the City should concentrate on making the application process affordable and providing effective outreach and education efforts for vendors. Creating a working system for lawful vending will significantly reduce the costs associated with ticketing vendors without permits, which will in turn reduce the enforcement burden on the City. We recognize the need for an appropriate compliance strategy, but urge the City Council to consider an inclusive and accessible permit program to part and parcel of a comprehensive compliance strategy.

Conclusion

We appreciate the Council's commitment to meaningful and careful consideration of this important issue. The above recommendations are the result of numerous interviews, town hall meetings, and discussions with hundreds of vendors, stakeholders, and community members from across the city -

⁷Courts often issue a fine of \$50 for violating the current street vending ban. After fees are added, a vendor will owe \$306 from this base fine of \$50. If the city believes, for example, that an appropriate punishment for violating a vending regulation is about \$162, then the base fine should be \$20. See Government Code §70373 (adding a thirty-five dollar criminal conviction assessment); Penal Code §1465.7 (applying a 20% criminal surcharge fee); Government Code §76000 (assessing seven dollars of every ten dollars, or part of ten dollars, upon every fine for the County Penalty Fund); Government Code §70372a (assessing three dollars of every ten dollars, or part of ten dollars, upon every fine for the State Court Facilities Construction Fund); Penal Code §1464 (assessing ten dollars of every ten dollars, or part of ten dollars, upon every fine for the State Penalty Fund); Government Code §70372 (assessing two dollars of every ten dollars, or part of ten dollars, upon every fine for the State Immediate and Critical Needs Account); Government Code §76104.7 (assessing four dollars of every ten dollars, or part of ten dollars, upon every fine for the State DNA Identification Fund); Government Code §76104.6 (assessing one dollar of every ten dollars, or part of ten dollars, upon every fine for the County DNA Identification Fund); Government Code §76104.7 (assessing two dollars of every ten dollars, or part of ten dollars, upon every fine for the County Maddy Emergency Medical Services Fund); Penal Code §1465.8 (applying a forty dollar "Court operations assessment" per conviction); Government Code §76000.10 (assessing a four dollar fee for the Emergency Medical Air Transportation Act Fund).

with additional input from the policy, legal, health, economic, and community development experts in the LA Street Vendor Campaign coalition. We believe these recommendations solve some of the key challenges facing the city, and bring forth innovative solutions that pull from the best practices of other major cities, while being sensitive to the unique fabric of Los Angeles. We appreciate your careful review and close consideration of these recommendations.

Now is the time for Los Angeles to join the ranks of every other major city in the country by creating a pathway to legalized sidewalk vending. But it is also the time for Los Angeles to *lead*. Our city can set the standard for community-driven economic development. We can tear down barriers to opportunity and eliminate unjust criminalization practices. We can create a vending program that promotes economic mobility, increases healthy food access, activates our commercial corridors and public spaces, and protects the health and safety of all Angelenos. This means a citywide vending permit program for parks and sidewalks with commonsense sidewalk placement restrictions, accessible and inclusive permitting procedures, robust technical assistance, and humane compliance strategies. Thank you for your consideration.

Sincerely,

The Los Angeles Street Vendor Campaign⁸

⁸ The Los Angeles Street Vendor Campaign is endorsed by: East LA Community Corporation (ELACC); Leadership for Urban Renewal Now (LURN); Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA); Women Organizing Resources Knowledge and Services (WORKS); The LA Food Policy Council; Public Counsel; Loncheros Association ; Urban & Environmental Policy Institute, Occidental College ; SEIU-United Service Workers West (USWW); Youth Speak Collective: Pacoima Beautiful; Kareem Carts; Los Angeles Alliance for a New Economy (LAANE); Proyecto Pastoral; Central American Resource Center (CARECEN); The Public Immigrant Policies Institute of Los Angeles (PIPIL); Strategic Actions for a Just Economy (SAJE); Corazon del Pueblo; Community Financial Resource Center (CFRC); Koreatown Immigrant Workers Alliance (KIWA); Esperanza Community Housing Corporation; SEE-LA; Art-Gricultural Farmers Market; St. John's Well Child & Family Center; Little Tokyo Service Center (LTSC); InnerCity Struggle (ICS); Labor Community Strategy Center; Bus Riders Union; Right to the City Alliance; Los Angeles Community Action Network (LA CAN); Guerrilla Food Not Bombs; Restaurant Opportunities Center – Los Angeles (ROC-LA); LA2050; Los Angeles Metropolitan Churches; Community Coalition; United Food Commercial Workers (UFCW) Local 770; Alliance of Californian's for Community Empowerment (ACCE); Strategic Concept in Organizing and Policy Education (SCOPE); A New Way of Life Reentry Project; UNITE HERE Local 11; Urban Semillas; Cyclists Inciting Change thru LIVE Exchange (C.I.C.L.E.); Los Angeles Walks; Institute for Justice; PolicyLink; SEACA; LA MAS; Urban Semillas; Los Angeles County Bicycle Coalition; T.R.U.S.T. South LA; Homeboy Industries; Black Workers Center; Raise the Wage LA; LA Food Fight; Meet Every Need with Dignity (MEND); National Lawyers Guild; LA County Federation of Labor AFL-CIO