



METROPOLITAN COUNCIL

Member of Council

May 26, 2017

Sheriff Daron Hall
Davidson County Sheriff's Office
506 2nd Avenue North
Nashville, TN 37201

Re: Legislation filed for first reading on June 6

Dear Sheriff Hall,

Following up on our conversations and correspondence earlier this year, Councilmember Colby Sledge and I have filed two ordinances that will be set for first reading before the Council on June 6, 2017. I will call you to discuss them, but I wanted to send you copies to review first.

One of the ordinances would require Metro to immediately exercise its rights under the 1996 contract with the U.S. Marshals Service to terminate that contract, and would require Metro to use its best efforts to negotiate a replacement contract subject to the approval of the Council. The final draft of this ordinance is enclosed; and the official version should be available online next week, on May 31. In addition to the reasons we have written about and discussed previously, best practices in government require that the Council periodically review and approve intergovernmental contracts. In this situation, it has been more than 20 years since the last Council review. It is time for a fresh look at this arrangement.

The other ordinance is intended to facilitate compliance with federal immigration laws within the limited resources of our local government. A copy of the final draft is enclosed. This ordinance would require that, unless required by federal or state law or a court order, Metro may not use its money, resources, or facilities to assist in enforcing federal immigration laws, or to share information about a person's custody status or court dates. This ordinance would also prohibit Metro from requesting information about a person's immigration or citizenship status. Finally, this ordinance would also prohibit Metro from honoring an immigration-related detention request unless it is accompanied by a warrant issued under the Federal Rules of Criminal Procedure.

I know you will rightly be concerned about how this ordinance fits with other existing law. First, this ordinance does not make Nashville a "sanctuary city." Earlier this week, the Department of Justice issued a memo specifically defining what it means to be a "sanctuary jurisdiction." There is nothing in the new ordinance that triggers the DOJ's definition. As an additional precaution, the new ordinance expressly requires Metro to follow all federal law,

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state law, and court orders including warrants issued under the Federal Rules of Criminal Procedure.

I think you will find that both ordinances comply with state and federal law. I look forward to talking with you about these bills.

Very truly yours,



Metro Council, At-Large Member

Enclosures

cc: Mike Jameson
Director, Metropolitan Council

Jon Cooper
Legal Director

ORDINANCE NO. BL2017-____

An Ordinance to terminate contract approved by Ordinance No. O96-567.

WHEREAS, good government policy, as well as Section 4.12.160 of the Metropolitan Code of Laws, require that contracts involving the Metropolitan Government be for terms not to exceed sixty months;

WHEREAS, applicable state law requires that the Metropolitan Council approve all intergovernmental services agreements;

WHEREAS, the contract approved by Ordinance No. O96-567 is between the Metropolitan Government and the United States Marshals Service, is more than twenty years old, and has not been reviewed by the Metropolitan Council since being passed on third reading on December 17, 1996;

WHEREAS, it is poor government policy to have a Metropolitan Government contract last for decades without any input or direction from the Metropolitan Council; and

WHEREAS, it may violate Section 4.12.160 of the Metropolitan Code for the Metropolitan Government to be a party to a contract for a term that exceeds sixty months.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. The Metropolitan Government shall immediately exercise its right under Section V of the contract approved by Ordinance No. O96-567 to terminate the contract upon thirty (30) days' notice. The Metropolitan Government then shall use its best efforts to negotiate a replacement contract for a term not to exceed sixty months, which replacement contract shall be subject to the approval by resolution of the Metropolitan Council as required by existing ordinance and applicable state law.

Section 2. This Ordinance shall take effect from and after its adoption, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

INTRODUCED BY:

Bob Mendes
Member of Council, At-Large

ORDINANCE NO. BL2017-____

An Ordinance to amend Title 11 of the Metropolitan Code of Laws regarding federal civil immigration laws.

WHEREAS, more than 80,000 residents of Nashville are foreign-born; and

WHEREAS, immigrants are deeply rooted in the Nashville community, raising children, owning homes, and starting businesses here; and

WHEREAS, Nashville has a proud history of welcoming immigrants and refugees and has long recognized the benefits of making it easier for all residents to participate, contribute, and access key services and opportunities, as seen through the rejection of the English Only referendum and the development of innovative programs and offices, such as the Mayor's Office of New Americans, MyCity Academy, and Parent Ambassadors; and

WHEREAS, the Metropolitan Council is responsible for allocating the city's limited resources, delivering public services, creating opportunities and quality of life for all residents, promoting public safety, and protecting due process for all residents; and

WHEREAS, the cooperation of immigrant residents, and trust between communities and public agencies, is critical to fulfilling the mission and duties of the city; and trust between the immigrant community and local law enforcement is critical to promoting public safety for our entire city; and

WHEREAS, the city has limited resources, immigration law is complex, and enforcing federal immigration law is the exclusive authority of the federal government; and

WHEREAS, participation in voluntary immigrant enforcement programs or expanded collaboration with immigration enforcement agencies is largely unfunded, undermines public safety, and puts the city at risk of constitutional liability; and

WHEREAS, at least 635 jurisdictions, from New Orleans, LA, to Clarkston, GA, have placed reasonable limits on their voluntary participation in federal immigration enforcement activities.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That Title 11 of the Metropolitan Code be amended by adding Chapter 11.34 as follows:

Chapter 11.34 – Compliance with Federal Immigration Laws

Section 11.34.010 – Intent.

It is the intent of this chapter to facilitate compliance with federal immigration laws within the limited resources of local government.

Section 11.34.020 – Use of City Funds, Resources or Facilities Prohibited.

A department, board, commission, officer, or employee of the metropolitan government of Nashville and Davidson County shall not (A) use any funds, resources, or facilities of the metropolitan government to assist in the enforcement of federal immigration laws unless such assistance is required by federal or state law or by a court order; or (B) expend their time or use any resources responding to inquiries from Immigration and Customs Enforcement (ICE) regarding a person's custody status, release date, or scheduled appearance date for court or probation proceedings unless such assistance is required by federal or state law or by a court order.

Section 11.34.030 – Inquiries into Immigration Status.

- A. A department, board, commission, officer, or employee of the metropolitan government of Nashville and Davidson County, including law enforcement officers, shall not request information about or otherwise assist in the investigation of the citizenship or immigration status of any person, unless otherwise required by federal or state law or by court order.
- B. Notwithstanding anything to the contrary in this chapter, the metropolitan government shall abide by any duty or obligation imposed by federal or applicable law, and shall respond promptly and as required by applicable law to any warrant issued pursuant to the Federal Rules of Criminal Procedure. The metropolitan government shall only honor an immigration-related detention request if it is accompanied by a warrant issued pursuant to the Federal Rules of Criminal Procedure.

Section 11.34.040 – Savings Clause.

If any section or provision of this chapter is in conflict or inconsistent with applicable provisions of state or federal law, or otherwise held to be invalid or unenforceable by any court of competent jurisdiction, such section or provision shall be suspended and superseded by such applicable laws, and the remainder of this chapter shall not be affected thereby.

Section 2. This Ordinance shall take effect from and after its adoption, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

INTRODUCED BY:

Bob Mendes

Colby Sledge