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DEC 15 2004

CENTRAL DISTRICT OF CALIFORNIA
BY *[Signature]* DEPUTY

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA
 WESTERN DIVISION

12 COMITE DE JORNALEROS DE
 13 REDONDO BEACH, an unincorporated
 14 association; NATIONAL DAY
 15 LABORER ORGANIZING NETWORK,
 16 an unincorporated organization,
 17
 18 Plaintiffs,
 19
 20 vs.
 21 CITY OF REDONDO BEACH
 22
 23 Defendant.

No. CV04-9396 CBM (PJWx)

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

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DEC 15 2004

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The matter before the Court is the Order to Show Cause Re Preliminary Injunction, which was issued on December 6, 2004. On December 13, 2004, Counsel for the parties appeared before the Court, the Honorable Consuelo B. Marshall, Chief Judge, presiding. Upon consideration of the papers submitted, the Court GRANTS the Preliminary Injunction.

JURISDICTION

The Court has jurisdiction over this case pursuant to 28 U.S.C. §1331.

FACTUAL BACKGROUND

The Comite de Jornaleros de Redondo Beach is an unincorporated association of day laborers who seek to address the difficulties that they face in seeking lawful

1 employment as day workers. The National Day Laborer Organizing Network
2 (“NDLON”) is a nationwide coalition of day laborers and the agencies that work
3 with day laborers. On November 18, 2004, the Comite and NDLON (“Plaintiffs”) RECORDED
4 filed an Ex Parte Application for a Temporary Restraining Order and Order to Show
5 Cause Re Preliminary Injunction to prevent the City of Redondo Beach from
6 enforcing Section 3-7.1601 of the Redondo Beach Municipal Code. On November
7 19, 2004, the parties stipulated to continue the hearing on the TRO to December 6,
8 2004. The issues were briefed by the parties prior to the hearing. On December 6,
9 2004, the Court granted the TRO and set hearing on the preliminary injunction on
10 December 13, 2004.

11 Section 3-7.1601(a) of the Redondo Beach Municipal Code makes it
12 “unlawful for any person to stand on a street or highway and solicit, or attempt to
13 solicit, employment, business, or contributions from an occupant of any motor
14 vehicle.”¹ The ordinance defines “street or highway” to include “roadways,
15 parkways, medians, alleys, sidewalks, curbs, and public ways.” In addition,
16 subdivision (b) of the ordinance makes it “unlawful for any person to stop, park or
17 stand a motor vehicle on a street or highway from which any occupant attempts to
18 hire or hires for employment another person or persons.” Over the last two months,
19 the Redondo Beach police have been enforcing this ordinance against day laborers
20 through aggressive tactics, including “sting” operations where undercover officers
21 posing as “employers” arrested day laborers for soliciting. The City confirms that
22 the Redondo Beach Police Department engaged in a “Day Laborer Enforcement
23 Project” that consisted of three “phases.” On October 6-7, 2004, approximately 40
24 day laborers were arrested under Section 3-7.1601 as “Phase I” of the Day Laborer
25 Enforcement Project. On October 19, 2004, the police conducted “Phase II,” which
26 resulted in the arrest of 21 day laborers under Section 3-7.1601. On November 3,
27

28 ¹The ordinance does not define solicitation, employment, or business.

1 2004, the police conducted "Phase III," which resulted in the arrest of four more day
2 laborers. At the hearing on the Temporary Restraining Order, Defendant
3 acknowledged that only one potential employer has been arrested under subdivision
4 (b) of the ordinance. A number of other potential employers were cited under
5 relevant traffic laws.

6 LEGAL STANDARD

7 A preliminary injunction may be granted when plaintiffs demonstrate a
8 likelihood of success on the merits and the possibility of irreparable injury.
9 Alternatively, plaintiffs are entitled to a preliminary injunction if they show the
10 existence of serious questions going to the merits and the balance of hardships tilts
11 sharply in their favor. *See Walczak v. EPL Prolong, Inc.*, 198 F.3d 725, 731 (9th
12 Cir. 1999). These standards are not separate tests but the extremes of a single
13 continuum which require that the trial court balance the equities in the exercise of
14 its discretion. *Id.*

15 ANALYSIS

16 A. Plaintiffs' Standing to Challenge Subdivision (b) of the Ordinance

17 "The doctrine of standing addresses the question 'whether a party has a
18 sufficient stake in an otherwise justiciable controversy to obtain judicial resolution
19 of that controversy.'" *Dream Palace v. County of Maricopa*, 384 F.3d 990, 999 (9th
20 Cir. 2004) (citing *Young v. City of Simi Valley*, 216 F.3d 807, 815 (9th Cir. 2000)).
21 At a minimum, Article III of the United States Constitution requires a litigant
22 invoking the authority of a federal court to demonstrate: (1) that he personally has
23 suffered some actual or threatened injury as a result of the putatively illegal conduct
24 of the defendant, (2) that the injury fairly can be traced to the challenged action, and
25 (3) that the injury is likely to be redressed by a favorable decision. *Id.* The Court
26 finds that Plaintiffs have satisfied these Article III standing requirements. Plaintiffs
27 have demonstrated harm or threat of future harm as a result of enforcement of
28 subdivision (b) since enforcement of this part of the ordinance directly affects day

1 laborers' ability to obtain the employment on which their livelihood depends.

2 Although Defendant indicates that only one potential employer has been arrested
3 thus far under subdivision (b), the threat of harm to Plaintiffs as a result of
4 enforcement of subdivision (b) is always present.

5 In addition to Article III standing requirements, there are prudential
6 limitations on standing which generally require plaintiffs to assert their own rights
7 rather than the rights or interests of third parties. *See McMichael v. County of Napa*,
8 709 F.2d 1269, 1270 (9th Cir. 1983). The Court finds that subdivision (b) of the
9 Redondo Beach ordinance implicates Plaintiffs' right to receive information, which
10 is protected by the First Amendment. *Clement v. California Dep't of Corrections*,
11 364 F.3d 1148, 1151 (9th Cir. 2004). *Cf. Edwards v. City of Couer D'Alene*, 262
12 F.3d 856, 966 (9th Cir. 2001) (stating that to "reach the minds of willing listeners . . .
13 there must be opportunity to win their attention").

14 However, even if subdivision (b) did not implicate Plaintiffs' own rights, the
15 Supreme Court has modified prudential standing considerations where the First
16 Amendment is involved. Specifically, the Supreme Court's "overbreadth" doctrine
17 functions as an exception to the general prohibition on a litigant's raising another
18 person's legal rights and is based on the idea that "the very existence of some
19 broadly written laws has the potential to chill the expressive activity of others not
20 before the court." *Forsyth County v. Nationalist Movement*, 505 U.S. 123, 129
21 (1992).² *See also Alexander v. United States*, 509 U.S. 544, 555, 113 S. Ct. 2766,
22 125 L. Ed. 2d 441 (1993). This same logic applies to a challenge to a law as
23 unconstitutional on its face, which, if successful, invalidates the law itself. "[F]acial
24 challenges are allowed not primarily for the benefit of the litigant, but for the

25 _____
26 ²The overbreadth doctrine "does not affect the rigid constitutional requirement that
27 plaintiffs must demonstrate an injury in fact to invoke a federal court's jurisdiction."
28 *Dream Palace v. County of Maricopa*, 384 F.3d 990, 999 (9th Cir. 2004) (citations
omitted).

1 benefit of society - to prevent the statute from chilling the First Amendment rights
 2 of other parties not before the court." *Convoy, Inc. v. City of San Diego*, 183 F.3d
 3 1108, 111 (9th Cir. 1999) (internal citations omitted). Thus, the Court finds that
 4 Plaintiffs have standing to challenge subdivision (b) of the Redondo Beach
 5 ordinance as overbroad and unconstitutional on its face.

6 **B. Serious Questions/ Likelihood of Success on the Merits**

7 In public fora, such as streets and highways, "the government may impose
 8 reasonable restrictions on the time, place or manner of protected speech." *Ward v.*
 9 *Rock Against Racism*, 491 U.S. 781, 791, 105 L. Ed. 2d 661, 109 S. Ct. 2746
 10 (1989). However, such restrictions are only valid if they are (1) justified without
 11 reference to the content of the regulated speech; (2) narrowly tailored to serve a
 12 significant governmental interest; and (3) leave open ample alternative channels for
 13 communication of the information. *Id.*; accord *Clark v. Community for Creative*
 14 *Non-Violence*, 468 U.S. 288, 293, 82 L. Ed. 2d 221, 104 S. Ct. 3065 (1984). For the
 15 reasons discussed below, the Court finds that the Redondo Beach ordinance is not a
 16 valid time, place or manner restriction.

17 1. Whether the Ordinance is Content-Neutral

18 A restriction on speech is content-neutral if it is "justified without reference
 19 to the content of the regulated speech." *Clark*, 468 U.S. at 293. In contrast, "[a]
 20 rule is defined as a content-based restriction on speech when the regulating party
 21 must examine the speech to determine if it is acceptable.'" *Glendale Assocs. Ltd. v.*
 22 *NLRB*, 347 F.3d 1145, 1155 (9th Cir. 2003) (quoting *Desert Outdoor Advertising v.*
 23 *City of Moreno Vallely*, 103 F.3d 814, 820 (9th Cir. 1996)). "Regulation of the
 24 subject matter of messages, though not as obnoxious as viewpoint-based regulation,
 25 is also an objectionable form of content-based regulation." *Hill v. Colorado*, 530
 26 U.S. 703, 723 147 L. Ed. 2d 597, 120 S. Ct. 2480 (2000) (citing *Consol. Edison Co.*
 27 *v. Public Serv. Comm'n*, 447 U.S. 530, 538, 65 L. Ed. 2d 319, 100 S. Ct. 2326
 28

1 (1980)).

2 Plaintiffs argue that the Redondo Beach ordinance is content-based because
3 one must look at the content of the speech to determine if it is solicitation of
4 employment, business or contributions. In *ACORN v. City of Phoenix*, 798 F.2d
5 1260, 1268 (9th Cir. 1986), the Ninth Circuit found that a city ordinance almost
6 identical to the one at issue here was content-neutral because it did not “single out
7 any group” and “applie[d] evenhandedly to every organization or individual.” This
8 language does not reflect the test for content-neutrality clearly articulated by the
9 Ninth Circuit in the subsequent cases of *Desert Outdoor Advertising* and *Glendale*
10 *Assocs. Ltd.*

11 The Supreme Court has not squarely addressed the issue of whether
12 regulations of commercial solicitations in public fora are content-neutral. In *United*
13 *States v. Kokinda*, 497 U.S. 720, 730, 736, 111 L. Ed. 2d 571, 110 S. Ct. 3115
14 (1990), the Court stated that a federal regulation prohibiting the solicitation of
15 contributions on postal premises “does not discriminate on the basis of content or
16 viewpoint.” However, the reference to content-discrimination was dictum, as the
17 Court applied the test for nonpublic fora, which simply requires that the regulation
18 “be reasonable and ‘not an effort to suppress expression merely because public
19 officials oppose the speaker’s view.’” *Id.* at 731 (quoting *Perry Educ. Ass’n v. Perry*
20 *Local Educators’ Ass’n*, 460 U.S. 37, 46 (1983)). In other words, the test applied by
21 the Court required only viewpoint neutrality, not content neutrality.

22 Furthermore, subsequent Supreme Court cases raise serious questions as to
23 whether the Redondo Beach ordinance is content-neutral. In *Burson v. Freeman*,
24 504 U.S. 191 (1992), where the Court considered a Tennessee law restricting
25 solicitation of votes and the display or distribution of campaign materials within
26 100 feet of polling places on election day, the Court found that restriction was *not*
27 content-neutral because it only restricted speech relating to the political campaign
28 and “[did] not reach other categories of speech, such as commercial solicitation,

1 distribution, and display.” *Id.* at 197.³ Just as the Tennessee law was content-based
 2 because it restricted only solicitation of votes, the Redondo Beach ordinance
 3 restricts only solicitation of “employment, business or contributions.” Moreover, in
 4 *City of Cincinnati v. Discovery Network, Inc.*, 507 U.S. 410 (1993), the Court
 5 considered an ordinance that prohibited sidewalk newsracks from dispensing
 6 commercial handbills but permitted them to distribute newspapers. The Court found
 7 this ordinance to be content-based because “the very basis for the regulation is the
 8 difference in content between ordinary newspapers and commercial speech.” *Id.* at
 9 429. The Court reasoned that “whether any particular newsrack falls within the ban
 10 is determined by the content of the publication resting inside that newsrack.” *Id.* A
 11 similar distinction may exist here, since the Redondo Beach ordinance prohibits
 12 solicitation pertaining to employment, business and contributions, but not other
 13 types of speech between persons standing on the street and occupants of vehicles.
 14 Thus, the Court finds that *Burson* and *City of Cincinnati*, which were decided after
 15 *ACORN*, raise serious questions as to whether the Redondo Beach ordinance is
 16 content-based.⁴

17 2. Whether the Ordinance is Narrowly Tailored to a Significant
 18 Governmental Interest

19 In order to be narrowly tailored, a restriction on speech may not “burden
 20 substantially more speech than is necessary to further the government’s legitimate
 21 interests.” *Ward*, 491 U.S. at 799. While the restriction need not be “the least
 22 restrictive or least intrusive means” of furthering the government’s interest, the
 23

24 ³Since the Court found the law to be content-based, it applied strict scrutiny, finding that “[t]he State
 25 must show that the ‘regulation is necessary to serve a compelling state interest and that it is narrowly
 drawn to achieve that end.’” *Id.* at 198.

26 ⁴Defendant has not argued in its briefs that the ordinance is content-neutral under the “secondary
 27 effects” doctrine. Furthermore, at the hearing on the TRO, Defendant asserted that it was not relying
 28 on this doctrine in arguing that the Redondo Beach ordinance is content-neutral. Therefore, the
 Court does not address that doctrine here.

1 government “may not regulate expression in such a manner that a substantial portion
 2 of the burden on speech does not serve to advance its goals.” *Id.* See also *Frisby v.*
 3 *Schultz*, 487 U.S. 474, 485, 101 L. Ed. 2d 420, 108 S. Ct. 2495 (1988) (“A
 4 complete ban can be narrowly tailored, but only if each activity within the
 5 proscription’s scope is an appropriately targeted evil.”)

6 The City argues that Section 3-7.1601 is narrowly tailored to the City’s
 7 interest in controlling traffic flow. It is well-settled that the City has a significant
 8 interest “in promoting the safety of pedestrians and motorists and combating traffic
 9 congestion.” *Heffron v. International Society for Krishna Consciousness, Inc.*, 452
 10 U.S. 640, 650, 101 S. Ct. 2559, 69 L. Ed. 2d 298 (1981). See also *Acorn*, 798 F.2d
 11 at 1268 (recognizing “the substantial risk of disruption in crowd or traffic control
 12 that may be presented by solicitation of contributions, as compared to other forms of
 13 expression”). In *Acorn*, the Ninth Circuit found that the Phoenix ordinance was
 14 “aimed narrowly at the disruptive nature of fund solicitation from the occupants of
 15 vehicles.” In reaching this conclusion, however, the court was clearly focused on a
 16 very specific type of solicitation: the direct personal solicitation of contributions
 17 from drivers stopped at intersections. The court reasoned:

18 Unlike oral advocacy of ideas, or even the distribution of literature,
 19 successful solicitation requires the individual to respond by searching for
 20 currency and passing it along to the solicitor. Even after the solicitor has
 21 departed, the driver must secure any change returned, replace a wallet or close
 22 a purse, and then return proper attention to the full responsibilities of a motor
 23 vehicle driver. The direct personal solicitation from drivers distracts them
 24 from their primary duty to watch the traffic and potential hazards in the road,
 25 observe all traffic control signals or warnings, and prepare to move through
 26 the intersection.

23 The Redondo Beach ordinance does not define solicitation and restricts many more
 24 forms of speech than the Ninth Circuit considered in *ACORN*. For example,
 25 the Redondo Beach ordinance potentially applies to individuals seeking
 26 employment from the occupants of legally parked vehicles, as well as to individuals
 27 distributing leaflets advertising businesses to the occupants of legally parked
 28

1 vehicles. The Redondo Beach ordinance would also apply to individuals standing
2 on the sidewalk and holding up signs inviting the occupants of vehicles to pull over,
3 park and enter certain businesses.⁵ These types of expressive activities were simply
4 not considered by the Ninth Circuit in *Acorn*. Indeed, in reaching its decision in
5 *ACORN*, the Ninth Circuit stressed that “[d]irect communication of ideas, including
6 the distribution of literature to occupants in vehicles is not restricted.” 798 F.2d at
7 1268.

8 Furthermore, the facts of *ACORN* raised serious safety concerns regarding the
9 plaintiff’s practice of “tagging,” which involved “an individual stepping into the
10 street and approaching an automobile when it is stopped at a red traffic light.” *Id.* at
11 1261. The court specifically noted that there was support for the district court’s
12 factual finding that “the evidence still showed that the mere presence of taggers on
13 the roadway or intersection is a potential safety hazard.” *Id.* at 1270. In contrast,
14 Redondo Beach has failed to present evidence showing that the mere presence of
15 day laborers soliciting employment from the sidewalk is a potential safety hazard.
16 Plaintiffs indicate that day laborers make their availability known to vehicles while
17 standing on a sidewalk and then approach the vehicle after the driver has parked or
18 pulled to the side of the road outside the traffic flow. Moreover, the risk of drivers
19 being “distracted” appears to be significantly less where the drivers are actively
20 seeking the services of day laborers instead of being suddenly and unwillingly
21 approached by strangers.⁶ Thus, there is no evidence that the same types of safety

22
23 ⁵Plaintiffs note that the American Heritage Dictionary (4th ed. 2000) defines “solicit” as “to make
24 petition to,” “to ask, induce, advise or command (a person) to do something,” or “to attempt to
25 persuade (a person) to purchase something.” This definition is broad enough to encompass all of the
26 examples noted above. While Defendant argues that the ordinance is only applied to individuals
27 causing vehicles to stop illegally in traffic, the way in which the ordinance is actually enforced by
28 Defendant is irrelevant to the issue of whether the ordinance, on its face, restricts substantially more
speech than is necessary to further legitimate government interests.

⁶In *ACORN*, the Ninth Circuit noted that the degree of distraction caused by plaintiff’s “tagging” was
far greater than the distraction caused by billboards or pedestrians simply walking along the highway

1 concerns which shaped the Ninth Circuit's decision in *ACORN* exist in the present
2 situation. Instead of enforcing this broad-sweeping ordinance, the City of Redondo
3 Beach could simply enforce traffic laws such as those prohibiting jaywalking,
4 unlawful stopping and unlawful parking. Indeed, although Defendant contends that
5 this approach is ineffective with the day laborers, this is precisely the approach that
6 Defendant seems to have taken with regard to potential employers. As the Ninth
7 Circuit has noted, "[t]he generally accepted way of dealing with unlawful conduct
8 that may be intertwined with First Amendment activity is to punish it after it occurs
9 rather than to prevent the First Amendment activity from occurring in order to
10 obviate the possible unlawful conduct." *Collins v. Jordan*, 110 F.3d 1363, 1371-72
11 (9th Cir. 1996). Furthermore, insofar as the evidence submitted by the City of
12 Redondo Beach suggests that the recent enforcement of the ordinance was a
13 response to complaints about day laborers committing acts of vandalism, littering,
14 and public urination near businesses, the Court finds that these activities have
15 nothing to do with speech pertaining to solicitation and should be addressed through
16 laws that specifically pertain to each of these activities. *Cf. Schneider v. States of*
17 *New Jersey*, 308 U.S. 147, 162 (1939) (finding that prevention of littering is
18 insufficient justification for a handbill ban because "[t]here are obvious methods of
19 preventing littering" including "punishment of those who actually throw papers on
20 the streets"). Thus, the Court finds that there are serious questions as to whether the
21 Redondo Beach ordinance burdens substantially more speech than is necessary to
22 further the City's significant interest in traffic flow.

23 3. Whether the Ordinance Leaves Open Alternative Channels

24 To be valid, a restriction on speech must also leave open "ample alternative
25 channels of communication." *Perry Education Association*, 460 U.S. at 45.

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28 because tagging involved "an individual standing closely beside your car, peering in the window directly at you, and demanding a personal response from you." *Id.* at 1269 n.8.

1 Defendant contends that day laborers may solicit employment or contributions while
2 standing in parking lots adjacent to the sidewalk or driveways, and that these
3 locations provide ample alternative channels of communication. In making this
4 argument, Defendant relies on *Xiloj-Itzep v. City of Agoura Hills*, 24 Cal. App. 4th
5 620, 645 (Cal. Ct. App. 1994), where the California Court of Appeals upheld an
6 anti-solicitation ordinance similar to the one at issue here. Quoting the Fifth
7 Circuit's decision in *ISKON v. Baton Rouge*, 876 F.2d 494, 498 (5th Cir. 1989), the
8 court found that the Agoura Hills ordinance left open alternative avenues of
9 expression because it prohibited only the solicitation of funds from any person
10 traveling in a vehicle and did not prohibit solicitation of funds from pedestrians,
11 door-to-door canvassing, or telephone solicitations. *Id.* at 640-41. Unlike Redondo
12 Beach, however, Agoura Hills had established a telephone hiring exchange in order
13 to assist individuals in finding day work. The exchange created a way for day
14 laborers without telephones to solicit employment. Day laborers in Redondo Beach
15 who do not have access to a telephone hiring exchange or a hiring center lack the
16 resources to access more expensive means of making their availability for work
17 known. Furthermore, the Agoura Hills ordinance applied only to solicitation of
18 persons *traveling* in vehicles. The court specifically noted that the appellants were
19 "free to congregate on the City's sidewalks and other public areas to wait for
20 employers and to solicit work from employers that are legally parked." *Id.* at 631.
21 In finding that alternative avenues of communication were available, the court relied
22 on the existence of these public areas for congregation of day laborers, stating that
23 "it is not necessary to run out into the street or hail drivers in order to announce
24 availability for work; prospective employers know that is why men congregate at
25 certain locations and go to those locations when they wish to employ a day worker."
26 *Id.* at 641. The Redondo Beach ordinance, on the other hand, restricts soliciting
27 employment from the *occupant* of a vehicle, regardless of whether or not the vehicle
28 is parked. Thus, under the Redondo Beach ordinance, day laborers are not

1 permitted to congregate on sidewalks and solicit employment from vehicles that pull
2 over and park.

3 Furthermore, the Court finds that parking lots and driveways are not an
4 adequate alternative to sidewalks because they are private property. Defendant
5 relies on *Pruneyard Shopping Center v. Robins*, 447 U.S. 74, 64 L. Ed. 2d 741, 100
6 S. Ct. 2035 (1980) and *Glendale Associates Ltd. v. NLRB*, 347 F.3d 1145 (9th Cir.
7 2003) in arguing that parking lots are available to day laborers as an adequate
8 alternative forum. In *Pruneyard*, the Supreme Court held that a major private
9 shopping center that attracted more than 25,000 daily patrons had to provide access
10 to persons exercising their state constitutional rights to distribute pamphlets and ask
11 passers-by to sign their petitions. Similarly, *Glendale Associates* involved the
12 Galleria mall, which “consists of more than 1.3 million square feet, . . . five major
13 department stores and 60 other stores and has thirteen entrances.” California courts
14 have not applied the Supreme Court’s holding to smaller spaces, such as the parking
15 lot of a large grocery store, which are not the functional equivalent of a traditional
16 public forum. See, e.g, *Trader Joe’s Co. v. Progressive Campaigns, Inc.* 73 Cal.
17 App. 4th 425, 533 (Cal. Ct. App. 1999); *Albertson’s Inc. v. Young*, 107 Cal. App. 4th
18 106, 121 (Cal. Ct. App. 2003). Furthermore, the Supreme Court based its holding in
19 *Pruneyard* on the fact that the shopping center “may restrict expressive activity by
20 adopting time, place and manner regulations that will minimize interference with its
21 commercial functions.” 477 U.S. at 83. Since shopping centers may restrict
22 expressive activities on their property, their parking lots do not constitute an
23 adequate alternative forum for the solicitation of employment, business or
24 contributions. While shopping centers in Redondo Beach may not have such time,
25 place and manner regulations at the present time, they may very well implement
26 them if day laborers moved there. Day laborers who did not abide by such
27 restrictions would risk being charged with trespass. Thus, the Court finds that there
28 are serious questions as to whether ample alternative fora for seeking employment

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1 are available to day laborers.

2 **C. Balance of Hardship/ Possibility of Irreparable Harm**

3 Since Plaintiffs raise serious questions going to the merits of the First
4 Amendment violation alleged in this case, they also establish a possibility of
5 irreparable harm. *See S.O.C., Inc. v. County of Clark*, 152 F.3d 1136, 1148 (9th Cir.
6 1998) (“The loss of First Amendment freedoms, for even minimal periods of time,
7 unquestionably constitutes irreparable injury.”). Furthermore, the Court finds that
8 the balance of hardships clearly tips in Plaintiffs’ favor. Every day that the
9 Redondo Beach ordinance is in effect, day laborers face possible arrest, fines,
10 diminishing employment opportunities, and loss of livelihood to support themselves
11 and their families. *See Newman Dec.* ¶10-12.

12 **D. Bond**

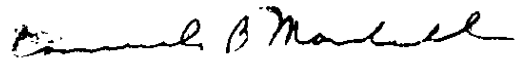
13 Defendant did not submit any evidence of the economic harm that it would
14 suffer if the Court issues the preliminary injunction. Therefore, the Court finds that
15 no bond is required in this case.

16 **CONCLUSION**

17 Based on the foregoing, the Court finds that there are serious questions going
18 to the merits of this case. In addition, the Court finds that there is a possibility of
19 irreparable harm and that the balance of hardships tilts sharply in Plaintiffs’ favor.
20 Therefore, the Court GRANTS Plaintiffs’ request for a preliminary injunction.

21 **IT IS SO ORDERED.**

22 **DATE:** December 15, 2004



23 **CONSUELO B. MARSHALL**
24 **UNITED STATES DISTRICT JUDGE**

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