A RESOLUTION OF THE ALBANY CITY COUNCIL DECLARING THE CITY OF ALBANY AS A SANCTUARY CITY

WHEREAS, the City of Albany is a community that celebrates diversity and prides itself on being a place which welcomes persons and families of all backgrounds and nationalities; and

WHEREAS, the City of Albany is committed to recognizing the dignity and civil rights of all of its community members, including the right of all community members to live, work, and study in a City that does not subject them to prejudicial treatment or discrimination; and

WHEREAS, members and friends of immigrant communities across the country, including members of our community, may be experiencing fear or anxiety resulting from potential changes to federal immigration laws and enforcement policies; and

WHEREAS, on November 21, 2016, the City of Albany City Council reaffirmed its commitment to inclusion and appreciation for Albany’s diverse community, stating, “We, the members of the Albany City Council, recognize that many in our community are hurting and fearful as a result of the recent national election. Thus, we would like to take this opportunity to reaffirm that we welcome and value all of our diverse community members regardless of where they are from, who they love, how they worship, how they look, their abilities, or how they vote. We invite the entire Albany community to join with us in creating a safe and welcoming city; one in which we celebrate our differences and learn from each other; one in which we are proud to raise our children”; and

WHEREAS, the Albany Police Department recently presented information to the City Council and engaged in a collaborative process with members of the community to review and discuss immigration enforcement policies that protect and uphold the civil liberties of immigrants; and

WHEREAS, the Albany Police Department affirms that the enforcement of immigration violations by local police erodes and damages the public trust that is so vital to maintaining public safety for all; and
WHATF, Albany Police Department policy prohibits police officers from contacting, detaining, or arresting someone based solely on the suspicion that an individual is an undocumented immigrant; and

WHEREAS, the Albany Unified School District Board of Education has declared itself a Safe Haven that prohibits immigration enforcement in the public schools and provides protections for students and families threatened by immigration enforcement and discrimination; and

WHEREAS, the City of Albany opposes unconstitutional data collection program of the Federal Government, such as requiring the registration of individuals on the basis of religious affiliation, race, national or ethnic origin, gender, gender identity or sexual orientation; and

PLEASE DELETE THIS SECTION and see comments to the right. WHEREAS, in accordance with the 1371 Rule, under 8 U.S.C Section 1373 and 8 U.S.C. Section 1644, federal law prohibits City officials, employees and agents from imposing limits on maintaining, exchanging, spending, or receiving information regarding citizenship and immigration status with any Federal, State, or local government entity. Nothing in City of Albany policies is intended to violate 8 U.S.C. Section 1373 and 8 U.S.C. Section 1644; and

WHEREAS, the City of Albany City Council desires to continue to demonstrate its commitment to all of our community members by declaring that the City of Albany is a Sanctuary City.

NOW, THEREFORE, BE IT RESOLVED, by the Albany City Council as follows:

1. The City of Albany hereby declares that it is a Sanctuary City and reaffirms its commitment to protect the rights of all people in our community; and

2. The City Manager shall report to the City Council requests or mandates from the federal government for use of City resources to enforce federal immigration laws.

3. City of Albany officials, employees and agents shall require a judicial warrant prior to

Comment [BMW-S2]: Please remove the term ethnicity tests
Deleted: unconstitutional ethnicity tests for immigration and
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Comment [BMW-S3]: The section on opposing a registry is moved to the "resolved" section or could remain in this section as a principle/value in addition to the one in the resolved section.

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Comment [BMW-S4]: We propose deleting this section for the following reasons:

-This is the principles section and is not aligned with Albany and Sanctuary City values.
-This section does not flow with the text and takes attention away from and diminishes the intent to provide protections for immigrants and impacted groups.
-Nothing in the resolution can be construed to conflict with a reasonable interpretation of 8 USC Section 1375.
-The appropriate application of 8 U.S.C. 1373 is currently a matter of dispute in litigation in SF Federal Court. I would be overreaching to apply 1373 to undermine a generally applicable privacy policy as set forth above.

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detaining an individual or in any manner prolonging the detention of an individual at the request of U.S. Immigration and Customs Enforcement (ICE) or Customs and Border Protection (CBP).

4. City of Albany officials, employees and agents shall not arrest, detain, or transport an individual solely on the basis of an immigration detainer or other administrative document issued by ICE or CBP, without a judicial warrant.

5. **No City official, employee or agent shall permit ICE or CBP agents access to City facilities or any person in the City of Albany custody, unless acting pursuant to a court order or a legitimate law enforcement purpose that is unrelated to the enforcement of a civil immigration law.**

6. To the extent ICE or CBP **is** granted access to City facilities **based on a judicial warrant or court order**, individuals with whom ICE or CBP engages will be notified that they are speaking with ICE or CBP, and ICE or CBP agents shall be required to wear duty jackets and make their badges visible at all times while in City facilities.

7. **No City of Albany official, employee or agent shall collect information from individuals that is not necessary to perform the employee’s duties. In particular, no City employee shall collect information regarding a person's citizenship or immigration status unless required by law or necessary to administer city services. Any information in the City’s possession that can be used to distinguish or trace an individual’s citizenship or immigration status, either on its own or when combined with other information, is hereby deemed to be Personally Identifiable Information (PII). All City employees shall treat PII as Confidential Information and shall not disclose such information except as necessary to administer City services or as required by State law or a court order.**

**PLEASE DELETE AND REPLACE WITH SECTION ABOVE:**

Voluntarily release personally identifiable data or information to ICE or CBP regarding an inmate’s custody status, release date or home address, or information that may be used to ascertain an individual’s religion, ethnicity or race, unless for a law enforcement purpose unrelated to the enforcement of a civil immigration law. **(end of proposed deletion)**
8. No City of Albany official, employee or agent shall authorize or engage in the human or technological surveillance of a person or group based solely or primarily upon a person or group’s actual or perceived religion, ethnicity, race or immigration status.

9. No City of Albany official, employee or agent shall use City resources to create, implement, provide investigation or information for, enforce, or otherwise assist or support any government program requiring the registration of individuals on the basis of religion, national origin or ethnicity.

10. No City of Albany official, employee or agent shall interrogate, arrest, detain, or take other law enforcement action against an individual based upon that individual’s perceived race, national origin, religion, language, or immigration status, unless such personal characteristics have been included in timely, relevant, credible information, linking a specific individual to a particular criminal event/activity.

11. The City of Albany recognizes that there has been a recent rise of hate speech, intimidation, threats and vandalism that have been distressing and harmful to youth, families and the community as a whole. Therefore, the City is committed to working with Albany residents and community groups to develop ways to address hate-related bias and issues including but not limited to: i) establishing protocols for sharing information with the community regarding hate speech and incidents; ii) holding community forums to hear from impacted members and identify responsive actions; and iii) utilizing a restorative justice model and anti-oppression training to address and heal racism and other-biased based harm that has impacted individuals, families, schools and the community as a whole.

1. In accordance with current State and Federal law, City of Albany officials, including its police officers, shall not actively collaborate with federal agents solely for the purpose of enforcing federal immigration law and shall not use City resources or personnel to investigate, question, detain, apprehend, and or register persons based solely on a civil violation of federal immigration law; and

2. City of Albany officials, including its police officers, shall not take any direct action against any individual based solely on their actual or perceived immigration status; and

3. City of Albany officials will not use any public resources to participate in any federal

Comment [BMW-S7]: This was drawn from the San Francisco Non-Cooperation with Identity-Based Registry Ordinance 3/17/17

Comment [BMW-S9]: This comment responds to the City’s discussion question re: reporting hate crimes and the definition we use to identify legal speech and acts that should be publicly reported. This is a complex question and we propose these initial thoughts for consideration – a. Legal speech and acts that should be reported: acts and speech that are observable from a public place, such as the street that either targets particular groups or people based on protected categories or asserts a particular privilege or power of a dominant group b. How report to the public – one idea is to make such information available at the Police Station so that it is available to the public for review. c. ACA would be pleased to work with the APD and City to track and share information relating to hate-related incidents, given the pressing need to inform the community about hate incidents.
12. Any person who alleges a violation of this Resolution may file a written complaint for investigation with the City of Albany.

13. The City of Albany will continue to review its policies to ensure that they reflect Albany’s status as a Sanctuary City, as well as compliance with the United States and California Constitutions and the mandates of federal and state law; such review may include the possibility of revision to other City policies such that they comply with the spirit and intent of this Resolution.

PEGGY MCQUAID, MAYOR
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