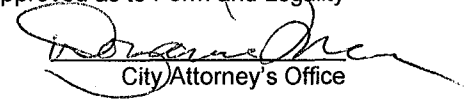


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Approved as to Form and Legality


City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. 86536 C.M.S.

INTRODUCED BY COUNCIL PRESIDENT MCELHANEY AND
COUNCILMEMBER REBECCA KAPLAN

RESOLUTION CALLING ON THE STATE OF CALIFORNIA TO OVERTURN PROPOSITION 209, A BALLOT INITIATIVE THAT PREVENTS THE CITY OF OAKLAND AND OTHER CALIFORNIA PUBLIC AGENCIES FROM REMEDYING DISCRIMINATION

WHEREAS, the reality of continuing disparities—in unemployment, city contracting, criminal justice enforcement, health, and more—are ongoing, creating real gaps between the lives of people in Oakland based on race; and

WHEREAS, the last disparity study produced for the City of Oakland reported that Oakland's contracts were almost exclusively going to businesses owned by white men; and

WHEREAS, there are significant racial disparities in household incomes. White household income in 2012 was \$81,159; African American household income in 2012 was \$35,050; Asian American household income was \$45,238; Latino household income was \$44,455; and

WHEREAS, a recent report by Stanford social psychologists found that the Oakland Police Department (OPD) stopped, searched, handcuffed, and arrested more African Americans than Whites; and that some 60% of OPD stops were of African Americans, who make up 28% of Oakland's population; and

WHEREAS, although African-Americans make up 13 percent of the general population, they account for 36 percent of the inmate population, according to the latest data from the federal Bureau of Justice Statistics; and

WHEREAS, racial disparities in criminal law enforcement creates collateral consequences such as restricted employment prospects; and

WHEREAS, Proposition 209 is a California ballot initiative which, upon approval in November 1996, amended the state constitution to prohibit state governmental institutions from

considering race, sex, color, ethnicity, or national origin, specifically in the areas of public employment, public contracting, and public education; and

WHEREAS, the passage of Proposition 209 in 1996 led to an immediate proportional decline in underrepresented students, particularly in the UC system, by prohibiting consideration of race, sex, color, ethnicity, or national origin as factors in recruiting and admitting students into public educational institutions; and

WHEREAS, although California public educational institutions can give admission preference based on military service, income, geographic background, athletic ability, and legacy, Proposition 209 bars state schools from using race, sex, color, ethnicity, or national origin for recruitment and admissions, thus diminishing campus and workforce diversity, the fight for equality and racial integration, and the development of future minority leadership; and

WHEREAS, according to a 2012 amicus brief filed by 444 American social science researchers from 42 states and 172 educational institutions and research centers, many from both public and private colleges and universities in California, submitted in the *Fisher v. University of Texas* case brought before the U.S. Supreme Court, lower diversity levels lead to racial isolation and a negative racial climate, harming the nation's future and the quality of education for all students; and

WHEREAS, the same amicus brief states that allowing race as a consideration in admissions can serve as a “symbolic beacon of a welcoming environment’ that helps students to overcome their reluctance to apply or enroll at a selective institution”; and

WHEREAS, as established by the U.S. Supreme Court, in *Regents of the University of California v. Bakke* and *Grutter v. Bollinger*, race can be used in admissions policies to ensure a diverse student body and educational experience, benefitting both minority and non-minority students alike; and

WHEREAS, Proposition 209 significantly curtailed California public agencies from implementing policies, programs and practices that could best address public agency intentional / passive discriminatory practices that have otherwise been upheld by the U.S. Supreme Court as constitutional and which would allow the use of race in school admissions; and

WHEREAS, both chambers of the California Legislature passed SB 185 in 2011, which would have countered Proposition 209 and authorized the University of California and the California State University to consider race, gender, color, ethnicity and national origin, along with other relevant factors, in undergraduate and graduate admissions; and

WHEREAS, the California Legislature has been calling for a constitutional amendment that would overturn Proposition 209 since 2013, when it passed California Senate Constitutional Amendment No. 5; and

WHEREAS, Senator-elect Kamala Harris filed a friend-of-the-court brief in a high-profile affirmative action case before the U.S. Supreme Court, *Fisher v. University of Texas*,

pointing out that because of Proposition 209, “the University of California has struggled to attain a level of racial diversity on its campuses that will achieve the educational benefits of a diverse student body;” and urging the Court to “allow public universities to consider race as one factor among many in admissions decisions”; and

WHEREAS, the City of Oakland’s opposition to Proposition 209 is consistent with the City’s commitment to remedying the effects of institutional policies and practices that create race-based inequity across our community; now, therefore be it

RESOLVED: That the Oakland City Council opposes Proposition 209, and calls upon the State of California to undertake efforts to overturn Proposition 209; and be it

FURTHER RESOLVED: That the Oakland City Council directs the City Administrator and City Lobbyist to work with all relevant local, state, and federal officials and agencies to secure their intervention and advocacy to support and pass a voter referendum to overturn Proposition 209.

IN COUNCIL, OAKLAND, CALIFORNIA, DEC 13 2016

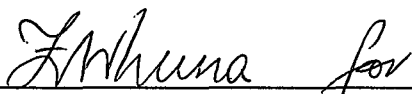
PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLÉN, KALB, KAPLAN, REID AND
PRESIDENT GIBSON MCELHANEY - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

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