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CALIFORNIA

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December 1, 2016

Oakland City Council
1 Frank H. Ogawa Plaza
Oakland, CA 94612

RE: SUPPORT (Kalb) Resolution Calling For Reform To Abolish The Electoral College, Address Congressional Gerrymandering, And Eliminate Barriers To Voting

Dear Oakland City Council Members:

On behalf of FairVote California, I am writing to inform you of our support of Council Member Dan Kalb's resolution calling for reform to the Electoral College, gerrymandering, and eliminating barriers to voting.

FairVote is a national, nonpartisan organization that works to promote fair, functional, and representative democracy for voters. FairVote has a history of working with people across the political spectrum for over 20 years, advocating for electoral rules and reforms that provide better representation and a greater voice for all. In August 2016, FairVote California was launched to work on local and state electoral reform.

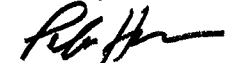
FairVote California supports this resolution because we believe that it would bolster support for fair and meaningful electoral representation. We believe that all voters should be valued equally in presidential elections, no matter where they live. Our current Electoral College system, grounded in state laws which allocate electoral votes on a winner-take-all basis, leads presidential candidates to concentrate their resources on voters in a handful of unrepresentative swing states, relegating the vast majority of states and voters to spectator status. Instead, we support an election system that elects the president by a national popular vote. We have been at the forefront in increasing appreciation of the National Popular Vote interstate compact that is supported in the resolution.

We have also drawn attention to problems with gerrymandering and, more broadly, the challenge of providing fair representation and meaningful voter choice in winner-take-all elections. We support the resolution's call to change how we draw district lines and find ways such as the proposed Fair Representation Act to give voters the power to define their own representation with how they vote rather than where they happen to live. We support fair systems of representation, including ranked choice voting, a consolidated majority-rule election system that avoids lower turnout and allows voters greater choice in casting their ballot. Oakland began utilizing ranked choice voting in 2010, and since then, has been able to avoid vote splitting and the spoiler effect.

We also support enduring protection of the right to vote, as the city council did in 2015 when supporting a constitutional right to vote, and support the resolution's call to uphold voting rights.

Thank you for your leadership on this important legislation.

Sincerely,

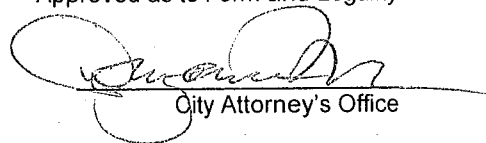


Pedro Hernandez
Deputy Director, FairVote California

OFFICE OF THE CITY ATTORNEY
OAKLAND

16 DEC -1 PM 4:21

Approved as to Form and Legality


City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBERS DAN KALB AND REBECCA KAPLAN

RESOLUTION (1) IN SUPPORT OF SENATOR BARBARA BOXER'S BILL TO ABOLISH THE ELECTORAL COLLEGE AND (2) DIRECTING THE CITY ADMINISTRATOR AND CITY LOBBYIST TO WORK WITH ALL RELEVANT STATE AND FEDERAL ELECTED OFFICIALS TO (A) DEVELOP AND RATIFY AN AMENDMENT TO THE UNITED STATES CONSTITUTION TO REPLACE THE ELECTORAL COLLEGE WITH A NATIONAL POPULAR VOTE FOR PRESIDENT OF THE UNITED STATES OR, ALTERNATIVELY, TO APPROVE THE NATIONAL POPULAR VOTE INTERSTATE COMPACT, (B) ADDRESS GERRYMANDERING IN CONGRESSIONAL APPORTIONMENT BY REQUIRING REDISTRICTING REFORM, SUCH AS BY HAVING INDEPENDENT STATE REDISTRICTING COMMISSIONS CONDUCT REDISTRICTING INSTEAD OF STATE LEGISLATURES, AND (C) ELIMINATE BARRIERS TO VOTING

WHEREAS, as provided by Article II of the United States Constitution, the President and Vice President are selected by the Electoral College, comprised of a slate of Electors from each state and the District of Columbia, with each state having a number of Electors equal to its number of congresspersons (total Representatives plus two Senators) and the District of Columbia having three Electors; and

WHEREAS, U.S. citizens casting votes in the general election for a presidential candidate are actually not directly voting for that candidate but instead vote for a slate of Electors in their state representing the candidate, with the Republican and Democratic parties each nominating full slates for each state, and that, therefore, what determines the outcome of the presidential election is which candidate obtains a majority of Electors (currently 270 out of a total 538); and

WHEREAS, the State of California is one of three states with the lowest per capital representation in the state and the Electoral College system results in voters in states with larger populations choosing a smaller number of Electors relative to their population while voters in states with smaller populations choose a greater number of Electors relative to their population, such that, using a 2008 comparison as an example, California's estimated population of

36,756,666 contrasted with its 55 Electors equals 668,303 people per Elector whereas North Dakota's population of 641,481 contrasted with its 3 Electors equals 213,827 people per Elector, meaning that Californians had less than one-third as much per capita representation in the Electoral College as North Dakotans; and

WHEREAS, in our most recent presidential election and for the second time in 16 years, the candidate who received the most votes by U.S. citizens did not 'win' the election; and

WHEREAS, Hillary Clinton lost the 2016 presidential election to Donald Trump, even though Mrs. Clinton received over 2 million more votes than Mr. Trump, and Al Gore lost the 2000 presidential election to George W. Bush, even though Mr. Gore received over 500,000 more votes than Mr. Bush; and

WHEREAS, prior to the 2016 and 2000 presidential elections, there have been only three other occasions in U.S. history where the candidate who received the most votes by U.S. citizens did not win the election, all of which occurred prior to the 20th century; and

WHEREAS, the present method of electing the president and vice president of the United States contradicts the principle of "one person, one vote," which the United States Supreme Court established in *Reynolds v. Sims* (1964) under the Constitution's Equal Protection Clause; and

WHEREAS, the method of electing United States Senators and Representatives, state governors and legislators, and local officials is by popular vote of the people within the corresponding state, municipal jurisdiction, or district; and

WHEREAS, the Electoral College system has led to the phenomenon of the voters in "swing states" determining the outcome of the presidential contest, with a majority of national voters, those in "spectator states" such as California, essentially having no clout because candidates know that the outcomes in those states are already decided, such that, according to analysis conducted by National Popular Vote, two-thirds of the 2016 general election presidential campaign events were held in just six states (Florida, North Carolina, Pennsylvania, Ohio, Virginia, and Michigan) and 94% of such events were held in 12 states; and

WHEREAS, the United States is the only current example in the world where a country elects their executive president indirectly rather via a popular national vote; and

WHEREAS, the Electoral College is an antiquated and inherently undemocratic system that has no place in a modern democracy and numerous groups and commentators are now calling for replacing the Electoral College with a national popular vote; and

WHEREAS, abolishing the Electoral College requires a Constitutional amendment, governed by Article V of the Constitution, which calls for both houses of the United States Congress to pass by a two-thirds vote a proposal that is subsequently sent to the states for ratification, either by state legislatures or conventions within the states, by a three-fourths vote of the states; and

WHEREAS, Massachusetts State Senator Eric Lesser is filing a Resolution to have the State of Massachusetts support a constitutional amendment to replace the Electoral College with direct election of the president; and

WHEREAS, U.S. Senators Barbara Boxer and Dianne Feinstein have introduced legislation to abolish the Electoral College, S. J. Res. 41, 114th Cong. (2016) (“Proposing an amendment to the Constitution of the United States to abolish the electoral college and to provide for the direct popular election of the President and Vice President of the United States”); and

WHEREAS, the National Popular Vote Interstate Compact is an agreement among a group of states and the District of Columbia to award all of their respective electoral votes to whichever presidential candidate wins the overall national popular vote, with ten states currently having joined, including California as of 2011, and the Interstate Compact would go into effect among participating states only after they collectively represent a majority of Electoral College votes (currently at least 270), providing a potential path to empowering a national popular vote for election of the president that avoids the challenging requirements for passing a constitutional amendment; and

WHEREAS, the U.S. Congressional Redistricting process that occurs every ten years to reflect changes in population has been corrupted by extensive, partisan gerrymandering, leading to undemocratic control of Congress by one political party; and

WHEREAS, various publications, such as the book “Ratf**ked: The True Story Behind the Secret Plan to Steal America’s Democracy,” authored by David Daley, have decribed in extensive detail the history of congressional gerrymandering in the United States, such as how the Redistricting Majority Project, created in 2010 when 27 state legislatures, the Presidency, and both Houses of Congress were Democrat controlled, was used to target Democrats with negative attack ads where their majorities were thin, increasing Republican control to a total of 25 state legislatures in advance of the 2011 redistricting, when states such as Pennsylvania and Michigan were given some extremely distorted, gerrymandered congressional district maps facilitating Republican gains in Congress; and

WHEREAS, in recent years, the large number of seats controlled by the majority political party in the House of Representatives has been disprortionate to the national popular vote for their candidates for the House, due in part to gerrymandered districts, with the Republican control-of-seats:receipt-of-the-popular vote ratio in recent elections being 55.6%:51.7% (2010), 53.8% :47.6% (2012), 56.8%:51.2% (2014), and, based on current data, 55.3%:50.1% (2016); and

WHEREAS, under current rules, voters have limited choice in who they elect for Congress, with the overwhelming majority of incumbents re-elected each year, and most with noncompetitive margins greater than 10%, despite historically low approval ratings for Congress; and

WHEREAS, organizations such as FairVote and Common Cause have proposed various reforms to prevent politicians from drawing districts to give themselves or their party an unfair advantage, such as requiring each state to have an independent redistricting commission, not

state legislatures, draw the lines of congressional districts and their respective state legislative districts, similar to the California Citizens Redistricting Commission, which was established by Proposition 11 (November 2008) and given the responsibility of drawing congressional district boundaries by Proposition 20 (November 2010); and

WHEREAS, California and 11 other states have involved bipartisan commissions in their redistricting processes, as they seek to reduce the potential for state legislatures to abuse their power to draw districts; and

WHEREAS, the turnout in presidential elections is consistently under 60% of eligible voters; and

WHEREAS, there have been numerous efforts around the country at the federal, state, and local level to use mechanisms and tactics to deliberately suppress voter registration and turnout, especially targeting communities of color and the poor, with some of these impediments to voting including requiring photo identification, requiring proof of citizenship, rolling back early voting opportunities, racially-discriminatory felony disenfranchisement, moving, closing and consolidating polling places, restricting early voting opportunities, manipulative or even illegal attempts to intimidate or challenge voters at the polls, such as using election monitors who armed and/or off-duty police in uniform, and much more; and

WHEREAS, reforms such as the Voting Right Act of 1965 have ushered in a new era of hope but must be safeguarded from erosion, and many proposals advocated by Common Cause and numerous other groups for protecting voting rights and encouraging voter participation could be adopted to advance democracy, such as facilitating vote-by-mail, mandating voter registration, allowing Election Day registration, and adding additional and longer voting days and locations; and

WHEREAS, this past September, Governor Jerry Brown signed California Assembly Bill 2466 (Weber) into law, ensuring that more than 50,000 people under mandatory and post-release supervision can vote; and

WHEREAS, while the California Constitution was amended in 1976 to end permanent disenfranchisement of persons convicted of felonies, which the American Civil Liberties Union of Northern California accurately notes is part of the the shameful legacy of Jim Crow, ten states (Alabama, Arizona, Delaware, Florida, Iowa, Kentucky, Mississippi, Nevada, Tennessee, and Wyoming) still have laws that allow felons to be permanently stripped of their voting rights and only two states (Maine and Vermont) allow convicted felons to vote by absentee ballot while in prison, with The Sentencing Project noting that 1 out of every 13 African Americans has lost their voting rights due to felony disenfranchisement compared to 1 out of every 56 non-black voters and that 6.1 million Americans are not able to vote because of felony conviction; and

WHEREAS, on November 15, 2005, the Oakland City Council approved a Resolution submitted by Councilmember Desley Brooks. "Supporting Reauthorization Of The Voting Rights Act Of 1965;" and

WHEREAS, on October 17, 2006, the Oakland City Council approved a Resolution submitted by Councilmember Nancy Nadel “in Recognition Of The 95th Anniversary Of Women In California Winning The Right To Vote;” and

WHEREAS, on March 17, 2015, the Oakland City Council approved a Resolution submitted by Council President Lynette Gibson McElhaney to “Support Congressional House Joint Resolution 25 Proposing An Amendment To The Constitution Of The United States To Include Provisions Declaring The Rights Of Citizens To Vote, To Promote Democracy And Prevent Political, Racial And Discriminatory Limitations On Voting Access”; therefore, be it

RESOLVED: That the Oakland City Council hereby supports both S. J. Res. 41, 114th Cong. (2016) and the National Popular Vote Interstate Compact, encourages other cities and jurisdictions, especially the states, to support both of these efforts, and directs its lobbyist, with the assistance of the City Administrator, to advocate for adoption of a constitutional amendment or, alternatively, the successful implementation of the Interstate Compact; and be it

FURTHER RESOLVED: That the Oakland City Council hereby supports reforms suggested by FairVote, Common Cause, and other groups to safeguard against gerrymandering by any political party and directs its lobbyist, with the assistance of the City Administrator, to advocate for such reforms; and be it

FURTHER RESOLVED: That the Oakland City Council hereby supports strengthening or passing federal laws to protect voting rights, make voting systems secure, reliable and verifiable, stop scams and intimidation campaigns that drive people away from the polls, and encourage voter participation, as suggested by Common Cause and other pro-democracy organizations and directs its lobbyist, with the assistance of the City Administrator, to advocate for such reforms.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLÉN, KALB, KAPLAN, REID, AND
PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council of the
City of Oakland, California