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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  
Charter City,  
  
Petitioner/Plaintiff,

vs.

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.

) CASE NO. 30-2018-00984280  
) [Case Assigned to Judge James Crandall,  
) Dept. C33]  
)  
) **PETITIONER’S MEMORANDUM OF**  
) **POINTS AND AUTHORITIES IN**  
) **SUPPORT OF PETITION FOR WRIT**  
) **OF MANDAMUS AND A COMPLAINT**  
) **FOR DECLARATORY RELIEF AND**  
) **INJUNCTIVE RELIEF AGAINST THE**  
) **STATE TO COMPLY WITH ARTICLE**  
) **XI, SECTION 5, OF THE CALIFORNIA**  
) **CONSTITUTION AND NOT ENFORCE**  
) **SB 54; REQUEST FOR JUDICIAL**  
) **NOTICE AND DECLARATION OF**  
) **POLICE CHIEF ROBERT HANDY**  
) **FILED IN SUPPORT OF THIS BRIEF**  
) **ARE FILED SEPARATELY**  
)

DATE: September 27, 2018  
TIME: 1:30 p.m.  
DEPT.: C33

Petition/Complaint filed April 4, 2018

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Senate Bill 54<sup>1</sup> or the “California Values Act” (hereinafter “SB 54”) *interferes* with, and  
4 *intrudes upon*, the City of Huntington Beach’s *constitutionally* protected authority over its  
5 Municipal Affairs. SB 54, by its own terms, prevents the City’s police officers from  
6 communicating and/or coordinating with Federal Immigration Enforcement Agencies, prevents the  
7 City from spending general fund revenue on certain law enforcement activities, places additional  
8 burdens on the City’s police department by increased regular reporting requirements (to the State),  
9 and deems the City’s schools and libraries as sanctuaries.

10 Indeed, SB 54 is an unconstitutional legislative overreach by the State, which attempts to  
11 wrest local control of the foregoing governmental functions away from the City of Huntington  
12 Beach (hereinafter also referred to as “City”). Pursuant to the Separation of Powers, this Superior  
13 Court is vested with the authority to strike down unconstitutional State Legislation. “The  
14 complete independence of the courts of justice is peculiarly essential in a limited Constitution...  
15 Limitations of this kind can be preserved in practice no other way than through the medium of  
16 courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the  
17 Constitution void... A constitution is, in fact, and must be regarded by the judges, as a  
18 fundamental law.” (Alexander Hamilton, Federalist Papers: No. 78.)<sup>2</sup> Judicial intervention here  
19 is absolutely necessary as *jura novit curia* – not the oft overreaching State Legislature.

20 John Adams famously stated: “We are a Nation of laws, not of men.” The State of  
21 California too must follow the laws, including California’s Supreme Law, the California  
22 Constitution. “By ensuring that no one in government has too much power, the Constitution helps  
23

24 \_\_\_\_\_  
25 <sup>1</sup> Law enforcement: sharing data; in particular, Chapter 17.25

26 <sup>2</sup> This famous quote from Alexander Hamilton then goes on to say: “It therefore belongs to [courts] to  
27 ascertain its meaning, as well as the meaning of any particular act proceeding from the legislative body. If  
28 there should happen to be an irreconcilable variance between the two, that which has the superior obligation  
and validity ought, of course, to be preferred; or, in other words, the Constitution ought to be preferred to  
the statute, the intention of the people to the intention of their agents.” (Alexander Hamilton, Federalist  
Papers: No. 78)

1 protect ordinary Americans every day against abuse of power by those in authority.”<sup>3</sup>

2 Article XI, Section 5(a), of the California Constitution grants Huntington Beach exclusive  
3 authority to “make and enforce all ordinances and regulations in respect to *municipal affairs*,”  
4 such that with respect to “municipal affairs,” City authority “shall supersede all [State] laws  
5 inconsistent therewith.” (Cal. Const., art. XI, § 5(a) (emphasis added).)<sup>4</sup> For convenience, a true  
6 and correct copy of Article XI of the California Constitution is attached here as Exhibit 1.

7 The City of Huntington Beach long ago adopted and codified its Article XI, Section 5,  
8 local control authority over its Municipal Affairs – to the maximum extent possible. In its City  
9 Charter, Section 103, the City declares it has: “the power to make and enforce all laws and  
10 regulations in respect to municipal affairs, subject only to such restrictions and limitations as may  
11 be provided in this Charter or in the Constitution of the State of California.” (Huntington Beach  
12 City Charter, § 103.)<sup>5</sup>

13 Pursuant to this authority, the City of Huntington Beach established decades ago a Police  
14 Department, and made it “the duty of each and every member of the Police Department *to enforce*  
15 *impartially all the laws and statutes of the United States* and of the State of California and all of  
16 the ordinances of the City, within the limits of this City...” (Huntington Beach Mun. Code,<sup>6</sup> §§  
17 2.52.010 and 2.52.030 (emphasis added).)<sup>7</sup>

18 Charter Cities, like the City of Huntington Beach, have supreme authority over “Municipal  
19 Affairs” – which is to say, Charter Cities are *free from State interference over matters of local*  
20 *concern*. The “Municipal Affairs” at issue here, which are under direct assault by SB 54, are the  
21 City of Huntington Beach’s *receipt and expenditure of City revenue*, and the *operation of the*  
22 *City Police Department*, which naturally includes *the City’s ability to contract* with the Federal  
23 Government with regard to immigration matters. There is no debate, these *are* “Municipal  
24

25 <sup>3</sup> John Roberts, Chief Justice of the Supreme Court, The Interview: Chief Justice John G. Roberts, Jr., The  
Scholastic News 2018.

26 <sup>4</sup> See, *State Building & Construction Trades Council of California v. City of Vista* (2012) 54 Cal.4th 547.

27 <sup>5</sup> A true and correct copy of the Huntington Beach City Charter is attached to the separately-filed Request  
for Judicial Notice; and the Huntington Beach City Charter is also referred to in this Brief as “Charter.”

28 <sup>6</sup> The Huntington Beach Municipal Code is also referred to throughout this Brief as “HBMC.”

<sup>7</sup> A true and correct copy of relevant portions of the HBMC are attached to the separately-filed Request for  
Judicial Notice.

1 Affairs” specifically set forth under Article XI of the California Constitution and supporting case  
2 law. They are sacrosanct municipal matters reserved for local governance and beyond the reach of  
3 the State Legislature.

4 The City of Huntington Beach seeks to invalidate the SB 54 law as it applies to Huntington  
5 Beach, a Charter City, and all of California’s Charter Cities. While this case may appear to be one  
6 of “first impression,” the courts (and the State Legislature) have already determined that a Charter  
7 City’s control of its police force and its ability, and methods, of spending its general fund dollars  
8 *are matters of local concern and governance*, i.e., “Municipal Affairs.” Under Article XI, Section  
9 5(b), of the California Constitution, Chartered Cities are specifically provided the authority to  
10 constitute, regulate, and govern city police departments. (*Brown v. City of Berkeley* (1976) 57  
11 Cal.App.3d 223.)

12 The City of Huntington Beach seeks a Writ prohibiting the State, the Governor, and the  
13 Attorney General from enforcing SB 54. In addition, as a corollary, the City of Huntington Beach  
14 seeks Declaratory Relief as well as Injunctive Relief by way of a Preliminary and Permanent  
15 Injunction to preclude the State from enforcing the unconstitutional SB 54, which impermissibly  
16 interferes with the City of Huntington Beach’s ability to engage in its “Municipal Affairs” and  
17 enter into contracts with Federal agencies.

18 **II. SUMMARY OF RELEVANT STATE AND HUNTINGTON BEACH LAWS**

19 1. **The Charter of the City of Huntington Beach**

20 The Huntington Beach City Charter (hereinafter “Charter”) provides in part:

21 “The City shall have the power to make and enforce all laws and regulations in respect to  
22 municipal affairs, subject only to such restrictions and limitations as may be provided in this  
23 Charter or in the Constitution of the State of California.” (Charter, § 103.)

24 “The general grant of power to the City under this Charter shall be construed broadly in  
25 favor of the City. The specific provisions enumerated in this Charter are intended to be and shall  
26 be interpreted as limitations upon the general grant of power and shall be construed narrowly.”  
27 (Charter, § 104.)

28 ///

1 “The City may exercise any of its powers or perform any of its functions and may  
2 participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any  
3 one or more states or civil divisions or agencies thereof, or the United States or any agency  
4 thereof.” (Charter, § 105.) Finally, the City Council exercises authority regarding spending  
5 including for law enforcement activities pursuant to Charter Sections 601-604.

6 2. **The California Constitution**

7 The California Constitution, Article XI, Section 5,<sup>8</sup> provides the authority for cities to  
8 enact a Charter and the authority to engage in local governance, free from State Legislative  
9 interference:

10 “(a) It shall be competent in any city charter to provide that the city governed  
11 thereunder may make and enforce all ordinances and regulations in respect to  
12 *municipal affairs*, subject only to restrictions and limitations provided in their  
13 several charters and in respect to other matters they shall be subject to general  
14 laws. *City charters* adopted pursuant to this Constitution shall supersede any  
15 existing charter, *and with respect to municipal affairs shall supersede all laws*  
16 *inconsistent therewith.*

17 (b) It shall be competent in all city charters to provide, in addition to those  
18 provisions allowable by this Constitution, and by the laws of the State for: (1) *the*  
19 *constitution, regulation, and government of the city police force*, (2) sub-  
20 government in all or part of a city, (3) conduct of city elections, and (4) plenary  
21 authority is hereby granted, subject only to the restrictions of this article...”  
22 (emphasis added).

23 3. **SB 54, The California Values Act**

24 SB 54 is now embodied in the California Government Code, Sections 7284.6, *et seq.*

25 SB 54 *restricts State and local law enforcement agencies such as the City of Huntington*  
26 *Beach Police Department from using City revenue or City personnel to assist, communicate*  
27 *and/or cooperate in the enforcement of Federal Immigration and Naturalization laws.*

28 SB 54 expressly provides that: “*California law enforcement agencies shall not: (1) Use*  
*agency or department moneys or personnel to investigate, interrogate, detain, detect, or arrest*  
*persons for immigration enforcement purposes*, including any of the following: (A) Inquiring

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<sup>8</sup> A true and correct copy of which is attached hereto as Exhibit 1

1 into an individual’s immigration status; (B) Detaining an individual on the basis of a hold request;  
2 (C) Providing information regarding a person’s release date or responding to requests for  
3 notification by providing release dates or other information unless that information is available to  
4 the public, or is in response to a notification request from immigration authorities in accordance  
5 with Section 7282.5. Responses are never required, but are permitted under this subdivision,  
6 provided that they do not violate any local law or policy; (D) Providing personal information, as  
7 defined in Section 1798.3 of the Civil Code, about an individual, including, but not limited to, the  
8 individual’s home address or work address unless that information is available to the public;  
9 (E) Making or intentionally participating in arrests based on civil immigration warrants;  
10 (F) Assisting immigration authorities in the activities described in Section 1357(a)(3) of Title 8 of  
11 the United States Code; and (G) Performing the functions of an immigration officer, whether  
12 pursuant to Section 1357(g) of Title 8 of the United States Code or any other law, regulation, or  
13 policy, whether formal or informal.” (Gov. Code, § 7284.6 (a)(1).)

14 SB 54 mandates that when the City is participating in a joint law enforcement task force, it  
15 is required to submit a report every six months to the State Department of Justice describing the  
16 types and frequency of arrests made by the task force. (Gov. Code, § 7284.6 (c)(1).) SB 54 also  
17 mandates that local law enforcement officers are not allowed to contact and transfer people to  
18 ICE, without first obtaining a judicial warrant. (Gov. Code, §§ 7284.6 (a)(1) and (G)(4).)  
19 Finally, SB 54 regulates the City’s Jail system. Sections 7284.6 (a)(5) and (6) prohibit the City  
20 from providing office space or detention in the City’s own jail.

21 **III. LEGAL AUTHORITIES AND LEGAL ARGUMENT**

22 **A. THE CITY OF HUNTINGTON BEACH HAS RESERVED POWER**  
23 **THROUGH ITS CHARTER TO GOVERN “MUNICIPAL AFFAIRS”**

24 Article XI, Section 5, of the California Constitution, confers broad powers on Charter  
25 Cities to exercise local control over matters determined to be of local concern and governance.  
26 Charter Cities are specifically authorized by the State Constitution to govern themselves, free of  
27 State Legislative intrusion or interference, as to those matters deemed “Municipal Affairs.” (*State*  
28 *Building & Construction Trades Council of Cal. v. City of Vista* (2012) 54 Cal.4th 547, 555.)

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Constitutionally *enumerated* Municipal Affairs include:

- Charter Cities control “the constitution, regulation, and government of the city police force.” (Cal. Const., art. XI, § 5(b)(1).);
- Charter Cities establish and regulate City employee compensation. (Cal. Const., art. XI, § 5(b)(4).); and
- Charter Cities regulate and manage City elections. (Cal. Const., art. XI, § 5(b)(3); see also *Mackey v. Thiel* (1968) 262 Cal.App.2d 362, 365.)

In addition to the authorities provided expressly by the California Constitution, Courts have also recognized the following matters as “Municipal Affairs:”

- Charter Cities have control over certain zoning, planning, and land use regulations. (*Pines v. Santa Monica* (1981) 29 Cal.3d 656.);
- Charter Cities have exclusive control over how Charter Cities spend tax, general fund dollars. (*Johnson v. Bradley* (1992) 4 Cal.4th 389, at 407-408.);
- Charter Cities have freedom and control over municipal contracts. (*R & A Vending Services, Inc. v. City of Los Angeles* (1985), 172 Cal.App.3d 1188, 1191.)<sup>9</sup>; and
- Charter Cities have freedom and control over competitive bidding for City funded Contracts. (*Vial v. City of San Diego* (1981) 122 Cal.App.3d 346.)

“It is manifestly the intention of the constitution to *emancipate municipal governments from the authority and control formerly exercised over them by the legislature.*” (*People v. Hoge* (1880) 55 Cal. 612 (emphasis added).)

The voters of the City of Huntington Beach adopted the City’s Charter in 1937 to achieve that level of emancipation and local control. The Huntington Beach City Charter reserves to the City broad authority and power to “make and enforce all laws and regulations in respect to municipal affairs, subject only to such restrictions and limitations as may be provided in the Charter or in the Constitution of the State of California.” (Charter, § 103.) “The general grant of power to the City under this Charter shall be construed broadly in favor of the City. The specific provisions enumerated in this Charter are intended to be and shall be interpreted as limitations upon the general grant of power and shall be construed narrowly.” (Charter, § 104.) The Constitutional right of the City of Huntington Beach to engage in local control over its Municipal

<sup>9</sup> See also, *Howard Contracting, Inc. v. G.A. MacDonald Constr. Co.* (1998) 71 Cal.App.4th 38

1 Affairs is so clear and so strong, the City’s local authority “shall supersede all [State] laws  
2 inconsistent therewith.” (*City of Vista*, 54 Cal.4th, at 558.)

3 **B. SB 54 IS INCONSISTENT WITH, INTERFERES WITH, AND INTRUDES**  
4 **UPON, THE CITY’S LOCAL CONTROL OF ITS POLICE DEPARTMENT**

5 As has been stated, the California Constitution expressly provides that constituting and  
6 maintaining a local Police Force is a Municipal Affair and out of the reach of the State Legislature.  
7 Article XI, Section 5(b), states: “*It shall be competent in all City Charters to provide*, in addition  
8 to those provisions allowable by this Constitution, and by the laws of the State for: (1) *the*  
9 *constitution, regulation, and government of the city police force...*” (Emphasis added.)

10 The California Constitution could not be clearer about this authority, which it has  
11 conferred to the City of Huntington Beach, a Charter City. In fact, the Court of Appeal has  
12 reiterated over time, Charter Cities are to provide for “the regulation and governance of a city  
13 police force.” (*Brown v. City of Berkeley* (1976) 57 Cal.App.3d 223.) The City of Huntington  
14 Beach is *entitled* to be free from State Legislative interference in the “constitution,” “regulation,”  
15 and “government” of the Huntington Beach Police Department.

16 In 1921, the City of Huntington Beach constituted, and has since funded, maintained, and  
17 regulated, a Police Force. (HBMC, § 2.52.010; see also See Declaration of Police Chief Robert  
18 Handy, which was filed separately with the court, at ¶¶ 4-8)<sup>10</sup> The City of Huntington Beach has  
19 long made it “the duty of each and every member of the Police Department *to enforce impartially*  
20 *all the laws and statutes of the United States* and of the State of California and all of the  
21 ordinances of the City, within the limits of this City... ”<sup>11</sup> (HBMC, § 2.52.030 (emphasis added).)  
22 SB 54 expressly seeks to prevent these law enforcement activities.

23 ///

24  
25  
26 <sup>10</sup> The Declaration of Police Chief Robert Handy is referred to in this Brief as “Handy Dec.”

27 <sup>11</sup> Under Article I, Section 8, clause 4 of the U.S. Constitution, Congress has expressly prohibited any  
28 Federal, State, or local government entity or official from prohibiting, or in any way restricting, any  
government entity or official from sending to, or receiving from, DHS “information regarding the  
citizenship or immigration status of an individual” (See 8 U.S.C., Section 1373(a); *also* 8 U.S.C., Section  
1644), which is what SB 54 expressly seeks to prevent.

1 In direct contravention to Congress’s authority and the City’s authority, the State, through  
2 SB 54, attempts to “regulate” and “govern” the Huntington Beach Police Department and/or the  
3 activities of its police officers by preventing now and in the future coordination and cooperation  
4 between the Huntington Beach Police Department and other agencies. SB 54 expressly states:  
5 **“California law enforcement agencies shall not: (1) Use agency or department moneys or**  
6 **personnel to investigate, interrogate, detain, detect, or arrest persons for immigration**  
7 **enforcement purposes...”** (Gov. Code, § 7284.6 (a)(1) (emphasis added).)

8 According to Police Chief Handy, “SB 54 interferes with effective local law enforcement  
9 by limiting the discretion of City police to work cooperatively with the United States Department  
10 of Homeland Security and the U.S. Immigration and Customs Enforcement (“ICE”).” (Handy  
11 Dec., at ¶ 11.) “SB 54 limits and interferes with my ability to operate the City jail as SB 54  
12 prohibits the City from providing office space or detention in the City’s own jail.” (Handy Dec., at  
13 ¶ 15.) “The ability to use immigration tactically in policing is an important law enforcement tool,  
14 much like using tax evasion laws against organized crime is important in effective policing. SB  
15 54 takes a much needed tool away from the City’s law enforcement officers.” (Handy Dec., at ¶  
16 13.)

17 The direct conflict between the City of Huntington Beach’s local control over its Police  
18 Department and the State’s attempts to regulate and govern Huntington Beach’s Police  
19 Department through SB 54 could not be portrayed in higher contrast. In fact, the State, through  
20 SB 54, is at complete odds with the authority granted to the City of Huntington Beach by the  
21 California Constitution. If the State were permitted by laws, like SB 54, to ignore the Constitution  
22 on the one hand, and to regulate and govern local Police Forces on the other, the State could pass  
23 nearly any law to commandeer, interfere, and intrude upon local governance, which, in this  
24 instance, would be compromise the integrity and strength of those Police Forces, thereby leaving  
25 communities and their safety compromised and at risk. As Chief Handy states: “[t]he restrictions  
26 SB 54 places on law enforcement allows criminals to be released back into Orange County  
27 communities, including Huntington Beach.” (Handy Dec., at ¶ 12.)

28 ///

1 Since Huntington Beach is a Charter City and enjoys *Constitutional* protections to  
2 constitute, regulate, and govern its own Police Force, SB 54 is an impermissible, un-Constitutional  
3 overreach, is void, and should be invalidated. In fact, the California Constitution requires that SB  
4 54 be struck down. The California Constitution provides, “*municipal affairs shall supersede all*  
5 *laws inconsistent therewith.*” (Cal. Const., art. XI, § 5 (a) (emphasis added).)

6 The City of Huntington Beach requests this Superior Court, in keeping with the words of  
7 Alexander Hamilton, “through the medium of courts of justice, whose duty it must be to declare  
8 all acts contrary to the manifest tenor of the Constitution void,” to declare SB 54 unconstitutional  
9 and void. After all, as the California Supreme Court instructed long ago, providing for “Municipal  
10 Affairs” protections in the California Constitution “was to prevent existing provisions of charters  
11 from being frittered away by general laws, which would repeal those provisions by implication. It  
12 was to enable municipalities to conduct their own business and control their own affairs, to the  
13 fullest possible extent in their own way.” (*Fragley v. Phelan* (1899) 126 Cal. 383.)

14 C. **SB 54 IS INCONSISTENT WITH, INTERFERES WITH, AND INTRUDES**  
15 **UPON, THE CITY’S LOCAL CONTROL OF ITS GENERAL FUND**  
16 **DOLLARS AND CITY ASSETS**

17 In direct contravention to the City of Huntington Beach’s Constitutionally-protected local  
18 authority, the State, through SB 54, “prevents” the City from spending money or resources on  
19 certain local law enforcement activities.

20 The City’s Charter has long provided for the City’s ability to raise money, keep and  
21 maintain its funds, and to spend its funds – without interference. Charter Sections 601-605 and  
22 the Huntington Beach Municipal Code, Title 3, provide the authorities and procedures for the City  
23 of Huntington Beach to adopt an annual Budget and spend general fund dollars. Within that  
24 annual Budget is the authority to allocate funds and spend the City’s tax dollars and other general  
25 fund revenue. (Charter, §§ 601-605.) Moreover, “[t]he City may exercise any of its powers or  
26 perform any of its functions and may participate in the financing thereof, jointly or in cooperation,  
27 by contract or otherwise, with any one or more states or civil divisions or agencies thereof, or the  
28 United States or any agency thereof.” (Charter, § 105.)

1 SB 54 expressly states: “California law enforcement agencies ***shall not: (1) Use agency or***  
2 ***department moneys*** or personnel to investigate, interrogate, detain, detect, or arrest persons for  
3 immigration enforcement purposes...” (See Gov. Code, § 7284.6 (a)(1) (emphasis added).) In  
4 addition, SB 54 also unconstitutionally mandates the City expend *additional* resources and spend  
5 its general fund money and City personnel time to prepare and submit additional reports every six  
6 months to the State Department of Justice describing the types and frequency of arrests made by  
7 any immigration task force in which the City participates. (Gov. Code, § 7284.6 (c)(1).) SB 54  
8 also unconstitutionally mandates the City use its funds, City assets and City personnel to create  
9 “safe zones” throughout the City for immigrants. (Gov. Code, § 7284.8.)

10 As part of the City’s most primary and basic functions, the City of Huntington Beach  
11 constituted, and has since funded, maintained, and regulated, without State interference, a Police  
12 Force. (HBMC, § 2.52.010; See also Handy Dec., generally.) The Huntington Beach Police  
13 Department is funded primarily by the City’s general fund, which is funded in part by the tax  
14 monies and fees collected from the citizenry. (See Handy Dec., at ¶¶ 6, 7.) Huntington Beach  
15 Police Officers use “agency” or Department money, which is from general fund monies budgeted  
16 by the City for the Police Department, to execute law enforcement functions, including at times,  
17 cooperating and coordinating with other agencies. (Handy Dec., at ¶ 8.) The annual  
18 budget/funding for the Huntington Beach Police Department is approximately \$77,000,000.00 of  
19 the City’s general fund dollars. (See Handy Dec., at ¶ 5.)

20 According to Police Chief Handy, “SB 54 allows the State of California to control how I  
21 spend City revenue, which is in the form of my Police Department (agency) funds, on law  
22 enforcement activity. State control of City budget and the allocation of resources is a disastrous  
23 proposition. Subject to City budgeting, I must have the ability to control how the City law  
24 enforcement budgets and allocates funds to law enforcement.” (Handy Dec., ¶ 16.)

25 The way in which, or the methods by which, or the matters for which, a Charter City  
26 spends its money is a “core function” of local government and a “Municipal Affair” of a Charter  
27 City. Charter Cities have direct power under Article XI, § 5(a), of the California Constitution to  
28 impose taxes for revenue raising purposes. (*Marsh & McLennan of Cal., Inc. v. City of Los*

1 Angeles (1976) 62 Cal.App.3d 108, 122.) The California Supreme Court clearly instructed “[W]e  
2 can think of nothing that is of greater municipal concern than how a city's tax dollars will be  
3 spent; nor anything which could be of less interest to taxpayers of other jurisdictions.”  
4 (*Johnson v. Bradley* (1992) 4 Cal.4th 389, 407 (emphasis added).)

5 More recently, the California Supreme Court made the same point that the State can how  
6 no interest into how a city's own funds are spent in *City of Vista, supra*, holding that the wages of  
7 contract workers constructing locally funded public works is a “municipal affair,” and not subject  
8 to State prevailing wage laws. In *City of Vista*, the California Supreme Court relied upon its  
9 decision over 80 years earlier in *City of Pasadena v. Charleville* (1932) 215 Cal. 384, 389, which  
10 also held that a Charter City may determine itself how much to pay for services. Quoting from  
11 *Charleville*, the California Supreme Court explained that where the sole purpose of the  
12 expenditure “is the construction of a wire fence around a reservoir which is a part of the city's  
13 municipal water system,” and the “money to be expended for the cost of the improvement belongs  
14 to the city,” then “the control of its expenditure is a municipal affair.” (*City of Vista*, 54 Cal.4th,  
15 at 559.)

16 As the highest courts have defined the spending of general fund money a “Municipal  
17 Affair,” the City of Huntington Beach is entitled as well to be free from State Legislative  
18 interference in the taxing and spending of its general fund money on law enforcement activities.  
19 To the contrary however, the State, through SB 54, restricts how the City spends its money or  
20 resources through its Police Department and the City's law enforcement activities.

21 The direct conflict between the City of Huntington Beach's local control over the spending  
22 of its general fund money and the State's attempts to regulate that very spending through SB 54  
23 could not be more patent. Since Huntington Beach is a Charter City, and enjoys Constitutional  
24 protections to tax and spend its own money, SB 54 is an impermissible, unconstitutional overreach  
25 and should be deemed void. In fact, the California Constitution requires that SB 54 be struck  
26 down. The California Constitution provides, “***municipal affairs shall supersede all laws***  
27 ***inconsistent therewith.***” (Cal. Const., art. XI, § 5(a) (emphasis added).) In a recent case, the  
28 Court of Appeal reinforced the maxim that a Charter City's local authority “shall supersede all

1 [State] laws inconsistent therewith.” (*City of Vista*, 54 Cal.4th, at 558.)

2 If this Superior Court were to allow SB 54 to stand, and the State were permitted to  
3 mandate how a City spends its general fund revenue, the State, in advancing a particular interest  
4 or agenda, could leave cities completely defenseless in its policing, and also, against the State’s  
5 additional attempts to commandeer all or part of a city’s general fund money or assets. If the  
6 State is permitted to commandeer, or intrude upon, the way in which a city’s general fund money  
7 is spent here, there is no limit, frankly, to what the State could do next. “The restrictions SB 54  
8 places on law enforcement allows criminals to be released back into Orange County communities,  
9 including Huntington Beach.” (Handy Dec., at ¶ 12.) This Court must invalidate and enjoin  
10 enforcement of SB 54 as to Charter Cities such as Huntington Beach because it intrudes into the  
11 way the City spends general fund money on operations of the City Police Department, which is a  
12 constitutionally enumerated “Municipal Affair,” over which the City has exclusive control.

13 **D. THE CITY OF HUNTINGTON BEACH’S LOCAL CONTROL OVER ITS**  
14 **MUNICIPAL AFFAIRS IS NOT “PREEMPTED” BY SB 54**

15 The City anticipates that the State, in order to “sidestep” and avoid this *Constitutional*  
16 challenge, may argue that SB 54 does not violate the Municipal Affairs Doctrine at all, because  
17 SB 54 is a matter of “Statewide concern,” and therefore “preempts” the City of Huntington  
18 Beach’s local, Home Rule authority. Of course, this is absurd. The Federal Government occupies  
19 the *entire* field of immigration regulation and enforcement – the *entire field*. There is no room  
20 therefore for regulation or enforcement by the State. In fact, any such attempt by the State to  
21 regulate or interfere with Federal immigration, as SB 54 does, violates the U.S. Constitution.

22 The Federal Government exclusively controls immigration and naturalization pursuant to  
23 the Commerce Clause (U.S. Const., art. I, § 8, cl. 3), and related constitutional authorities  
24 concerning foreign relations, and its power to “establish a uniform Rule of Naturalization.” (U.S.  
25 Const., art. I, § 8, cl. 4.)

26 Because the Federal Government has occupied *the entire field*, any attempt by the State to  
27 argue now that Charter Cities are preempted by SB 54 would then put the State in a U.S.  
28 Constitutional conflict with the Federal Government. In other words, any claim by the State that

1 SB 54 “preempts” the City of Huntington Beach’s authority to effect law enforcement unfettered  
2 by the State, because SB 54’s immigration policies are a matter of Statewide concern would be  
3 categorically fatal to SB 54. There is no doubt that Federal Laws have superseding authority over  
4 State Laws; there is no doubt that the Federal Government’s regulation of immigration preempts  
5 the State’s attempt to regulate immigration by enacting SB 54.

6         There have been attempts by the State over the years to overreach – by trying to regulate  
7 matters of local governance under the guise of preemption and Statewide concern. Turning again  
8 to *Johnson v. Bradley* (1992) 4 Cal.4th 389, the California Supreme Court held that a State  
9 Initiative prohibiting public financing of election campaigns was inapplicable to a City ordinance  
10 providing for public financing of election campaigns. The California Supreme Court rejected the  
11 suggestion that there “is a legitimate statewide concern in how local tax proceeds are expended.”  
12 (*Id.*, at 407.) The California Supreme Court added: “We can think of nothing that is of greater  
13 municipal concern than how a city's tax dollars will be spent; nor anything which could be of less  
14 interest to taxpayers of other jurisdictions.” (*Id.*) The California Supreme Court concluded that  
15 although the State has acted expressly to prohibit public financing of campaigns, which “does not  
16 convert the decision of the City of Los Angeles, to follow a different path with its own money,  
17 into a matter of statewide concern.” (*Id.*)

18                 **E. SB 54 INTENTIONALLY INTERFERES WITH THE CITY’S**  
19                 **CONTRACTUAL RELATIONSHIPS**

20         The elements that a plaintiff must plead to state the cause of action for intentional  
21 interference with contractual relations are (1) a valid contract between plaintiff and a third party;  
22 (2) defendant’s knowledge of this contract; (3) defendant’s intentional acts designed to induce a  
23 breach or disruption of the contractual relationship; (4) actual breach or disruption of the  
24 contractual relationship; and (5) resulting damage.” (*Pacific Gas & Electric Co. v. Bear Stearns*  
25 *& Co.* (1990) 50 Cal.3d 1118, 1126) Intentional interference with contractual relations requires  
26 that a defendant's conduct, with intent to disrupt the performance of the contract, prevents  
27 performance or make performance more expensive or difficult, and causes harm to the plaintiff.  
28 (*Id.*)

1           Moreover, no State shall pass any law that interferes with or impairs the obligation of  
2 contracts. (U.S. Const., art. I, § 10, cl. 1.) SB 54 does just this.

3           By its terms, SB 54, interferes with the City’s ability to honor its current agreements with  
4 Federal agencies, and prevents the City from entering into additional agreements in the future.  
5 Among other agreements, the City currently has applied for and received Federal grant funds  
6 whereby the use of said funds is tied to the compliance with all Federal Laws. SB 54 directly  
7 interferes with his ability to contract with other agencies for law enforcement purposes. (Handy  
8 Dec., at ¶¶ 17, 18, 19, 20, and 21.)

9           On May 21, 2013, the City, through the Police Department, entered into a Memorandum of  
10 Understanding with ICE participate in joint operations led by the Special Agent in Charge of the  
11 Los Angeles ICE Office. Pursuant to the Memorandum, ICE will reimburse the City for the  
12 overtime salary expenses of Huntington Beach Police Officers assigned to these Joint Operations.  
13 SB 54 interferes with this contract. (See Handy Dec., at ¶ 17.) The Huntington Beach Police  
14 Department is also eligible to receive the Edward Byrne Memorial Justice Assistance Grant, which  
15 requires the City to enter into a Memorandum of Understanding to receive, in previous years, \$26,  
16 601.12 in grant funding. This Memorandum of Understanding is a contract; *and SB 54 interferes*  
17 *with this contract.* The 2017 allocation was \$27,281.80, which the City cannot now receive  
18 because of SB 54. (See Handy Dec., at ¶ 18.)

19           SB 54, at Government Code Section 7284.6(b)(3), prohibits the City from participating in  
20 any joint law enforcement task force, including the Memorandum of Understanding with ICE, if  
21 the primary purpose is immigration enforcement. By not allowing the City to cooperate and/or  
22 follow federal law, SB 54 causes the City to be in breach of the terms of those grant agreements  
23 and by its terms, prevents the City of Huntington Beach from such cooperation and/or contracting  
24 in the future. (See Handy Dec., at ¶¶ 16-18.)

25           Under the Immigration and Nationality Act (“INA”), an officer or employee of a State or  
26 political subdivision of a State may, without a written agreement with the DHS, “cooperate with  
27 the [Secretary] in the identification, apprehension, detention, or removal of aliens not lawfully  
28 present in the United States.” (8 U.S.C. § 1357(g)(10)(B).) This is cooperation between the

1 local authorities and the Federal Government, these are agreements, and they are contracts.

2 The INA’s “cooperation” requirement means that a State or local government *may not*  
3 adopt its own mandatory set of directives to implement the State’s own enforcement policies,  
4 because such a mandate would serve as an obstacle to the ability of individual State and local  
5 officers to cooperate with Federal officers administering Federal policies and discretion as the  
6 circumstances require. The INA provides that notwithstanding any other provision of Federal,  
7 State or local law, a federal, State or local government entity or official may not prohibit, or in  
8 any way restrict any government entity or official from sending to, or receiving from ICE  
9 information regarding the citizenship or immigration status, lawful or unlawful of any individual.  
10 (8 U.S.C. § 1373(a).)

11 SB 54 specifically precludes the cooperation of Huntington Beach Police Department with  
12 regard to aspects of reporting criminal activity of aliens. Because SB 54 does not allow for the  
13 City to honor its written contracts, or follow Federal law as described, the law impairs the ability  
14 for the City to follow Federal Law and enter into actual or implied contractual relationships  
15 between the Federal Government and local agencies.

16 **IV. CONCLUSION**

17 The City of Huntington Beach respectfully requests this Superior Court to issue a Writ  
18 prohibiting the State, the Governor, and the Attorney General from enforcing SB 54. In addition,  
19 the City of Huntington Beach seeks Declaratory Relief as well as Injunctive Relief by way of a  
20 Preliminary and Permanent Injunction to preclude the State from enforcing the unconstitutional  
21 SB 54 law, which impermissibly interferes with the City of Huntington Beach from engaging in  
22 its “Municipal Affairs” and entering contracts with other Federal Agencies.

24 DATED: August 7, 2018

MICHAEL E. GATES, City Attorney

26 By: \_\_\_\_\_  
27 MICHAEL E. GATES, City Attorney  
28 Attorney for Petitioner/Plaintiff  
CITY OF HUNTINGTON BEACH

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**PROOF OF SERVICE OF PAPERS**

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 2000 Main Street, Huntington Beach, CA 92648.

On August \_\_, 2018, I served the foregoing document(s) described as:  
**PETITIONER’S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR WRIT OF MANDAMUS AND A COMPLAINT FOR DECLARATORY RELIEF AND INJUNCTIVE RELIEF AGAINST THE STATE TO COMPLY WITH ARTICLE XI, SECTION 5, OF THE CALIFORNIA CONSTITUTION AND NOT ENFORCE SB 54; REQUEST FOR JUDICIAL NOTICE AND DECLARATION OF POLICE CHIEF ROBERT HANDY FILED IN SUPPORT OF THIS BRIEF ARE FILED SEPARATELY**

on the interested parties in this action by placing a true copy thereof in a sealed envelope addressed as follows:

Jonathan Eisenberg  
Office of the Attorney General  
300 South Spring Street, Suite 1702  
Los Angeles, CA 90013  
(213) 269-6246  
FAX (213) 897-5775  
Jonathan.eisenberg@doj.ca.gov

*Attorneys for Defendants/Respondents  
State of California, Xavier Becerra,  
California Attorney General, Edmund G.  
Brown, Jr., California Governor*

a.  BY MAIL -- I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business.

b.  BY OVERNIGHT MAIL – UPS to the address(es) listed above.

c.  BY EMAIL – Electronic Service through One Legal, LLC. I affected electronic service by submitting an electronic version of the documents to One Legal, LLC, [www.onelegal.com](http://www.onelegal.com), which caused the documents to be sent by electronic transmission to the person(s) at the electronic service address(es) listed above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on August \_\_, 2018, in Huntington Beach, California.

\_\_\_\_\_  
Thuy Vi