

# SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

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## MEMORANDUM

**TO:** Board of Directors

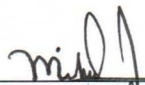
**DATE:** June 19, 2020

**FROM:** General Manager

**SUBJECT:** Resolution in Support of the Repeal of Proposition 209 and the Resumption of Affirmative Action in California

Accompanying this memorandum as an attachment is a proposed resolution supporting the repeal of Proposition 209 and the resumption of affirmative action in BART contracting.

If you would like more information, please contact Maceo Wiggins at (510) 464-7194 or [mwiggin@bart.gov](mailto:mwiggin@bart.gov).

 For  
\_\_\_\_\_  
Robert Powers

cc: Board Appointed Officers  
Deputy General Manager  
Executive Staff

**BEFORE THE BOARD OF DIRECTORS OF THE  
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

**Resolution of the Board of Directors of the  
San Francisco Bay Area Rapid Transit  
District supporting the repeal of Proposition  
209 and the resumption of affirmative action  
in California**

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Resolution No.: \_\_\_\_\_

WHEREAS, Proposition 209 was passed in 1996, preventing equal opportunity in contracting, hiring, and education in city, county, public university system, community college district, school district, special district, or other government agencies;

WHEREAS, Proposition 209 prevents the use of affirmative action programs at BART, with limited exceptions such as for contract and agreements that are federally funded;

WHEREAS, the passage of Assembly Constitution Amendment No. 5 (ACA 5) will place the matter of the repeal of Proposition 209 before the voters in November;

WHEREAS, African Americans, Asian Americans, Native Americans, Latinos and other people of color, including women of color (collectively "People of Color"), and members of the LGBTQ+ community have been historically discriminated against in the areas of public contracting;

WHEREAS, the Board of Directors of the San Francisco Bay Area Rapid Transit District (the "Board") is ultimately responsible for millions of dollars in annual expenditures including the funds used on all BART contracting activities;

WHEREAS, the Board has funded multiple studies that have identified, among other things, statistically significant underutilization of businesses owned and controlled by People of Color in the District's contracting activity, i.e. that the level of underutilization is not attributable to chance, but instead indicates that a factor other than chance is responsible for the difference;

WHEREAS, affirmative action policies are an appropriate method to remedy the effects of current and past discrimination against People of Color, create a level playing field for businesses owned by People of Color and create opportunities for these businesses to compete fairly with other businesses in their respective industries;

WHEREAS, the District supports the repeal of Proposition 209 and the use of affirmative action programs and will develop new affirmative action programs should they become constitutionally permissible in California;

THEREFORE, be it Resolved that the Board of Directors of the San Francisco Bay Area Rapid Transit District expresses its strong support for the repeal of Proposition 209 and for the resumption of affirmative action in California.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_ by the following vote:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
PRESIDENT

ATTEST:

\_\_\_\_\_  
DISTRICT SECRETARY