

SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

THE STATE OF CALIFORNIA,
*Additional Parties attached

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

CITY OF HUNTINGTON BEACH, a California charter city

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): Orange County Superior Court
700 Civic Center Drive West, Santa Ana, CA 92701

CASE NUMBER:
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
MICHAEL E. GATES, City Attorney, 2000 Main Street, P.O. Box 190, Huntington Beach, CA 92648

DATE: April 5, 2018
(Fecha)

Clerk, by _____, Deputy
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):

under: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
4. ☐ by personal delivery on (date):

SHORT TITLE: City of Huntington Beach v. The State of California, et al.	CASE NUMBER:
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INSTRUCTIONS FOR USE

- ➔ This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- ➔ If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

☐ Plaintiff
 ☒ Defendant
 ☐ Cross-Complainant
 ☐ Cross-Defendant

EDMUND GERALD BROWN JR., Governor of California, in his Official Capacity;
 XAVIER BECERRA, Attorney General of California, in his Official Capacity, and,
 DOES 1 through 20,

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): MICHAEL E. GATES, City Attorney (SBN 258446) MICHAEL J. VIGLIOTTA, Chief Assistant City Attorney (SBN 207630) 2000 Main Street Huntington Beach, CA 92648 TELEPHONE NO.: (714) 536-5555 FAX NO.: (714) 374-1590 ATTORNEY FOR (Name): Plaintiff City of Huntington Beach	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE STREET ADDRESS: 700 Civic Center Drive West MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana, CA 92701 BRANCH NAME: Central Justice Center	
CASE NAME: City of Huntington Beach v. The State of California, et al.	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
	CASE NUMBER: JUDGE: DEPT:

Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input checked="" type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input checked="" type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. <input type="checkbox"/> Large number of separately represented parties b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve c. <input type="checkbox"/> Substantial amount of documentary evidence	d. <input type="checkbox"/> Large number of witnesses e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court f. <input type="checkbox"/> Substantial postjudgment judicial supervision
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3. Remedies sought (check all that apply): a. ☐ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify): Three: Writ of Mandamus; Declaratory Relief; Injunctive Relief

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: April 5, 2018

MICHAEL E. GATES, City Attorney

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on **all** other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

MICHAEL E. GATES, City Attorney (SBN 258446)
MICHAEL J. VIGLIOTTA, Chief Asst. City Attorney (SBN 207630)
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Attorneys for Petitioner/Plaintiff,
CITY OF HUNTINGTON BEACH

[Exempt from filing fees pursuant
To Government Code Section 6103]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

CITY OF HUNTINGTON BEACH, a California)	CASE NO.
Charter City,)	
)	
Petitioner/Plaintiff,)	PETITION FOR WRIT OF
)	MANDAMUS AND A COMPLAINT
)	FOR DECLARATORY RELIEF AND
vs.)	INJUNCTIVE RELIEF (CCP §§ 1085,
)	1060, 525 <i>et.seq.</i>)
)	
THE STATE OF CALIFORNIA; EDMUND)	
GERALD BROWN JR., Governor of California,)	
in his Official Capacity; XAVIER BECERRA,)	
Attorney General of California, in his Official)	
Capacity, and, DOES 1 through 20,)	
)	
Respondents/Defendants.)	

This Petition for Writ of Mandamus and Complaint for Declaratory Relief and Injunctive Relief ("Petition/Complaint") is brought by Petitioner/Plaintiff, the City of Huntington Beach ("City").

This Petition/Complaint is directed to and against Defendants and Respondents, State of California ("State"), Edmund G. Brown Jr., in his official capacity as Governor of the State of California ("Governor"), and Xavier Becerra, Attorney General of California, in his official capacity as the Attorney General of the State of California ("Attorney General").

1 The City alleges as follows:

2 **I. PARTIES**

3 1. Petitioner/Plaintiff, CITY OF HUNTINGTON BEACH ("City"), is and at all
4 relevant times has been a Charter City organized and existing under a freeholder's charter and
5 exercising local control and authority over its *municipal affairs*, including without limitation the
6 investment and expenditure of the City's funds, and the provision of a Police Department as
7 authorized by Article XI, § 5 of the California Constitution.

8 2. Respondent/Defendant, STATE OF CALIFORNIA ("State"), is and at all relevant
9 times has been a sovereign State.

10 3. Respondent/Defendant, EDMUND G. BROWN ("Governor"), is and at all relevant
11 times has been the Governor of the State of California. He is being sued in his official capacity as
12 Governor of the State of California.

13 4. Respondent/Defendant, XAVIER BECERRA ("Attorney General"), is and at all
14 relevant times was the Attorney General of the State of California. He is being sued in his official
15 capacity as Attorney General of the State of California.

16 5. Unless noted otherwise, the City hereinafter refers to the State, Governor and
17 Attorney General collectively as "Respondents/Defendants."

18 6. The City does not know of the true names and capacities of those
19 Defendants/Respondents sued herein as DOES 1 through 20, inclusive, and therefore sues those
20 Defendants/Respondents by such fictitious names. The City will amend this Petition/Complaint to
21 allege the true names and capacities of these fictitiously named Defendants/Respondents when the
22 same have been ascertained.

23 **II. JURISDICTION AND VENUE**

24 7. Jurisdiction and venue lie in the Superior Court of the County of Orange pursuant
25 to Code of Civil Procedure §§ 1060 and 1085.

26 ///

27 ///

28 ///

1 **III. INTRODUCTION**

2 8. The California Legislature enacted and the Governor signed into law, Senate Bill
3 54, entitled the “California Values Act” (hereinafter referred to as “SB 54”). SB 54 expressly
4 precludes State and local law enforcement agencies, such as the City of Huntington Beach Police
5 Department from using City funds and participating in certain Federal immigration enforcement
6 activities thereto.

7 9. According to the law, SB 54 applies to all cities in California.

8 10. Through this Petition/Complaint, the City seeks to invalidate the unconstitutional
9 mandates of SB 54 that impermissibly strip the City’s constitutionally protected Charter authority
10 with respect to local “municipal affairs.” Immigration and naturalization is within the exclusive
11 purview of the Federal Government and therefore is not and cannot be a matter of Statewide
12 concern.

13 11. SB 54 unconstitutionally interferes with the City’s Charter authority to enforce
14 local laws and regulations, including the receipt and expenditure of the City’s revenues, operation
15 of the City Police Department, as well as interfering with the City’s ability to contract with the
16 Federal Government and elected officials’ duty to carry out their respective oaths of office.

17 12. The City seeks a Writ of Mandamus prohibiting the State, Governor and Attorney
18 General from enforcing SB 54 against the City. In addition, as a corollary legal theory, the City
19 seeks Declaratory Relief as well as Injunctive Relief by way of a Preliminary and Permanent
20 Injunction to preclude the State from enforcing the unconstitutional mandates of SB 54.

21 13. The City is excused from exhausting any available administrative remedies it may
22 have since the State, Governor, and Attorney General have unequivocally determined on multiple
23 occasions that they will not cease enforcing SB 54. Accordingly, exhausting administrative
24 remedies would be a futile act.

25 **IV. FEDERAL IMMIGRATION LAW**

26 14. The Federal Government’s control over immigration and naturalization derives
27 from the Commerce Clause (U.S. Const. Art. I § 8, cl. 3), and related constitutional authorities
28 concerning foreign relations, and its power to “establish a uniform Rule of Naturalization.”

1 (U.S. Const. Art. I, § 8, cl. 4.) Authority to regulate immigration and matters concerning aliens
2 in or seeking to enter the United States is vested with the Federal Government. Control of
3 immigration is a “fundamental sovereign attribute.”

4 15. The U.S. Constitution assigns responsibility for the regulation of immigration to
5 the Federal Government because immigration concerns aspects of the Country’s external relations
6 with other countries. (*Chy Lung v. Freeman*, 92 U.S. 275, 280 (1875).)

7 16. The primary means by which the Federal Government exercises the authority for
8 administering and enforcing immigration policy is through the Immigration and Nationality Act
9 (“INA”). The INA established a ‘comprehensive Federal statutory scheme for regulation of
10 immigration and naturalization’ and set ‘the terms and conditions of admission to the country
11 and the subsequent treatment of aliens lawfully in the country.’ The United States Supreme
12 Court has described the INA as a comprehensive and complete code covering all aspects of
13 admission of aliens to this country. (*Elkins v. Moreno* (1978) 435 U.S. 647, 664.)

14 17. The Department of Homeland Security (“DHS”) is the regulatory agency tasked
15 with the statutory and regulatory authority over immigration and naturalization matters. The
16 Federal Government has determined that the DHS is uniquely situated to interpret the INA *and*
17 *determine what actions assist and what actions undermine its efforts.*

18 18. The DHS has enlisted the services, communication, support and cooperation of
19 State and local governments to assist Federal immigration enforcement officers with regard to
20 enforcement of certain aspects of the INA.

21 19. The City is informed and believes that the services, communication, support and
22 cooperation between the City and DHS is found in informal, flexible situations where the Police
23 Department assist Federal authorities with issues related to immigration enforcement that arise
24 through their routine local law enforcement duties.¹

25 _____
26 ¹ Congress has explicitly authorized State and local law enforcement officers to participate in
27 enforcement actions in specified circumstances. (8 USC § 1324(c) (providing that arrests for
28 violation of the INA’s criminal prohibitions against smuggling, transporting or harboring aliens
may be made not only by Federal immigration officers, but also by “all other officers whose duty
it is to enforce criminal laws”)); (8 USC §1252(c) (authorizing State and local law enforcement

1 receiving from the ICE information regarding the immigration status, lawful or unlawful, of an
2 alien in the United States. (8 USC § 1644)

3 **V. SB 54, THE CALIFORNIA VALUES ACT**

4 25. SB 54 *restricts State and local law enforcement agencies such as the City of*
5 *Huntington Beach Police Department from using City revenue or City personnel to assist,*
6 *communicate and/or cooperate in the enforcement of Federal Immigration and Naturalization*
7 *laws.* The restrictions of SB 54 include: a) Inquiring into an individual's immigration status; b)
8 Detaining a person based on a hold request from ICE; c) Arresting a person based on a civil
9 immigration warrant; d) Participating in any agreements or any program that deputizes police as
10 immigration agents; e) Participating in border patrol activities, including warrantless searches;
11 and, f) Using ICE agents as interpreters. (California Government Code § 7284.6)

12 26. SB 54 expressly provides that: *California law enforcement agencies shall not:*
13 *(1) Use agency or department moneys or personnel to investigate, interrogate, detain, detect, or*
14 *arrest persons for immigration enforcement purposes,* including any of the following:
15 (A) Inquiring into an individual's immigration status; (B) Detaining an individual on the basis of a
16 hold request; (C) Providing information regarding a person's release date or responding to
17 requests for notification by providing release dates or other information unless that information is
18 available to the public, or is in response to a notification request from immigration authorities in
19 accordance with Section 7282.5. Responses are never required, but are permitted under this
20 subdivision, provided that they do not violate any local law or policy; (D) Providing personal
21 information, as defined in Section 1798.3 of the Civil Code, about an individual, including, but not
22 limited to, the individual's home address or work address unless that information is available to
23 the public; (E) Making or intentionally participating in arrests based on civil immigration
24 warrants; (F) Assisting immigration authorities in the activities described in Section 1357(a)(3) of
25 Title 8 of the United States Code; and (G) Performing the functions of an immigration officer,
26 whether pursuant to Section 1357(g) of Title 8 of the United States Code or any other law,
27 regulation, or policy, whether formal or informal. (California Government Code §7284.6 (a) (1).)
28

1 27. SB 54 creates “safe zones” in Cities for immigrants by requiring that State,
2 County, and City assets and resources such as the City’s *public schools, public libraries,*
3 courthouses, and health facilities must implement pre-approved policies or equivalent regulations
4 approved by the State. The City owns and operates many libraries and schools, which are now
5 required pursuant to SB 54 to comply with the policy established by the State. (California
6 Government Code §7284.8.)

7 28. SB 54 mandates that when the City is participating in a joint law enforcement task
8 force, it is required to submit a report every six months to the State Department of Justice
9 describing the types and frequency of arrests made by the task force.

10 29. SB 54 mandates that local law enforcement officers are allowed to contact and
11 transfer people to ICE, only with a judicial warrant. (California Government Code § 7284.6(G)
12 (4).)

13 **VI. SB 54 VIOLATES THE “MUNICIPAL AFFAIRS DOCTRINE”**

14 30. Section 5(a) of Article XI of the California Constitution provides that a Charter
15 City shall not be governed by State law in respect to “municipal affairs.” Rather, “so far as
16 ‘municipal affairs’ are concerned,” Charter Cities laws are “supreme and beyond the reach of
17 [State] legislative enactment.” (*California Fed. Savings & Loan Assn. v. City of Los Angeles*
18 (1991) 54 Cal.3d 1, 12.)

19 31. How the City spends its money is a core function of local government and a
20 “municipal affair” of a Charter City. “[W]e can think of nothing that is of greater municipal
21 concern than how a city’s tax dollars will be spent; nor anything which could be of less interest to
22 taxpayers of other jurisdictions.” (*Johnson v. Bradley* (1992) 4 Cal.4th 389, 407.) The California
23 courts have consistently classified **how a city spends its tax dollars as a “municipal affair.”**

24 32. “Municipal affairs” or the “Municipal Affairs Doctrine”² is a California
25 Constitutional grant of power to Cities that allows Charter Cities to provide for the regulation of
26

27 ² The California Constitution provides no definition of “municipal affair.” However, generations of
28 legislative enactments and judicial interpretations provide that a Charter City is authorized to make
and enforce all local laws and regulations not in conflict with general State laws and to be free from
State legislation delegating to a private person or body control over city property, funds, tax levies

1 the “city police force;” “sub-government in all or part of a city;” “conduct of city elections;” and
2 “the manner in which ... municipal officers [are] elected.” (California Constitution, Art. XI, §
3 5(b).)

4 33. Section 5(b) of Article XI of the California Constitution specifically allows for
5 Charter Cities to provide for “the regulation and governance of a city police force.” (*Brown v.*
6 *City of Berkeley* (1976), 57 Cal. App. 3d 223.)

7 34. Pursuant to the California Constitution, and the City’s Charter, decades ago the
8 City established a Police Department delegating authority to the Police Chief to administer the
9 duties and functions of the Department, as well as the City jail and its prisoners. (Huntington
10 Beach Municipal Code §§ 2.24.010, 2.24.040.)

11 35. SB 54 unconstitutionally violates the “Municipal Affairs Doctrine,” the City
12 Charter and the City’s Municipal Code by prohibiting the City “*from using [City] money* or [City
13 Police] **personnel** to investigate, interrogate, detain, detect, or arrest persons for immigration
14 enforcement purposes.” (California Government Code § 7284.6(a)(1).)

15 36. SB 54 also unconstitutionally mandates the City use its funds, City assets and City
16 personnel to create “safe zones” throughout the City for immigrants by requiring the City’s public
17 schools, public libraries, courthouses, and health facilities operated by State or local government
18 to implement Respondent/Defendant Attorney General, pre-approved policies or equivalent
19 regulations. The City owns and operates many libraries and schools, which are subject to SB 54.
20 (California Government Code § 7284.8.)

21 37. SB 54 also unconstitutionally mandates the City use its funds and City personnel
22 to submit a report every six months to the State Department of Justice describing the types and
23 frequency of arrests made by any immigration task force in which the City participates.

24 38. SB 54 also unconstitutionally mandates how the City’s Police Department
25 operates with regard to the investigation, interrogation, detention, detection, or arrest persons for
26 immigration enforcement purposes.

27
28 _____
and municipal functions.

1 39. 8 USC § 1373 mandates that “a Federal, State, or local government entity or
2 official may not prohibit, or in any way restrict, any government entity or official from sending to,
3 or receiving from, the Immigration and Naturalization Service information regarding the
4 citizenship or immigration status, lawful or unlawful, of any individual.” SB 54
5 unconstitutionally eviscerates the requirement and historical practice that State and local
6 governments “cooperate” and communicate with the Federal Government.

7 40. *State governments do not have authority to directly regulate aliens and*
8 *immigration*, including the State determining enforcement priorities for the apprehension,
9 detention, and removal of aliens, which aliens may be admitted to or remain in the United States.

10 41. Congress expressly prohibits any Federal, State, or local government entity or
11 official from prohibiting, or in any way restricting, any government entity or official from sending
12 to, or receiving from, DHS “information regarding the citizenship or immigration status of an
13 individual.” (8 USC § 1373(a); *also* 8 USC § 1644.)

14 42. SB 54 at Government Code § 7284.6(a)(1)(C) and (D), expressly forbids the
15 sharing of information covered by 8 USC § 1373.

16 43. SB 54 unconstitutionally limits communication and collaboration between the City
17 of Huntington Beach and Federal immigration enforcement agencies. (California Government
18 Code § 7284.6(G) (4).)

19 **VII. SB 54 IMPERMISSIBLY INTENTIONALLY INTERFERES WITH THE**
20 **CONTRACTUAL RELATIONSHIP BETWEEN THE FEDERAL GOVERNMENT**
21 **AND THE CITY**

22 44. Intentional interference with the performance of a contract requires that a valid
23 contract exist, knowledge of the contract and intentional acts designed to induce a breach or
24 disruption of the contractual relationship that actually takes place and damages. (*Asahi Kasei*
25 *Pharma Corp. v. Actelion Ltd.*, (2013) 222 Cal. App. 4th 945.)

26 45. The INA allows State and local officers to participate in certain aspects of the
27 enforcement of immigration laws outside of a formal written agreement, through formal or
28 *informal* “cooperation.” (8 U.S.C. § 1357(g)(10).)

1 46. The INA states that formal agreements are not required for any officer or employee
2 of a State or political subdivision of a State to communicate with the Secretary regarding the
3 immigration status of any individual, including reporting knowledge that a particular alien is not
4 lawfully present in the United States; or otherwise to cooperate with the Secretary in the
5 identification, apprehension, detention, or removal of aliens not lawfully present in the United
6 States.

7 47. The assistance of State and local law enforcement personnel is contemplated via
8 implied contract (i.e., outside of the written agreements) such as through the Criminal Alien
9 Program, Fugitive Operations Task Forces, and Operation Community Shield. Moreover, State
10 and local law enforcement officers render assistance to DHS on a case-by-case basis as
11 immigration matters come to their attention in the performance of their regular duties under State
12 or local law.

13 48. SB 54 specifically precludes the cooperation of local law enforcement with regard
14 to aspects of reporting criminal activity of aliens. SB 54 by its language impairs the contractual
15 relationships between the Federal Government and local agencies with respect to the implied
16 agreements the City of Huntington Beach has to communicate with the Secretary regarding the
17 immigration status of any individual, including reporting knowledge that a particular alien is not
18 lawfully present in the United States; or otherwise to cooperate with the Secretary in the
19 identification, apprehension, detention, or removal of aliens not lawfully present in the United
20 States.

21 49. The City is informed and believes that it currently has applied for and received
22 Federal grant funds whereby the use of said funds is tied to the compliance with all Federal Laws.
23 The Federal grants are awarded pursuant to a "grant agreement" between the City and the Federal
24 Government. SB 54 causes the City to be in breach of the terms of said grant agreements.

25 50. This express and implied contractual relationship is impaired by the enactment of
26 SB 54.

27 ///

28 ///

FIRST CAUSE OF ACTION
(WRIT OF MANDAMUS-FAILURE TO ACT CONSISTENTLY WITH
ARTICLE XI, SECTION 5 OF THE CALIFORNIA CONSTITUTION, AND
INTENTIONAL INTERFERENCE WITH CONTRACT AGAINST
RESPONDENTS/DEFENDANTS INDIVIDUALLY AND COLLECTIVELY THE STATE,
GOVERNOR, AND ATTORNEY GENERAL)

51. The City hereby re-alleges and incorporates by reference paragraphs 1-50 of this Petition/Complaint.

52. Respondents/Defendants have a clear, present, and ministerial duty to administer the U.S. and California Constitution and laws of the State of California, including SB 54 without violating the Charter City provisions of Article XI, § 5 of the California Constitution.

53. Respondents'/Defendants' actions by the enactment of SB 54 ignore, undermine, stamp out, and usurp the City's rights as a Charter City under the Municipal Affairs Doctrine to control the expenditure of its own local funds and City assets, as well as exercise Charter City authority to establish and provide for a law enforcement activities which offends the California Constitutional grant of power to Charter Cities. (Cal. Const. Article XI, §5.) This right belonging to the City to control the use and expenditure of municipal revenue has been consistently recognized by the California Supreme Court as a right that is "quintessentially a municipal affair." (*State Building and Construction Trades Council of California* (2012) 54 Cal.4th 547, 559.)

54. Unless restrained, Respondents'/Defendants' actions will mandate policies of the City's Police Department, which in addition to violating the Municipal Affairs Doctrine, violates the United States Constitution, by determining enforcement priorities for the apprehension, detention, and removal of aliens, which aliens may be admitted to the United States or by setting the terms and conditions under which those aliens may remain pursuant to SB 54, rather than in compliance with Federal law.

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1 55. Respondents/Defendants have a clear, present, and ministerial duty to administer
2 the California Constitution and laws of the State of California, including SB 54, without
3 interfering with the City's existing contractual relationships.

4 56. Respondents'/Defendants' actions by the enactment of SB 54 ignore, undermine,
5 stamp out and usurp the City's existing and future contractual obligations to the Federal
6 government.

7 57. Absent a Writ of Mandamus to compel Respondents/Defendants to comply with
8 their ministerial duty to follow the California Constitution, and allow the City to fulfill existing
9 contracts with the Federal Government, Petitioner City would be rendered incapable of fulfilling
10 its responsibilities as a Charter City under Federal law.

11 58. The City is beneficially interested in Respondents'/Defendants' performance of
12 their ministerial duties in compliance with, and respect for the Charter City provisions of the
13 California Constitution, as well as well as the California prohibition on intentional interference
14 with contract and have no adequate remedy at law to redress the constitutional and statutory
15 violations described above other than issuance of a Writ of Mandamus. The City seeks a Petition
16 for Writ of Mandamus to compel Respondents/Defendants to immediately comply with their
17 mandatory statutory duties and to refrain from violating the statutory provisions set forth herein.
18 Wherefore, the City prays for a Writ of Mandamus as set forth below.

19 **SECOND CAUSE OF ACTION**

20 **(DECLARATORY RELIEF-FAILURE TO ACT CONSISTENTLY WITH ARTICLE XI,**
21 **SECTION 5 OF THE CALIFORNIA CONSTITUTION, AND INTENTIONAL**
22 **INTERFERENCE WITH CONTRACT AGAINST RESPONDENTS/DEFENDANTS**
23 **INDIVIDUALLY AND COLLECTIVELY THE STATE, GOVERNOR, AND ATTORNEY**
24 **GENERAL)**

25 59. The City hereby re-alleges and incorporates by reference paragraphs 1-58 of this
26 Petition/Complaint.

27 60. An actual controversy has arisen and now exists between the City and
28 Respondents/Defendants concerning their respective rights and duties under the SB 54, including

1 but not limited to the City's rights as a Charter City pursuant to the Municipal Affairs Doctrine
2 to control the expenditure of its own local funds and City assets, as well as exercise Charter City
3 authority to establish and provide for a law enforcement activities pursuant to the California
4 Constitutional Municipal Affairs authority of Charter Cities.

5 61. Declaratory Relief is necessary to recognize the well-established principal of
6 Municipal Affairs authority such that the City may ascertain its rights and duties to control the
7 expenditure of its revenues as well as the management and control of its Police Department
8 without being subjected to liability for violation of SB 54.

9 62. Respondents/Defendants have a clear, present, and ministerial duty to administer
10 the California Constitution and laws of the State of California, including SB 54, without
11 violating California prohibition against intentional interference with contract. The is informed
12 and believes it has existing contractual relationships with the Federal Government that are
13 impaired by the enactment and enforcement of the mandates of SB 54.

14 63. Declaratory Relief is necessary to recognize the well-established principal that a
15 third party may not intentionally interfere with the contractual relationship between the City and
16 the Federal Government.

17 64. A judicial declaration and determination is necessary at this time so that the City
18 may ascertain its rights with respect to Respondents'/Defendants' duties and obligations pursuant
19 to the California Constitution and California contract law and in order to resolve all controversies
20 between the parties hereto regarding such rights and duties.

21 65. Without a Declaratory Relief reversing the determinations and actions
22 Respondents have taken regarding the enforcement of SB 54, the City will be unable to exercise
23 its discretion in managing its municipal finances, preform existing contracts with the Federal
24 Government and comply with Federal law, and exercise its discretion regarding law enforcement
25 in the City. Wherefore, the City prays for Declaratory Relief, as set forth below.

26 66. The failure of Respondents/Defendants to recognize that the policies of the City
27 regarding enforcement of Federal Immigration laws is a "Municipal Affair" protected under
28 Article XI, § 5 of the California Constitution against State interference, including through SB 54,

1 as well as failure to recognize the principles of intentional interference with contract is arbitrary
2 and capricious and entitles City to an award of attorney's fees under California Government
3 Code § 800.

4 **THIRD CAUSE OF ACTION**

5 **(INJUNCTIVE RELIEF- FAILURE TO ACT CONSISTENTLY WITH ARTICLE XI,**
6 **SECTION 5 OF THE CALIFORNIA CONSTITUTION, AND INTENTIONAL**
7 **INTERFERENCE WITH CONTRACT AGAINST RESPONDENTS/DEFENDANTS**
8 **INDIVIDUALLY AND COLLECTIVELY THE STATE, GOVERNOR, AND ATTORNEY**
9 **GENERAL)**

10 67. The City hereby re-alleges and incorporates by reference paragraphs 1-66 of this
11 Petition/Complaint.

12 68. Respondents/Defendants have a clear, present, and ministerial duty to administer
13 the Constitution and laws of the State of California, including SB 54 without violating the
14 Charter City provisions of Article XI, § 5 of the California Constitution.

15 69. Respondents/Defendants have a clear, present, and ministerial duty to refrain from
16 impairing existing City contractual relationship with the Federal Government in enacting and
17 administering SB 54.

18 70. Respondents'/Defendants' actions by the enactment of SB 54 ignore, undermine,
19 stamp out and usurp the City's rights as a Charter City to control the expenditure of its own local
20 funds as well as City law enforcement activities which offends the California Constitutional
21 Municipal Affairs authority of Charter Cities. (Cal. Const. Article XI, §5.) This right belonging
22 to the City to control the use and expenditure of municipal revenue has been consistently
23 recognized by the California Supreme Court as a right that is "quintessentially a municipal
24 affair." (*State Building and Construction Trades Council of California* (2012) 54 Cal.4th 547,
25 559.)

26 71. Unless restrained, Respondents'/Defendants' actions will mandate policies of the
27 City's Police Department, which in addition to violating the Municipal Affairs Doctrine, violates
28 the United States Constitution, by determining enforcement priorities for the apprehension,

1 detention, and removal of aliens, which aliens may be admitted to the United States or by setting
2 the terms and conditions under which those aliens may remain pursuant to SB 54, rather than in
3 compliance with Federal law

4 72. Respondents'/Defendants' actions by the enactment of SB 54 ignore, undermine,
5 stamp out and usurp the rule of law that a party may not intentionally interfere with contractual
6 relationships.

7 73. The City request equitable relief in the form of an Injunction because the general
8 public including citizens of Huntington Beach and its Police Department will suffer irreparable
9 injury if Respondents'/Defendants' enactment and enforcement of SB 54 is not immediately set
10 aside and enjoined. Respondents/Defendants have adopted and are implementing the mandates of
11 SB 54 as described herein, and if Respondents/Defendants are not immediately enjoined from
12 taking further actions to implement SB 54 pending resolution of this lawsuit on its merits this
13 irreparable injury will continue. The public interest warrants the issuance of Preliminary and
14 Permanent Injunctions requested by the City.

15 74. Injunctive Relief is necessary to protect the rights of the City, and this Court
16 should issue interim relief and a permanent injunction restraining and enjoining
17 Respondents/Defendants from enforcing SB 54 against the City.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Petitioner/Plaintiff respectfully prays for judgment as follows:

20 1. On the City's First Cause of Action, for issuance of an alternative and peremptory
21 Writ of Mandamus that commands and compels Respondents/Defendants to comply with their
22 respective mandatory and ministerial duties with respect to the City's claims raised in this action,
23 including without limitation that Respondents not enforce SB 54 against the City and comply with
24 Article XI, § 5 of the California Constitution, as well complying with the prohibition against
25 interfering with existing contractual relationships the City has with the Federal Government; and

26 2. On the City's Second Cause of Action, for a Judicial Declaration that SB 54 is
27 unconstitutional and therefore invalid as preempted by Article XI, § 5 of the California

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1 Constitution as well as the State law prohibition against intentionally interfering with the City's
2 contractual relationship with the Federal Government; and

3 3. On the City's Third Cause of action for Injunctive Relief that
4 Respondents/Defendants be enjoined from enforcing SB 54 against the City of Huntington Beach.

5 4. For attorneys fees' and costs pursuant to Code of Civil Procedure § 1021.5,
6 Government Code §800, and as may otherwise be permitted by law; and

7 5. For such other and further relief as the Court deems just and proper.

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9 DATED: April 4, 2018

MICHAEL E. GATES, City Attorney

10
11 By: 

12 MICHAEL E. GATES, City Attorney
13 Attorney for Petitioner/Plaintiff
14 CITY OF HUNTINGTON BEACH
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