

CITY of ALBUQUERQUE

TWENTY-THIRD COUNCIL

COUNCIL BILL NO. C/S R-18-7 ENACTMENT NO. _____

SPONSORED BY: Klarissa Peña, Patrick Davis

1 RESOLUTION

2 STRENGTHENING ALBUQUERQUE’S STATUS AS AN IMMIGRANT
3 FRIENDLY CITY, PROMOTING PUBLIC SAFETY, SAFEGUARDING THE CIVIL
4 RIGHTS, SAFETY AND DIGNITY OF ALL OUR RESIDENTS AND CREATING AN
5 ENVIRONMENT CONDUCIVE TO ALL VICTIMS OF VIOLENT CRIME SEEKING
6 ASSISTANCE

7 WHEREAS, Article VIII of the City Charter states that, “The Council shall
8 preserve, protect and promote human rights and human dignity.... and shall
9 prohibit discrimination on the basis of race, color, religion, sex, national origin
10 or ancestry, age or physical handicap”; and

11 WHEREAS, the Albuquerque City Council re-affirmed its commitment to
12 immigrant integration and inclusion exemplified in R-00-151 by passing M-17-4
13 which states “the Council welcomes and encourages immigrants to live, work,
14 and study in Albuquerque and to participate in community affairs, and
15 recognizes immigrants for their important contributions to our culture and
16 economy”; and

17 WHEREAS, R-00-151 states, and M-17-4 reaffirms, that the “City shall not
18 discriminate on the basis of a person's national origin and will treat all
19 persons with respect and dignity, regardless of immigration status”; and

20 WHEREAS, R-00-151 states and M-17-4 reaffirms that “no municipal
21 resources shall be used to identify individuals’ immigration status or
22 apprehend persons on the sole basis of immigration status, unless otherwise
23 required by law to do so”; and

24 WHEREAS, the Tenth Amendment of the Constitution of the United States
25 recognizes the sovereign status of the states and their political subdivisions
26 and precludes the federal government from attempting to compel state and
27 local governments, either directly or by their use of threats to withhold federal

1 funding, to assist the federal government in enforcing federal laws, including
2 immigrations laws; and

3 WHEREAS, immigrants are twice as likely to start a business as U.S. born
4 citizens and immigrant-owned businesses generated approximately \$389
5 million dollars in economic activity in New Mexico between 2006 and 2010,
6 according to the Partnership for the New American Economy; and

7 WHEREAS, immigrants play a vital role in New Mexico’s workforce, and
8 comprised 12.34 percent of the state’s workforce in 2016 (117,534 workers),
9 according to the Migration Policy Institute; and

10 WHEREAS, unauthorized immigrants in New Mexico paid \$101.5 million in
11 state and local taxes in 2010, according to data from the Institute for Taxation
12 and Economic Policy; and

13 WHEREAS, the foreign-born share of the US population has grown from 7.9
14 percent in 1990 to 13.1 percent in 2013. During the same period, FBI data
15 shows that the violent crime rate has dropped 48 percent; and

16 WHEREAS, according to the Pew Research Center, decades-worth of data
17 indicate that immigrants commit far fewer crimes than native born Americans
18 with a study in 2013 finding first generation adolescent immigrants are almost
19 ten percent less likely to commit crimes than adolescents who were born in
20 the country; and

21 WHEREAS, at least 89.12 percent of children with one or more immigrant
22 parents in New Mexico were U.S. citizens in 2016, according to data from the
23 Migration Policy Institute; and

24 WHEREAS, M-17-4 acknowledges that recent Presidential Executive Orders
25 relating to immigration “contain directives that threaten to lead to family
26 separation, endanger refugees fleeing violence and persecution, strip
27 immigrants of their due process and discriminate against the Muslim
28 community”; and

29 WHEREAS, the Trump administration has rescinded the Deferred Action for
30 Childhood Arrivals (DACA) program putting more than 800,000 young people
31 at risk of deportation and undermining the economic, moral, social, cultural,
32 and intellectual fiber of this nation; and

1 WHEREAS, according to estimates by the Immigrant Legal Resource
2 Center, ending DACA will cause far-reaching unemployment, lead to the
3 immediate job loss of 645,145 DACA recipients currently employed by
4 businesses in the United States; reduce Social Security and Medicare tax
5 contributions by DACA employees and employers by \$24.6 billion over a
6 decade, and weaken the Social Security and Medicare trust funds; and

7 WHEREAS, the Trump administration has rescinded Temporary Protected
8 Status (TPS) for immigrants from certain countries, with the promise of
9 deporting hundreds of thousands of immigrants from countries devastated by
10 war and natural disaster; and

11 WHEREAS, the Trump administration has issued executive orders that
12 amongst other provisions, criminalize immigrants, further militarize the
13 border, expand the number of Immigration Customs and Enforcement and
14 Customs and Border Patrol agents, expand the use of private prisons for
15 immigrants, target “sanctuary cities”, strip hundreds of thousands of
16 immigrants of protections such DACA and TPS, institute a travel ban that
17 targets Muslim immigrants, dramatically reduce the number of refugees
18 allowed to resettle in the United States, and violate constitutional rights; and

19 WHEREAS, the current immigration system is outdated and has had a
20 devastating impact on New Mexico’s families resulting in family separation,
21 labor abuses and exploitation of workers, and has prevented immigrants from
22 fully integrating into the broader community; and

23 WHEREAS, the City understands that the enforcement of federal civil
24 immigration laws is under the sole purview of the federal government and
25 firmly believes that the involvement of local government in enforcement of
26 federal civil immigration laws would undermine community policing, hinder a
27 productive and trusting relationship with the immigrant community, and divert
28 important public safety resources; and

29 WHEREAS, the City should not adopt policies that may violate its residents
30 constitutional rights under the Fourth Amendment such as “immigration
31 detainers,” and that exceed the government’s limited warrantless arrest
32 authority under federal law, exposing the City to civil rights violations; and

1 WHEREAS, the City wishes to assure its vulnerable communities that the
2 City supports them, will do all it can to maintain and improve their quality of
3 life, and does not tolerate acts of hate, discrimination, bullying, or
4 harassment; and

5 WHEREAS, the City wishes to reaffirm and declare that Albuquerque is a
6 safe place for immigrants from all countries, as well as for war refugees,
7 people of color, Muslims, Jews, LGBTQ people and people with disabilities;
8 and

9 WHEREAS, through the adoption of R-00-151, enacted in 2000 and still the
10 official policy of the City, the City declared Albuquerque to be immigrant
11 friendly; and

12 WHEREAS, R-00-151 committed that “the City will include in its legislative
13 agenda requests that Congress enact just and humane immigration reforms
14 that provide immigrants and their families with rights in this country that are
15 commensurate with human dignity and their status as taxpayers and
16 contributing members of our community.”; and

17 WHEREAS, the City believes in the human dignity of all Albuquerque
18 residents, regardless of immigration status, and recognizes the importance of
19 immigrants’ many contributions to the social, cultural, intellectual and
20 economic fabric of the City; and

21 WHEREAS, the City of Albuquerque is made up of diverse individuals, both
22 native born and immigrants, whose collective cultures, religions,
23 backgrounds, orientations, abilities and viewpoints join to form a highly
24 pluralistic community which prides itself on being a place which welcomes
25 persons and families of all walks of life; and

26 WHEREAS, the City of Albuquerque has a strong tradition and mission of
27 embracing and valuing diversity and the City Council believes that it is
28 similarly important to support diversity and to provide services to all persons
29 in the City regardless of their race, disability, national origin, gender identity,
30 religion, sex, sexual orientation, ethnicity, economic or immigration status (in
31 addition to any other protected classes under local, state, or federal law); and

1 WHEREAS, the City of Albuquerque and Mexico have a shared economy
2 and shared culture going back over 300 years, and we are proud of our Sister-
3 City relationships with the Mexican cities of Chihuahua and Guadalajara; and

4 WHEREAS, the relationship between the City of Albuquerque and Mexico is
5 one that has coexisted for a long time and the current anti-Mexican rhetoric is
6 not a reflection of how we feel about Mexico and immigrants; and

7 WHEREAS, the City is greatly concerned about public safety in
8 Albuquerque and the mission of the Albuquerque Police Department is to
9 protect the safety of the public against crimes committed by persons whoever
10 they may be; and

11 WHEREAS, most residents in the City, including the vast majority of
12 immigrants, are law-abiding citizens and are, when crimes occur, themselves
13 the victims of crime, and because of this the City wishes to foster trust and
14 cooperation between the City, its police department, and its immigrant
15 communities, and wishes to encourage immigrants to report crime and speak
16 to the police without fear of being arrested or reported to the United States
17 Immigration and Customs Enforcement agency; and

18 WHEREAS, current policies regarding immigration enforcement efforts
19 have had a chilling impact on immigrant survivors of domestic violence and
20 sexual assault; and a national study released by the National Alliance to End
21 Sexual Violence (NAESV) and the National Network to End Domestic Violence
22 (NNEDV) in May of 2017 indicates that 78 percent of advocates reported that
23 immigrant survivors expressed concerns about contacting police, three in four
24 service providers reported that immigrant survivors have concerns about
25 going to court for a matter related to the abuser or offender and 43 percent of
26 advocates worked with immigrant survivors who dropped civil or criminal
27 cases because they were fearful to continue with their cases.

28 WHEREAS, APD'S standard operating procedures are consistent with the
29 policy established under R-00-151 and recognizes that "enforcement of
30 immigration laws and arrest of undocumented foreign nationals resides
31 exclusively with the federal government," and that "officers shall not stop,
32 question, detain, or arrest any person solely on the ground that they may be
33 undocumented," and "shall not inquire about or seek proof of a person's

1 immigration status” unless it is pertinent to the investigation of an underlying
2 non-immigration criminal violation; and

3 WHEREAS, the City does not operate any criminal detention facilities and
4 does not otherwise have information regarding any release date or pending
5 release date of any person in custody, and thus cannot and does not notify
6 any federal agency about any such release dates for immigration purposes.
7 NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL, THE GOVERNING
8 BODY OF THE CITY OF ALBUQUERQUE:

9 SECTION 1. That the City Council reaffirms the City of Albuquerque’s
10 status as an “Immigrant Friendly City” and welcomes and encourages
11 immigrants to live, work and study in Albuquerque and to participate in
12 community affairs, and recognizes immigrants for their important
13 contributions to our culture and economy.

14 SECTION 2. That the City Council reaffirms its commitment to policies
15 established under R-00-151 including but not limited to its commitment to
16 “treat all persons with respect and dignity, regardless of their immigration
17 status” and that “[t]o the fullest extent allowed by federal and state law,
18 immigrants who live within the city limits of Albuquerque and their families
19 shall have access to all City services and programs.”

20 SECTION 3. Immigrant Friendly Policy.

21 1. The City shall not:

22 a. Make or initiate any inquiry regarding, or collect in any way
23 information regarding, the citizenship, immigration status, place of birth,
24 religion, or national origin, of any person;

25 b. Collect, or make or initiate any inquiry regarding an
26 individual’s social security number except as required to: (1) determine
27 eligibility for a federal or state benefit or program administered by the City
28 conditioned on verification of such status; (2) in order to determine eligibility
29 for City employment; (3) in order to carry out a necessary function of City
30 Government; or (4) as otherwise required by law; or

31 c. Collect, or make or initiate any inquiry regarding an
32 individual’s Individual Tax Identification Number (ITIN) except where

1 necessary for purposes of executing a city contract with the person or
2 person's company or employer.

3 2. Paragraph 1 above limits the information that the City will collect and
4 store; where the City is required by law or policy to provide information to any
5 person or agency, it can only provide that information which it has collected
6 and stored.

7 3. The City shall not use any City resources, including but not limited to
8 moneys, equipment, personnel, or City facilities, to enforce or assist in the
9 enforcement of federal immigration law by any of the following:

10 a. Detecting, apprehending, identifying, investigating, arresting,
11 detaining, or continuing to detain a person based on the individual's
12 immigration status or the belief that the person has committed a violation of
13 immigration law;

14 b. Arresting, detaining or continuing to detain a person in
15 response to, or honoring in any other way, any immigration detainer, or
16 federal administrative warrant that is based solely on a violation of federal
17 immigration law; or

18 c. Enforcing any federal program requiring the registration of
19 individuals on the basis of religious affiliation or ethnic or national origin.

20 4. The City shall refuse access to all city-operated, non-public areas of
21 City property (including but not limited to the Prisoner Transport Center) by
22 federal immigration agents who are requesting access for the purpose of
23 enforcing federal immigration law unless presented with a judicial warrant
24 issued specifically requiring such access.

25 5. That the City Council supports the equal treatment of all persons and
26 states that all persons who live within the City should have full access to all
27 city services with respect and dignity, including public safety services and
28 programs, regardless of their race, disability, national origin, gender identity,
29 religion, sex, sexual orientation, ethnicity, economic or immigration status (in
30 addition to any other protected classes under local, state, or federal law).

31 6. All City departments are directed to review current City policies,
32 procedures, and practices to ensure they are in accordance with this
33 Resolution and report back to the Council within six months of the passage of

1 this resolution. The City’s Office of Equity and Inclusion is responsible for
2 monitoring compliance with this Resolution. City staff may identify and
3 recommend policies and proposals that would serve to implement and
4 enhance the City’s immigrant friendly status.

5 7. The CAO shall communicate these policies to all City employees
6 within 30 days of the passage of this resolution. The CAO shall develop and
7 publicly post a notice of all known instances where information is required to
8 be collected by the City pursuant to any of the exceptions in paragraph 1 of
9 this Section, and that advises of other instances where the provisions of this
10 resolution may not fully apply in dealings with the City or when using a City
11 facility, if any.

12 8. Nothing in this resolution shall be construed or implemented to
13 conflict with any valid and enforceable duty or obligation imposed by a
14 warrant, court order or any federal or other applicable law.

15 SECTION 4. SEVERABILITY. If any section, subsection, sentence,
16 clause, phrase, or portion of this ordinance is held to be invalid or
17 unconstitutional by the decision of any court of competent jurisdiction, such
18 decision shall not affect the validity of the remaining portions of this
19 ordinance.

20 SECTION 5. COMPILATION. Section 3 of this Resolution shall be
21 incorporated in and made part of the Code of Resolutions of Albuquerque,
22 New Mexico, 1994, as Chapter 3 Article 12, titled “Immigrant Friendly Policy.”
23