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November 17, 2021

The Honorable Council  
Of the City of Los Angeles

## **COUNCIL FILE 20-1074 EXPEDITIOUSLY TRANSITIONING LA AL FRESCO PROGRAM PARTICIPANTS INTO PERMANENT SIDEWALK DINING PERMITS**

Dear Honorable Members:

### **RECOMMENDATIONS**

1. Request the City Attorney to draft an ordinance to enable the Bureau of Engineering to utilize the Special Engineering Fee established in LAMC 61.14 to charge for Revocable Permits in cases where the time to process the Revocable Permit would be substantially less than the Tier 1 Revocable Permit fee would provide for.
2. Direct the Bureau of Engineering to present an automated LA Al Fresco transition process to the Board of Public Works for their consideration
3. Direct the Bureau of Engineering to report back to City Council within 30 days of the Board of Public Works action to provide an update on the proposed LA Al Fresco transition process.

### **BACKGROUND AND DISCUSSION**

On November 4, 2020, the City Council adopted a motion under Council File No. 20-1074, directing the Chief Legislative Analyst (CLA), the Los Angeles Department of Transportation (LADOT), and the Bureau of Engineering (BOE), with the assistance of the Bureau of Street Services (StreetsLA), the Department of Building and Safety and City Planning, the Los Angeles Fire Department, and the City Attorney, to report relative to the feasibility of developing a permanent LA Al Fresco Program that would allow for a streamline outdoor dining permit process, including but not limited to a potential program structure, eligibility criteria, safety and infrastructure requirements, and a plan that would enable interested businesses to opt-in to the permit program.

On May 12, 2021, City Council adopted the following recommendations after hearing a CLA report dated March 11, 2021:

1. *Request the City Attorney to report on the feasibility of revising the LADOT People St. Program to allow restaurants exclusive use of the public right-of-way.*
2. *Instruct the BOE, working with the LADOT, to report with recommendations to revise the Sidewalk Dining Program and the People St. Program, as appropriate, to expeditiously transition all existing LA Al Fresco Pilot Program participants that are operating in the*



*public right-of-way into permanent sidewalk dining locations, including the identification of specific locations that can quickly be made permanent with minimal effort.*

3. *Instruct the Departments of Building and Safety, City Planning and the Los Angeles Fire Department to report with recommendations to develop a new category under the Restaurant and Small Business Express Program (RSBEP), or another appropriate regulatory framework, for outdoor dining on private property that is operating under the LA Al Fresco Pilot Program, including any changes to State, County, and City Codes needed to effectuate this program, including the identification of specific locations that can quickly be made permanent with minimal changes.*

The subsequent joint report back on item 2 from BOE and LADOT related to sidewalk dining and street dining was submitted to the Council File Management System on September 29, 2021. The report recommended that the R-Permit process continue to be utilized for sidewalk dining approvals. The report also stated that the BOE was analyzing the current Sidewalk Dining Policy to identify potential ways that it could be streamlined, and that recommended changes would be presented to the Board of Public Works for consideration.

On October 20, 2021, the City Council under Council File No. 20-1074 adopted the Transportation Committee Report relative to establishing a permanent LA Al Fresco dining program. The City Council action included the following instructions, among others:

4. *Direct the BOE to report in 30 days with recommendations to revise the Sidewalk Dining Program and R-Permit process to expeditiously transition all existing LA Al Fresco Pilot Program participants that are operating in the public right-of-way into permanent sidewalk dining locations, including outreach to participating businesses to determine their interest and an assessment of whether the revised program will accommodate their locations.*
9. *AMENDED on October 20, 2021: Instruct all relevant departments - EWDD, LADOT, DBS, City Planning, BOE, and BSS – to come together and establish a single portal where all applications for temporary-to-permanent transitions of Al Fresco permits will be received (including on-street, sidewalk, and private property) and then funneled/transmitted to the relevant departments.*
10. *Instruct the BOE and LADOT to report back on a special outdoor dining permit process by which a single business stakeholder representative like a Business Improvement District or a Chamber of Commerce, may apply for an outdoor dining permit that covers multiple businesses in a commercial corridor.*

Also on October 20, 2021, the Board of Public Works adopted the revisions to the standard Sidewalk Dining Policy, listed as Transmittal 1 in the [Board Package](#). The revisions simplified the sidewalk dining permit process and made it less expensive by lowering the Revocable Permit fee from a Tier 2 fee to a Tier 1 fee, except when a site investigation is deemed necessary. The following are the key modifications in the revised Sidewalk Dining Policy as compared to the previous Sidewalk Dining Policy.

- Added the ability to front neighboring properties with property owner permission
- Added a clarification of the Pedestrian Access Route (PAR)
- Modified the sidewalk condition requirements
- Reduced the base application fee for most applications by eliminating field investigations when not required

- Added noise restrictions
- Added the ability of Business Improvement Districts and other approved third parties to satisfy some permitting requirements

Implementation of these changes to the standard sidewalk dining policy set the baseline for consideration of further streamlining that may be provided for existing temporary use authorities under the LA AI Fresco program. With the new policy in place, and in response to Recommendation No. 4 from the Council action on October 20, 2021, the BOE is developing recommendations for an automated system that will provide a seamless and straightforward process to transition the approximately 1,600 LA AI Fresco temporary use authorities for sidewalk dining to permanent Revocable permits for all that would like to continue. BOE anticipates presenting those to the Board of Public Works for their consideration in the next few weeks. In parallel, BOE will also work with LADOT to incorporate a streamlined transition of on-street dining authorizations from LA AI Fresco to Revocable permits, and that proposed process will be included in a separate report back to City Council.

We anticipate that the recommended transition process for sidewalk dining will propose to waive many of the normal sidewalk dining requirements, and instead include the standard conditions and rules that apply to the LA AI Fresco program in a Revocable Permit that will be instantly and automatically issued upon application by an existing LA AI Fresco participant. For those terms that are not waived in the streamlined transition, potentially such as the proof of insurance, the waiver of damages, and the payment of Sewerage Facilities Charges (SFCs) as applicable, we anticipate recommending a grace period of six months to submit such items after an automated permit issuance. We propose to report back to City Council with an update on the details of that process after it has been acted on by the Board of Public Works.

The primary reason that this report is being submitted prior to yet knowing the Board of Public Works' determination on the accelerated transition process is related to the fee that would be charged for this automated permit issuance. Currently, the lowest fee that exists for the issuance of a Revocable Permit is the Tier 1 fee of \$556. It is recommended that a new lower fee be considered for Revocable Permits that require significantly less effort than a regular Tier 1 Revocable Permit. Currently, there is an existing hourly fee called a "Special Engineering Fee" that is used to compensate for additional work related to permits. That fee is currently \$149/hour. It is estimated that one hour would be sufficient to process these automated permit issuances and the subsequent required submittals during the grace period.

Therefore, it is recommended that City Council consider requesting that the City Attorney work with BOE to draft an ordinance that would allow the use of the special engineering fee in lieu of the normal Revocable Permit fees in cases where the processing time is three hours or less. Such an ordinance change would also be valuable for simple cases such as ownership changes of Revocable Permits. Tying the fee for Revocable Permits that require minimal processing time to the Special Engineering Fee would be efficient because it would not require an individual fee analysis for periodic adjustments; it would simply change as the Special Engineering Fee is adjusted over the years.

Current LA AI Fresco Revocable Permit Transition Fee	Proposed LA AI Fresco Revocable Permit Transition Fee
\$556 (Tier 1 Fee)	\$149 (1-hr Special Engineering Fee)

Regarding the amended Recommendation No. 9 from the Council action on October 5, 2021, for a single application portal for LA AI Fresco transition applications, it is proposed that a tile be added to the “most popular services” section of the Build LA web page at <https://buildla.lacity.org/> to serve as the single portal with links to two different systems – the BOE Revocable Permit web application for Revocable Permits for sidewalk dining and/or on street dining, and the LADBS system for private property dining. The effort that it would take to combine the BOE and LADBS systems fully would be very time consuming and would not provide a great benefit since the data collected by those systems would be very different. The BOE can import the LA AI Fresco data related to sidewalk and on street dining to our system to minimize the data entry required for those that want to apply to transition those approvals. In cases where an applicant wants to transition both sidewalk dining and on-street dining, that will be able to be done under a single Revocable Permit with the addition of any applicable DOT review fees for the on-street component.

Lastly, regarding Recommendation No. 10, this has been partially addressed in the revisions of the Sidewalk Dining Policy which were adopted by the Board of Public Works on October 20, 2021, by officially allowing Business Improvement Districts to satisfy permit conditions. However, it is not recommended to combine multiple locations into one permit because that will introduce difficulties in managing the permits, such as if some locations close or new ones open. Any change to one location would require revising the entire permit for all locations. It is recommended that with the new streamlined permitting procedures that individual permits would be efficient even when multiple locations are supported by a Business Improvement District.

If you have any questions concerning this matter, please contact Ted Allen at [ted.allen@lacity.org](mailto:ted.allen@lacity.org).

Sincerely,

A handwritten signature in blue ink, appearing to read "Gary Lee Moore". The signature is written over a red digital stamp that includes the word "ENGINEERING" and "Electronically Signed by 2021 11:44:45 AM".

for Gary Lee Moore, PE, ENV SP  
City Engineer

GLM/TA:jgr

Q:\\_Ready for Signature\TSA\Report Back for CF 20-1074.docx

cc: Jennifer McDowell, Office of the Mayor  
Greg Good, Board of Public Works  
Jessica Caloza, Board of Public Works