RESOLUTION NO. 2018-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, OPPOSING SENATE BILL 54 (CALIFORNIA VALUES ACT)

WHEREAS, the Supremacy Clause of the United States Constitution provides the "Constitution, and the Laws of the United States which shall be made in Pursuance thereof ... shall be the supreme Law of the Land ... any Thing in the Constitution or Laws of any State to the Contrary notwithstanding";

WHEREAS, the federal government of the United States of America regulates immigration under its constitutional and statutory authorities, and enforces immigration laws through its executive agencies, including the Departments of Justice, State, and Labor, and the Department of Homeland Security including its component agencies U.S. Immigration and Customs Enforcement ("ICE"), and U.S. Customs and Border Protection;

WHEREAS, on October 5, 2017, California Governor Jerry Brown approved Senate Bill ("SB") 54, which enacted California Government Code Sections 7284 *et seq.* entitled the "California Values Act";

WHEREAS, SB 54 became effective January 1, 2018 and, among other things, generally prohibits California law enforcement agencies from using local agency money or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes and limits when California law enforcement agencies may transfer an individual to immigration authorities. SB 54 also creates affirmative obligations for California law enforcement agencies to report certain data regarding transfers of individuals to federal immigration authorities;

WHEREAS, the City Council has a history of opposition to SB 54, which includes the City Council's direction on August 8, 2017, for the City Manager to send a letter in opposition to SB 54 to Kevin de León, President pro Tempore of the California State Senate and sponsor of SB 54;

WHEREAS, the City Council's opposition emphasized the City of Newport Beach's concerns that SB 54 could create roadblocks and ambiguity when the Newport Beach Police Department participates in crime suppression activities that may involve (but not target) undocumented persons in addition to U.S. citizens and residents and result in inquiries from federal ICE officials;

WHEREAS, on March 6, 2018, Attorney General Jeff Sessions filed a federal lawsuit in the United States District Court, Eastern District of California for the case entitled *United States of America v. State of California, et al.* (Case No. 2:18-cv-00490-JAM-KJN) seeking a judicial declaration invalidating and enjoining the enforcement of provisions of SB 54 as preempted by federal immigration laws and therefore in violation of the Supremacy Clause of the United States Constitution; and

WHEREAS, the City of Newport Beach respects and supports the United States Constitution.

NOW, THEREFORE, the City Council of the City of Newport Beach resolves as follows:

Section 1: The City Council is committed to protecting the City of Newport Beach's residents through the enforcement of local, state, and federal laws. The adoption of SB 54 has created a conflict between state and federal law and has restricted local law enforcement's ability to cooperate with federal authorities to protect California residents. This conflict leaves the City Council no choice but to publically state its opposition to SB 54.

Section 2: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 3: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 4: The City Council finds the adoption of this resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 5: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 10th day of April, 2018.

Marshall "Duffy" Duffield
Mayor

ATTEST:

Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

(for)

Aaron C. Harp
City Attorney

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; the foregoing resolution, being Resolution No. 2018-23 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 10th day of April, 2018; and the same was so passed and adopted by the following vote, to wit:

AYES: Council Member Herdman, Council Member Kevin Muldoon, Council Member Diane Dixon, Council Member Scott Peotter, Council Member Brad Avery, Mayor Pro Tem Will O'Neill, Mayor Duffy Duffield
NAYS: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 11th day of April, 2018.

Leilani I. Brown
City Clerk
Newport Beach, California

CITY OF NEWPORT BEACH CALIFORNIA