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December 16, 2010

TO: Each Supervisor

FROM: Jonathan E. Fielding, M.D., M.P.H.
Director and Health Officer

SUBJECT: **SUPERVISOR RIDLEY-THOMAS MOTION REGARDING MOBILE FOOD FACILITIES**

On October 12, 2010, on a motion by Supervisor Ridley-Thomas, the Board of Supervisors directed the Director of the Department of Public Health (DPH) to: 1) provide a plan to educate the general public and vendors on the new Mobile Food Facilities' (MFF) requirements to ensure better compliance taking into account the different literacy and language capacity levels among vendors and customers; 2) provide a plan to evaluate the effectiveness of implementation and enforcement in Phase I and incorporate best practices into the Phase II rollout strategy prior to Phase II implementation in July 2011; and 3) report on options to encourage or reward vendors to sell healthier foods in underserved communities that have limited access to affordable, nutritious food.

Education of Mobile Food Facility Industry and the Public

Education and outreach to the mobile food industry and public for the MFF grading program will be similar to the efforts made in educating the public and industry for the restaurant grading program which was successfully implemented in 1998. This will include providing presentations to community organizations, training workshops for industry stakeholders, and disseminating information to media outlets as opportunities are available. Ultimately, DPH's goal is that the general public and the MFF industry will be well versed on safe food handling and the importance of achieving an "A" grade.

In September 2010, DPH initiated contact with all MFF industry stakeholders that had expressed an interest in becoming informed on the then proposed grading program. Presentations held on the proposed mobile food facility grading program were attended by diverse industry groups such as the LA Community Corporation in association with Los Angeles City Councilman Huizar's office and the motion picture mobile catering industry. Now that the MFF grading

ordinance has been adopted, future workshops are planned for mobile food operators to provide specific information on how to manage a business to ensure optimal food safety and thereby obtain good grades. These workshops, open to existing and new owners/operators, will be held in collaboration with industry associations, local chambers of commerce and/or informal groups of mobile food operators. To elevate the effectiveness of communication, the workshops will continue to be presented in Spanish and English.

DPH will also continue to provide on-site training at the time of inspection and office consultations. On-site training is provided to mobile food operators as part of an effort to correct high risk violations observed during inspections. This training has a time limitation as it is impromptu and mobile food operators are often unable to devote significant attention while operating their food business. However, mobile food operators are able to schedule an office appointment at any time to get operational information or clarification of policies and/or regulations.

Further, DPH will reach out to various community organizations such as the Rotary, Kiwanis, Head Start, Food Safety Advisory Council, Chinatown Service Center, Commission for Youth, Children and Their Families, Asian Pacific Islander Association, and Community Health Councils to provide presentations regarding the recently adopted grading program. The presentation will provide information on how to interpret grades to assist in making informed consumer choices and how to access inspection grade information on the internet. Emphasis will be placed on educating the public on how to differentiate between an illegal vendor and a legal vendor.

The Mobile Food Facility Inspection Guide, similar to that provided to restaurants and markets under the restaurant grading program, has been prepared to provide information to the mobile food industry and the public regarding key topics, including: the process of grading, the inspection report, the importance of food safety, and State regulations and standards associated with the food operation. The guide, currently available in English, will be translated into Spanish and at a literacy level consistent and appropriate for the commercial foodservice industry. The Mobile Food Facility Inspection Guide will be posted on the DPH website and available for downloading. Once the Spanish version is completed, it will also be posted on the DPH website.

DPH will also take media inquiries and public service announcements as opportunities to clarify and provide the public with information about inspection grading and food safety issues associated with mobile food facilities.

Evaluation of Phase I and Implementation Strategy for Phase II

Phase I of the mobile food facility grading program is scheduled for implementation on January 1, 2011 and will consist of the inspection of high-risk facilities including limited food preparation vehicles, mobile food preparation units, and carts offering prepared potentially hazardous foods. Inspection results will be collected on an on-going basis. This data will be used in the cost analysis of Phase I. Concurrently, policies and procedures will be evaluated to determine best inspection and enforcement practices. Evaluation findings will be presented in a report to your Board prior to implementation of Phase II, tentatively scheduled for July 2011.

Options to Encourage Healthy Foods in Underserved Communities

Residents in many areas of Los Angeles County lack convenient access to grocery stores, produce markets, and restaurants offering a variety of healthy foods. Increasing access to healthy foods is a key policy strategy to lowering rates of obesity and diet-related disease in adults and children. MFFs, both trucks and pushcarts, present a promising opportunity to bring healthy foods to residents in underserved neighborhoods. There are many potential incentives that Los Angeles County can offer to encourage vendors to sell healthier foods; the most promising are presented below.

1. **Create a public recognition program for MFFs selling healthier foods.**

   Public recognition and acknowledgment of MFFs would both reward vendors for selling healthy foods and provide an incentive to vendors to offer healthier options. DPH could create a logo that identifies MFFs that sell healthier foods and promote these businesses.

   The main difficulty in administering such a program is in discerning which MFFs should be recognized for offering healthier fare. It can be challenging to design a fair threshold at which a MFF is deemed healthy. One promising approach is a checklist assessing healthy eating options. Different nutritional criteria, like offering lower-calorie or lower-sodium menu items, could be included in a checklist, and businesses scoring at least a certain number of points would be recognized.

   The City of Watsonville in Santa Cruz County has used this type of checklist in its new Healthy Eating Options Ordinance, which makes the issuance of a restaurant building permit contingent on its scoring enough points on a checklist assessing healthy eating options. The checklist contains criteria like offering smaller portions at a lower cost, offering salad dressing on the side, and offering water for free. The creation of a public recognition program utilizing a checklist assessing healthy eating options also presents the opportunity to use the checklist for other purposes, such as offering administrative incentives to businesses scoring enough points.

   A public recognition program could be limited to MFFs, or it could be conceptualized as a larger program encompassing restaurants and markets as well. Such a program could be rolled-out in steps, beginning with MFFs and a single level of recognition and eventually expanding to restaurants and multiple levels of recognition (e.g. gold, silver, and bronze).

2. **Offer administrative and parking incentives to MFF vendors selling healthier foods.**

   Under this option, MFF vendors that offer healthier options could be eligible for technical assistance in navigating the health permitting process and in drafting plans for approval. Other administrative barriers to the success of vendors offering healthier options can be identified during the implementation of the new MFF letter grading process and interventions can be formulated to address them.

Parking presents an ongoing issue for MFF trucks, but also an opportunity to create a potentially powerful incentive for vendors to sell healthier foods in specific areas. In areas identified as lacking access to grocery stores, produce markets, and other outlets offering healthier foods, permanent parking spots could be designated for trucks during business hours that either (1) sell fresh produce or (2) score enough points on a checklist assessing healthy eating options described in the previous recommendation. While care must be taken to locate these parking spaces designated for trucks selling fresh produce or healthier foods, they can provide residents with predictable access to healthier foods and an incentive to vendors to locate in underserved neighborhoods.

A process for community input could be undertaken to select locations for parking areas, and the spaces can be made easily identifiable by signage. Areas adjacent to community and senior centers, churches, and parks could be particularly successful. Exempting produce trucks from the distance requirement around schools would also bring much-needed fresh fruits and vegetables to children and parents.

3. **Create a permit program for pushcarts offering fresh produce for sale in underserved neighborhoods.**

Currently, MFF vendors may not legally operate on sidewalks in Los Angeles County. Some vendors operate on sidewalks regardless of the letter of the law, and they are highly visible on numerous street corners with heavy pedestrian traffic. DPH has provided the Board with in-depth reports on illegal sidewalk vending in Los Angeles County documenting the problem and the challenges faced in remedying it, including the increased prevalence of these illegal vendors in the past few years.

While many sidewalk vendors sell familiar unhealthy fare from pushcarts like hot dogs wrapped in bacon, a significant number of others offer healthy foods, like fresh fruit. Creating a permit that would allow vendors selling produce from carts to operate legally on specific sidewalks is a feasible option to bring healthier foods to underserved communities in Los Angeles, while at the same time channeling some vendors to legal business opportunities. Operations of pushcart vendors would be confined to sufficiently wide parkway areas located between and adjacent to the curb and sidewalk. In this way vending is separated from pedestrian traffic, so as not to impede the intended use of sidewalks.

Examples from other jurisdictions

Several other jurisdictions, notably New York City and Kansas City, MO, have successfully offered incentives to sidewalk vendors selling healthier foods. New York City requires a specific permit to legally operate a MFF, whether a truck or a pushcart, and there is a lengthy waiting list for this permit. To provide an incentive to vendors selling healthier foods, New York City created a permit specific to sidewalk produce vendors, allocating 1,000 additional permits only to "Green Carts."

The Green Cart permit is issued to sidewalk vendors that sell fresh, unprocessed fruits and vegetables in neighborhoods that have been designated as having high rates of diet-related disease and limited access to healthy foods. Green Cart vendors receive a permit for one borough, and may vend within specific police precincts in the borough that have been targeted by the Green Carts program. Fees for the permit are affordable, totaling only $75.00 annually. During the first year of the program 248 Green Cart permits were issued in addition to the number of permits issued to other MFFs. New York City is collecting data to evaluate the Green Carts program, specifically about whether fruit and vegetable consumption increases in neighborhoods with Green Carts, a main goal of the program.

Kansas City, MO has established incentives for pushcart vendors in city parks. If half of vendor's items meets nutritional guidelines, the vendor is designated as "healthier" vendors and receive a 50% reduction in the cost of a vending permit. If vendors have 75% of the foods they sell that meet nutritional guidelines, they are termed a "healthiest" vendor and are issued a special roaming permit that allows a vendor to operate in three parks with one permit.

Both of these programs have clear requirements for vendors involved in the program, fostering the creation of easily identifiable healthy options for residents, as well as facilitating enforcement of vending ordinances and policies. Sidewalk vending from pushcarts must also be properly circumscribed in Los Angeles County, and one way to do this is create a permit program for vendors of fresh produce, both whole and cut, to allow legal sidewalk vending in designated areas.

Fresh produce

To maximize the potential of a sidewalk vending program to positively impact the health of Angelenos and successfully integrate with residents and businesses in communities, permits could be issued to vendors to sell only fresh produce from pushcarts on sidewalks. Restricting permits to vendors of fresh produce could result in the following:

a. *Reduce the administrative burden of the program* - While it would be possible to identify and issue permits to vendors selling healthier options by using a checklist assessing healthy eating options or by requiring a specific percentage of foods offered for sale meet nutritional criteria, this option presents a greater administrative burden. Vendors would not only need to present evidence to initially receive a permit, but ongoing surveillance would need to take place to ensure they continue to offer healthier options. If vendors are limited to selling fresh produce, it is comparatively easier to issue a permit and monitor compliance.

b. *Minimize competition with fixed food facilities* - It is well-documented that many Los Angeles County residents lack access to grocery stores and produce markets in their neighborhoods, and that corner stores rarely offer a wide selection of fresh fruits and vegetables. Allowing pushcart vendors selling fresh

produce to operate in areas that lack access to fruits and vegetables sold by fixed food facilities would enhance the retail environments of neighborhoods, instead of placing sidewalk vendors in competition with existing businesses. Additionally, an ordinance implementing the permit program could restrict the proximity of pushcarts to grocery stores, produces markets, and corner stores that devote a particular amount of shelf space to fresh produce to further reduce the possibility for conflict.

c. *Facilitate enforcement* - Vendors selling fresh produce are easily identifiable and only a cursory check would be needed to assess that a vendor has current permits and is only selling fresh produce. Making enforcement as uncomplicated as possible is key to ensuring the success of a sidewalk vending permit program. Carts with permits can also be given an item making them even more identifiable, with the added benefit of increasing the visibility of the program to pedestrians. For example, Green Cart vendors in New York City are given large green umbrellas bearing the program logo for their carts.

Location

Locations for sidewalk vending in Los Angeles County could be selected by mapping areas with low access to fresh produce, high rates of obesity and diet-related disease, and areas of dense pedestrian activity. Identifying areas with these three features where sidewalk vending of fresh produce will be permitted not only sets up vendors for success by placing them in neighborhoods with an unmet demand for produce and potential customers, but also benefits underserved communities.

Sidewalk vending of fresh produce could be allowed adjacent to public property like recreation and senior centers, libraries, and parks. Removing the restriction on vending near schools should be considered as well, so that schoolchildren and their parents have convenient access to fresh produce.

Increased enforcement of mobile vending ordinances would be necessary in areas where sidewalk vending is permitted, so that vendors operating legally are not in competition with vendors operating illegally. Additionally, any location selected should also facilitate provision of appropriate restrooms for food handlers.

Technical Assistance

Permitted vendors would have to meet the requirements for pushcarts laid out in the California Retail Food Code (CRFC), such as usage of a commissary and an approved cart. Technical assistance could be offered to vendors to help them to understand and practice safe food handing required in the CRFC and in navigating the County permitting process. Assistance could also be given to help vendors obtain carts, commissary space, and sources of high-quality fresh produce. In this regard, partnering with community groups and organizations is essential, and can possibly aid vendors in obtaining small business loans with favorable terms and business counseling.

4. **Amend County code provisions that impede access to MFFs selling fresh produce.**

   In order to facilitate mobile vending of fresh produce in underserved communities, specific provisions of Los Angeles County Code Title 7 Business Licenses would have to be amended to exempt food pushcarts and trucks participating in the public recognition program in this report. Particularly, vendors of fresh produce participating in the public recognition program could be exempt from sidewalk peddling prohibitions and distance requirements at any school boundary.

   Title 7, Section 7.62.030 could be amended by:
   Establishing a siting and permit program available to mobile food facilities (pushcarts) selling fresh produce and enrolled in the healthier vendor public recognition program.

   Title 7, Section 7.62.071 could be amended to:
   Allow mobile food facilities selling fresh produce and enrolled in the healthier vendor public recognition program to engage in business within 1,000 feet from any school property boundary, while children are going to or leaving such school during opening or closing hours or during the noon recess period.

   Equally important is effective code enforcement to eliminate unfair competition and unsafe food products. Past efforts in establishing a mobile vending zone program have revealed ineffective code enforcement as one of the key variables contributing to program failure.

In conclusion, a County-sponsored program seeking to encourage vendors to retail healthier food options in underserved communities can be launched with a public recognition program, and has potential for participation of both mobile and fixed food facilities. However, the challenge of encouraging food vendors to offer healthier options in underserved neighborhoods may require a combination of public recognition and location-specific incentives. Establishing criteria on which to evaluate menu offerings can be resource intensive in both review and monitoring.

As a starting point, a basic approach of providing increased access to fresh fruits and vegetables may prove most effective. Fresh fruit and vegetable trucks already exist, as do fruit carts. Creating incentives for these kinds of MFFs through a public recognition program that also provides carefully selected designated vending sites for parking or sidewalk (parkway) use offers a promise of success. A permit program allowing vendors that sell produce from pushcarts on sidewalks to operate legally is a feasible option to bring healthier foods to underserved communities in Los Angeles County, while at the same time channeling some vendors to legal business opportunities.