

RESOLUTION NO. _____

**RESOLUTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CLARA CALLING FOR
AN AMENDMENT TO THE UNITED STATES CONSTITUTION
ESTABLISHING THAT MONEY IS NOT SPEECH, CAMPAIGN
CONTRIBUTIONS AND EXPENDITURES MAY BE REGULATED
AND LIMITED, AND ONLY NATURAL PERSONS HAVE
CONSTITUTIONAL RIGHTS**

WHEREAS, free and fair elections are essential to democracy and effective self-governance;

WHEREAS, the United States Constitution and the Bill of Rights are intended to protect the rights of natural persons;

WHEREAS, in *Connecticut General Life Insurance Company v. Johnson*, 303 U.S. 77 (1938), United States Supreme Court Justice Hugo Black stated in his dissent that “[n]either the history nor the language of the Fourteenth Amendment justifies the belief that corporations are included within its protection”;

WHEREAS, the United States Supreme Court held in *Buckley v. Valeo*, 424 U.S. 1 (1976), that real or perceived corruption justified limits on political contributions to candidates, but rejected other fundamental interests that the County of Santa Clara finds compelling, such as creating a level playing field for political candidates and ensuring that all citizens, regardless of wealth, have an opportunity to have their political views heard;

WHEREAS, in a dissent in *First National Bank of Boston v. Bellotti*, 435 U.S. 765 (1978), a case in which the United States Supreme Court held that corporations have the same First Amendment free speech rights as individuals and struck down a state ban on corporations spending money to influence referendums, Justice William H. Rehnquist observed that corporations are, and had always been, considered artificial persons under the law and therefore do not have the rights of natural persons;

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WHEREAS, United States Supreme Court Justice John Paul Stevens noted in his concurrence in *Nixon v. Shrink Missouri Government PAC*, 528 U.S. 377 (2000), that “money is property; it is not speech”;

WHEREAS, in *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652 (1990), the United States Supreme Court recognized the threat to a republican form of government posed by “the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public’s support for the corporation’s political ideas”;

WHEREAS, the United States Supreme Court in *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010), overturned *Austin*, ruled that prohibitions on corporate campaign expenditures violated a corporation’s First Amendment rights to free speech, and allowed unlimited corporate spending to influence elections, candidate selection, policy decisions, and public debate;

WHEREAS, four dissenting United States Supreme Court Justices in *Citizens United* restated the observation from *Austin* that corporations have special advantages not enjoyed by natural persons, such as “limited liability, perpetual life, and favorable treatment of the accumulation and distribution of assets,” that enable them expend vast amounts on campaign messages that have virtually no relation to the beliefs held by natural persons;

WHEREAS, in *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014), a narrow majority of the United Supreme Court held that, because a corporation is a person under the Religious Freedom Restoration Act of 1993, corporations generally can opt out of laws they determine are incompatible with their religious beliefs, such as those requiring the provision of contraceptive services as part of employer health care plans;

WHEREAS, the citizens of the County of Santa Clara understand that judicial decisions granting artificial entities constitutional rights, equating money to protected free speech, and allowing unlimited corporate spending to influence elections have weakened the power of the People to legislate and regulate for the public good and have diminished the role of citizens in the electoral process;

WHEREAS, the free speech rights of People who have limited financial resources have been overwhelmed by corporations’ ability to spend millions of dollars in messaging in support of and against candidates and to otherwise influence elections;

WHEREAS, the traditional and necessary rights and powers of corporations, such as ownership of property, ability to enter into legal transactions, and many others, are provided for by state law and do not require the extension of constitutional rights to artificial entities;

WHEREAS, the judicially conferred rights and privileges of corporate personhood have resulted in concerted, ongoing campaigns by corporations to interpose these rights and privileges to avoid the legitimate power of the People to enact laws and regulations for public health and the general welfare; and,

WHEREAS, approximately 20 states and hundreds of local governments across the country have passed resolutions or ballot initiatives that call for overturning *Citizens United*, a constitutional amendment establishing that money is not speech, and/or that corporations do not have constitutional rights or other related reforms.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Santa Clara, State of California, that it is the position of the County of Santa Clara that to reverse the impacts of United States Supreme Court decisions such as *Citizens United*, which have resulted in unlimited independent campaign expenditures by corporations and others, an amendment to the United States Constitution is needed to establish that money is not speech; campaign contributions and expenditures may be reasonably limited and regulated by Congress and the states without violating the Constitution; and the rights protected by the United States Constitution are the rights of natural persons only, not of corporations or other artificial entities whose rights and privileges are determined by the People through federal, state, or local law.

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BE IT FURTHER RESOLVED that the County of Santa Clara calls on other communities to join in this action by passing similar resolutions.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California, on _____, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

S. JOSEPH SIMITIAN, President
Board of Supervisors

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.

ATTEST:

MEGAN DOYLE
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:



JAMES R. WILLIAMS
County Counsel