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November 21, 2024

Los Angeles City Council
City of Los Angeles
City Hall, Room 395
Los Angeles, CA 90012

Dear Honorable Members:

**REPORT ON RECOMMENDATIONS TO TRANSFER \$1.4 MILLION IN THE DEPARTMENT
OF TRANSPORTATION, TRANSPORTATION TRUST FUND FOR AL FRESCO
APPLICATION FEE RELIEF; CF 20-1074-S5**

SUMMARY

On March 18, 2024, the City Council authorized the reprogramming of \$1.4 million from the Economic Workforce Development Department's (EWDD) Small Business Rental Assistance Program to further support the City's L.A. Al Fresco Small Business Fee Reduction Program ([Council File 21-0691](#)). This Program provides financial assistance in the form of fee subsidies to those businesses transitioning from Al Fresco Temporary Use Authorizations in the public right-of-way to Bureau of Engineering (BOE) Revocable Permits. The \$1.4 million would more than double the amount of aid the program was able to provide, which would support every business with a Temporary Use Authorization in the public-right-of-way. Due to under-enrollment in applying for revocable permits, this funding has remained unspent as of November 2024. As a result, City Departments have identified other uses for these funds that can still support small business restaurants with the transition to the permanent Al Fresco program.

In 2020, a new temporary outdoor dining program, L.A. Al Fresco, was created to help alleviate the financial stress of indoor dining prohibition resulting from the Governor's state of emergency and the Mayor's "Safer at Home" emergency order to combat the COVID-19 pandemic. As these emergency orders were ending, the City recognized the need to establish a permanent program to help Al Fresco operators seamlessly and expeditiously transition from the temporary program and stay financially viable during the transition. Despite the City's extensive and comprehensive effort to help these operators transition through a streamlined process,

operators are still finding the transition difficult due to unexpected costs and technical requirements associated with the permitting process. As such, the City finds that financial support and relief to eligible operators is crucial to ease the burden of the permanent outdoor dining application process.

RECOMMENDATION

The Los Angeles Department of Building and Safety (LADBS), Department of City Planning (DCP) and Department of Transportation (LADOT) recommends that the City Council, subject to the approval of the Mayor:

1. Authorize the Controller to transfer \$1.4 million in the Department of Transportation, Transportation Trust Fund No. 840, Appropriation 94YE40, in the following amounts to the following departments and accounts:
 - a. \$610,000 to the Los Angeles Department of Building and Safety, Building and Safety Building Permit Enterprise Fund No. 48R, Department No. 08, new Appropriation Unit No. to be created entitled “Al Fresco Relief Program - LADBS Building Permit Assistance”;
 - b. \$590,000 to the Department of City Planning, Planning Case Processing Fund No. 52D, Department No. 68, Balance Sheet Account 2200, for the Al Fresco Relief Program - Coastal Development Permits Assistance; and
 - c. \$200,000 to the Department of Transportation, Coastal Transportation Fund No. 447, Department No. 94, Appropriation Unit No. 9445NA for the Venice Public Coastal Access Study and Mitigation Measures.
2. Authorize the Department of Building and Safety, Department of City Planning, and Department of Transportation to prepare Controller instructions and/or make technical corrections, as necessary, to the transactions authorized through this report, as required to implement the intent of those transactions.

BACKGROUND

On March 18, 2024, the City Council authorized the reprogramming of \$1.4 million in American Rescue Plan Act (ARPA) funding that was programmed to the EWDD’s Small Business Rental Assistance Program to augment the existing L.A. Al Fresco Small Business Fee Reduction Program ([Council File 21-0691](#)). The Fee Reduction Program launched in February 2024 and provides financial assistance to those businesses transitioning from Al Fresco Temporary Use Authorizations in the public right-of-way to BOE Revocable Permits. The \$1.4 million would increase the existing \$1.0 million budget of the fee reduction program. This augmentation would more than double the amount of aid the program was able to provide, which would support every single business with a Temporary Use Authorization in the public-right-of-way. Due to

underenrollment in applying for revocable permits, particularly those that had sidewalk dining temporary authorizations, the \$1.4 million has remained unspent as of November 2024. City Departments will be providing the City Council an update on the L.A. Al Fresco Small Business Fee Reduction Program in a subsequent report under Council File 20-1074-S6.

The \$1.4 million is part of a larger sum of funds the City received from the ARPA State and Local Fiscal Recovery Funds (SLFRF). This federal aid was provided to the City to support their response to and recovery from the COVID-19 public health emergency. The Office of the City Administrative Officer (CAO) is the administrator of the City's ARPA program. In that role, the CAO is responsible to ensure that the City fully complies with the grant requirements including program eligibility and full obligation and expenditures by the federal deadlines. The CAO has participated in the discussions relative to reprogramming the \$1.4 million. To facilitate the reprogramming of the funds and ensure the City remains compliant with all ARPA requirements, the CAO has redesignated the source of funds for the \$1.4 million to the General Fund and concurrently charged other eligible expenditures to the ARPA grant. This redesignation will support the City's efforts to fully obligate all ARPA funds by December 31, 2024. Additionally, with the \$1.4 million now designated as General Fund dollars, the pending obligation deadline for these funds no longer applies.

On March 4, 2020, Governor Newsom declared a state of emergency to combat the COVID-19 pandemic. Mayor Garcetti followed with a "Safer at Home" emergency order which called on residents of the City of Los Angeles to limit all activities outside of their homes. These restrictions prohibited restaurants and retail food facilities from providing indoor dining.

On May 29, 2020, Mayor Garcetti authorized a new temporary outdoor dining program, L.A. Al Fresco, to help alleviate the financial stress of the indoor dining prohibition, in coordination with the Los Angeles County Department of Public Health. This new program temporarily suspended certain Los Angeles Municipal Code (LAMC) regulations in order to provide restaurants and other food establishments with an alternative to full indoor dining, and resulted in the issuance of nearly 3,000 Temporary Authorizations for outdoor dining as of March 2023. The L.A. Al Fresco program created a lifeline for many restaurants to resume operations and stay financially viable during the pandemic and emergency when indoor dining was limited. The temporary program extended economic support to restaurants while also providing outdoor spaces where people could enjoy social dining in an environment which reduced the risk of exposure to COVID-19.

In anticipation of the state of emergency and local emergency order for COVID-19 ending, the City recognized the need to establish a permanent L.A. Al Fresco program to help operators transition from Temporary Authorization to permanent operation smoothly through a streamlined permit process. As a result, the Board of Public Works adopted the Sidewalk Dining in the Public Right-of-Way Policy in June 2023 for outdoor dining on the sidewalk, and the Los Angeles Department of Transportation adopted its On-Street Dining Policy in January 2024 for outdoor dining on the street. Additionally, the City Council adopted Ordinance No. 188,073 in

December 2023 to create a permanent AI Fresco Program for outdoor dining on private property and streamline Zoning Code regulations for outdoor dining.

While the City adopted several policies and an ordinance to allow for a smooth transition from the temporary program to a permanent permit for outdoor dining, small business operators are finding it difficult to transition due to unexpected costs and technical requirements associated with the permitting process. As such, it is imperative to provide financial support and relief to eligible operators to ease the burden of the application process. Therefore, LADBS, DCP and LADOT request that \$1.4 million in the General Fund be allocated to the following programs and permit applications to ensure that eligible applicants who are transitioning from the temporary program to the permanent operation receive financial assistance.

Fund allocation breakdown:

Activity	Description	Amount
LADBS AI Fresco Relief Program - LADBS Building Permit Assistance	Subsidy of the plan check fee (submittal fee) and permit fee (final fee) for al fresco participants who obtained a temporary authorization for private property and are applying for a building permit.	\$610,000
DCP AI Fresco Relief Program - Coastal Development Permits Assistance	Subsidy of the CDP application fee for existing Coastal operators who have temporary authorizations and are looking to transition to the permanent AI Fresco Program.	\$590,000
DCP and LADOT Venice Public Access and Parking Study and Mitigation Measures	Preparation of a parking study to analyze parking and Coastal Zone public access impacts from the AI Fresco Program and identify various parking and transportation mitigation measures to reduce and/or offset the impacts.	\$200,000

AI Fresco temporary authorization holders who have already filed and paid the plan check and permit fees to LADBS and/or CDP application fees to DCP on or after the effective date of Ordinance No. 188,073 (January 31, 2024) may request a reimbursement from LADBS and/or DCP to receive a retroactive subsidy. These subsidies will be made available on a first-come-first-serve basis until all available monies have been exhausted without an expiration date.

DISCUSSION

LADBS AI Fresco Relief Program - LADBS Building Permit Assistance

LADBS is the agency responsible for the approval of building permit applications for development on private property. The permit process ensures compliance with local and state laws when undertaking any work or construction that requires a building permit. All restaurants with outdoor dining areas within private property desiring to transition into the permanent AI Fresco program must obtain a building permit from LADBS.

There were estimated to be a total of 1646 AI Fresco temporary authorization holders for private property when the ordinance came into effect. Since the permanent program was launched, LADBS surveyed all 1646 sites and noted only 602 sites are continuing to operate under that temporary authorization, which is set to expire on December 31st, 2024. As of October 31st, 2024, LADBS has received 130 building permit applications from the pool on transitioning AI Fresco temporary authorization holders. The city understands the financial hardship some of these restaurants are facing in order to transition into the permanent program and for that reason the city is launching this “LADBS AI Fresco Relief Program”. This program will help applicants with the financial hurdles related to the LADBS permitting process. The relief is geared toward transitioning applicants and will be on a first come first serve basis as funds are limited.

There are two fees associated with obtaining a LADBS building permit. One of the primary fees associated with the permitting process is the Plan Check Fee, also known as the submittal fee, collected at the time of plan submittal which is required per LAMC 91.107.3.1. LAMC 98.0422 allows an expedited review process. The second primary fee associated with the permitting process is the Permit Fee, also known as the final fee, collected at the time of permit issuance per section LAMC 91.107.2.

These two fees will be eligible to be subsidized per this program for all private property AI Fresco temporary authorization holders who have submitted for a building permit application after January 31, 2024. The program will be based on a first come first serve basis in order to incentivize early application submittal as well as incentivizing maneuvering through the permitting process as fast as possible in order to be eligible to use this same program to subsidize their permit fee. The program will allow each location which held an AI Fresco temporary authorization to subsidize both the plan check fee and permit fee. Each location will be allowed to subsidize a one time plan check fee, which may include the expedited review processing fee up to \$1,250.00. Additionally each location will be allowed to subsidize a one time permit fee up to \$1,250.00. Of \$610,000 requested for LADBS AI Fresco Relief Program - LADBS Building Permit Assistance, \$10,000 will be used for the purpose of administering the LADBS application subsidy program, and the remaining \$600,000 will be used to subsidize the LADBS build permitting fees.

DCP AI Fresco Relief Program - Coastal Development Permits Assistance

While the Permanent AI Fresco Ordinance requires all construction and/or operation of outdoor dining areas on private property to obtain a building permit from the LADBS, restaurants in the City's Coastal Zone are subject to an additional discretionary review process pursuant to the State of California, known as a Coastal Development Permit (CDP) on top of the standard building permit requirements at the City level. This requirement stems from the 1976 California Coastal Act that was enacted to protect coastal resources and public access to California's coast. If a restaurant in the Coastal Zone meets the definition of "development" per the California Coastal Act¹, and the underlying permit is not within the jurisdiction of the City Engineer, the restaurant must obtain a CDP from DCP².

During the COVID-19 pandemic, various state laws were enacted to provide a streamlined review for restaurants to obtain temporary authorizations for outdoor dining during the pandemic. One example is Assembly Bill 1217-Gabriel (AB 1217), which extended the COVID-19 Temporary Catering Authorization and provided parking relief for outdoor dining through June 30, 2026. Consistent with AB 1217, the California Coastal Commission (CCC) extended the City of Los Angeles' existing waiver of CDP requirements for outdoor dining through June 30, 2026. As of September 11, 2024, a total of 106 restaurants in the Coastal Zone are covered by the CCC's waiver of CDP requirements pursuant to AB 1217.

However, operators of these 106 restaurants will need to obtain a CDP to continue their outdoor dining operations prior to the expiration of AB 1217 waiver on June 30, 2026. This creates an additional barrier to the transition to the permanent AI Fresco Program. The costs and time needed to obtain a CDP are substantial and impose a significant burden on the restaurants in the City's Coastal Zones. Of the 106 restaurants, approximately 85%, that is 91 restaurants, are expected to obtain a CDP from DCP.

In order to file an application for a CDP with DCP, an operator would need to pay a fee of \$21,271.62, which includes a base fee of \$17,294 and surcharges of \$3,977.62. It should be noted that this fee only covers the CDP application. The operator is subject to additional fees associated with the CDP, such as a fee for an environmental analysis which is required for a discretionary project pursuant to the California Environmental Quality Act (CEQA). The fee for an environmental case could range anywhere from \$707.25 to \$8,798.19, depending on the level of review and analysis required for an individual project. Furthermore, upon issuance of a CDP, the operator is subject to an additional fee for clearance of the conditions of approval and final plans.

¹ Development definition includes but is not limited to changes in the density or intensity of use of land and construction, reconstruction, demolition or alteration of the size of any structure.

² A restaurant proposing outdoor dining areas in the the public right-of-way (sidewalk or roadway) and does not include alcohol authorization are required to file a CDP with the Bureau of Engineering (BOE), as the underlying permit is limited to the issuance of a revocable permit. All other operators will file a CDP with the Department of City Planning.

Given that the operators in the Coastal Zone are subject to additional permit and discretionary entitlement requirements and costs that are associated with such requirements, the Department of City Planning requests that the City Council consider allocating \$590,000 of the \$1.4 million in the General Fund to Department of City Planning, Planning Case Processing Fund No. 52D, Department No. 68, Balance Sheet Account 2200 in order to subsidize the CDP application fee for existing Coastal operators who have temporary authorizations and are looking to transition to the permanent Al Fresco Program. Of the \$590,000 requested for the DCP Al Fresco Relief Program - Coastal Development Permits Assistance, \$10,000 will be used for the purpose of administering the CDP application subsidy program, and the remaining \$580,000 will be used to subsidize the CDP application fees for transitioning Al Fresco operators.

The allocated fund will subsidize a maximum of \$10,000.00 per CDP application for one establishment on a first come first basis until the full amount of \$580,000 allocated for DCP's CDP is expended. The allocated fund is expected to subsidize a total of 58 operators. This subsidy will incentivize early application submission and greatly reduce the financial burden of transitioning to a permanent program.

After an allocation amount is set and assigned to DCP for CDP application subsidies, Planning staff will identify eligible applications and apply a credit to the corresponding CDP invoice. This credited amount will be reflected as a deduction from the "CDP Subsidy Fund." The subsidies will remain available until either the allocated funds are fully expended or the eligibility period ends, whichever occurs first.

DCP and LADOT Venice Public Access and Parking Study and Mitigation Measures

The L.A. Al Fresco Temporary Use Authorizations allowed outdoor dining areas to replace existing parking spaces on private property and in the public right-of-way. The Permanent Al Fresco Ordinance for private property also allows outdoor dining areas to replace existing parking spaces with limited exceptions. The replacement of existing parking spaces reduces the overall supply of parking, which can increase the demand for parking and may impact public access to the coast.

As previously stated, restaurants in the Coastal Zone must obtain a CDP in order to continue the operation of outdoor dining areas pursuant to the California Coastal Act. A major focus of the California Coastal Act is to maximize public access to the coast and public recreational opportunities in the Coastal Zone. Existing operators in the Coastal Zone with Temporary Use Authorizations are not only burdened with the additional discretionary review of a CDP but also the six mandatory findings that must be made in the affirmative in order to obtain approval of the CDP.

One of the mandatory findings is that the development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act of 1976. In order to demonstrate that the continued operation of an outdoor dining area will be consistent with public access policies, operators may be required to hire a transportation consulting company to

conduct an individual parking study analyzing potential impacts of the displaced parking spaces and an increase in demand and implement mitigation measures to offset impacts to public access. The cost and time required to hire an expert to prepare an individual parking study adds more burden on the operators in the Coastal Zone than those in other areas of the City.

In an effort to support and assist operators in the Coastal Zone transition to the permanent program, the Department of City Planning is currently preparing a Task Order Solicitation (TOS) to request proposals from consultants to prepare a Venice Public Access, Mobility, and Parking Study and Mitigation Measures (Parking Study). The purpose of this Parking Study is to understand the impact that the AI Fresco Program has on parking demand and supply in the Coastal Zone, specifically related to public access to the coast, and how this impact can be mitigated through various parking and transportation mitigation measures. DCP chose to focus on the Venice neighborhood for this particular study, as more than 75% of 106 restaurants with temporary authorizations are located in Venice. The Parking Study will be beneficial to the existing operators looking to transition to the permanent AI Fresco Program as they will not have to bear the financial burden of preparing an individual parking analysis. Rather, they can use the City-prepared Parking Study to be able to make the mandatory finding that with the recommended mitigation measures identified in the Parking Study and implemented by either the applicant and/or the City, the parking spaces that are displaced by the proposed outdoor dining area will not have a significant impact on public access to the coast.

DCP will utilize LADOT's bench list of transportation consultants. The TOS is anticipated to be released by early November 2024, and the proposals from consultants are due by early December 2024. The Notice of Proceed will be issued mid-January 2025.

On June 21, 2024, the City Council instructed the City Administrative Officer to prepare a report with recommendations as to the fiscal impact/alternative funding sources to encumber Coastal Transportation Corridor Fund No. 447, Department 94 set aside in Regional/Subregional Transportation Improvements, Account No. 447/9408NY, for the preparation of the Parking Study ([CF 20-1074-S5](#)).

On August 27, 2024, the City Council adopted the City Administrative Officer's recommendation to appropriate \$350,000 in Coastal Transportation Corridor Fund monies for DCP, with the assistance of LADOT and Bureau of Engineering, to prepare the Parking Study ([CF 24-0879](#)). As such, the Department of City Planning and LADOT currently have a total of \$350,000 set aside for this Parking Study. However, LADOT has advised that based on the scope of work, study area, list of tasks and deliverables identified in the TOS and the time period of the parking study to cover peak parking demand, \$350,000 will not be sufficient to successfully solicit proposals from consultants and cover the basic tasks and deliverables. As such, DCP and LADOT request that \$200,000 of \$1.4 million be allocated to Department of Transportation, Coastal Transportation Fund No. 447, Department No. 94, Appropriation Unit No. 9445NA to augment the existing budget of \$350,000 for the Venice Public Coastal Access Study and Mitigation Measures. This allocation will increase the possibility of soliciting a sufficient amount of proposals from consultants and ensure that all tasks and deliverables for the Parking Study

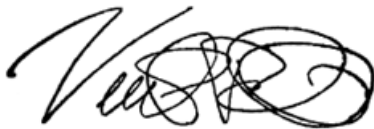
will be successfully completed, which would be critical in helping existing operators transition to the permanent program.

CONCLUSION

Given the difficulties and barriers outdoor dining operators have been experiencing during their transition from temporary authorizations to permanent permits, it is imperative for the City to provide some form of relief for these operators to allow them to continue their operation and maintain their financial stability. LADBS, DCP and LADOT have identified three programs - LADBS AI Fresco Relief Program - LADBS Private Property, DCP AI Fresco Relief Program - Coastal Development Permits Assistance, and LADOT Venice Public Access and Parking Study and Mitigation Measures - in which operators could benefit from having their application fees subsidized and/or provide relief from the burden of having to hire individual consultants and provide parking and mitigation measure analysis for public access to the Coastal Zone. As such, LADBS, DCP and LADOT requests that the City Council authorize the Controller to transfer \$1.4 million from LADOT, Transportation Trust Fund No. 840, Appropriation 94YE40 to LADBS, DCP and LADOT accounts to subsidize application fees for transitioning operators and fund the Venice Public Access and Parking Study and Mitigation Measures.

If you have any questions regarding this matter, please direct them to DCP Nuri Cho at nuri.cho@lacity.org, LADBS Monica Ramirez at monica.ramirez@lacity.org, and/or LADOT Jaclyn Garcia at jaclyn.garcia@lacity.org.

Sincerely,



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