

1 [Supporting Assembly Constitutional Amendment No. 5 (Low and Wiener) - Removing the  
2 Ban on Marriage Equality in the California State Constitution]

3 **Resolution supporting Assembly Constitutional Amendment No. 5, introduced by**  
4 **Assembly Member Evan Low and Senator Scott Wiener, to remove the ban on same-**  
5 **sex marriage equality in the California State Constitution and reverse Proposition 8.**  
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7 WHEREAS, On February 12, 2004, San Francisco became the most high-profile  
8 municipality in the nation to allow same-sex marriage when then-Mayor Gavin Newsom  
9 marked national Freedom to Marry Day by allowing same-sex couples to get married at our  
10 County Clerk’s office in San Francisco City Hall; and

11 WHEREAS, The weddings that took place at City Hall showed the world that change is  
12 possible and that love means love as Del Martin and Phyllis Lyon were married after nearly 51  
13 years together; and

14 WHEREAS, In 2008, Californians adopted Proposition 8 by a narrow 52-48% margin to  
15 amend the California constitution to ban same-sex marriage; and

16 WHEREAS, San Francisco strongly opposed this misguided measure by an  
17 overwhelming 75-25%; and

18 WHEREAS, In 2010, Proposition 8 was overturned by Judge Vaughn Walker in  
19 *Hollingsworth v. Perry*, who found that it was unconstitutional under both the Due Process and  
20 Equal Protection Clauses of the Constitution; and

21 WHEREAS, In 2015, the United States Supreme Court decided *Obergefell v. Hodges*  
22 cases and concluded that the right of same-sex couples to marry exists in every state and that  
23 states must recognize the marriages validly performed in other jurisdictions; and

24 WHEREAS, While the Supreme Court’s decision should be settled law, it is clear there  
25 is a risk of reversal, with Justice Clarence Thomas stating in a concurrence to the *Dobbs v.*

1 *Jackson Women’s Health Organization* case that “in future cases, we should reconsider all of  
2 this Court’s substantive due process precedents;” and

3 WHEREAS, In July 2022, the United States Congress passed the Respect for Marriage  
4 Act to respect same-sex and interracial marriages, as well as those married under another’s  
5 state law, and to provide federal benefits such as Social Security and tax benefits; and

6 WHEREAS, The Respect for Marriage Act does not require states to issue marriage  
7 licenses to same-sex couples and would not reverse Proposition 8; and

8 WHEREAS, A copy of Assembly Constitutional Amendment No. 5 is enclosed in File  
9 No. 230715; and

10 WHEREAS, On February 14, 2023, Assembly Member Evan Low and Senator Scott  
11 Wiener, along with many colleagues, introduced Assembly Constitutional Amendment No. 5 to  
12 repeal Proposition 8 and protect same-sex couples against threats from the United States  
13 Supreme Court; now, therefore, be it

14 RESOLVED, That the San Francisco Board of Supervisors supports Assembly  
15 Constitutional Amendment No. 5 and urges its passage in the California State Legislature;  
16 and, be it

17 FURTHER RESOLVED, That the San Francisco Board of Supervisors directs the Clerk  
18 to submit a copy of this resolution to the Speaker of the State Assembly, Assembly Member  
19 Evan Low, Senator Scott Wiener, and the members of San Francisco’s legislative delegation,  
20 Assembly Members Matt Haney and Phil Ting.

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