



CONSENT CALENDAR  
Sept. 13, 2022

To: Honorable Mayor and Members of the City Council

From: Councilmember Taplin, Councilmember Droste (co-sponsor), Councilmember Wengraf (co-sponsor), Councilmember Kesarwani (co-sponsor)

Subject: California Marriage Equality Resolution (Prop 8 Repeal)

#### RECOMMENDATION

Adopt a Resolution Urging the California Legislature to Place a Measure on the Ballot to Repeal Article I Section 7.5 of the State Constitution, a.k.a. Proposition 8; and send copies to the Offices of the Speaker of the Assembly, Senate President Pro Tempore, and Governor.

#### FINANCIAL IMPLICATIONS

None.

#### BACKGROUND

Marriage equality and LGBTQ+ rights are under existential threat in the United States. When the US Supreme Court voted to remove essential reproductive rights by overturning *Roe v. Wade* (1973) in *Dobbs v. Jackson* (2022), Justice Clarence Thomas issued a concurring opinion citing *Obergefell v. Hodges* (2015), the historic decision providing marriage equality to same-sex couples, as another judicial precedent that he wished to revisit.<sup>1</sup>

As a nakedly partisan body, the conservative Supreme Court majority is very likely to pursue further action to undermine civil rights. Thus, it is urgent for California to enshrine marriage equality in state law. In order to do so, voters would have to repeal Proposition 8 (2008), which prohibited same-sex marriage. The state legislature has the power to place measures on the ballot without the costly signature-gathering process, and the City of Oakland has already issued a resolution calling for Prop 8 repeal to be placed on the ballot.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None.

#### CONTACT PERSON

Councilmember Terry Taplin      Council District 2      510-981-7120

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<sup>1</sup> *Dobbs v. Jackson Women's Health Organization*, No. 19-1392, 597 U.S. (2022).

Prop 8 Resolution

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Attachments:  
1: Resolution

RESOLUTION NO. ##,###-N.S.

**RESOLUTION URGING THE CALIFORNIA STATE LEGISLATURE TO DEFEND MARRIAGE EQUALITY BY PLACING A MEASURE ON THE BALLOT TO REPEAL ARTICLE I SECTION 7.5 OF THE STATE CONSTITUTION, ALSO KNOWN AS PROPOSITION 8**

WHEREAS, the path to full marriage equality in the United States has been one of the most affirmative social movements fought by the lesbian, gay, bisexual, Transgender, and Queer (LGBTQ+) community over the past century; and

WHEREAS, according to estimates from the 2019 Current Population Survey Annual Social and Economic Supplement (CPS ASEC), there are 543,000 same-sex married households across the US; and

WHEREAS, in California, Proposition 8 was approved by 52% of the voters on November 4, 2008, adding a new section to the state Constitution that “Only marriage between a man and a woman is valid or recognized in California.”; and

WHEREAS, when Proposition 8 passed in 2008, the State of California reported an increase in depression, anxiety, and suicide in the LGBTQ+ community and in children with LGBTQ+ parents; and

WHEREAS, following the Dobbs v. Jackson (2022) decision overturning abortion rights that had been guaranteed by Roe v. Wade (1973), US Supreme Court Justice Clarence Thomas issued a concurring opinion suggesting further legal challenges to same-sex marriage rights; and

WHEREAS, LGBTQ+ rights are increasingly under threat in the United States and the world at large.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley hereby urges California State Legislature to defend marriage equality by placing a measure to repeal Article I Section 7.5 of the state Constitution, also known as Proposition 8, onto the ballot.

