

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: November 20, 2018

TO: Honorable Members of the Los Angeles City Council

FROM: Sharon M. Tso *KEK*
Chief Legislative Analyst *SM*

Council File No.: 13-1493
Assignment No.: 18-11-1008

Los Angeles Sidewalk Vending Program – Cost-Benefit Analysis

SUMMARY

On October 31, 2018, the City Council took various actions relative to the establishment of a Sidewalk Vending Program (C.F 13-1493). Among these actions, the Council instructed the Office of the Chief Legislative Analyst (CLA), with the assistance of the Bureau of Street Services (BSS) and the Department of Recreation and Parks (RAP), to report regarding the costs and benefits of a permit-based versus regulatory vending system, including costs of the system, anticipated revenues, ability to enforce, and benefit or burden to vendors. To prepare this report, our Office consulted with the City Administrative Officer, BSS and RAP, and considered prior Council actions related to program costs.¹

State law requires that local jurisdictions that wish to enforce vending violations must first adopt rules and regulations by January 1, 2019. Establishing a permit-based system is at the discretion of each municipality. To comply with State law, rules and regulations must be adopted by Council prior to January 1, 2019, by ordinance or resolution. As instructed by Council, City departments are currently in the process of preparing rules and regulations for vending on City sidewalks and parks.

State law allows local jurisdictions to establish either a permit-based vending system or a regulatory vending system. While a permit-based system is consistent with Council action of April 17, 2018 (C.F 13-1493), this report addresses the Council action of October 31, 2018 requesting a report on the costs and benefits of a regulatory program, a permit-based program and a hybrid program. These program models are listed below and summarized in Attachment 1.

Potential Monetary Costs Under All Models

On April 17, 2018, the City Council instructed the CAO to report with a budget package based on a targeted compliance model that consisted of 22 additional inspectors for the Public Works Department, BSS. Estimates provided by the CAO project a cost \$3.2 Million for the 22 inspectors and \$400K for BSS administrative staff including related costs (See Table 1). Options for a reduced number of inspectors (15 and 8) are displayed on Attachment 2. Should the Council wish to reduce the number of investigators, the program cost for BSS would be decreased accordingly which could lead to a more affordable permit cost, if one is required.

All the costs mentioned above are subjective factors that may change at the discretion of the City Council. In this report, it is assumed that the estimated compliance and administrative costs remain constant across all three models. Costs for education and outreach, service providers, reduced staffing level and other expenses can vary depending on the model implemented. No cost information is available from the Department of Recreation and Parks at this time. Please note that if additional resources are requested by RAP, program costs may be increased resulting in a higher permit cost.

¹ Council Action of April 17, 2018, recommendation # 5 instructed the CAO to prepare a fee study based on Table 2 of the CLA report dated November 3, 2017, which recommended funding levels for 22 investigators.

TABLE 1

STREET SERVICES - Targeted Enforcement to Hot Spot Areas

18	Street Services Investigators	\$1,736,064
3	Sr. Street Services Investigators	\$ 346,968
1	Chief Street Services Investigator I	\$ 123,975
22	Sub-total	\$2,207,007

Add/Delete Rate – Investigation and Enforcement \$ 962,400

STREET SERVICES - Program Administration

1	Sr. Management Analyst	\$ 117,909
1	Accountant	\$ 68,497
1	Management Analyst	\$ 92,787
3	Admin Salary	\$ 279,193

Add/Delete Rate - Admin \$ 124,782

TOTAL STREET SERVICES COSTS \$ 3,573,382

Additional Potential Costs

The Council has authorized the CLA to prepare and release a Request for Proposals to retain a third party service provider to manage and operate the proposed Sidewalk Vending Program. The cost of a third party service provider is unknown at this time inasmuch as the Council has not determined the type of program it wishes to implement. A third party service provider has previously only been envisioned under the permit-based system.

Potential Revenue Source/Penalty Structure

Per State law, the City may only issue administrative fines based on the following penalty structure when no permit is required:

- Maximum of \$100 for a first violation
- Maximum of \$200 for a second violation within one year of the first violation
- Maximum of \$500 for each additional violation within one year of the first violation.

The penalty structure for operating without a permit (when a permit is required) is as follows:

- Maximum of \$250 for a first violation.
- Maximum of \$500 for a second violation within one year of the first violation.
- Maximum of \$1,000 for each additional violation within one year of first violation.

Per State law, these fines may be reduced upon proof of a permit. State law also requires that the City offer an 80 percent fine reduction for qualifying individuals under the federal poverty line. And, lastly, the City is prohibited from increasing the fines or imposing other fines for failure to pay.

While State law provides that the City may retain the proceeds from administrative fines, these penalties alone would not be sufficient to cover all the cost of the proposed Sidewalk Vending Program under all models.

Option Models

1. Regulatory Model Revenue Sources

Per State law, under this model, a permit would not be required. Vendors would be required to comply with Council adopted rules and regulations for vending on sidewalks and parks. Because a permit would not be required, the City would not have the ability to charge a fee to the vendors. The only source of revenue would be from penalties, which would be minimal and would not be sufficient to cover the cost of the Sidewalk Vending Program.

If it is the intent of the City Council to maximize its cost recovery efforts, this model would not be recommended given that any costs potentially incurred by the City, such as poorly maintained sidewalks, trash or abuse of property, would be absorbed and addressed with City resources.

Under a regulatory program, it may be difficult to hold vendors accountable given that there would not be a monitoring system.

Sidewalk and park vendors could benefit from having to pay no permit fee under this model.

2. Permit-Based Model

State law allows local jurisdictions to establish a permit-based Sidewalk Vending Program. Under this model, all vendors would be required to obtain a permit at a cost. Cost recovery would be maximized unless the City provides a subsidy.

The City would incur costs for compliance, program administration and permit management (third party service provider) and can set up a system to recover all program costs.

This is the recommended model if the City wishes to recover all program costs.

3. Hybrid Model

Under this model the City could develop a vending program that would only require permits from some vendors. For example, the City might require stationary vendors in commercial areas and designated parks to obtain a vending permit but require no permit from roaming vendors.

The City would still incur costs for compliance, program administration and permit management for permitted and unpermitted vendors but would only be able to recover costs from the portion of vendors that are required to have a permit.

Under this model, if it is the intent of the Council to recover all or most of the cost, the cost of any permit issued would be significantly higher than under a model where all vendors are charged the same amount. Permitted vendors would be burdened with higher permit cost. Additionally, financially disadvantaged vendors may be prevented or discouraged from seeking stationary locations if the permit cost is too high.

Lastly, as in other cities, a complex permit system with multiple types of permits may present compliance challenges.

The cost of the permit would be based on total allowable program cost. However, we note that if the intent of the Council is to ensure full cost recovery, and the permit is cost-prohibitive, vendors may be discouraged from seeking a permit.

BSS Input

BSS recommends a hybrid system in which most of the City would operate under a regulatory system without site-specific vending permits, while in specific designated zones, a location-based permit would be required. BSS indicates that these zones would be selected by Council based on “objective health, safety or welfare concerns. According to BSS, areas such as Downtown and Hollywood, where vendors currently compete for the spaces with the most economic potential, would be among the recommended areas for potential designation as Council-selected zones in which a location-specific permit would be required. BSS states that based on historical experience with existing patterns of vending, it may be possible to effectively manage the public right-of-way by issuing approximately 10,000 site-specific vending permits in Council-selected zones, while avoiding the costs of issuing, renewing and enforcing vending permits for the remaining 40,000 vendors operating under a regulatory system outside the Council-selected zones.

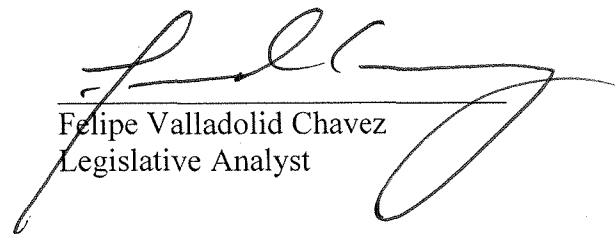
It is anticipated that BSS will be submitting a budget request for a hybrid sidewalk vending model as described above.

FISCAL IMPACT

Approval of the recommendations in this report will not result in a fiscal impact. On April 17, 2018, the City Council instructed the City Administrative Officer to report with a fee study and program budget. Any anticipated revenue can only be projected once the Council adopts the desired sidewalk vending model and the fee study is prepared by the CAO. Should the City Council wish to proceed with implementation of a model other than the permit-based system, the CAO should be requested to report with a fee study under a hybrid vending model or potential program costs under the regulatory model. Revenue projections are also dependent on the number of permits issued and the cost of such permits. Please note that the City may only charge fees to recover costs if a permit is required.

RECOMMENDATIONS

Note and File this report as it is submitted for informational purposes only.



Felipe Valladolid Chavez
Legislative Analyst

- ATTACHMENTS: 1) Sidewalk Vending Models
 2) Scaled Compliance Program

Sidewalk Vending Estimated Cost-Benefit Analysis

	Regulatory Model	Permit Model	Hybrid Model
<u>Description</u>	Rules and Regulations adopted by the City Council for sidewalks and parks. <ul style="list-style-type: none"> No Permit Required 	Rules and Regulations adopted by the City Council for sidewalks and parks. <ul style="list-style-type: none"> Permit required from vendors on sidewalks and parks. 	Rules and Regulations adopted by the City Council for sidewalks and parks. <ul style="list-style-type: none"> Permit required only from in specified vendors location-based vendors in commercial areas.
<u>Program Costs</u>	<ul style="list-style-type: none"> Compliance Program (\$) <ul style="list-style-type: none"> \$3.2 Million Administrative Staff <ul style="list-style-type: none"> \$400 K Education/Outreach (\$) <ul style="list-style-type: none"> \$ Unknown 	<ul style="list-style-type: none"> Compliance Program (\$) <ul style="list-style-type: none"> \$3.2 Million Administrative Staff <ul style="list-style-type: none"> \$400 K Service Provider <ul style="list-style-type: none"> \$ Unknown Education/Outreach Permit Issuance Location Management 	<ul style="list-style-type: none"> Compliance Program (\$) <ul style="list-style-type: none"> \$3.2 Million Administrative Staff <ul style="list-style-type: none"> \$400 K Service Provider <ul style="list-style-type: none"> \$ Unknown Education/Outreach Permit Issuance Location Management
<u>Revenue Sources</u>	<ul style="list-style-type: none"> <u>Penalties</u> <ul style="list-style-type: none"> Individuals who qualify may obtain an 80% penalty reduction. Max penalty amount is less than with a permit system. 	<ul style="list-style-type: none"> <u>Penalties</u> <ul style="list-style-type: none"> Individuals who qualify may obtain an 80% penalty reduction. <u>Permit Fees</u> A larger pool of permitted vendors may lower the overall cost of the permit. <u>General Fund</u> If the Council decides to pay for any program costs. 	<ul style="list-style-type: none"> <u>Penalties</u> <ul style="list-style-type: none"> Individuals who qualify may obtain an 80% penalty reduction. <u>Permit Fees</u> Recover program costs from portion of vendors who are issued permits. <u>General Fund</u> If the Council decides to pay for any program costs.
<u>Additional Benefits</u>	<ul style="list-style-type: none"> No permit cost to vendor. 	<ul style="list-style-type: none"> Permit holder accountability. Access to education and resources. May reduce extortion. 	<ul style="list-style-type: none"> Permit holder accountability in some areas. Access to education and resources. May reduce extortion for some vendors.
<u>Notes</u>	<ul style="list-style-type: none"> \$3.2 M => 22 Inspectors for Targeted Enforcement Citywide (in consultation with the CAO). \$400K => 3 Staff (BSS) (in consultation with the CAO). Recreation and Parks Program Costs Unknown. ACE Enforcement; Fines may not be imposed for failure to pay penalties. 		

STREET SERVICES - Targeted Enforcement to Hot Spot Areas

	Council Adopted Option	15 Investigators	8 Investigators
Street Services Investigators	18 \$ 1,736,064	12 \$ 1,157,376	6 \$ 578,688
Sr. Street Services Investigators	3 \$ 346,968	2 \$ 231,312	1 \$ 115,656
Chief Street Services Investigator I	1 \$ 123,975	1 \$ 123,975	1 \$ 123,975
	22 \$ 2,207,007	15 \$ 1,512,663	8 \$ 818,319
Add/Delete Rate - IED	\$ 962,400	\$ 658,521	\$ 354,641
STREET SERVICES - Program Administration			
Sr. Management Analyst	1 \$ 117,909	1 \$ 117,909	1 \$ 117,909
Accountant	1 \$ 68,497	1 \$ 68,497	1 \$ 68,497
Management Analyst	1 \$ 92,787	1 \$ 92,787	1 \$ 92,787
	3 \$ 279,193	3 \$ 279,193	3 \$ 279,193
Add/Delete Rate - Admin	\$ 124,782	\$ 124,782	\$ 124,782
TOTAL STREET SERVICES COSTS	\$ 3,573,382	\$ 2,575,158	\$ 1,576,935