IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT, DIVISION FIVE

JAMES V. LACY, *et al.*, Plaintiffs and Respondents, v. CITY AND COUNTY OF SAN FRANCISCO, *et al.*, Defendants and Appellants.	Court of Appeal No. A165899 (Super. Ct. No. CPF2251774)

Appeal from an Order
Of the Superior Court, County of San Francisco
Hon. Richard B. Ulmer, Judge

IMMIGRATION REFORM LAW INSTITUTE'S APPLICATION FOR PERMISSION TO FILE BRIEF OF *AMICUS CURIAE* IN SUPPORT OF RESPONDENTS OUT OF TIME

Lorraine G. Woodwark, Esquire
Cal. S.B. No. 205005
Immigration Reform Law Institute
25 Massachusetts Ave. NW, Ste 335
Washington, D.C. 20001
(202) 591-0962
LWoodwark@IRLI.org

Counsel for *Amicus Curiae* Immigration Reform Law Institute

The Immigration Reform Law Institute ("IRLI") respectfully applies for permission to file the accompanying *amicus curiae* brief with the Court in support of Plaintiffs-Respondents.

IDENTITY AND INTEREST OF AMICUS CURIAE[1]

IRLI is a not for profit 501(c)(3) public interest law firm incorporated in the District of Columbia. IRLI is dedicated to achieving responsible immigration policies that serve the best interest of the nation. IRLI has litigated or filed *amicus curiae* briefs in many immigration-related cases before federal courts and administrative bodies, including *Trump v. Hawaii*, 138 S. Ct. 2392 (2018); *United States v. Texas*, 136 S. Ct. 2271 (2016); *Arizona Dream Act Coal. v. Brewer*, 818 F.3d 101 (9th Cir. 2016); *Washington All. Of Tech Workers v. U.S. Dep't of Homeland Sec.*, 74 F. Supp. 3d 247 (D.D.C. 2014); *Save Jobs USA v. U.S. Dep't of Homeland Sec.*, 942 F.3d 504 (D.C. Cir. 2019); *Matter of Silva-Trevino*, 26 I. & N. Dec. 826 (B.I.A. 2016); and *Matter of C-T-L-*, 25 I. & N. Dec. 3410 (B.I.A. 2010). For more than twenty years, the Board of Immigration Appeals has solicited *amicus* briefs drafted by IRLI staff from the Federation for American Immigration Reform, of which IRLI is a supporting organization, because the Board considers IRLI an expert in immigration law.

I. REASONS TO GRANT PERMISSION TO FILE

The California Rules Court provide that "any person or entity may serve and file an application for permission of the presiding justice to file an amicus curiae brief." (Cal. Rules of Court, rule 8.200(c)(1).) While the rules require an amicus brief be filed "within 14 days after the last appellant's reply brief," they also permit the presiding judge to allow a late filing for "good cause." (*Id.*) IRLI intended, and was prepared, to file its brief within the 14-day timeline but was unable to do so due to a last minute personnel matter. IRLI therefore respectfully requests that the Court accept this brief, though filed one day

[1] Consistent with Fed. R. App. P. 29(a)(4)(E) and Cal. Rules of Court 8.200(c)(3), counsel for *amicus* authored this brief in whole, and no counsel for a party authored the brief in whole or in part, nor did any person or entity, other than *amicus* and its counsel, make a monetary contribution to preparation or submission of the brief.

late, because it may provide the Court with valuable perspective on the issues of this case. As explained by the California Supreme Court,

> [a]mici curiae, literally 'friends of the court,' perform a valuable role for the judiciary precisely because they are nonparties who often have a different perspective from the principal litigants. "Amicus curiae presentations assist the court by broadening its perspective on the uses raised by the parties. Among other services, they facilitate informed judicial consideration of a wide variety of information and points of view that may bear on important legal questions."

(*Connerly v. State Pers. Bd.*, 37 Cal. 4th 1169, 1177, 39 Cal. Rptr. 3d 788, 793, 129 P.3d 1, 5-6 (2006) (quoting *Bily v. Arthur Young & Co.* (1992) 3 Cal.4th 370, 405, fn. 14 [11 Cal. Rptr. 2d 51, 834 P.2d 745].))

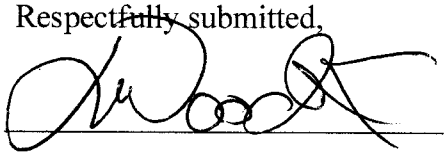
IRLI's brief provides this important perspective to the Court. IRLI's brief supports Plaintiffs-Respondents' arguments that the Ordinance permitting noncitizen voting in school board elections violates the California constitution, which explicitly lists citizenship as a required voter qualification. IRLI's brief adds that the Ordinance also likely violates the Equal Protection Clause of the California Constitution (as well as the Equal Protection Clause of the U.S. Constitution) because it impermissibly dilutes the votes of U.S. citizen voters in San Francisco. While true that "[g]enerally courts will only consider issues properly raised by the parties on appeal," (*Sacramento Cty. Emps.' Ret. Sys. v. Superior Court*, 195 Cal. App. 4th 440, 473, 125 Cal. Rptr. 3d 655, 679-80 (2011)), "the rule is not absolute. An appellate court has discretion to consider new issues raised by an amicus." (*Lavie v. Procter & Gamble Co.*, 105 Cal. App. 4th 496, 503, 129 Cal. Rptr. 2d 486, 491 (2003) (citations omitted).) "[T]he Supreme Court has recognized two exceptions to this rule. First, under the theory that an appeal should be affirmed if the judgment is correct on any theory, amicus curiae may raise an issue which will support affirmance." (*Sacramento Cty. Emps.' Ret. Sys. v. Superior Court*, 195 Cal. App. 4th 440, 473, 125 Cal. Rptr. 3d 655, 679-80 (2011).) IRLI's brief satisfies this exception because it argues for affirmance based on constitutional grounds not raised below.

II. CONCLUSION

For the foregoing reasons, IRLI has a direct interest in the issues before the Court, and respectfully requests that this application for permission to file the accompanying brief of *amicus curiae* be granted.

March 8, 2023

Respectfully submitted,



Lorraine G. Woodwark, Esquire
Cal. S.B. No. 205005
Immigration Reform Law Institute
25 Massachusetts Ave. NW, Ste 335
Washington, D.C. 20001
(202) 591-0962
LWoodwark@IRLI.org

Counsel for *Amicus Curiae* Immigration Reform Law Institute

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT, DIVISION FIVE

JAMES V. LACY, *et al.*, Plaintiffs and Respondents, v. CITY AND COUNTY OF SAN FRANCISCO, *et al.*, Defendants and Appellants.	Court of Appeal No. A165899 (Super. Ct. No. CPF2251774)

Appeal from an Order
Of the Superior Court, County of San Francisco
Hon. Richard B. Ulmer, Judge

BRIEF OF *AMICUS CURIAE* IMMIGRATION REFORM LAW INSTITUTE IN SUPPORT OF RESPONDENTS

Lorraine G. Woodwark, Esquire
Cal. S.B. No. 205005
Immigration Reform Law Institute
25 Massachusetts Ave. NW, Ste 335
Washington, D.C. 20001
(202) 591-0962
LWoodwark@IRLI.org

Counsel for *Amicus Curiae* Immigration Reform Law Institute

IDENTITY AND INTEREST OF AMICUS CURIAE[2]

IRLI is a not for profit 501(c)(3) public interest law firm incorporated in the District of Columbia. IRLI is dedicated to achieving responsible immigration policies that serve the best interest of the nation. IRLI has litigated or filed *amicus curiae* briefs in many immigration-related cases before federal courts and administrative bodies, including *Trump v. Hawaii*, 138 S. Ct. 2392 (2018); *United States v. Texas*, 136 S. Ct. 2271 (2016); *Arizona Dream Act Coal. v. Brewer*, 818 F.3d 101 (9th Cir. 2016); *Washington All. Of Tech Workers v. U.S. Dep't of Homeland Sec.*, 74 F. Supp. 3d 247 (D.D.C. 2014); *Save Jobs USA v. U.S. Dep't of Homeland Sec.*, 942 F.3d 504 (D.C. Cir. 2019); *Matter of Silva-Trevino*, 26 I. & N. Dec. 826 (B.I.A. 2016); and *Matter of C-T-L-*, 25 I. & N. Dec. 3410 (B.I.A. 2010). For more than twenty years, the Board of Immigration Appeals has solicited *amicus* briefs drafted by IRLI staff from the Federation for American Immigration Reform, of which IRLI is a supporting organization, because the Board considers IRLI an expert in immigration law.

ARGUMENT

Citizenship is a requirement of voter eligibility for all public elections in the State of California. The California Constitution provides: "A United States citizen 18 years of age and resident in this State may vote." (Cal. Const., art. II, § 2.) The state election code explicitly incorporates the constitutional requirements, providing: "Every person who qualifies under Section 2 of Article II of the California Constitution and who complies with this code governing the registration of electors may vote at any election held within the territory within which he or she resides and the election is held." (Cal. Elec. Code § 2000.) The statute clearly applies to *any election* in the state. Thus, municipal and school board elections are covered just as are elections for statewide offices.

---

[2] Consistent with Fed. R. App. P. 29(a)(4)(E) and Cal. Rules of Court 8.200(c)(3), counsel for *amicus* authored this brief in whole, and no counsel for a party authored the brief in whole or in part, nor did any person or entity, other than *amicus* and its counsel, make a monetary contribution to preparation or submission of the brief.

Despite these clear constitutional and statutory requirements, in 2016 the City and County of San Francisco approved a charter amendment "allowing certain noncitizens to vote in school board elections." (Complaint at 4 ¶ 17.) The charter amendment permitting noncitizen voting in school board elections was extended indefinitely in 2021 when the "San Francisco Board of Supervisors adopted Ordinance Number 206-21." (*Id.* at 4 ¶ 19) (hereinafter, the "Ordinance"). As the court below explained when it enjoined the Ordinance, however, "[t]ranscendant law of California, the Constitution . . . reserves the vote to a United States citizen, contrary to San Francisco ordinance 206-21." (Opinion at 2.)

In addition to the arguments made by Plaintiffs-Respondents, IRLI writes to argue that the Ordinance also violates the Equal Protection Clauses of both the California Constitution and the United States Constitution. By expanding the right to vote to noncitizens, the Ordinance necessarily dilutes the votes of every U.S. citizen school board voter in San Francisco. For this reason, the Ordinance violates the Constitutions of both the United States and California.

I. Noncitizen Voting Violates both the Federal and the California Equal Protection Clauses.

"Typically challenges to state restrictions on voting and the like have been brought under the federal equal protection clause. The federal equal protection clause applies to voting rights issues." (*Jauregui v. City of Palmdale*, 226 Cal. App. 4th 781, 799-800, 172 Cal. Rptr. 3d 333, 345 (2014) (internal citations omitted).) California courts have long recognized that "[t]he rights of protected classes against dilution of their votes . . . . arise from the essence of a democratic form of government. This does not involve an abstract state interest—it is one that goes to the legitimacy of the electoral process." (*Id.* at 800.) Accordingly, "[e]lectoral results lack integrity where a protected class is denied equal participation in the electoral process because of vote dilution." (*Id.* at 801.) Yet, by granting noncitizens the right to vote in school board elections, the Ordinance automatically dilutes the votes of all eligible U.S. citizen voters in San Francisco.

Claims of vote dilution made by those whose votes have been weakened by an expansion of the franchise, such as residents of a city challenging the expansion of the franchise to nonresident property owners, are facially discriminatory against an identifiable group, and thus are analyzed under the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution.[3] (*See, e.g., Brown v. Bd. of Comm'rs*, 722 F. Supp. 380, 398 (E.D. Tenn. 1989) (striking down an expansion of the franchise to nonresidents of a city under the Equal Protection Clause); *Duncan v. Coffee Cty.*, 69 F.3d 88, 94 n.3 (6th Cir. 1995) (observing that, "[n]aturally, any time voters are added to the rolls . . . those already on the rolls have had their votes diluted," though not all instances of vote dilution are "*per se* . . . unconstitutional").)

Usually, expansions of the franchise have received rational-basis review under the Equal Protection Clause. (*See Brown*, 722 F. Supp. at 398 ("[T]he equal protection analysis which should be applied here is the traditional 'rational basis' test."); *Day v. Robinwood W. Cmty, Improvement Dist.*, 693 F. Supp. 2d 996, 1005 (E.D. Mo. 2010) ("Courts confronting equal protection claims asserting vote dilution resulting from expansion of the voter base have generally employed . . . rational basis [review]"); *May v. Town of Mt. Vill.*, 944 F. Supp. 821, 824 (D. Colo. 1996) ("Where a law expands the right to vote causing vote dilution, the rational basis test has been applied by the vast majority of courts.").)

The Ordinance, however, should receive not rational basis review, but strict scrutiny, both because it dilutes the votes of U.S. citizens—a protected class—and because it abridges citizens' fundamental right to self-government.

On the former point, it is uncontroversial that aliens—that is, noncitizens—form a protected class for most purposes under the Equal Protection Clause. (*See Graham v. Richardson*, 403 U.S. 365, 371-72 (1971) ("[T]he Court's decisions have established that

---

[3] "No state shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. Amend. IV.

classifications based on alienage, like those based on nationality or race, are inherently suspect and subject to close judicial scrutiny."); *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 105 (1973) (Brennan, J., dissenting) ("The highly suspect character of classifications based on race, nationality, or alienage is well established."); *Nyquist v. Mauclet*, 432 U.S. 1, 7 (1977) ("Alienage classifications by a State that do not withstand this stringent examination cannot stand.").) And if aliens—that is, persons *without* United States citizenship—form a protected class, it stands to reason that those *with* United States citizenship should also form a protected class. Otherwise, paradoxically, the United States citizens who established our Constitution would have given lesser protection to themselves, as a group, than to citizens of other countries.

Additionally, the U.S. Supreme Court has repeatedly recognized citizen self-government as a fundamental right. "The exclusion of aliens from basic governmental processes is not a deficiency in the democratic system but a *necessary consequence* of the community's process of political self-definition." (*Cabell v. Chavez-Salido*, 454 U.S. 432, 439-440 (1982) (emphasis added).) American citizens comprise the body politic of the United States. *See id.* ("Self-government, whether direct or through representatives, begins by defining the scope of the community of the governed and thus of the governors as well: Aliens are by definition those outside of this community."); *Foley v. Connelie*, 435 U.S. 291, 295-96 (1978) ("The act of becoming a citizen is more than a ritual with no content beyond the fanfare of ceremony. A new citizen has become a member of a Nation, part of a people distinct from others. The individual, at that point, belongs to the polity and is entitled to participate in the processes of democratic decisionmaking. Accordingly, we have recognized a State's historical power to exclude aliens from participation in its democratic political institutions as part of the sovereign's *obligation* to preserve the basic conception of a political community.") (internal citation omitted) (emphasis added); *id.* at 296 ("[A] democratic society is ruled by its people. Thus, it is clear that a State may deny aliens the right to vote, or to run for elective office, for these lie at the heart of our political institutions."); *id.* (holding that such restrictions "represent[] the choice, and *right*, of the people to be governed by their citizen peers.")

(emphasis added); *id.* at 297 ("[A]lthough we extend to aliens the right to education and public welfare, along with the ability to earn a livelihood and engage in licensed professions, the right to govern is reserved to citizens.").)

Infringements on fundamental rights receive strict scrutiny under the Equal Protection Clause. (*See, Harper v. Va. State Bd. of Elections*, 383 U.S. 663, 670 (1966) ("We have long been mindful that where fundamental rights and liberties are asserted under the Equal Protection Clause, classifications which might invade or restrain them must be closely scrutinized and carefully confined."); *Plyler v. Doe*, 457 U.S. 202, 217 n.15 (1982) ("With respect to suffrage, we have explained the need for strict scrutiny as arising from the significance of the franchise as the guardian of all other rights."); *Bd. of Supervisors v. Local Agency Formation Com.*, 3 Cal. 4th 903, 913, 13 Cal. Rptr. 2d 245, 251, 838 P.2d 1198, 1204 (1992) ("When a law impinges on certain fundamental rights—and the right to vote may be the most fundamental of all—it will ordinarily be subject to strict judicial scrutiny.") (internal citations omitted).)

The Ordinance cannot withstand the strict scrutiny it should receive on both of the bases explained above. As the Supreme Court has held, "[s]trict scrutiny is a searching examination, and it is the government that bears the burden to prove that the reasons for any [suspect] classification [are] clearly identified and unquestionably legitimate." (*Fisher v. Univ. of Texas*, 570 U.S. 297, 310 (2013) (internal citation and quotation marks omitted).) (*See also Roman Catholic Diocese v. Cuomo*, 141 S. Ct. 63, 67 (2020) (explaining that "strict scrutiny . . . means that [laws] must be narrowly tailored to serve a compelling state interest."); *Foucha v. Louisiana*, 504 U.S. 71, 115 (1992) ("[L]egislation trenching upon these [fundamental rights] is subject to strict scrutiny, and generally will be invalidated unless the State demonstrates a compelling interest and narrow tailoring.").) The California Supreme Court has agreed, calling strict scrutiny a "very severe standard" which requires a showing that the "classification bears a close relation to the promoting of a compelling state interest, the classification is necessary to achieve the government's goal, and the classification is narrowly drawn to achieve the goal by the least restrictive means possible." (*Bd. of Supervisors v. Local Agency Formation Com.*, 3

Cal. 4th 903, 913, 13 Cal. Rptr. 2d 245, 251, 838 P.2d 1198, 1204 (1992) (citations omitted).)

The San Francisco Board of Supervisors offered a number of reasons for the Ordinance: "[n]oncitizen parents contribute greatly to the School District;" "to encourage [parental] involvement;" "[c]ontinuation of noncitizen voting in School Board elections is necessary to allow many unheard voices to come forward;" and that "[i]t is in the public interest for the City to exercise its option . . . to extend the right of noncitizen parents to vote in School Board elections." (S.F. Ord. No. 206-21, Sec. 1000.) These governmental interests, however laudable, cannot be compelling when measured against the fundamental interest—indeed, right—of all American citizens in governing the country, including all of its constituent parts and their subdivisions, of which they are the sovereign. This fundamental sovereign interest of American citizens, the "polity" of this country, (*Foley*, 435 U.S. at 295), in maintaining democratic control over it outweighs any governmental interest that may be asserted in putting part of that control in the hands of noncitizens, and indeed precludes such a transfer of control. (*See In re Duncan*, 139 U.S. 449, 461 (1891) (recognizing that "a republican form of government is guaranteed to every State" and that such government's "legitimate acts may be said to be of the people themselves"); *Dunn v. Blumstein*, 405 U.S. 330, 344 (1972) (explaining that states must "preserve the basic conception of a political community").) As the Supreme Court has repeatedly made clear, America's political community consists of its citizens, and self-government requires that the political community—not those "by definition outside of" it, (*Cabell*, 454 U.S. at 439-440)—govern the Nation.

Because the Ordinance must receive, and cannot pass, strict scrutiny under the Equal Protection Clause, it should be struck down.

II. The Ordinance Violates the California Equal Protection Clause.

For similar reasons, the Ordinance also violates the Equal Protection Clause of the California Constitution, which provides that "[a] person may not be . . . denied equal protection of the laws[.]" (Cal. Const. Art I, § 7) "Thus, 'no person or class of persons shall be denied the same protection of the laws which is enjoyed by other persons or other

classes in like circumstances in their lives, liberty and property, and in their pursuit of happiness." (*Hinman v. Dep't of Pers. Admin.*, 167 Cal. App. 3d 516, 524, 213 Cal. Rptr. 410, 414 (1985) (quoting *People* v. *Romo* (1975) 14 Cal.3d 189, 196 [121 Cal.Rptr. 111, 534 P.2d 1015]).) "The equal protection standards under the Fourteenth Amendment to the United States Constitution and article I, section 7 of the California Constitution are substantially the same." (*Reece v. Alcoholic Beverage Etc. Appeals Bd.*, 64 Cal. App. 3d 675, 679, 134 Cal. Rptr. 698, 701 (1976) (internal citations omitted).) (*See also Sail'er Inn, Inc. v. Kirby*, 5 Cal. 3d 1, 15 n.13, 95 Cal. Rptr. 329, 338, 485 P.2d 529, 538 (1971) ("The California and federal tests for equal protection are substantially the same."); *Serrano v. Priest*, 5 Cal. 3d 584, 596 n.11, 96 Cal. Rptr. 601, 609, 487 P.2d 1241, 1249 (1971) (explaining that California's equal protection clause is "substantially the equivalent of the equal protection clause of the Fourteenth Amendment to the federal Constitution. Consequently, our analysis of plaintiffs' federal equal protection contention is also applicable to their claim under these state constitutional provisions."); *Hoffman v. State Bar of Cal.*, 113 Cal. App. 4th 630, 341, 6 Cal. Rptr. 3d 592, 600 (2003) ("When it comes to constitutional challenges to election laws, California closely follow the analysis of the United States Supreme Court.").)

The purpose of the California Equal Protection Clause is to "secure every person against intentional and arbitrary discrimination . . . occasioned by express terms of a statute . . . ." (*Hinman v. Dep't of Pers. Admin.*, 167 Cal. App. 3d 516, 524-25, 213 Cal. Rptr. 410, 414 (1985) (citation omitted).) (*See also Hawn v. Cty. of Ventura*, 73 Cal. App. 3d 1009, 1018, 141 Cal. Rptr. 111, 115 (1977) ("The concept of equal protection of the laws has been judicially defined to mean that no person or class of persons shall be denied the same protection of the laws which is enjoyed by other persons or other classes *in like circumstances* . . . .") (emphasis original) (citation and quotation marks omitted).)

As with federal Equal Protection Clause analysis, "in cases . . . touching on fundamental interest[s], . . . the court has adopted an attitude of active and critical analysis, subjecting the classification to strict scrutiny." (*Fullerton Joint Union High Sch. Dist. v. State Bd. of Educ.*, 32 Cal. 3d 779, 798-99, 187 Cal. Rptr. 398, 411, 654 P.2d 168,

181 (1982).) In California, strict scrutiny particularly applies to voting. "For a legislative classification relating to the elective process to *avoid* the strict scrutiny test of equal protection, it must have only minimal, if any, effect on the fundamental right to vote. It is important to note that it is the impact of the classification on the electoral process that triggers strict scrutiny." (*Id.* at 799 (emphasis original) (citations and quotation marks omitted.).) Thus, "[u]nder the strict standard applied in such cases, *the state* bears the burden of establishing not only that it has a *compelling* interest which justifies the law but that the distinctions drawn by the law are *necessary* to further its purpose." (*D'Amico v. Bd. of Med. Exam'rs*, 11 Cal. 3d 1, 17, 112 Cal. Rptr. 786, 798, 520 P.2d 10, 22 (1974) (emphases original).) Finally, while "not every classification created . . . is subject to strict scrutiny, the compelling interest measure must be applied if a classification has a real and appreciable impact upon the equality, fairness and integrity of the electoral process." (*Hawn v. Cty. of Ventura*, 73 Cal. App. 3d 1009, 1019, 141 Cal. Rptr. 111, 116 (1977).)

The Ordinance cannot pass such scrutiny. The Ordinance classifies voters in a way that dilutes the votes of all U.S. citizen voters in the City and County of San Francisco. As stated above, the reasons offered for this classification included the existing contributions of noncitizen parents as well as the desire to encourage further participation by noncitizen parents in their children's education. (S.F. Ord. No. 206-21, Sec. 1000.) These purposes, however, are not compelling, as the benefits the amendment grants to noncitizen voters in San Francisco necessarily come at the expense of the fundamental sovereign interest of the U.S. citizens of San Francisco, and of all American citizens, in the democratic self-government of their nation.

By granting noncitizens the right to vote in school board elections and thus diluting the votes of U.S. citizens in San Francisco, moreover, the Ordinance disadvantages U.S. citizen San Francisco residents as compared with other U.S. citizen Californians. The reasons proffered for the ordinance are not weighty enough to justify this selective de-privileging of some U.S. citizen Californians—those who reside in San Francisco—compared with others, because they deprive those residents of the right to

citizen self-government. Rather, this selective disadvantaging of citizen voters in San Francisco can only constitute the "intentional and arbitrary discrimination" the California Equal Protection Clause is designed to prevent. (*Hinman*, 167 Cal. App. 3d at 524-25, 213 Cal. Rptr. at 414 (citation omitted).)

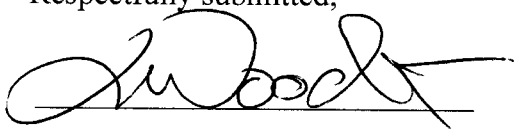
Because the Ordinance dilutes the votes and abridges the fundamental rights of U.S. citizen voters without serving a "compelling state interest," and also because it selectively deprives some U.S. citizen Californians, but not others, of the right to citizen self-government without serving such an interest, it violates the California Equal Protection Clause and should be struck down.

CONCLUSION

For the foregoing reasons, the Court should declare the Ordinance unconstitutional and enjoin Appellants from enforcing or implementing it.

Dated: March 8, 2023

Respectfully submitted,



Lorraine G. Woodwark, Esquire
Cal. S.B. No. 205005
Immigration Reform Law Institute
25 Massachusetts Ave. NW, Ste 335
Washington, D.C. 20001
(202) 591-0962
LWoodwark@IRLI.org

Counsel for *Amicus Curiae* Immigration Reform Law Institute

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that brief of *amicus curiae* Immigration Reform Law Institute, meets the requirements of Cal. Rules of Court 8.204(c) because it contains fewer than 14,000 words. The brief was written using Microsoft Word software and, according to the software word count total, contains 3,278 words.

Dated: March 8, 2023

Lorraine G. Woodwark, Esquire
Cal. S.B. No. 205005
Immigration Reform Law Institute
25 Massachusetts Ave. NW, Ste 335
Washington, D.C. 20001
(202) 591-0962
LWoodwark@IRLI.org

Counsel for *Amicus Curiae* Immigration Reform Law Institute