RESOLUTION

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-14-7 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
immigrations 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-17-14 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 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 Albuquerque City Council 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 Albuquerque City Council 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 Council 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 Council 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, this City Council 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 Council 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 me 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.

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 “[t]o 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. No City agency, department, officer, employee, or agent shall collect, make, or initiate any inquiry regarding the citizenship or immigration status of an individual except as required by law to determine eligibility for a federal or state benefit or program administered by the City conditioned on verification of such status, or in order to determine eligibility for City employment.

2. City agencies, departments, officers, employees, or agents shall not disclose any personal information about any person which came into the employee’s possession during the course and scope of that employee’s work for the City of Albuquerque, except in order to provide a City service or carry out a function of City government, in response to a written request for records under the New Mexico Inspection of Public Records Act where such information is not otherwise exempted, (§§14-2-1 et seq. NMSA 1978), or as otherwise compelled by law. For purposes of this section, personal information means social security numbers or individual tax identification numbers, a person’s place and date of birth, a person’s status as a recipient of public assistance or as a crime victim, a person’s custody release date, a
person’s home address, a person’s sexual orientation, physical or mental
disability, religion, or national origin.

3. City agencies, departments, officers, employees, or agents shall not
use City resources, including but not limited to moneys, equipment,
personnel, or City facilities, to assist in or otherwise facilitate the enforcement
of federal immigration law, or in the investigation, detection, apprehension, or
detention of an individual based on the real or perceived immigration status of
an individual. The prohibition set forth in this Section shall include but is not
limited to:

a. Identifying, investigating, arresting, detaining, or continuing to
detain a person solely 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.

c. Notifying any federal agency about the release date or pending
release date of any person in custody for immigration purposes.

d. 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 non-public areas of City property
(including but not limited to the Prisoner Transport Center) by federal
immigration agents who do not present 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 Diversity and Human Rights Division 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.

8. Nothing in this resolution shall be construed or implemented to conflict with any valid and enforceable duty and obligation imposed by a 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.”