

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER LYNETTE GIBSON MCELHANEY,
COUNCILMEMBER DAN KALB AND CITY ATTORNEY BARBARA PARKER

RESOLUTION IN SUPPORT OF ACA 5 (WEBER) A BALLOT INITIATIVE TO OVERTURN PROPOSITION 209 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 repeated that Oakland's contracts were almost exclusively going to businesses owned by white men; and

WHEREAS, there are significant racial disparities in household income. In 2018 in Oakland, the median White household income was \$120,022; African American household income was approximately \$50,419, Asian American household income was approximately \$69,039; Latino income was approximately \$62,002; and

WHEREAS, although African Americans make up 13.4 percent of the general population, they account for 37.8% percent of the federal prison population, according to the latest data from the federal bureau of prisons statistics and in California African American men represent 5.6% of the population but 28.5% of the state's prisoner; 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, 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, then 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; and

WHEREAS, Assemble Constitution Amendment 5 introduced by Assemblymember Weber proposes to repeal Proposal 209; now, therefore, be it

RESOLVED: That the Oakland City Council endorses ACA-5 (Weber, Gipson, Santiago) and reaffirms its opposition to Proposition 209, and calls upon the State Legislature to promptly place ACA-5 on the November 2020 Ballot; and be it

FURTHER RESOLVED: That the Oakland City Council directs the City Administrator to communicate this endorsement in writing to the California State Legislature; and be it

FURTHER RESOLVED: That the Oakland City Council directs the City Administrator and City Lobbyist to work with all relevant state officials and agencies to secure their intervention and advocacy in support of ACA-5.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN

NOES –

ABSENT –

ABSTENTION –

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