

November 20, 2018

Board of Recreation and Parks Commissioners
Arts, Entertainment, Parks and River Committee
Los Angeles City Hall
200 N. Spring Street
Los Angeles, CA 90012

Re: Sidewalk Vending Policy – CF 13-1493-S6

Dear Honorable Commissioners and Members:

The Los Angeles Street Vendor Campaign (LASVC) writes in response to the November 8, 2018 Proposed Rules and Regulations for vending food and commercial items in LA City Parks (Proposed Park Regulations). After several years of considering this issue and engaging with stakeholders from across the City, the City of Los Angeles is poised to adopt a comprehensive program to legalize and regulate sidewalk vending throughout the city and in its parks. We provide the following recommendations and comments on the Proposed Park Regulations to help achieve an effective, equitable and inclusive parks policy that will uplift and protect all entrepreneurs, stakeholders, and consumers in our city.

LASVC is a citywide campaign consisting of various nonprofit organizations, community-based groups, labor unions, and thousands of street vendors who have been working for years to advocate for the full legalization of sidewalk vending. For many years, LASVC has been working in communities all across Los Angeles to engage stakeholders to develop pragmatic, community-centered policy solutions to address the injustices facing low-income entrepreneurs in LA. As a result of this organizing work, thousands of street vendors and supporters are engaged every month through workgroups in various neighborhoods of Los Angeles.

This movement to legalize street vending has always been led by those most impacted by the City's criminalization policies: low-income vendors. Over the course of several years, hundreds of vendor leaders have collectively developed a policy platform that is rooted in the experiential knowledge of the vending community and further informed by legal and policy analysis and robust stakeholder input. The LASVC policy platform balances equity, opportunity, fairness, safety and accessibility.

We offer the following comments regarding the Proposed Park Regulations.

The regulations should include a permitting process consistent with the City permitting system.

The City is in the process of drafting regulations for sidewalk vending throughout the City of Los Angeles. As part of those regulations, the City is considering the creation of a permit system which will go into effect by January 1, 2020. LASVC fully supports a formal but flexible permit system that will both generate revenue for the City for education and enforcement purposes and provide legitimacy and economic mobility for these low-income micro-entrepreneurs. The

Commission should consider working with the City to create a comprehensive and streamlined permit process that will allow vendors to operate in both parks and on City sidewalks. This will ensure that these entrepreneurs can operate in full compliance with all regulations.

LASVC also strongly supports the inclusion of healthy food incentives, and encourage both the City and the Commission to craft regulations that support healthy food vendors. LASVC, under the leadership of the LA Food Policy Council, have long advocated for a health food cart program. Under this program, vendors would be eligible for permit fee waivers, longer renewal extensions for permits, and a right of first refusal for vending opportunities at City-sponsored events. We also encourage the Commission to include special authorization for healthy food vendors to operate closer to schools and community centers than currently allowed under Proposed Park Regulations. Creating a permitting program is necessary to advance an innovative and effective healthy food incentive program.

Stationary vending should not be banned in all parks with exclusive concession agreements, and stationary vending should be allowed in Echo Park.

Proposed Park Regulation number 10 bans all stationary vending of “food or merchandise in parks or facilities that have exclusive, signed concession agreements (See Attachment A).” Attachment A, titled Concession Contract with Exclusivity Provisions, lists thirteen different concession agreements. However, these concession agreements only cover seven unique parks.

First, by definition, some of these agreements are not exclusive concession agreements as this list indicates that there are multiple operators operating within a single park. There are six concessionaires listed that work in Griffith Park, and two concessionaires listed that operate within the Sepulveda Basin Recreation Area. Therefore, the Commission cannot ban stationary vending within these parks without identifying an objective health or safety concern for doing so.

Second, it is our understanding that the concession agreement for the Echo Park Boathouse Café ***does not include an exclusivity provision***. The RAP Board adopted a report and concession agreement¹ that specifically states,

While CONCESSIONAIRE is granted the exclusive right to sell food and non-alcoholic beverages to the general public at the CONCESSION PREMISES, this exclusive right does not prohibit private parties from preparing or bringing their own food to the park. If the GENERAL MANAGER, by express written consent, gives CONCESSIONAIRE the right to sell food and non-alcoholic beverages to the general public from mobile food and beverage carts in approved areas, **that right is non-exclusive.**

Therefore, **stationary vending should not be prohibited within Echo Park.** Vending is an important part of what makes Echo Park a dynamic and enjoyable experience for all Angelenos,

¹ “Echo Park Boathouse Café Concession – Award of Contract to MTI Investments, Inc.” Board of Recreation and Park Commissioners, *available at* <https://www.laparks.org/sites/default/files/pdf/commissioner/2016/oct19/16-224.pdf>.

and many vendors have worked in Echo Park for many years and are part of the park community. Safe, regulated stationary vending should be embraced and supported.

Finally, we urge the Commission to adopt a policy of not signing exclusive concession agreements in the future. The Commission should be prioritizing our local, micro-entrepreneurs over outside companies to serve community needs in our parks.

The regulations should promote safe pathways within parks without arbitrary restrictions.

Do not prohibit vending from large swathes of parks due to unreasonable required distances from buildings, bathrooms, etc. Proposed Park Regulation number 11 bans “vending within 250 feet of any building, recreation center, bathroom, structure, or playground.” This provision outright bans all vending within large spheres of a large number of structures, effectively banning vending entirely from many parks throughout the City for no objective health or safety reason. A 250-foot perimeter around all structures is an arbitrary no-vending zone that fails to take into account the wide variety of “structures” or “buildings” that exist in our city’s parks. There may be some structures that require more clearance than others. However, the ban as written does not meet any objective health or safety standard. More clearly tailored location restrictions will ensure that all parkgoers can safely access and use park resources without arbitrarily restraining, or altogether banning, vending from city parks.

Based on just these spatial restrictions, vending will be completely banned from almost all small parks (approximately 1 acre or less), and vending will be severely restricted in larger parks. Attached to this letter are maps of three different parks that visually demonstrate the restrictions imposed by the Proposed Park Regulations. The two small parks, Genesee Park and Reynier Park, approximately .75 acres and 1.03 acres, respectively, would not have a single spot where a vendor may vend. The third map is of Echo Park, which is approximately 28.41 acres. The proposed 250-foot no vending perimeter, on top of the other spatial requirements listed in the Proposed Park Regulations, will exclude vendors from a vast majority of the park and result in vendors competing for very few spaces in a community where vendors are in high demand.

We proposed the following changes: restrict vending within 25 feet of playgrounds and prohibit vending in a location that impedes access to or the use of a building or otherwise create a hazardous situation. These restrictions strike a more balanced approach between protecting the health and safety of all parkgoers and preserving the robust vending culture that already exists in many of the city’s parks.

Do not prohibit vending altogether from parks during a permitted temporary event or activity.

As written, Proposed Park Regulation number 24 prohibits vending anywhere in a park when there is a temporary permit event or activity occurring within any portion of the park. Given the wide variety of parks, as well as the wide variety of possible temporary permit activities, such as filming, movie nights, running events, or other activities, a total ban on vending in any park where a temporary event is taking place is an arbitrary limitation. Prohibiting vending from a park due to a temporary event or activity only makes sense when the entire park is closed to the public due to the event. In the event that the park is not entirely closed to the public, a spatial

regulation that limits vending within a certain range of the event is more appropriate. Consider providing the same spatial regulation provided to farmers' markets and swap meets described in Proposed Park Regulation number 25. As it is currently written, Regulation number 24 is overbroad and arbitrary.

Do not prohibit vending altogether from Leimert Park.

We are deeply concerned that Proposed Park Regulation number 17 appears to entirely prohibit vending in Leimert Plaza Park. This proposed regulation threatens to end a decades-long tradition of neighborhood-serving vending that has made the park a cultural and economic hub and community gathering place. For years, dozens of vendors, musicians, and onlookers have congregated in the park every weekend to engage in recreation and buy or sell food and merchandise. Given this long and open history, and changes to state law, we strongly oppose banning vending in Leimert Park.

In proposing the sweeping exclusion of low-income entrepreneurs from Leimert Park, the City appears to rely on a nearly century-old covenant, which purports to prohibit both "recreational" and "commercial" use of the park. This covenant was recorded in 1930 by Walter H. Leimert, at a time when the developer was marketing Leimert Park as a racially restrictive community and selling homes with covenants prohibiting black ownership.² The covenant is believed to be a part of a larger web of restrictions intended to exclude people of color from Leimert Park. Despite this troubling history, the City appears to be accepting the covenant at face value and has provided no information about its enforceability. We are deeply concerned about the City's reliance on this covenant for a number of reasons, including but not limited to: 1) numerous changing conditions rendering the covenant unenforceable; 2) a potential defense of laches; 3) the successor's potential waiver of the right to enforce the covenant; 4) termination of interest under the Marketable Record Title Act; or 5) other termination of interest. Lastly, after the adoption of Senate Bill 946 (Lara 2018), which requires that cities "not prohibit a sidewalk vendor from selling food or merchandise in a park owned or operated by the [city]," unless specific requirements are met, this covenant is likely void as contrary to public policy.

Do not restrict vending to two vendors per acre – allow the creation of special park vending districts instead.

Proposed Park Regulation number 21 would limit vending to "2 vendors per acre and no vendor may vend within 25 feet of another vendor." This restriction lacks any health and safety justification, and is arbitrary and overbroad when applied to all parks in the city.

A two-vendor-per-acre restriction is also completely unnecessary. Other spatial regulations such as the 25 feet between vendors requirement can help achieve safety and accessibility goals within our parks, and safely limit vending in a way that is actually responsive to the built environment. Furthermore, a two-vendor-per-acre restriction will be difficult to enforce and difficult for vendors to comply with, especially as the regulation does not differentiate between stationary

² See, e.g., Josh Sides, "The Center Can Hold: Leimert Park and Black Los Angeles." KCET (Nov. 12, 2013), available at <https://www.kcet.org/shows/departures/the-center-can-hold-leimert-park-and-black-los-angeles>.

vendors and roaming vendors. The two-vendor-per-acre restriction limitation is arbitrary, unnecessary, and an unduly burdensome restraint on entrepreneurship.

Citywide park regulations can maximize economic opportunity and address safety and accessibility concerns. However, given the broad diversity of parks, as well as the wide variety of vending that already occurs in our parks, the Commission should include built-in flexibility that will allow it to respond to unique local dynamics. The Commission should include procedures for declaring special park vending districts, similar to special vending districts included in the City regulations, to allow for unique regulation of parks that already experience high levels of vending. This will allow the Commission to ensure safety and accessibility needs of all parkgoers are met while not stifling economic opportunity.

Vendors may set up vending equipment next to paved pathways or designated paved walking areas as long as vending occurs on the pathways.

Proposed Park Regulation number 6 states that vendors may not block pathways in order to ensure that there is enough space for pedestrian and wheelchair/ADA clearance. The proposed regulation also states that vending is “restricted to paved pathways or designated paved walking areas.” Given these two statements together, LASVC interprets this regulation to allow vendors to set up immediately adjacent to any paved pathway or walking area, subject to other regulations, as long as the point of sale occurs on the pathway. This will ensure that vendors are providing enough clearance for pedestrians as well as ensuring that vending is not unduly restricted.

The Commission should provide an enforcement grace period for vendors.

With the estimated 50,000 street vendors across the City of Los Angeles, an interim period for educating all micro-entrepreneurs with the tools they need to successfully and legally comply with all of the Proposed Park Regulations will be crucial. Allowing for a 6-month grace period will ensure that as many vendors as possible are reached and given the proper tools to become part of the formalized system. By allowing 6 months for vendors to re-establish their businesses under the new guidelines and cart requirements, they will have enough time to familiarize themselves with both the Park Regulations and the City regulations to ensure their business stays afloat.

This week marks five years since the City began considering the legalization of street vending in LA. As we enter the sixth year of this effort, we as a city are coming close to finally adopting a thoughtful, citywide street vending program. This is an important moment for Los Angeles – an opportunity to show that Angelenos are committed to inclusion, racial equity, and economic opportunity for everyone, especially low-income families. We urge the Commissioners and Committee members to consider the above recommendations, incorporate them into their Proposed Park Regulations, and expeditiously approve a final set of Park Regulations that legalizes vending in our parks.

Sincerely,

The Los Angeles Street Vendor Campaign