



COUNCIL AGENDA: 5/24/2022
FILE: 22-757
ITEM: 3.3

Memorandum

TO: CITY COUNCIL

FROM: Councilmember Sylvia Arenas
District 8

SUBJECT: SEE BELOW

DATE: May 23, 2022

Approved

Date

5/23/2022

SUBJECT: CITY ROADMAP THIRD QUARTER 2021-2022 UPDATE

RECOMMENDATION

1. Accept the staff report of the City Roadmap that includes the Enterprise Priority on COVID-19 Pandemic: Community and Economic Recovery for the Food and Necessities Distribution Initiative.
2. Direct the City Manager to:
 - a. Report on the availability of infant formula in San José.
 - b. Coordinate with the County of Santa Clara to amend the existing regional State of Emergency to include the infant formula shortage, similar to New York City's State of Emergency, and report back to Council on June 7, 2022 on any legal challenges to implementation.
 - c. Establish a Family Friendly Formula Pledge with local retailers, grocery stores, and businesses to commit to the Manufacturer Suggested Retail Price (MSRP) of infant formula and the prevention of price gouging.

BACKGROUND

At the height of the pandemic, our families were facing barriers to access food and necessities for children and families. Together, we partnered with FIRST5 Santa Clara County and invested over \$900,000 to fund diapers, infant formula, wipes, and calming kits for families during the COVID-19 pandemic. As families continue to struggle to recover from the pandemic, the City Council voted unanimously to ensure that our children and families are not left behind in our recovery efforts.

Currently, the United States is grappling with a nationwide shortage of infant formula, stemming from a voluntary recall and temporary closure of a facility by Abbott Nutrition, one of the largest formula providers in the country. Nationwide, over 40% of large retailers are out of stock of formula according to the most recent data estimates. Earlier this week, U.S. President Biden invoked the Defense Production Act to direct suppliers of formula ingredients to prioritize

delivery to the manufacturers of formula. President Biden also announced the creation of Operation Fly Formula, which directs the U.S. Department of Health and Human Services and the U.S. Department of Agriculture to import formula from abroad, provided it meets U.S. health and safety standards.

Regionally, families are reporting the impacts of the infant formula shortage and price gouging at San José grocery stores, including the price gouging upwards of a 50% increase from an average cost of \$18 up to \$27 for Women, Infants, and Children (WIC) eligible infant formula, which will result in further socioeconomic impacts to our most vulnerable families. Finding formula on store shelves in our region has become almost impossible, with many parents reporting a need to travel to stores in outside jurisdictions due to a lack of inventory. The issue has been compounded by historic inflation rates. To better understand the local impact, I am requesting a report on the availability of infant formula in San José as part of the City Roadmap's Enterprise Priority on COVID-19 Pandemic: Community and Economic Recovery for Food and Necessities Distribution Initiative.

On Saturday, May 21, 2022, New York City Mayor Eric Adams declared a [state of emergency related to the shortage of supply in infant formula](#). The order aims to prevent price gouging for infant formula. Where legally possible, a partnership between the County of Santa Clara and City of San José should amend the existing regional State of Emergency to include the infant formula shortage and empower the County Office of Consumer & Environmental Protection Agency to prevent infant formula price gouging as modeled after the [Emergency Executive Order 98](#) declared by the New York City Mayor.

A regional State of Emergency relating to the infant formula shortage will send a clear message that the County of Santa Clara, which includes the City of San José, remains committed to supporting our families and we will not stand for local retailers to continue to benefit off the back of our families and at the cost of the critical developmental years of infants and children. This coordinated regional State of Emergency will also ensure alignment with current efforts to transition Food and Necessities Distribution back to the County of Santa Clara by July 1, 2022.

For this reason, I am also encouraging the development of a Family Friendly Formula Pledge, to develop partnerships with local retailers, grocery stores, and businesses to commit to the Manufacturer Suggested Retail Price (MSRP) and prevent price gouging of infant formula. Partners of our Family Friendly Formula Pledge may also receive a County of Santa Clara and/or City of San José Family Friendly Formula Pledge badge image to print and display in their stores to demonstrate their commitment to our children and families.

This is the very least that we must do to support infants and children who cannot advocate for themselves. This is our opportunity to stand by our commitment to continue investing in children and youth as the next generation and future of our city and county.