RESOLUTION NO. 71,658-N.S.

REAFFIRMING BERKELEY AS A SANCTUARY CITY

WHEREAS, the residents of Berkeley have a long history and deep commitment to welcoming immigrants, refugees, and those in exile; and

WHEREAS, the Berkeley community believes in protecting all of our residents and letting them know they are safe, regardless of their immigration status; and

WHEREAS, the City of Berkeley was the first City in the Nation to declare itself a City of Refuge in 1971 (Resolution 44,784-N.S.) and the first City to support the "New Border Vision", in 2020, to encourage Congress to expand public safety, protect human rights, and welcome people to our communities; and

WHEREAS, Berkeley reaffirmed its City of Refuge status in 1986 (Resolution No. 52,596-N.S.), 2007 (Resolution No. 63,711-N.S.), 2015 (Resolution No. 67,325-N.S.), 2016 (Resolution No. 67,598-N.S. & No. 67,763-N.S.) and 2017 (Resolution No. 68,131-N.S.); and

WHEREAS, as of 2023, 21.3% of Berkeley's population are immigrants of varying statuses, with undocumented, DACA, and TPS holders most vulnerable to the incoming administration's threats of discrimination and deportation; and

WHEREAS, multiple studies have proven that jurisdictions that provide sanctuaries are safer and economically more prosperous compared to other jurisdictions – including a 2017 report by the Center for American Progress that shows on average there are 35.5 fewer crimes committed per 10,000 people in sanctuary jurisdictions, the average annual income is $4,353 higher, the poverty rate is 2.3% lower, and unemployment is 1.1% lower; and

WHEREAS, in the interest of promoting public safety, it is important to create an environment in which people feel comfortable interacting with local law enforcement, not eroding that trust by permitting local police officers to assist federal immigration enforcement; and

WHEREAS, in early 2017, a Sanctuary City Task Force was convened, which brought immigration and civil rights groups, faith leaders, legal experts, school and university officials, and community activists together to discuss ways to strengthen our City of Refuge policy, as well as support our undocumented community members; and

WHEREAS, the Task Force and working groups developed resources and protocols to clarify the rights of undocumented individuals and city/community partners in the case of U.S. Immigration & Customs Enforcement (ICE) enforcement activity; and

WHEREAS, the Task Force created procedures to help City Staff act in accordance with Berkeley's Sanctuary City status, should ICE agents contact city officials or visit city

facilities or engage with city staff to collect information, or request assistance with arresting any undocumented or naturalized resident or visitor beyond what is required by federal law; and

WHEREAS, all City of Berkeley Departments and employees of the City of Berkeley, including the Berkeley Police Department, have committed to not comply with ICE officers lacking a valid judicial warrant; and

WHEREAS, the Berkeley School Board passed a similar sanctuary campus policy in December 2017 which articulated restrictions on information sharing, providing access to school facilities, and collaboration with Immigration officials; and

WHEREAS, the Berkeley School Board will soon consider at an upcoming meeting to reaffirm the 2017 Berkeley Unified School District Sanctuary Campus Policy (Resolution 17-050), which articulated restrictions on information sharing, providing access to school facilities, and collaborating with immigration officials; and

WHEREAS, Berkeley City College, UC Berkeley, and University Lutheran Chapel have adopted similar policies; and

WHEREAS, California State Superintendent of Instruction Tony Thurmond champions the bill introduced by Senate Majority Leader Lena Gonzalez SB 48 to Keep Immigration and Customs Enforcement Off of School Campuses, Protecting School Attendance and Funding Amid Deportation Threats; and

WHEREAS, hospitals, clinics, schools, and public transportation are key locations of direct services that immigrants rely on for basic needs and are vulnerable to deportation raids from federal immigration enforcement officers; and

WHEREAS, faith communities and other Community Based Organizations (CBOs) play a vital role by protecting essential human rights and offering support to refugees and undocumented immigrants, requiring commitments from local governments to stand with these institutions and protect them from federal deportation raids or other attacks; and

WHEREAS, the incoming Trump administration has campaigned on threats of mass deportation and has indicated its intent to rescind the longstanding federal policy restricting immigration enforcement activity at schools, after-school programs, hospitals, community health centers, and places of worship; and

WHEREAS, in light of the beginning of the Trump administration's term, the City of Berkeley must remind the community and City Staff of Berkeley's status as a Sanctuary City and a City of Refuge.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it reaffirms that the City of Berkeley is a City of Refuge and a Sanctuary City, and that the

following restrictions on the use of City funds and resources shall be applied relating to enforcement of federal immigration law:

1. No department, agency, commission, officer or employee of the City of Berkeley shall use any City funds or resources to assist in the enforcement of Federal immigration law or to gather or disseminate information on the status of individuals in the City of Berkeley unless required by federal law.

2. No department, agency, commission, officer or employee shall deny access to any city services or benefits to residents on the basis of their immigration status.

3. The prohibition set forth shall include but not be limited to:

   a. Assisting or cooperating, in one's official capacity, with any Department of Homeland Security (DHS) investigation, detention, or arrest procedures, including but not limited to any such procedures in schools, after-school programs, hospitals, health centers or places of worship, whether public or clandestine, relating to alleged violations of the civil provision of federal immigration law, except as required by federal law.

   b. Requesting information about, or disseminating information regarding, the citizenship, immigration status, or birth country of any individual, except as required by federal law.

   c. Including on any application, questionnaire or interview form used in relation to benefits, services or opportunities provided by the City of Berkeley, any question regarding immigration status, except as required by federal law.

4. It is the policy of the City of Berkeley to not allow any individual or organization to enter city facilities if their presence would disrupt city operations. Because the City Council believes that ICE activities in city facilities would constitute a severe disruption to the provision of city services, any request by ICE to any City officer or employee shall be immediately assessed for legality through the City Attorney to ensure the safety of city employees and residents accessing city services and compliance with applicable state and federal laws.

5. Except in limited circumstances where ICE agents have a valid judicial warrant, after review and consultation with the City Manager and City Attorney, city departments, agencies, commissions, officers or employees are **not required to**:

   - Cooperate with ICE agents
   - Answer ICE agents' questions or provide any protected data
   - Comply with an ICE Administrative Warrant
   - Immediately comply with a subpoena served by ICE agents
   - Speak with ICE agents at all

6. City officers or employees shall not consent to a search by ICE agents of a non-public area or non-public city records, without a valid judicial warrant.

7. If any person asks questions regarding their immigration status to City staff (while working in their official capacity), City staff shall not refer them to ICE or any other government agency. Instead, City staff shall refer such individuals to local non-profit immigration law organizations. A list of such organizations shall be compiled and disseminated at City buildings and on the City's website. The City Manager is also encouraged to increase and enhance partnerships with community-based organizations, legal service providers, and educational institutions to provide resources for families and City residents facing deportation or other adverse immigration actions.

8. All requests for documents or protected data by ICE to City personnel shall be immediately forwarded to the City Manager for review and consultation with the City Attorney to ensure the safety of city employees and residents, and compliance with applicable state and federal laws.

BE IT FURTHER RESOLVED that the City of Berkeley stands in solidarity with the Berkeley School Board, Berkeley City College, UC Berkeley, University Lutheran Chapel, and other schools, medical institutions, or places of worship that have committed to similar sanctuary policies to protect the residents of Berkeley, regardless of their immigration status.

BE IT FURTHER RESOLVED that the City of Berkeley offers its support and protection to local CBOs and faith communities offering safety and protection to immigrants in the face of direct threats from federal agencies.

BE IT FURTHER RESOLVED that the Council shall refer to the City Attorney to explore the possibility of pledging the City's legal support to help local CBOs and other "sensitive sites", such as schools, after-school programs, hospitals, community health centers, and places of worship, defend themselves against civil litigation.

BE IT FURTHER RESOLVED that the City Council will collaborate with the boards of BART, AC Transit, East Bay Regional Parks District, UC and CSU systems, Peralta Community College District, and county hospital systems to ensure that the Right to Sanctuary is protected on a regional level.

BE IT FURTHER RESOLVED that the City of Berkeley calls on other Bay Area and California cities to reaffirm their commitments to sanctuary and pass legislation that protects all California residents.

BE IT FURTHER RESOLVED that the City of Berkeley calls on the California legislature to pass SB 48 to Keep Immigration and Customs Enforcement Off of School Campuses, Protecting School Attendance and Funding Amid Deportation Threats.

BE IT FURTHER RESOLVED that copies of this resolution, including any future amendments thereto, shall be transmitted to every department, agency and commission, and employee of the City of Berkeley; to our Alameda County, California, and Congressional representatives; and to the mayors of the rest of the Bay Area cities.

BE IT FURTHER RESOLVED that the City of Berkeley will continue to seek additional ways to enact protections for undocumented immigrants in our community.

The foregoing Resolution was adopted by the Berkeley City Council on January 21, 2025 by the following vote:

Ayes: Blackaby, Humbert, Kesarwani, Lunaparra, O'Keefe, Taplin, Tregub, and Ishii.

Noes: None.

Absent: Bartlett.

Adena Ishii, Mayor

Attest:
Mark Numainville, City Clerk