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OAKLAND

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Approved as to Form and Legality

Quiana Hynes
City Attorney's Office

OAKLAND CITY COUNCIL

ORDINANCE ~~13515~~ **13515** C.M.S.

INTRODUCED BY
City Councilmembers Kaplan, Brooks and Gallo

**ORDINANCE AMENDING RESOLUTION NUMBERS 63950, 80584
AND 86498 IN ORDER TO STRENGTHEN THE SANCTUARY
CITY POLICY OF THE CITY OF OAKLAND NOT TO COOPERATE
WITH OR PROVIDE SUPPORT FOR FEDERAL IMMIGRATION
AGENCIES, BASED UPON RESOLUTION 87036**

WHEREAS, the City of Oakland has a strong tradition of embracing and valuing diversity and respecting the civil and human rights of all residents regardless of their immigration status; and

WHEREAS, Oakland has been on record as a City of Refuge since July 8, 1986, when it adopted Resolution No. 63950; and

WHEREAS, Oakland reaffirmed its status as a Sanctuary City on November 29, 2016 when it adopted in Resolution No. 86498, which stated "the City Council's desire to ensure that its immigrant residents participate in civic life and daily activities without fear of being arrested or reported to the United States Immigration and Customs Enforcement (ICE) agency;" and

WHEREAS, the Trump Administration is working to vilify municipalities who choose to protect aspiring citizens in an effort to browbeat them into enforcing federal immigration law; and

WHEREAS, under Acting ICE Director Thomas Homan, ICE agents have been targeting immigrants with no criminal record at all and flouting longstanding ICE policy against conducting arrests in sensitive locations like schools and churches; and

WHEREAS, ICE Director Homan has stated that "[s]anctuary jurisdictions ...creat[e] a magnet for illegal immigration. As a result, ICE is forced to dedicate more resources to conduct at-large arrests in these communities;" and

WHEREAS, Oakland is proud to be one of a growing number of municipalities around the country standing up to threats against privacy and liberties by taking

meaningful steps to ensure that communities are safe, and that the rights of all residents are respected, so that our City may continue to thrive; and

WHEREAS, on June 1, 2017, the Privacy Advisory Commission voted unanimously to recommend to the City Council that the cooperation agreement between the Oakland Police Department ("OPD") and ICE, be rescinded; and

WHEREAS, on July 18, 2017, Oakland City Council unanimously passed Resolution No. 86860 by Councilmember Kaplan, which "direct[ed] the City Administrator to immediately terminate the agreement with 'ICE'"; and

WHEREAS, in Resolution No. 86860, Oakland City Council declared that "the presence of ICE in Oakland is causing trauma in the community, and causing a chilling effect that weakens cooperation with local law enforcement;" and

WHEREAS, the Oakland Police Department provided traffic control for an ICE operation in West Oakland on August 16, 2017; and

WHEREAS, Councilmembers Brooks and Kaplan requested that the Oakland Police Department provide an Informational Report regarding its role in the ICE operation that occurred in West Oakland on August 16, 2017. OPD's responsive report took the position that "OPD has fully complied with all City of Oakland resolutions concerning the status of Oakland as a sanctuary city in immigration actions;" and

WHEREAS, Resolutions No. 80584 and 86498 both provided, in part, "[t]hat in accordance with state and federal laws the Oakland Police Department will continue to cooperate with federal immigration agencies in matters involving criminal activity and the protection of public safety;" and

WHEREAS, on November 8, 2017, the Privacy Advisory Commission approved a motion recommending that Oakland City Council adopt the following policy: "OPD shall not provide law enforcement assistance to ICE in any capacity. This shall not prevent OPD from responding to a public safety emergency related to an ICE action; in such event OPD shall explain the facts giving rise to its action in a written report to the Public Safety Committee at the earliest opportunity;" and

WHEREAS, the City Council adopted Resolution 87036 which supplements and amends Resolutions 63950, 80587, and 86498 in order to strengthen the policy of the City of Oakland not to cooperate with or provide support for immigrations and customs enforcement actions on January 16, 2018; and

WHEREAS, Oakland City Council wishes to make clear that no City of Oakland resources shall go towards assisting or cooperating with any investigation, detention, or arrest procedure or operation, public or clandestine ICE, including any subdivision of ICE, regardless of ICE's stated purpose for the procedure or operation;

NOW, THEREFORE, THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. Definitions.

- A. This Ordinance shall be known as the Oakland Sanctuary City Ordinance.
- B. OPD means City of Oakland Police Department.
- C. ICE means any employee, member, agent, or representative of the federal Department of Immigration and Customs Enforcement.

Section 2. Prohibitions.

- A. OPD employees shall not provide law enforcement assistance, including traffic support, to ICE, including any subdivision of ICE, in any capacity except to respond to a public safety emergency related to an ICE action or where assistance is required by Federal or State statute, regulation or court decision.
- B. In the event OPD assists in an ICE investigation, detention, arrest or any other operation, OPD shall explain the facts giving rise to its action in a written report to the Public Safety Committee at the earliest opportunity.
- C. This Ordinance codifies Resolution 87036 and supplements Resolutions 63950, 80584 and 86498.

Section 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

Section 4. Effective Date. This Ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise, it shall become effective in accordance with the law.

Introduction Date DEC 1 1 2018

IN COUNCIL, OAKLAND, CALIFORNIA

PASSED BY THE FOLLOWING VOTE: JAN 2 2 2019

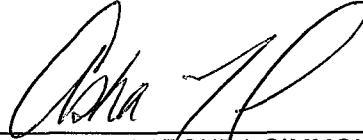
AYES: BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON McELHANEY, GUILLEN, KALB, KAPLAN and PRESIDENT REID -8

NOES: 0

ABSENT: 0

ABSTENTIONS: 0

ATTEST:



LATONDA SIMMONS

City Clerk and Clerk of the Council
of the City of Oakland, California

Date of Attestation:

1/25/2019

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