May 13, 2022

Council President and Councilmember for District 9, Sean Elo-Rivera
Council President Pro Tem and Councilmember for District 4, Monica Montgomery Steppe
Councilmember for District 1, Joe LaCava
Councilmember for District 2, Jen Campbell
Councilmember for District 3, Stephen Whitburn
Councilmember for District 5, Marni von Wilpert
Councilmember for District 6, Chris Cate
Councilmember for District 7, Raul Campillo
Councilmember for District 8, Vivian Moreno

Sent via email

Re: OPPPOSE – FY 2023 Budget Funding for Sidewalk Vending Ordinance

Dear San Diego City Councilmembers:

On behalf of the San Diego Immigrant Rights Consortium (SDIRC), a coalition of approximately 50 community, faith, legal and labor organizations across San Diego County that advocates for the rights of immigrants and refugees, I am writing to express deep concern regarding the FY 2023 budget allocations for the enforcement of the proposed sidewalk vending ordinance. While the proposed budget includes many positive things that would be beneficial to the immigrant community, including expanding funding for the Office of Immigrants and for language access, the way the funding is allocated to implement the sidewalk vending ordinance would harm the community members we work with and is not in line with the values of our city or the state of California.

In 2018, the California state legislature passed Senate Bill 946 — a pro-sidewalk vendor bill our current Mayor Todd Gloria voted for while he was an assemblymember. SB 946 not only elevated the economic and cultural importance of sidewalk vending in California, but it decriminalized and added state protections in promoting the free enterprise of sidewalk vending. These protections included a ceiling and maximum for any financial penalties, additional fines, fees, or assessments beyond what is authorized; and provided that any restrictions on time, place and manner of operating a vending business be directly related to objective, health, safety, or welfare concerns.

The stated intent of SB 946 is to “promote entrepreneurship and support immigrant and low-income communities” and eliminate unnecessary barriers that would otherwise block
entrepreneurialism. The enforcement-heavy budget does little to support sidewalk vendors and is the antithesis of state law.

When the City Council considered the proposed sidewalk vending ordinance during its first reading, Councilmember Jen Campbell stated that “this ordinance will help provide the appropriate support to vendors while promoting equitable access to our public spaces, protecting the public health and safety of our communities.” However, the FY 2023 budget allocation for the implementation of the proposed sidewalk vending ordinance does not reflect this and points to a motivation for the underlying ordinance that harms rather than helps street vending entrepreneurs, who are among the most vulnerable of San Diego’s small business owners. Rather than striking a balance between providing support to sidewalk vendors and ensuring public safety, the funding is lopsided and almost entirely focused on enforcement.

Out of the over $4.1 million listed in the city budget for the enforcement of the sidewalk vending ordinance, $2.3 million alone is allocated to Environmental Services for the impoundment and storage of sidewalk vending equipment. That is anything but supportive. This budget allocation for sidewalk vending does not align with state law, does not reflect the values of our city as supportive of entrepreneurial families, and instead seeks to demonize and penalize sidewalk vendors, the majority of whom are low income, immigrants and people of color.

The $230 proposed permit fee would further compound this issue by placing an unfair economic burden on sidewalk vendors. The proposed $230 permit is in addition to requiring a city business license, a city issued photo id fee, and other expensive health permit fees. City staff used the average of fees from cities outside of the area to calculate their proposed permit fee, while many cities in our region charge lower fees, such as National City’s $30 permit fee. Other regional cities (including Carlsbad and Oceanside) only require sidewalk vendors to have a city business license. Setting a high fee will exclude existing and emerging entrepreneurs by making the permit financially inaccessible. This is exactly what happened in Los Angeles County — which is the example of fees the City staff used in recommending the $230 permit fee.

Further, while City staff claims to have done a full evaluation of the costs and revenues associated with implementation of the sidewalk vending ordinance, we question the accuracy of this assessment, since a comprehensive study on sidewalk vendors in our region has yet to be completed or even started. SDIRC called for a comprehensive study on sidewalk vendors prior to passing an ordinance for this very reason — to make certain that the policy and budget being passed were data driven and truly reflected the needs of both sidewalk vendors and the community.

When the proposed sidewalk vending ordinance went before committee and City Council the first time, we expressed deep concern regarding the underlying purpose of the ordinance and trepidation over the consequential harm it would cause. Many of you heard those concerns and attempted to assuage our fear through amendments to limit the confiscation of property to the most egregious violations and to provide outreach and education. Unfortunately, the budget
allocations for the implementation of the sidewalk vending ordinance in the FY2023 City Budget belies those statements. It also calls into question again the real motive behind passing the sidewalk vending ordinance, and begs reconsideration of the entire proposed sidewalk vending ordinance once more.

At the end of the day, we are asking for a fair, balanced policy and budget that treats people humanely and supports their ability to operate a small business. The proposed sidewalk vending ordinance, the $230 fee, and the funding allocations for sidewalk vending in the FY2023 City Budget are not that. At a minimum, the City Council needs to lower the proposed $230 fee to $38 (the same amount as a business license), and rebalance the FY2023 City Budget allocation for sidewalk vending implementation by reallocating enforcement money to outreach, education, and support for sidewalk vendors.

However, the best option for City Council would be to hit pause on the sidewalk vending ordinance and budget allocation on this issue until the City is able to do a comprehensive study on sidewalk vendors and economic impact. Until the City Council has a real idea of how many sidewalk vendors are operating within the City, in what parts of the City, and consults with them on what policies would hurt or harm them, it is imprudent to press forward with the proposed enforcement-heavy budget and the ordinance it purports to implement. We have recommended a data driven approach that includes the input of sidewalk vendors before, and we continue to recommend it today. That is what a responsive government in an inclusive, just, and humane democracy looks like.

Sincerely,

Dulce Garcia, Esq.
Chair, San Diego Immigrant Rights Consortium