

C/S Strengthening Albuquerque's Status As An Immigrant Friendly City, Promoting Public Safety, Safeguarding The Civil Rights, Safety And Dignity Of All Our Residents And Creating An Environment Conducive To All Victims Of Violent Crime Seeking Assistance (Peña, Davis)

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

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

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

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

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

WHEREAS, the Tenth Amendment of the Constitution of the United States recognizes the sovereign status of the states and their political subdivisions and precludes the federal government from attempting to compel state and local governments, either directly or by their use of threats to withhold federal funding, to assist the federal government in enforcing federal laws, including immigration laws; and

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

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

Institute; and

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

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

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

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

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

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

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

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

WHEREAS, the Trump administration has issued executive orders that amongst other provisions, criminalize immigrants, further militarize the border, expand the number of Immigration Customs and Enforcement and Customs and Border Patrol agents, expand the use of private prisons for immigrants, target “sanctuary cities”, strip hundreds of thousands of immigrants of protections such as DACA and TPS, institute a travel ban that targets Muslim immigrants,

dramatically reduce the number of refugees allowed to resettle in the United States, and violate constitutional rights; and

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

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

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

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

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

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

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

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

WHEREAS, the City of Albuquerque is made up of diverse individuals, both native born and immigrants, whose collective cultures, religions, backgrounds, orientations, abilities and viewpoints join to form a highly pluralistic community which prides itself on being a place which

welcomes persons and families of all walks of life; and

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

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

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

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

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

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

WHEREAS, APD'S standard operating procedures are consistent with the policy established under R-00-151 and recognizes that "enforcement of immigration laws and arrest of undocumented foreign nationals resides exclusively with the federal government," and that

“officers shall not stop, question, detain, or arrest any person solely on the ground that they may be undocumented,” and “shall not inquire about or seek proof of a person’s immigration status” unless it is pertinent to the investigation of an underlying non-immigration criminal violation; and

WHEREAS, the City does not operate any criminal detention facilities and does not otherwise have information regarding any release date or pending release date of any person in custody, and thus cannot and does not notify any federal agency about any such release dates for immigration purposes.

BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

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

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

SECTION 3. Immigrant Friendly Policy.

1. The City, or any third party on its behalf, shall not:

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

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

c. Collect, or make or initiate any inquiry regarding an individual’s Individual Tax Identification Number (ITIN) except where necessary for purposes of executing a city contract with the person or person’s company or employer.

2. Paragraph 1 above limits the information that the City will collect and store; where the

City is required by law or policy to provide information to any person or agency, it can only provide that information which it has collected and stored. The City shall not disclose information that the City currently possesses regarding place of birth, religion, or national origin, nor information collected under the exceptions stated above in Paragraph 1 absent a valid judicial warrant for such information or as otherwise required by law.

3. The City shall not use any City resources, including but not limited to moneys, equipment, personnel, or City facilities, nor permit any City facility to be used for the enforcement or to assist in the enforcement of federal immigration law by any of the following:

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

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

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

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

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

6. All City departments are directed to review current City policies, procedures, and practices to ensure they are in accordance with this Resolution and report back to the Council within six months of the passage of this resolution. The City's Office of Equity and Inclusion is responsible for monitoring compliance with this Resolution. City staff may identify and recommend policies and proposals that would serve to implement and enhance the City's immigrant friendly status.

7. The CAO shall communicate these policies to all City employees within 30 days of the

passage of this resolution. The CAO shall develop and publicly post a notice of all known instances where information is required to be collected by the City pursuant to any of the exceptions in paragraph 1 of this Section, and that advises of other instances where the provisions of this resolution may not fully apply in dealings with the City or when using a City facility, if any.

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

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

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

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