



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Councilmember Carrasco
Councilmember Davis
Councilmember Esparza
Councilmember Arenas
Councilmember Foley

SUBJECT: SEE BELOW

DATE: 8/5/2022

Approved

Date 8/5/2022

SUBJECT: NOVEMBER 2022 BALLOT MEASURES-PROPOSITION 1

RECOMMENDATION

Adopt a position of support for Proposition 1: SCA 10-Reproductive Freedom.

BACKGROUND

This past June five justices on the United States Supreme Court overturned fifty years of precedent, and, for the only time in living memory, took away an established Constitutional right--the right of a woman to make her own decisions regarding safe and legal abortion. The decision in *Dobbs v. Jackson* was the result of a decades-long effort by anti-abortion activists to install justices on the Court sympathetic to their cause, one which is opposed by a majority of Americans. The Court's ink was not yet dry when numerous state and federal officials began championing abortion bans not just at the state level, but possibly the federal level as well. Seventeen states with pre-Roe abortion bans or trigger laws are now in the process of denying access to care to millions of women. What seemed like a worst-case scenario only months ago has become our reality. This is a dark time across our country for women and those who bear children, and we need only look back on our history to know that this decision will lead to needless deaths of vulnerable people, particularly women of color, immigrants, and those of limited means, for whom seeking interstate care may not be possible.

But there are glimmers of hope in the darkness. Voters in Kansas just this week overwhelmingly rejected a state constitutional amendment restricting access to abortions. Poll after poll suggests that a majority of Americans support keeping abortion safe and legal, and this week's victory in

Kansas proves that even in one of the most conservative states in the country, the will of the people is to protect women's health and reproductive rights. As people all over this country fight to preserve a freedom and right that has been recognized for half a century, they will look to states like California—and cities like San José, that have led by example.

California has long been a model for providing and protecting access to reproductive health care and reproductive freedoms. Three years before *Roe v. Wade*, the California Supreme Court recognized that the fundamental right of a person to choose whether to bear children is protected by the U.S. Constitution. In 1972, Californians mobilized to enshrine the right to privacy in the California Constitution. In 2002, California passed the Reproductive Privacy Act, which embeds the right to choose or obtain an abortion in California public policy.

Cities have also played an important role: in the early 1990s, San José was a national leader in protecting the reproductive rights of women in our community, ensuring that anti-choice protests did not prevent patients from seeking care, or healthcare professionals from providing it. Faced with protestors picketing not only in front of clinics, but in front of the homes of doctors and other healthcare professionals, the City Council took action to implement some of the first protest buffer zones around clinics and private residences, which would become a model for other cities and jurisdictions in the state, and throughout the country. In 1999, the City passed a resolution on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which included equal access to healthcare services, including reproductive rights and family planning. This commitment was reaffirmed in 2017 with the Council's unanimous approval of the Women's Bill of Rights, which expanded our commitment to applying the principles of the CEDAW in a local context. We must continue that legacy of protecting reproductive liberty and freedom, not just for our residents, but for those who will come here for the care denied in their own states.

Reproductive healthcare providers have already warned us of an “above ground railroad” forming in the Bay Area, as women from states like Texas have begun seeking out of state care. As more abortion bans take effect, we expect that more and more women will seek safe and legal abortions here in California, as their reproductive freedom is denied in their home states.

As other states and communities mobilize against reproductive freedom, California has continued to build a comprehensive system of support for Californians seeking sexual and reproductive care, supporting both patients and the medical professionals who care for them. From choosing a provider, to contraceptives and preventative care, to improving affordability of services, California recognizes that autonomy and agency are integral to exercising the fundamental right of privacy. Moreover, because reproductive freedom is intertwined with many issues of social justice such as economic, gender, and racial equity, a strong support system for reproductive freedom measures ensures that Californians of all backgrounds have access to the care they need.

With Proposition 1, which will be before voters this November, California has the opportunity to continue and strengthen its role as a national leader in defending reproductive freedom. If passed, the proposition will enshrine reproductive freedom in our State Constitution, including the right to an abortion and the right to contraceptives. It is imperative that we as a City throw our full support behind this initiative, and all other initiatives that protect reproductive freedom, whether at the local, state, or federal level. As elected officials, we must actively stand up when the rights and liberty of 500,000 of our residents are being trampled. We cannot pass the buck to our state or federal representatives—we need to push them while continuing to take meaningful action as a City to protect our residents, and all who seek safe and legal abortions here in San José. Reproductive freedom is not just a national issue, or a state issue, it is an issue that affects every woman, every person capable of bearing children, and San José has proven in the past that we can be a leader in defending that freedom. We must continue do so now more than ever.

The signers of this memorandum have not had, and will not have, any private conversation with any other member of the City Council, or that member's staff, concerning any action discussed in the memorandum, and that each signer's staff members have not had, and have been instructed not to have, any such conversation with any other member of the City Council or that member's staff.