

BEFORE THE BOARD OF SUPERVISORS  
OF THE  
COUNTY OF FRESNO, STATE OF CALIFORNIA

IN THE MATTER OF: )  
ADOPTING AMENDED ELECTION )  
PROCEDURES FOR THE )  
BOARD OF RETIREMENT OF THE ) RESOLUTION  
FRESNO COUNTY EMPLOYEES' )  
RETIREMENT ASSOCIATION ) No. \_\_\_\_\_  
\_\_\_\_\_ )

WHEREAS, the Fresno County Employees' Retirement Association ("FCERA") is the retirement system for the County of Fresno (the "County"), and for participating governmental employer entities (each a "Special District" or collectively, "Special Districts"), under the County Employees Retirement Law of 1937 ("CERL," Gov. Code, § 31450 *et seq.*) and the Public Employees' Pension Reform Act of 2013 ("PEPRA," Gov. Code § 7522 *et seq.*);

WHEREAS, the Board of Retirement of FCERA is the governing board of FCERA (the "Board of Retirement");

WHEREAS, the Board of Supervisors of the County of Fresno (the "Board of Supervisors") is the board of supervisors of the County;

WHEREAS, Government Code § 31520.1 shall apply to the membership of a board of retirement whose county retirement system membership includes safety members;

WHEREAS, as of the date of this Resolution, FCERA's membership includes general members ~~and~~ ("General Members"), safety members; ("Safety Members"), and retired members ("Retired Members");

WHEREAS, under Government Code § 31520.1, the Board of Retirement shall consist of the following members:

1 A. The first member shall be the County Auditor-Controller/Treasurer-Tax  
2 Collector;

3 B. The second and third members shall be members of FCERA, other than  
4 ~~safety members~~Safety Members, elected by those members (*i.e.*, ~~general~~  
5 ~~members~~General Members);

6 C. The fourth, fifth, sixth, and ninth members shall be qualified electors of  
7 the County who are not connected with the County government in any capacity,  
8 except one may be a member of the Board of Supervisors (each, a “Supervisor”),  
9 and shall be appointed by the Board of Supervisors; a Supervisor appointed as a  
10 member of the Board of Retirement may not serve beyond his or her term of office  
11 as Supervisor;

12 D. The seventh member shall be a ~~safety member of FCERA~~Safety  
13 Member elected by the ~~safety members~~Safety Members;

14 E. The eighth member shall be a ~~retired member of FCERA~~Retired Member  
15 elected by the ~~retired members of FCERA~~Retired Members;

16 F. The alternate member shall be that candidate, if any, for the seventh  
17 member from the group under Government Code § 31470.2 or 31470.4, or any other  
18 eligible ~~safety member~~Safety Member in the County if there is no eligible candidate  
19 from the groups under Government Code §§ 31470.2 and 31470.4, which is not  
20 represented by a member of the Board of Retirement who received the highest  
21 number of votes of all candidates in that group, and shall be referred to as the  
22 alternate seventh member;

23 WHEREAS, the Board of Supervisors’ appointment of the Supervisor under  
24 Government Code § 31520.1 shall be made pursuant to the Board of Supervisors’  
25 policies and procedures for the appointment of any of its members to serve on  
26 another public agency’s governing board; and

27 WHEREAS, under Government Code § 31520.5, the Board of Retirement  
28 alternate ~~retired member~~Retired Member, if any, shall be elected separately by

1 ~~retired members of FCERA~~Retired Members in the same manner and at the same  
2 time as the eighth member of the Board of Retirement is elected;

3 ~~///~~

4 ~~///~~

5 WHEREAS, Government Code § 31520.1 permits the Board of Supervisors to  
6 determine the manner in which elected members shall be elected to the Board of  
7 Retirement;

8 WHEREAS, under Government Code § 31524, the Board of Retirement's  
9 second and third members, seventh member, and, if any, alternate seventh member,  
10 shall be employees of the County or a Special District, while they hold such  
11 respective offices;

12 WHEREAS, the Board of Supervisors established the Fresno County  
13 Retirement Board Election Procedure on November 25, 1969, and amended the  
14 Retirement Board Election Procedure on: October 30, 2001; March 1, 2005 (at which  
15 time the Fresno County Retirement Board Election Procedure was renamed as the  
16 Board of Retirement Election Procedures); September 11, 2007; August 11, 2009;  
17 ~~and~~ December 8, 2015 ~~(adding a regular election schedule through 2029);~~ and June  
18 18, 2019;

19 WHEREAS, as the date of this Resolution, the Board of Retirement has an  
20 alternate ~~retired member;~~Retired Member; and

21 WHEREAS, as of the date of this Resolution, the Board of Retirement does not  
22 have an alternate seventh member, but these election procedures shall apply to  
23 such an alternate seventh member if and when there should be such a member;

24 ~~WHEREAS, the Board of Supervisors has been informed that, on April 3, 2019,~~  
25 ~~the Board of Retirement approved certain further amendments to the Board of~~  
26 ~~Retirement Election Procedures, all of which are incorporated into the Board of~~  
27 ~~Retirement Election Procedures, as set forth below; and~~

1 ~~WHEREAS, considering all such proposed further amendments, as approved~~  
2 ~~by the Board of Retirement~~ WHEREAS, the Board of Supervisors further  
3 desires to amend the Board of Retirement Election Procedures, as set forth below.

4 NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors adopts  
5 these further amended Board of Retirement Election Procedures, which are and  
6 shall read as follows:

7 BOARD OF RETIREMENT ELECTION PROCEDURES

8  
9 I. Dates of Elections; Officials; Reimbursement of Election Costs.

10 A. Regularly-Schedule Elections and Special Elections: Board of Retirement  
11 regular elections shall be held on the third Thursday in November for odd election  
12 years, and on the third Thursday in August for even election years, except for  
13 Special Elections (as defined in Section 1.C~~7.2~~ herein) called by the Board of  
14 Supervisors under Section 1.C~~7.2~~ herein. The Board of Retirement's regular election  
15 schedule is attached hereto and incorporated herein by this reference as Appendix A  
16 ~~Election Schedule~~, and supersedes any prior Board of Retirement's regular  
17 election schedule adopted by the Board of Supervisors. These election procedures  
18 shall govern all regularly scheduled elections for the Board of Retirement in  
19 Appendix A~~Election Schedule~~, and all Special Elections for the Board of  
20 Retirement. From time to time, the Board of Supervisors may supplement Appendix  
21 A~~Election Schedule by amending this Resolution to add future regularly scheduled~~  
22 ~~elections.~~ Election Schedule by amending this Resolution to add future regularly-  
23 scheduled elections. In the event it is apparent from examining the face of Appendix  
24 A-Election Schedule that any member category, member number, expiration of  
25 term, or election month or year set forth therein is incorrect or incomplete, the  
26 Retirement Administrator, on behalf of FCERA, and the County Clerk/Registrar of  
27 Voters (the "County Registrar of Voters") on behalf of the County, may jointly  
28 execute a memorandum prior to the relevant Board of Retirement election, which

1 jointly-executed memorandum sets forth the correct and/or complete information and  
2 the reason therefor, and such jointly-executed memorandum shall be filed by the  
3 Retirement Administrator with the Clerk of the Board of Retirement, and by the  
4 County Registrar of Voters with the Clerk of the Board of Supervisors, and upon  
5 such filing thereof with the Clerk of the Board of Supervisors, such jointly-executed  
6 memorandum shall be deemed to be a modification to Appendix A–Election  
7 Schedule, and all references herein to Appendix A–Election Schedule shall  
8 thereafter be deemed to include such modification to Appendix A–Election Schedule.  
9 The Clerk of the Board of Supervisors shall file the jointly-executed memorandum in  
10 his or her filing system containing, and along with, this Resolution.

11 B. County Registrar of Voters Declaration Regarding Election. The County  
12 ~~Clerk/~~Registrar of Voters ~~(the “County Registrar of Voters”)~~ may, at any time  
13 commencing upon the date that the County Registrar of Voters receives a written  
14 request from the FCERA Retirement Administrator, under Section III.A.1., herein, to  
15 conduct a Board of Retirement election and continuing thereafter until the moment  
16 immediately after 5:00 PM on the date of the election, declare that Registrar of  
17 Voters cannot conduct, or complete the conducting of, the election, or the election  
18 for a particular member seat, due to any condition, except for any alleged or actual  
19 violation by a nominee, or any other County employee allegedly or actually acting at  
20 the behest of or in concert with the nominee, of County ordinance code § 3.08.110  
21 (Employees—Political activity) relating to any Active Member Election. If the County  
22 Registrar of Voters makes a determination that he or she cannot conduct, or  
23 complete the conducting of, a Board of Retirement election, or the election for a  
24 particular member seat, under this Section I.B., then, subject to this Section I.B:

25 1. The County Registrar of Voters shall declare in writing that he or she  
26 cannot conduct, or complete the conducting of, the election, or the election for  
27 the particular member seat (and any such declaration concerning the particular  
28 member seat only affects that member seat);

1           2. The County Registrar of Voters shall promptly post such declaration,  
2 which shall include a statement of the condition for such declaration, on its  
3 Department website, and provide a copy thereof to the Board of Retirement, the  
4 FCERA Retirement Administrator, the Board of Supervisors, and the affected  
5 candidates for the election, or the election for the particular member seat, and  
6 shall request the Board of Supervisors to call a new Board of Retirement  
7 election, or a new election for the particular member seat, which election shall  
8 be a Special Election (as defined in Section I.C., herein);

9           3. Any such declaration by the County Registrar of Voters shall be final and  
10 conclusive with respect to such condition; and

11           4. The eligibility of members of FCERA to participate in the Special Election  
12 called by the Board of Supervisors under Section I.C., herein, shall relate to the  
13 Special Election so called without regard to the election for the Board of  
14 Retirement, or the election for a particular member seat, that County Registrar  
15 of Voters declared that he or she cannot conduct or complete.

16           C. Board of Supervisors Call of Special Election. The Board of Supervisors  
17 shall, as soon as may be practicable under the circumstances at such time, call for,  
18 and set the date of, any Board of Retirement elections to any fill midterm vacancies,  
19 or any Board of Retirement election requested by the County Registrar of Voters,  
20 under Section I.B.2., herein, or requested by the Retirement Administrator, under  
21 Section IV.F., herein (in either case, a "Special Election," or collectively, "Special  
22 Elections").

23           D. Parties; Officials: FCERA, including the Board of Retirement, and/or any  
24 officer, employee, or agent thereof collectively are the "FCERA Parties," and each of  
25 them is a "FCERA Party." The County, including the Board of Supervisors and/or the  
26 County Registrar of Voters, and/or any officer, employee, or agent thereof  
27 collectively are the "County Parties," and each of them is a "County Party." The  
28 Special Districts, including their respective governing boards, and/or any officer,

1 employee, or agent thereof, respectively, are the “Special District Parties,” and each  
2 of them is a “Special District Party.” The FCERA Retirement Administrator, the  
3 FCERA Assistant Retirement Administrator, the FCERA Executive Assistant or the  
4 FCERA employee whom the Retirement Administrator certifies in writing to the  
5 County Registrar of Voters as the functional equivalent of the FCERA Executive  
6 Assistant for purposes of these election procedures, and the FCERA officer who is  
7 designated by the Retirement Administrator as the clerk to the Board of Retirement  
8 shall be, and each of them acting alone is (each, a “FCERA Authorized Officer”),  
9 authorized to do any and all things for and on behalf of FCERA under these election  
10 procedures, unless the Retirement Administrator is specifically authorized to act  
11 hereunder for and on behalf of FCERA. The County Registrar of Voters (including  
12 his or her designee where specifically authorized to act hereunder) shall be and is  
13 authorized to do any and all things for and on behalf of the County under these  
14 election procedures, unless the Board of Supervisors is specifically authorized to act  
15 hereunder for and on behalf of the County.

16 E. Reimbursement of Election Costs: Pursuant to an agreement entered into  
17 by and between FCERA and the County, the County Registrar of Voters shall be  
18 reimbursed for all of its election costs by FCERA within forty-five (45) calendar days  
19 after any Board of Retirement election referred to herein, or within the time otherwise  
20 agreed to between FCERA and the County under the reimbursement agreement.

21 F. Dates; extensions: Whenever any act is required or permitted to be  
22 performed by the County Parties and/or any County Party, or the FCERA Parties  
23 and/or any FCERA Party, as applicable, or any period is provided for any act  
24 required or permitted to be performed by the by the County Parties and/or any  
25 County Party, or the FCERA Parties and/or any FCERA Party, as applicable, under  
26 these election procedures upon or not later than a particular day or within a  
27 particular period, which day or end of such period falls upon a Saturday, Sunday,  
28 holiday, or day for which County or FCERA offices, as applicable to such act or

4 period, are officially closed, such act shall be performed by each of them, as  
5 applicable, not later than the next County business day or FCERA business day, as  
6 applicable to such act or period, and if such act is performed by any of them on such  
7 next County business day or FCERA business day, as applicable to such act or  
8 period, such act shall be deemed performed with the same effect as if such act had  
9 been performed upon the day or last day appointed or before such period had ended  
10 at its appointed time.

11 II. Types of Elections; Eligible FCERA Membership Classifications.

12 A. Types of Elections: The Board of Retirement shall have two types of  
13 elections with separate but comparable election procedures for both types of  
14 elections.

15 1. Active Member Election: One type of election shall be for the second and  
16 third members (~~general members~~General Members), seventh member (~~safety~~  
17 ~~member~~Safety Member), and, if any, alternate seventh member (~~safety~~  
18 ~~member~~Safety Member) of the Board of Retirement, who shall be employees of  
19 the County or a Special District, as well as be the appropriate membership  
20 classification of FCERA for the related Board of Retirement seat number, while  
21 they seek election for, and hold, such respective offices (each, a “Active  
22 Member Election”).

23 2. Retired Member Election: The other type of election shall be separate  
24 elections that shall be held simultaneously for the ~~retired member~~Retired  
25 Member and alternate ~~retired member~~Retired Member of the Board of  
26 Retirement, who shall be ~~retired members of FCERA~~Retired Members while  
27 they seek election for, and hold, such respective offices, (each, a “Retired  
28 Member Election”).

29 B. Identification and Classifications of Eligible Members of FCERA: ~~Members~~  
30 ~~of FCERA.~~ For the purposes of these election procedures, the only persons eligible  
31 to participate in ~~any~~ Board of Retirement ~~election~~elections are members of FCERA



1 who are identified and classified as the following types of eligible voters,  
2 respectively:

3 1. “Eligible Active Members” are identified and separately classified within  
4 their respective eligible voter ~~classifications~~classification:

5 a. “Eligible General Members” are all ~~general members~~General  
6 Members, as of ~~FCERA~~the Eligible Voter Certification Date (as defined in  
7 Section V.C.1., herein), who either are employed by the County or a  
8 Special District, or have elected in writing to come within the provisions of  
9 Article 9 (commencing with Gov. Code, § 31700) of CERL, and on the date  
10 of such election so made was a ~~general member~~General Member (also  
11 known as ~~a~~ “Deferred General ~~Member~~Members”), or have otherwise  
12 elected in writing under CERL to leave his or her accumulated contributions  
13 on deposit with FCERA upon separating from the service of the County or  
14 a Special District, and on the date of such election so made was a ~~general~~  
15 ~~member~~General Member (also known as an “Inactive General ~~Member~~”);  
16 ~~as of the Eligible Voter Certification Date (as defined in Section VI.C.1.,~~  
17 ~~herein);~~Members”); and

18 ///

19 b. “Eligible Safety Members” are all ~~safety members~~Safety Members,  
20 as of ~~FCERA~~the Eligible Voter Certification Date, who either are employed  
21 by the County or a Special District, or have elected in writing to come within  
22 the provisions of Article 9 (commencing with Gov. Code, § 31700) of CERL,  
23 and on the date of such election so made was a ~~safety member~~Safety  
24 Member (also known as ~~a~~ “Deferred Safety ~~Member~~Members”), or have  
25 otherwise elected in writing under CERL to leave his or her accumulated  
26 contributions on deposit with FCERA upon separating from the service of  
27 the County or a Special District, and on the date of such election so made  
28

1 was a ~~safety member~~Safety Member (also known as a “Inactive Safety  
2 Member”),~~as of the Eligible Voter Certification Date.~~Members”).

3 2. “Eligible Retired Members” are identified as, and have the single  
4 classification of, all retired members of FCERAformer employees of the County  
5 or a Special District who are Retired Members as of the Eligible Voter  
6 Certification Date.~~There shall not be any separate classifications of eligible~~  
7 ~~voters within Eligible Retired Members.~~

8 C. Eligibility to Participate in Elections; One (1) Vote per Eligible FCERA  
9 Member: A FCERA member~~of FCERA~~ who is eligible to participate in a Board of  
10 Retirement election, as provided in Section II.B., herein, may vote only for one (1)  
11 candidate who is designated within the same FCERA membership classification to  
12 which that eligible FCERA member~~of FCERA~~ belongs as of the Eligible Voter  
13 Certification Date (e.g., for an Active Member Election, the eligible FCERA member  
14 ~~of FCERA~~ may only participate in the appropriate eligible voter classification either  
15 as an Eligible General Member or as an Eligible Safety Member, but not both). This  
16 “one (1) vote per eligible FCERA member” rule means that a FCERA member’s  
17 accumulated retirement service credit, if any, in the other FCERA member  
18 classification (e.g., Eligible Safety Member who has accumulated retirement service  
19 credit as a prior ~~general member of FCERA~~, if any, General Member), shall not be  
20 considered in the determination of such FCERA members’ eligibility to participate in  
21 a Board of Retirement election.~~A person’s status as a beneficiary to a member of~~  
22 ~~FCERA, whether living or deceased, does not, in and of itself, make such beneficiary~~  
23 ~~eligible to participate in a Board of Retirement election.~~

24 D. Eligibility to Participate in Elections; Active Member Elections: Eligible Active  
25 Members may participate in the election for a member of the Board of Retirement  
26 only within their own classification of FCERA membership either as an Eligible  
27 General Member or as an Eligible Safety Member, respectively, as follows:  
28

1. An Eligible General Member may participate only in the election of the second and third members (~~general members~~General Members) of the Board of Retirement;

2. An Eligible Safety Member may participate only in the election of (a) the seventh member (~~safety member~~Safety Member), and (b) the alternate seventh member, if any (~~safety member~~Safety Member), of the Board of Retirement.

The alternate seventh member, if any, shall be elected from the group under Government Code § 31470.2 or 31470.4, or any other eligible ~~safety member~~Safety Member in the County if there is no eligible candidate from the groups under Government Code §§ 31470.2 and 31470.4, which is not represented by a member of the Board of Retirement who received the highest number of votes of all candidates in that group. If there is no eligible candidate for the alternate seventh member, there may not be an alternate seventh member.

E. Eligibility to Participate in Elections; Retired Member Elections:

Simultaneous elections shall occur for the ~~retired member~~Retired Member (eighth member) and the alternate ~~retired member~~Retired Member of the Board of Retirement. Eligible Retired Members of FCERA may participate only in the election of ~~retired member~~Retired Member (eighth member) and the alternate ~~retired member~~Retired Member.

E.F. Persons Not Made Eligible to Participate in Elections: A person's status as the spouse or domestic partner, a surviving or former spouse or domestic partner, or a beneficiary or beneficiaries (including, but not limited to, primary or contingent beneficiaries, or alternate payee(s)), of an Eligible Active Member or Eligible Retired Member, in either case whether living or deceased, does not make such spouse or domestic partner, surviving or former spouse or domestic partner, or beneficiary or beneficiaries (including, but not limited to, primary or contingent beneficiaries, or alternate payee(s)) eligible to participate in any Board of Retirement elections.

1 provided however, such persons may observe the election process, as a member of  
2 the public, as provided in Section II.G., herein.

3 F.G. Observing the Election Process: Each candidate, including his or her  
4 designated representative, any FCERA member, and any member of the public may  
5 observe the Retirement Administrator’s drawing of lots for the order of placement of  
6 eligible candidates’ names on the official ballot under Section IV.G., herein, the  
7 County Registrar of Voters and his or her designees’ undertaking of the pre-count  
8 procedures under Section VII.E., herein, and the opening and inspection of Official  
9 Return Envelopes and the counting of returned voted official ballots under Sections  
10 VII.E. and VII.F., herein, respectively, provided however, (1) each candidate, or his  
11 or her designated single representative who is a County employee, but not both,  
12 shall be allowed a reasonable amount of County release time (“County Allowed  
13 Time”) for such activities, and, (2) each such candidate, including his or her  
14 representative, each such FCERA member, and ~~member~~each such member of the  
15 public shall not interfere in any way with the Retirement Administrator’s drawing of  
16 lots for the order of placement of candidates’ names on the official ballot, or the  
17 County Registrar of Voters’ and his or her designees’ orderly undertaking of such  
18 pre-count procedures, inspection, and counting, including, but not limited to, the  
19 touching or handling of any returned Official Return Envelopes or any returned voted  
20 official ballots. Candidates, including their representatives, who are County  
21 employees, shall not be allowed any County Allowed Time to obtain nominations or  
22 campaign. Except as provided in this Section II.G. for each candidate, including his  
23 or her representative, FCERA members who are County employees shall not be  
24 allowed any County Allowed Time for any activities referenced in these election  
25 procedures.

26 G.H. Secret Ballots: Each election for the Board of Retirement shall be  
27 conducted herein by secret official ballot, and all votes shall be kept secret.  
28

4 H.I. No Write-Ins. Write-in ballots may not be made for any candidates, and  
2 write-in votes shall not be counted, in any election for the Board of Retirement.

3 III. Request for Election.

4 A. Requirements. Not later than one hundred twenty~~(120-five (125))~~ calendar  
5 days prior to election day (E—120—125; all references to “E-#” mean election day  
6 minus # of calendar days) for a Board of Retirement election, the FCERA Authorized  
7 Officer shall provide the following to the County Registrar of Voters for the election:

8 1. Written Request: Written request for the County Registrar of Voters to  
9 conduct the Board of Retirement election that (a) specifies the date of the  
10 election either according to Appendix A—Election Schedule, or as a Special  
11 Election called by the Board of Supervisors under Sections I.C. or IV.F., herein,  
12 respectively; (b) specifies the relevant member election, including the related  
13 seat number, for the Board of Retirement; (c) includes a confirmation that the  
14 County-FCERA cost reimbursement agreement is in effect (See Section I.E.,  
15 herein); and (d) provides an estimate of the specific number of Official Ballot  
16 Packets (as defined in Section VI.A., herein) that FCERA requests the County  
17 Registrar to order for printing in relation to such election; and

18 2. Election Calendar: Proposed calendar of events for the election, which  
19 calendar shall be consistent with these election procedures.

20 IV. Nomination Process.

21 A. Notice of Election: Not later than E—70—75, FCERA shall provide a written  
22 notice of ~~the~~each election (“Notice of Election”) as follows:

23 1. For Active Member Elections, to (a) the head of each County  
24 department, each Special District, and each recognized employee  
25 representation organization having FCERA members employed by the County  
26 or a Special District, ~~and to each eligible deferred and inactive FCERA member~~  
27 ~~at the deferred or inactive FCERA member’s then-current~~provided that the  
28 Notice of Election to each such County department head and Special District

4 shall (i) state that such Notice of Election is provided, and the request in (ii),  
2 herein, is made, under the Election Procedures for the Board of Retirement of  
3 FCERA, and (ii) specifically request that such Notice of Election shall be  
4 provided to all of the employees of such County department or Special District,  
5 respectively, by its customary means for providing notices to such employees,  
6 and (b) each Deferred General Member, Deferred Safety Member, Inactive  
7 General Member, and Inactive Safety Member at his or her then-current mailing  
8 address on file with FCERA.

9 2. For Retired Member Elections, which shall be separate elections held  
10 simultaneously for the ~~retired member~~Retired Member and alternate ~~retired~~  
11 ~~member~~Retired Member of the Board of Retirement, (a) to each organization  
12 recognized by the Board of Retirement as representing the ~~retired members of~~  
13 ~~FCERA~~Retired Members, and (b) ~~for regularly-scheduled Retired Member~~  
14 ~~Elections~~, to each ~~retired member of FCERA~~Retired Member at his or her  
15 then-current mailing address on file with FCERA provided that ~~-, for regularly-~~  
16 ~~scheduled Retired Member Elections~~, such ~~notice~~Notice of Election shall also  
17 be provided by mailing a flyer (or including information along with or in the  
18 monthly benefit statement mailed to each retiree) that provides basic  
19 information about the regularly-scheduled Retired Member Elections.

20 B. Member Seats: ~~The~~Each Notice of Election shall state the following  
21 concerning the election for each member seat on the Board of Retirement:

22 1. Each member seat for which the election is being held, specifying the  
23 classification of (*i.e.*, for the Active Member Election, specifying either the  
24 ~~general member~~General Member or ~~safety member~~Safety Member  
25 classification, or for the Retired Member Elections, specifying ~~the retiree~~  
26 ~~classification~~either the Retired Member seat or the alternate Retired Member  
27 seat, as applicable) and qualifications for the member seat, and the related seat  
28 number, or reference to ~~retiree~~retired alternate member, as applicable.

4 2. The term of office for each member seat for which the election is being  
2 held.

3 3. Procedures for submissions of a Nominee's Submittal (defined in  
4 Section IV.D~~7, 8~~ herein) and a Candidate's Statement (defined in Section IV.D~~7, 8~~  
5 herein), including deadlines for submissions thereof, (which shall be the close  
6 of the nomination period set forth in Section IV.E., herein), the date of the  
7 election to be held, and the time period for the pre-count and counting of  
8 returned voted official ballots, all of which shall comply with these election  
9 procedures.

10 C. Nominee and Office Holder Qualifications: Each nominee and office holder  
11 shall meet the following qualifications, as applicable:

12 1. For the Active Member Election:

13 a. The nominee who is a ~~general member of FCERA~~General  
14 Member may be elected and hold office only as the second or third member  
15 of the Board of Retirement, provided that he or she shall be an Eligible  
16 General Member, and, at all relevant times, he or she shall be an employee  
17 of the County or a Special District, and remain (i) employed by the County  
18 or a Special District, and (ii) in the classification of a ~~general member of~~  
19 FCERAGeneral Member.

20 b. The nominee who is a ~~safety member of FCERA~~Safety Member  
21 may be elected and hold office only as the seventh member, or, if any,  
22 alternate seventh member of the Board of Retirement, provided that he or  
23 she shall be an Eligible Safety Member, and, at all relevant times, he or  
24 she shall be an employee of the County or a Special District, and remain (i)  
25 employed by the County or a Special District, and (ii) in the classification of  
26 a ~~safety member of FCERA~~Safety Member.

27 c. The nominee may be elected and hold office only in one seat at a  
28 time as a member of the Board of Retirement.

4 d. Any nominee who is elected to any such seat on the Board of  
2 Retirement, but either separates from the service of the County or a  
3 Special District, or changes his or her FCERA membership classification  
4 from ~~general member~~General Member to ~~safety member~~Safety Member or  
5 vice-versa, shall automatically vacate his or her office.

6 e. The nominee may not be elected and hold office as a member of  
7 the Board of Retirement if he or she is or would be prohibited by law from  
8 holding such office.

9 ///

10 2. For the Retiree Member Elections:

11 a. The nominee shall be an Eligible Retired Member, and, at all  
12 relevant times remain, a ~~retired member of FCERA~~Retired Member.

13 b. The nominee may be elected and hold office only in one seat at a  
14 time as a member of the Board of Retirement.

15 c. A nominee may not be elected and hold office as a member of the  
16 Board of Retirement if he or she is or would be prohibited by law from  
17 holding such office.

18 D. Nominations; Petitions and Nominee's Submittal: The FCERA Retirement  
19 Administrator shall prepare (or caused to be prepared and approve) a petition form  
20 for each Board of Retirement election according to the requirements of these  
21 election procedures and make each petition form available to ~~eligible~~the following  
22 ~~members of FCERA for such election. The, provided that each of the following~~  
23 members of FCERA may nominate only one (1) person per member seat on the  
24 Board of Retirement for which the election is (or elections are, as applicable) being  
25 held and in which such member, may participate: the petition, specifying the seat  
26 number (~~or~~and for the Retired Member Elections, specifying either the ~~retiree~~Retired  
27 Member seat ~~classification of~~or the ~~member~~alternate Retired Member seat) of the  
28 Board of Retirement, and signed by at least fifteen (15) ~~Eligible~~-General Members



1 for the second or third member, or by at least fifteen (15) ~~Eligible~~ Safety Members  
2 for the seventh member, or, if any, alternate seventh member, or by at least (15)  
3 ~~Eligible~~ Retired Members for the ~~retired member~~ Retired Member (eighth member)  
4 seat or the alternate ~~retired member~~ Retired Member seat of the Board of  
5 Retirement, as applicable, shall be delivered to the FCERA Retirement Administrator  
6 together with the following completed, signed, and dated Nominee's Submittal,  
7 provided by the nominee of said petition, as applicable:

8 For the Active Member Election:

9 ///

10 ///

### 11 NOMINEE'S SUBMITTAL

#### 12 (Active Member Election)

13 For the election of the BOARD OF RETIREMENT OF THE FRESNO COUNTY  
14 EMPLOYEES' RETIREMENT ASSOCIATION to be held on \_\_\_\_\_, 20\_\_\_\_.

15 Name of nominee: \_\_\_\_\_  
16 [Print your name]

#### 17 Certification

18 I certify my willingness to serve on the BOARD OF RETIREMENT OF THE  
19 FRESNO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION, and declare the  
20 following:

21 (a) I am a nominee for the office of \_\_\_\_\_ Member [*specify:*  
22 **General Member or Safety Member**] for Seat No. \_\_\_\_ [*specify: Seat No.*]  
23 concerning the term of office from \_\_\_\_\_ to \_\_\_\_\_.

24 (b) I am a \_\_\_\_\_ Member [*specify: General Member or Safety*  
25 **Member**] of the Fresno County Employees' Retirement Association.

26 (c) I am an employee of the: \_\_\_\_\_ [*specify employer*].

27 (d) (County employees only): The Department (including Division, if any) in  
28 which I am employed is \_\_\_\_\_

#### 29 County Employees Political Activity

30 I acknowledge that I have received a copy of County ordinance code § 3.08.110  
(Employees—Political activity), which is attached.

31 [Attach copy of County ordinance code § 3.08.110

**(Employees—Political activity)]**

**Contact Information**

Telephone number that may be used to contact me: \_\_\_\_\_

E-mail address that may be used to contact me: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

PRINT YOUR NAME: \_\_\_\_\_

DATE: \_\_\_\_\_

**[Attach nominee’s petition to this Nominee’s Submittal, using the petition form provided by FCERA according to these election procedures]**

**-End of Nominee’s Submittal-**

\_\_\_\_\_  
Notwithstanding anything to the contrary in these election procedures, (a) County ordinance code § 3.08.110 (Employees—Political activity), referenced herein and a copy of which is attached to any Nominee’s Submittal, is not incorporated into these election procedures or to be used for any purposes under these election procedures except as expressly stated on the Nominee’s Submittal, (b) neither the ~~FCERA Parties nor the~~ County Parties, nor any County Party, nor the FCERA Parties, nor any FCERA Party, as applicable, have any responsibility under these election procedures for any alleged or actual violation by a nominee, or any other County employee allegedly or actually acting at the behest of or in concert with the nominee, of County ordinance code § 3.08.110 (Employees—Political activity) relating to any Active Member Election, and (c) the references, herein, to County ordinance code § 3.08.110 (Employees—Political activity) is only a statement of existing rules of conduct for County employees and does not impose any new term or condition of employment upon nominees who are County employees, and (d) the nominee’s receipt of a copy of County ordinance code § 3.08.110 (Employees—Political activity) is only to be used by the County for the County’s own purposes, in its capacity as an employer with respect to the management of its employees.

For the Retired Member Elections:

1  
2 **NOMINEE'S SUBMITTAL**  
3 **(Retired Member Elections)**

4 For the election of the BOARD OF RETIREMENT OF THE FRESNO COUNTY  
5 EMPLOYEES' RETIREMENT ASSOCIATION to be held on \_\_\_\_\_, 20\_\_\_\_.

6 **Name of nominee:** \_\_\_\_\_  
7 **[Print your name]**

8 ~~///~~

9 ~~///~~

10 **Certification**

11 I certify my willingness to serve on the BOARD OF RETIREMENT OF THE  
12 FRESNO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION, and declare the  
13 following:

14 (a) I am a nominee for the office of \_\_\_\_\_ [**specify:**  
15 **Retired Member or Alternate Retired Member**] for \_\_\_\_\_  
16 [**specify: Seat No. 8 or Retired Alternate Member Seat No. 8, as applicable**]  
17 concerning the term of office from \_\_\_\_\_ to \_\_\_\_\_.

18 ~~(b) I am a retired member~~ (b) I am, and at all times relevant to the election for  
19 the foregoing seat of the Board of Retirement will be, a Retired Member of the  
20 Fresno County Employees' Retirement Association.

21 **Contact Information**

22 Telephone number that may be used to contact me: \_\_\_\_\_  
23 E-mail address that may be used to contact me: \_\_\_\_\_

24 SIGNATURE: \_\_\_\_\_  
25 PRINT YOUR NAME: \_\_\_\_\_  
26 DATE: \_\_\_\_\_

27 **[Attach nominee's petition to this Nominee's Submittal, using the petition form**  
28 **provided by FCERA according to these election procedures]**

**-End of Nominee's Submittal-**

~~\_\_\_\_\_ Each Eligible General Member, each Eligible Safety Member, and each  
Eligible Retired Member, as applicable may nominate only one (1) person per  
member seat on the Board of Retirement for which the election is (or elections are,~~

1 ~~as applicable) being held and in which such Eligible General Member, Eligible Safety~~  
2 ~~Member, or Eligible Retired Member, respectively, may participate. The nominee~~  
3 ~~may~~

4 The Retirement Administrator shall promptly forward to the County Registrar  
5 of Voters a copy of each Nominee's Submittal received from each nominee. The  
6 County Registrar may use the email address in the Nominee's Submittal for any  
7 written notices that the County Registrar provides to an affected nominee or  
8 candidate under these election procedures.

9 The nominee may also submit to the Retirement Administrator a candidate's  
10 statement of two hundred (200) words or less ~~(the~~ ("Candidate's Statement")), which  
11 shall be included in the Official Ballot Packet (defined in Section VI.A., herein) to be  
12 distributed with the official ballots by the County Registrar of Voters, pursuant to  
13 Section VI.A., herein, subject to the following:

14 1. The Candidate's Statement may include the name and occupation (for the  
15 Active Member Election, including the name of the County department or  
16 Special District in which he or she is employed, or for the Retired Member  
17 Elections, including the name of the County department or Special District in  
18 which he or she was employed), of the candidate and a brief description of the  
19 candidate's education, qualifications, and platform expressed by the candidate.  
20 The Candidate's Statement shall be limited to a recitation of the candidate's  
21 own personal background, qualifications, and platform, and shall not in any way  
22 refer to other candidates for that office or to another candidate's qualifications,  
23 platform, character, or activities.

24 2. The Candidate's Statement shall be submitted with the petition in Word  
25 form, 12-point font type.

26 3. Once submitted, the Candidate's statement may not be withdrawn,  
27 revised, or refiled by the nominee, except to the extent as any portions of the  
28

1 Candidate's Statement may be deleted, as permitted by the County Registrar of  
2 Voters, under Section IV.D.5., herein.

3 4. The Candidate's Statement will be published as presented by the  
4 candidate, subject to the requirements of this Section IV.D., and any  
5 reformatting deemed necessary by the Retirement Administrator and/or the  
6 County Registrar of Voters.

7 5. Notwithstanding anything to the contrary in this Section IV.D., neither the  
8 ~~FCERA Parties nor the County Parties, nor any County Party, nor the FCERA~~  
9 ~~Parties, nor any FCERA Party, as applicable,~~ assume any responsibility  
10 ~~whatsoever~~ for the content or form of the Candidate's Statement or the  
11 distribution thereof to any voters, or for making any changes to the content of  
12 the Candidate's Statement, or for correcting its grammar, punctuation, or  
13 spelling, provided however, that the County Registrar of Voters may, in his or  
14 her sole discretion, after providing, ~~or attempting to provide,~~ written ~~or oral~~  
15 notice to the affected ~~candidate~~ nominee, ~~delete any portion, or request the~~  
16 ~~affected nominee to delete, any portions~~ of the Candidate's Statement that the  
17 County Registrar of Voters determines, ~~in his or her sole discretion,~~ to be non-  
18 compliant with the requirements of this Section IV.D. ~~—., provided however,~~  
19 ~~any such request to the affected nominee, and the affected nominee's~~  
20 ~~response, failure to respond, or late response, shall not in any way whatsoever~~  
21 ~~limit or prohibit the County Registrar of Voters from making any such deletions~~  
22 ~~and/or any other deletions of any portions of the Candidate's Statement that the~~  
23 ~~County Registrar of Voters determines, in his or her sole discretion, to be non-~~  
24 ~~compliant with the requirements of this Section IV.D. it being understood that~~  
25 ~~any such request by the County Registrar of Voters is made solely for the~~  
26 ~~convenience of the County Registrar of Voters, and that time is of the essence~~  
27 ~~in any response by the affected nominee to any such request by the County~~  
28 ~~Registrar of Voters. When counting words, the County Registrar of Voters will~~

4 utilize the following non-exhaustive list of word counting procedures: (1)  
5 punctuation is not counted; (2) proper nouns, including geographical names,  
6 are counted as one word (e.g., “City and County of San Francisco” is counted  
7 as one word); (3) each abbreviation for a word, phrase, or expression is  
8 counted as one word; (4) hyphenated words, in general usage as such, as  
9 determined by the County Registrar of Voters, in his or her sole discretion, are  
10 counted as one word; (5) dates are counted as one word; (6) any number  
11 consisting of a digit or digits is counted as one word (e.g., “100”), but, any  
12 number that is spelled, such as “one,” is counted as a separate word or words  
13 (e.g., “one” is counted as one word while “one hundred” is counted as two  
14 words).

15 E. Close of Nominations: The nomination period shall close twenty (20)  
16 calendar days (E—50—55) after the date FCERA provides the Notice of Election  
17 pursuant to ~~this~~ Section IV. ~~If the., herein. The~~ nomination period ~~ends on a~~  
18 ~~weekend or holiday, it shall be extended to the end of the next FCERA business~~  
19 ~~day under this Section IV.E. qualifies for extension under Section I.F., herein.~~

20 F. Confirmation of Eligible Candidates: Prior to determining the order of  
21 placement of candidates’ names on the official ballot, the Retirement Administrator  
22 shall determine that the nominees are duly nominated and eligible candidates,  
23 according to these election procedures, for election of the relevant seat on the Board  
24 of Retirement, and have timely delivered their respective signed and sufficiently  
25 completed Nominee’s Submittal according to these election procedures.

26 1. For any Active Member Elections, the Retirement Administrator shall  
27 email a PDF copy of the signed Nominee’s Submittal of such nominees to their  
28 respective employer identified in their respective Nominee’s Submittal, and  
obtain email confirmation from such employer (e.g., for the County employer,  
the nominee’s identified County department is sufficient) that such nominee is  
employed by such employer, and retain the original thereof for the same period

1 provided under Section XI~~7.1~~ herein, solely for the purpose of keeping custody of  
2 such documents, and no additional obligations of the Retirement Administrator  
3 shall be inferred or implied therefrom.

4 2. If the Retirement Administrator determines that a nominee is not duly  
5 nominated or eligible for such seat, or has not timely delivered his or her signed  
6 and sufficiently completed Nominee's Submittal, the Retirement Administrator  
7 shall declare such nominee as ineligible as a candidate for such seat. The  
8 nominee's lack of sufficient Contact Information shall not be a basis for the  
9 Retirement Administrator to determine that the nominee is not duly nominated  
10 or eligible for such seat, provided however, the nominee shall, upon request by  
11 any FCERA Authorized Officer, immediately deliver sufficient Contact  
12 Information to the requesting FCERA Authorized Officer.

13 3. If the Retirement Administrator determines that no nominee is duly  
14 nominated or eligible for such seat, the Retirement Administrator shall declare  
15 that there is no nominee who is eligible as a candidate for such seat, and the  
16 Retirement Administrator shall promptly request the Board of Supervisors to  
17 call a Special Election for such seat, and simultaneously provide a copy of such  
18 request to the County Registrar of Voters. Any such declaration by the  
19 Retirement Administrator shall be final and conclusive, but only as to such  
20 election for such seat, and the Retirement Administrator shall so inform the  
21 nominee(s), if any, and the reason therefor.

22 G. Placement of Eligible Candidates' Names on Official Ballot: ~~On~~Not later  
23 than E-4752, the FCERA Retirement Administrator shall determine the order of  
24 placement of duly nominated and eligible candidates' names on the official ballot by  
25 drawing of lots at FCERA's office in the manner provided for the County Registrar's  
26 drawing of lots to break tie votes under Section VII.I., herein, except that the order of  
27 placement of such candidates' names on the official ballot shall be based on  
28 descending order of the lots as they are drawn. At least one (1) FCERA business

1 day prior to such drawing of lots, FCERA shall provide written notice to all such  
2 candidates, as to the date and time of day during FCERA's business hours, that they  
3 may observe such drawing of lots. The FCERA Retirement Administrator shall  
4 provide such candidates' names, and order of placement of such candidates' names  
5 on the official ballot, to the County Registrar of Voters not later than ~~E-45~~the close  
6 of the FCERA business day on E-49.

7 H. Unopposed Candidates: If any duly nominated and eligible candidate is  
8 unopposed for election at the close of nominations, the Retirement Administrator  
9 shall so certify to the Board of Supervisors, and the Board of Supervisors shall order  
10 that no election be held for such seat and shall direct the Clerk of the Board of  
11 Supervisors to cast a unanimous ballot in favor of the candidate pursuant to  
12 Government Code § 31523, subdivision ~~(e)~~1. The Clerk of the Board of Supervisors  
13 shall deliver the casted ballot to the Board of Retirement, and a copy thereof to the  
14 County Registrar of Voters.

15 V. Preparations for Elections.

16 A. Preparation of Elections Materials: For each Board of Retirement election,  
17 not later than E-35, the Retirement Administrator, or any other FCERA Authorized  
18 Officer, and the County Registrar of Voters or his or her designee shall coordinate  
19 their respective pre-printing activities for the official ballot form and, if any,  
20 ~~candidates' statements~~each of the Candidate's Statements (See Section VI.A.,  
21 herein, regarding the County Registrar of Voters' mailing of the Official Ballot Packet  
22 to eligible FCERA member voters) as follows:

23 1. The FCERA Authorized Officer shall provide the following to the County  
24 Registrar of Voters:

25 a. Sample proof of the form of the official ballot showing eligible  
26 candidates' names and order of their placement on the ballot (See Section  
27 IV.F., herein, regarding the Retirement Administrator's confirmation of  
28 eligible candidates); and



1                   b.       Sample proof of ~~the candidates' statements~~each of the  
2                   Candidate's Statements, if any.

3                   2. The County Registrar of Voters or his or her designee shall order for  
4                   printing the Official Ballot Packets based on the estimate of the specific number  
5                   of Official Ballot Packets that FCERA requests the County Registrar to order  
6                   under Section III.A.1., herein, plus additional official ballots and Official Return  
7                   Envelopes, in his or her determination, to accommodate an estimated number  
8                   of eligible voters who might need reissued official ballots or Official Return  
9                   Envelopes. The County Registrar of Voters shall order the printing of  
10                  appropriate type of official ballots and Official Return Envelopes for each  
11                  election (*i.e.*, Eligible General Members, Eligible Safety Members and Eligible  
12                  Retiree Members) so that types of Official Return Envelopes can be matched  
13                  with their like-kind official ballots, for example, and not as a limitation, color-  
14                  coding Official Return Envelopes to match the color of their like-kind official  
15                  ballots.

16                  3. At least one FCERA Authorized Officer shall review all sample proofs of  
17                  the forms of official ballot and, if any, ~~candidates' statements~~each of the  
18                  Candidate's Statements provided to the County Registrar of Voters or his or her  
19                  designee under Sections V.A.1.a. and V.A.1.b, herein, respectively, and give  
20                  final written verification to the County Registrar of Voters or his or her designee  
21                  that the form of official ballot and, if any, ~~candidates' statements~~each of the  
22                  Candidate's Statements are correct and ready to print.

23                  B. Confidentiality: The mailing addresses of the Eligible Active Members and  
24                  Eligible Retired Members shall remain confidential, and not subject to public  
25                  disclosure (See Gov. Code, § 31532; Cal. Const. Art I, § 1).

26                  C. FCERA-Certified Electronic Data Files: At the most recent payroll period  
27                  ending before E-45, a FCERA Authorized Officer shall, not later than E-43, deliver to  
28                  the County Registrar of Voters the following together in an individual transmittal for

4 each type of election that has been called (*i.e.*, Active Member Election or Retired  
2 Member Elections), FCERA's then-current electronic data file, as of the Eligible  
3 Voter Certification Date (as defined in Section V.C.1., herein), in a computer  
4 program that is acceptable to the to the County Registrar of Voters:

5 1. For Active Member Elections: Eligible General Members who may  
6 participate in the election of the second and third members of the Board of  
7 Retirement (~~general members~~General Members), and Eligible Safety Members  
8 who may participate in the election of the seventh member of the Board of  
9 Retirement (~~safety member~~Safety Member), and the alternate seventh member  
10 (~~safety member~~Safety Member), if any, and their names and mailing addresses  
11 for receipt of Official Ballot Packets (which mailing address shall, as of the  
12 Eligible Voter Certification Date, as defined hereinbelow, be his or her ~~then-~~  
13 ~~current~~ mailing address, as filed with his or her employer for active members of  
14 FCERA by General Members or Safety Members who are employed by the  
15 County or a Special District, or as filed with FCERA ~~for deferred or inactive~~  
16 ~~members~~by Deferred General Members, Inactive General Members, Deferred  
17 Safety Members, or Inactive Safety Members, as applicable), accompanied by  
18 the FCERA Authorized Officer's certification, which shall be completed, signed,  
19 and dated as of the delivery date ~~(the~~ “(Eligible Voter Certification Date”), and  
20 shall state the following:

21 ///

22 ///

### 23 **ACTIVE MEMBER ELECTION CERTIFICATION**

24 This certification is provided under the Election Procedures ~~effor~~ the  
25 Board of Retirement of FCERA, as adopted by the Fresno County Board of  
26 Supervisors on [ ] **insert date** [ ] (the Election Procedures).

27 [ ] **insert name** [ ], [ ] **insert title** [ ] of the Fresno County Employees  
28 Retirement Association (FCERA) certifies to the Fresno County Clerk/Registrar  
of Voters that:

1  
2 //

3 a. ~~The~~Each accompanying electronic data file(s) for the  insert  
4 date  Active Member Election represents and correctly identifies all  
5 current, eligible voters who may vote in such election;

6 The

7 b. Each accompanying electronic data file(s), depending on the Board of  
8 Retirement member seat, corresponds to the classification of ~~members of~~  
9 FCERA members who may vote for the relevant seat in such election (i.e.,  
10 Eligible General Members may vote only for the ~~Eligible~~ General Member  
11 seat(s), and Eligible Safety Members may vote only for ~~Eligible~~ Safety Member  
12 seat(s));

13 If an

14 c. CHECK EACH BOX THAT APPLIES TO THIS CERTIFICATION:

15 e.  The accompanying electronic data file includes and represents  
16 Eligible General Members, ~~then that in one~~ electronic data file that  
17 correctly identifies and only includes all current Eligible General  
18 Members who may vote for the ~~Eligible~~ General Member seat(s) for  
19 such election;

20 If an

21 d.  The accompanying electronic data file includes and represents  
22 Eligible Safety Members, ~~then that in one~~ electronic data file that  
23 correctly identifies and only includes all current Eligible Safety  
24 Members who may vote for the ~~Eligible~~ Safety Member seat(s) for such  
25 election;

26 e.d. If an Active Member Election includes both the ~~Eligible~~ General  
27 Member seat(s) and the ~~Eligible~~ Safety Member seat(s), there are no voters  
28 classified in either of the accompanying electronic data ~~file(s) files~~ both as an  
Eligible General Member and an Eligible Safety Member for such election;

29 e. If an Active Member Election is only for one type of FCERA member seat  
30 classification (i.e., ~~Eligible~~ General Member seat(s) or ~~Eligible~~ Safety Member  
31 seat(s)), there are no voters classified in the accompanying electronic data file(s)  
32 from the other FCERA member classification for such election;

33 f.

34 g.f. An Eligible General Member's or Eligible Safety Member's accumulated  
35 retirement service credit has not been considered in the determination of such  
36 FCERA members' eligibility to participate in such election;

37 h.g. There are no identified voters in the accompanying electronic data file(s)  
38 who are ~~retired~~ Retired Members, or persons referred to in Section II.F. of the  
Election Procedures as persons not made eligible to participate in Board of  
Retirement elections or any other non-members of FCERA as of the Eligible  
Voter Certification Date; and;

1  
2 h. The information in the accompanying electronic data file(s) of eligible  
3 ~~Member's~~Members or  
4 Eligible Safety ~~Member's~~Members, as applicable, who may vote in such  
5 election, as of the date that such electronic data file(s) of eligible voters and this  
6 certification is delivered to the Fresno County Clerk/Registrar of Voters, which  
7 is the "Eligible Voter Certification Date" under the Election Procedures; and

8  
9 i. Any capitalized terms that are not defined herein, are defined in the  
10 Election Procedures.

11  
12 Signature: \_\_\_\_\_  
13 Name and Title: - \_\_\_\_\_  
14 Date: \_\_\_\_\_  
15 \_\_\_\_\_

16  
17 **-End-**

18  
19 *///*

20  
21 2. For Retired Member Elections: Eligible Retired Members of FCERA who  
22 may participate in the election of ~~retired member~~Retired Member (eighth  
23 member) and the alternate ~~retired member~~Retired Member of the Board of  
24 Retirement, if any, and their names and mailing addresses for receipt of Official  
25 Ballot Packets (which mailing address shall, as of the Eligible Voter Certification  
26 Date, be his or her ~~then-current~~ mailing address, as filed with FCERA)  
27 accompanied by the FCERA Authorized Officer's certification, which shall be  
28 completed, signed, and dated as of the Eligible Voter Certification Date, and  
shall state the following:

### 29 **RETIRED MEMBER ELECTIONS CERTIFICATION**

30 This certification is provided under the Election Procedures ~~of~~for the  
31 Board of Retirement of FCERA, as adopted by the Fresno County Board of  
32 Supervisors on [ ] insert date [ ] (the Election Procedures).

33 [ ] insert name [ ], [ ] insert title [ ] of the Fresno County Employees  
34 Retirement Association (FCERA) certifies to the Fresno County  
35 Clerk/Registrar of Voters that:

1 a. The accompanying electronic data file for the [ ] [ ] insert date [ ] [ ]  
2 Retired Member Elections represents and correctly identifies all current, Eligible  
3 Retired Members who may vote in such elections;

4 b. The accompanying electronic data file corresponds to the ~~classification of~~  
5 Eligible Retired Members who may vote in such elections (i.e., the ~~retired~~  
6 ~~member~~ Retired Member (eighth member) seat and the alternate ~~retired member~~  
7 ~~seats~~); Retired Member seat;

8 c. The accompanying electronic data file correctly identifies and only  
9 includes all current Eligible Retired Members who may vote in such elections.;

10 d. There are no identified voters classified in the accompanying electronic

11 d. data file(s) who are ~~deferred or inactive general members of FCERA or~~  
12 ~~deferred or inactive safety members of FCERA, or general members of~~  
13 ~~FCERAGeneral Members who are employed by the County or a Special District~~  
14 ~~or are Deferred General Members or Inactive General Members, or Safety~~  
15 ~~Members who are employed by the County or Special District, or safety members~~  
16 ~~of FCERA who are employed by the County or a Special District; and or are~~  
17 ~~Deferred Safety Members or Inactive Safety Members, or persons referred to in~~  
18 ~~Section II.F. of the Election Procedures as persons not made eligible to~~  
19 ~~participate in Board of Retirement elections or any other non-members of~~  
20 ~~FCERA;~~

21 e. The information in the accompanying electronic data file of eligible  
22 voters is complete and accurate for all such Eligible Retired Members who may  
23 vote in such elections, as of the date that such electronic data file of eligible  
24 voters and this certification is delivered to the Fresno County Clerk/Registrar of  
25 Voters, which is the "Eligible Voter Certification Date" under the Election  
26 Procedures. and

27 ///

28 f. Any capitalized terms that are not defined herein, are defined in the  
Election Procedures.

Signature: \_\_\_\_\_  
Name and Title: – \_\_\_\_\_  
Date: \_\_\_\_\_  
\_\_\_\_\_

-End-

4 3. Before delivering the FCERA-certified electronic data file(s) of eligible  
5 voters to the County Registrar of Voters for any Active Member Election or  
6 Retired Member Elections, as required herein, the FCERA Authorized Officer  
7 who will provide each of the foregoing certifications and electronic data file(s)  
8 shall ensure that the file(s) are accurate and complete according to the FCERA  
9 Authorized Officer's certification to be delivered and FCERA's records that are  
10 reflected in such data file(s), and shall retain such records and files for the  
11 same period that the County Registrar of Voters is required to retain tallied  
12 official ballots under Section IX., herein. The County Registrar of Voters may  
13 rely exclusively on the foregoing certifications delivered by the FCERA  
14 Authorized Officer as conclusive proof of the accuracy and completeness of the  
15 information set forth in each accompanying applicable FCERA-certified  
16 electronic data file of eligible voters delivered to the County Registrar of Voters.

17 VI. Distribution of Official Ballot Packets to Eligible Voters.

18 —————A. Ballot Requirements; Mailing: Twenty-four (24) calendar days before the  
19 election (E—24), the County Registrar of Voters shall mail a sealed outgoing  
20 official ballot packet (each, an "Official Ballot Packet," or collectively, "Official Ballot  
21 Packets") to each Eligible Active Member for the Active Member Election, or to each  
22 Eligible Retired Member for the Retired Member Elections, at the mailing address for  
23 each such eligible voter, based solely on the information set forth in each applicable  
24 FCERA-certified electronic data file of eligible voters, delivered to County Registrar  
25 of Voters and certified by a FCERA Authorized Officer under Section VI.C., herein.  
26 All such eligible voter name and address data shall remain confidential, including for  
27 mailing purposes, pre-counting, and official ballot counting (See Section V.B.,  
28 herein).

1. The Official Ballot Packet shall bear the applicable eligible voter's name  
and address and consist of the following documents to be inserted therein:

1 a. One (1) official ballot that is applicable to the eligible voter's  
2 FCERA member classification pursuant to Section II.B., herein, for an  
3 election of the Board of Retirement (*i.e.*, either one official ballot for Eligible  
4 General Members in the Active Member Election, or one official ballot for  
5 Eligible Safety Members in the Active Member Election; or one official ballot  
6 for Eligible Retired Members in the Retired Member Elections);

7 b. Voting instructions prepared by the County Registrar of Voters or  
8 his or her designee;

9 c. ~~Candidates' statements~~ Each of the Candidate's Statements, if  
10 any; and

11 d. One (1) non-postage paid official ballot return envelope bearing  
12 the address of the Fresno County Clerk/Registrar of Voters Office ("Official  
13 Return Envelope"), and providing a unique identifying number, code and/or  
14 symbol, as determined by the County Registrar of Voters, that will enable  
15 the County Registrar of Voters to verify the identity of the eligible voter who  
16 returns the voted official ballot.

17 2. The County Registrar of Voters or his or her designees shall:

18 a. Use a company or companies, which is or are certified by the  
19 California Secretary of State to print ballots, to provide all ballots and  
20 undertake all ballot layout and preparation and/or inserting processes  
21 relating to such documents to be provided, prepared, laid out, and/or  
22 inserted into the Official Ballot Packets, provided however, the County  
23 Registrar of Voters or his or her designees instead may, at his or her option,  
24 undertake any or all of such functions;

25 //

26 b. Use non-profit postage for mailing of the Official Ballot Packets if the  
27 County Registrar of Voters determines that such method of mailing is  
28 available; and

4 c. Mail the Official Ballot Packets as required herein.

2 VII. Pre-Count; Counting; Election Results. The County Registrar of Voters shall  
3 process the receipt, pre-counting, and counting of returned voted official ballots for  
4 the election as follows:

5 A. Reissued Official Ballot Materials: The procedures for spoiled,  
6 mismarked, ~~undelivered~~undeliverable, lost, or destroyed, official ballots or Official  
7 Return Envelopes are as ~~follows:~~follow.

8 ~~1.~~ ///

9 1. If an eligible voter has spoiled or marked his or her official ballot or  
10 Official Return Envelope in error and needs a replacement, the County  
11 Registrar of Voters or his or her designees must receive the spoiled or  
12 mismarked ballot or Official Return Envelope back from the eligible voter and a  
13 signed declaration under penalty of perjury from the eligible voter, as  
14 applicable, before a new official ballot or Official Return Envelope is issued to  
15 the eligible voter, as follows:

16  
17 “My spoiled/mismarked official ballot for the ~~insert~~ insert date    ]  
18 Board of Retirement election has been surrendered to the Fresno  
19 County Registrar of Voters.”

20 Or

21 “My spoiled/mismarked official return envelope for the ~~insert~~ insert  
22 date    ] Board of Retirement election has been surrendered to the  
23 Fresno County Registrar of Voters.”

24 2. ~~2.~~ If an eligible voter claims that he or she did not receive in the  
25 United States mail the Official Ballot Packet or claims that he or she lost or  
26 destroyed his or her official ballot or Official Return Envelope, the County  
27 Registrar of Voters or his or her designees must receive a signed declaration  
28 under penalty of perjury from the eligible voter, as applicable, before a new



1 official ballot or Official Return Envelope is issued to the eligible voter, as  
2 follows:

3 *"I did not receive ~~my~~in the United States mail my original official ballot  
4 packet for the ~~insert~~insert date ] Board of Retirement election. If  
5 I receive in the United States mail my original official ballot packet, I will  
6 immediately destroy the original official ballot."*

7 Or

8 *"I lost or destroyed my original official ballot for the ~~insert~~insert  
9 date ] Board of Retirement election. If I find my original official ballot,  
10 I will immediately destroy the original official ballot."*

11 Or

12 *"I lost or destroyed my original official return envelope for the  
13 ~~insert~~insert date ] Board of Retirement election. If I find my  
14 original official return envelope, I will immediately destroy the original  
15 official return envelope."*

16 3. The County Registrar of Voters' created roster of FCERA members who  
17 voted in each election under Section VII.D.1., herein, and counting of returned  
18 voted official ballots under Section VII.F., herein, shall take into account, any  
19 new official ballot issued to the eligible voter under this Section VII.A.

20 B.—<sup>1</sup> Return of Voted Official Ballots: Each eligible ~~voting member of~~  
21 ~~FCERA~~voter returning his or her voted official ballot to the County Registrar of  
22 Voters must return the voted official ballot in the voted official ballot's like-kind,  
23 Official Return Envelope provided to the eligible ~~voting member~~voter by the County  
24 Registrar of Voters. Voted official ballots may be returned by the eligible FCERA  
25 voting member to the County Registrar of Voters only by United States Postal  
26 Service ("USPS") Official Ballot Packets, overnight delivery by a commercial carrier,  
27 such as FedEx or United Parcel Service, also known as UPS (each, a "Commercial  
28 Carrier"), or the eligible ~~voting member~~voter returning his or her voted official ballot  
by hand delivery to a County staff member who is attending the front

<sup>1</sup> Editor's note: the redlining program incorrectly moved the "B" at line 18, above, to page 34, line 7.

4 counter within the County Registrar of Voter's office, in each case, not later than  
5 5:00 PM on the date of the Board of Retirement election. A ~~United States Postal~~  
6 ~~Service~~USPS postmark date on the Official Return Envelope containing the voted  
7 official ballot, or a date that the Official Return Envelope containing the voted official  
8 ballot was given to a Commercial Carrier, shall not be considered. A returned voted  
9 official ballot that is

10 B. not in the voted official ballot's like-kind, Official Return Envelope, or  
11 multiple voted official ballots that are in a single Official Return Envelope, shall be  
12 rejected. If during counting of returned voted official ballots, the County Registrar of  
13 Voters or his or her designee discovers any returned voted official ballot that is not  
14 among like-kind returned voted official ballots, such returned voted official ballot  
15 shall be deemed to have been returned in an envelope other than its like-kind,  
16 Official Return Envelope, and such returned voted official ballot shall be rejected.

17 The County Registrar of Voters shall ~~not accept delivery of~~reject any returned voted  
18 official ballots through any means other than those specified, above, in this Section  
19 VII.B. Without limiting the generality of the foregoing sentence, the County Registrar  
20 of Voters shall ~~not accept delivery of~~reject any returned voted official ballots through  
21 any of the following means: (i) any County means of internal communication among  
22 County departments, including, but not limited to, County messenger, commonly  
23 known as "stop mail" or County inter-office mail or delivery (however, any County  
24 means of internal communication among County departments are not considered  
25 herein as, and shall not be treated herein as, the use of Commercial Carriers); (ii)  
26 any County -Registrar of Voters drop box otherwise used by the County Registrar of  
27 Voters for any elections other than an election of the Board of Retirement; and/or (iii)  
28 the delivery to the County Registrar of Voters in any manner of multiple voted official  
ballots.

For any Official Ballots Packets that have been mailed by the County  
Registrar of Voters under Section VI.A., herein, and returned as undeliverable by the

1 USPS to the County Registrar of Voters, (i) the County Registrar of Voters shall not  
2 have any obligation to reissue, whether using the same or a different address, any  
3 such Official Ballot Packets, or otherwise undertake any activity, including, but not  
4 limited to, conducting any outreach to FCERA or searching for the mailing address  
5 of the affected eligible voter, in relation to any such Official Ballots Packets; and (ii)  
6 such Official Ballot Packets shall have no effect on any Board of Retirement election.  
7 If any such Official Ballot Packets are returned by the USPS to County Registrar of  
8 Voters after he or she, or his or her designee, has posted and delivered election  
9 results of such election under Section VII.G., herein, but before they have certified  
10 the final, official election results of such election, the number of such official ballots  
11 shall be identified as non-delivered on the County Registrar of Voter's certification of  
12 such final official election results. If any such Official Ballot Packets are returned by  
13 the USPS to County Registrar of Voters after he or she, or his or her designee, has  
14 certified the final, official election results of such election, the County Registrar of  
15 Voters shall not revise his or her certification of the final official election results, or  
16 otherwise revise his or her tally of the returned official ballots, to reflect such  
17 returned and undeliverable Official Ballot Packets, provided however he or she shall  
18 retain such returned and undeliverable Official Ballot Packets to the extent required  
19 under Section XI., herein.

20 C. Return of Voted Official Ballots from Outside Continental United States:  
21 Eligible ~~voting members of FCERA~~voters who reside outside of the continental  
22 United States may, subject to these election procedures, return their voted official  
23 ballot only by United States mail or Commercial Carrier to be received in the County  
24 Registrar of Voters Office, in each case, not later than 5:00 PM on the date of the  
25 relevant Board of Retirement election. A ~~United States Postal Service~~USPS  
26 postmark date on the Official Return Envelope containing the voted official ballot, or  
27 a date that the Official Return Envelope containing the voted official ballot was given  
28 to a Commercial Carrier, or other countries' marks on the Official Return Envelope

4 containing the voted official ballot indicating any date, including but not limited to a  
2 mailing date, or date that the Official Return Envelope containing the voted official  
3 ballot was given to a Commercial Carrier, shall not be considered.

4 D. Pre-count Procedures: Commencing at 9:00 AM on the next County  
5 business day following the relevant Board of Retirement election, or as soon  
6 thereafter as may be practicable under the circumstances at such time, the County  
7 Registrar of Voters or his or her designees shall undertake the following pre-count  
8 procedures before opening and counting the returned voted official ballots.

9 1. Prior to opening the Official Return Envelopes, the County Registrar of  
10 Voters or his or her designees shall (a) verify whether the name of the eligible  
11 voter, and his or her FCERA member classification, on each Official Return  
12 Envelope, matches the eligible voter's name and FCERA member classification  
13 on the FCERA-certified electronic data file(s) for such classification delivered to  
14 the County Registrar of Voters under Section VI.C., herein, and (b) create a  
15 roster of FCERA members who voted in each election. The roster of FCERA  
16 members who voted shall remain confidential, and not subject to public  
17 disclosure (See Section V.B., herein). If the County Registrar of Voters or his or  
18 her designee determines that any returned Official Return Envelopes do not  
19 comply with these election procedures, none of those Official Return Envelopes  
20 will be opened, none of the voted official ballots contained therein will be  
21 counted, and the County Registrar of Voters shall proceed to complete all pre-  
22 count procedures for all other returned Official Return Envelopes for the Active  
23 Member Election or the Retired Member Elections, as applicable.

24 2. The County Registrar of Voters or his or her designees shall  
25 complete all pre-count procedures for the Active Member Election or the  
26 Retired Member Elections prior to opening the Official Return Envelopes under  
27 Section VII.E., herein.  
28

4 E. Opening and Inspecting Official Returned Envelopes; Separating Returned  
5 Voted Official Ballots: Upon opening the Official Returned Envelopes, and before the  
6 official voted ballots are separated from their respective Official Return Envelopes,  
7 the County Registrar of Voters or his or her designees shall inspect each opened  
8 Official Returned Envelope solely for the purpose of determining whether the  
9 returned official ballot contained therein is in its like-kind, Official Returned Envelope.  
10 If the County Registrar of Voters or his or her designees discover that any returned  
11 voted official ballot is not in its like-kind, Official Return Envelope, such returned  
12 voted official ballot shall be rejected. After all Official Returned Envelopes have been  
13 so opened and inspected for an election, the County Registrar of Voters or his or her  
14 designees shall separate the returned official ballots from their respective Official  
15 Returned Envelopes, and, once separated, kept in separate groups, as follows:

16 1. For the Active Member Election:

17 a. Returned official ballots for the active ~~general member~~General  
18 Member seat(s) shall be grouped together, and kept separate from all other  
19 returned official ballots; and

20 b. Returned official ballots for the active ~~safety member~~Safety Member  
21 seat(s) shall be grouped together and kept separate from all other returned  
22 official ballots.

23 2. For the Retired Member Elections: returned official ballots for the ~~retired~~  
24 ~~member~~Retired Member (eighth member) seat and alternate ~~retirement~~  
25 ~~member~~Retired Member seat shall be grouped together (but in any event shall  
26 be considered as official ballots for separate elections) and kept separate from  
27 all other returned official ballots.

28 F. Counting the Returned Voted Official Ballots: After opening and inspecting  
all of the Official Return Envelopes under Section VII.E., herein, the County  
Registrar of Voters or his or her designee(s) shall count the returned voted official  
ballots by using an electronic voting system until completed, as follows:

1. The County Registrar of Voters shall tally the results of the official count for the Active Member Election (including separate counts for the active ~~general member~~ General Member seat(s) and the active ~~safety member~~ Safety Member seat(s) in the same regularly scheduled election or Special Election), and for the Retired Member Elections (including separate counts for the ~~retired member~~ Retired Member (eighth member) seat and the alternate ~~retired member~~ Retired Member seat in the same regularly scheduled election cycle or Special Election), according to the following categories, as applicable:

- a. Official ballots issued;
- b. Official ballots returned by voters;
- c. Rejected official ballots;
- d. Votes cast;
- e. Overvotes (*i.e.*, returned voted official ballot invalidated due to more than one vote per member seat);
- f. Blanks (*i.e.*, not voted);
- g. Spoiled/reissued official ballots; and
- h. Undeliverable official ballots- (*i.e.*, as determined and returned by USPS).

(Item b., above, is the sum of items c., d., e., and f., above).

2. In the event an electronic voting system cannot be used for counting all of the returned voted official ballots, the County Registrar of Voters or his or her designee(s) shall count the returned voted official ballots by hand. In the event a returned voted official ballot cannot be counted by an electronic voting system due to the condition of the voted official ballot, the County Registrar of Voters or his or her designee(s) shall create a duplicate ballot, using the same information in the returned voted official ballot, and count such duplicate ballot in the same manner as all other like-kind returned voted official ballots are counted by the electronic voting system. The County Registrar of Voters shall

1 retain the returned voted official ballot that cannot be counted by the electronic  
2 voting system, and indicate on such returned voted official ballot that it cannot  
3 be used and that the duplicate ballot has been used in its place; the created  
4 duplicate ballot shall be deemed to be the voted official ballot.

5 ~~5~~

6 3. Any candidate receiving the highest number of votes, in at least the  
7 plurality of all votes cast for the election of a member seat on the Board of  
8 Retirement, -shall be deemed to be elected for that seat.

9 G. Posting and Delivering Election Results: The County Registrar of Voters or  
10 his or her designees shall complete all counting procedures for the Active Member  
11 Election or the Retired Member Elections under Section VII.F.~~7.2~~ herein, prior to  
12 posting the results of each election. After completing the counting procedures for  
13 each election, the County Registrar of Voters or his or her designee shall, as soon  
14 thereafter as may be practicable under the circumstances at such time, promptly  
15 post the election results (including any changed election results) on its Department  
16 website and deliver the election results (including any changed election results) to  
17 the FCERA Retirement Administrator by email or hand delivery.

18 H. Request for Recount Requirements: In the event a candidate desires to  
19 request a recount of the election for the member seat that he or she is seeking on  
20 the Board of Retirement, he or she must file a written request for the recount with the  
21 County Registrar of Voters, and comply with this Section VII.H., not later than 5:00  
22 PM on the fifth (5<sup>th</sup>) calendar day following the date that the County Registrar of  
23 Voters or his or her designee has posted the election results on its Department  
24 website pursuant to Section VII.G., herein. In the event of timely multiple requests  
25 for a recount of the election for the member seat, each requesting candidate shall  
26 comply with this Section VII.H.~~7.2~~ herein, without regard any other request for a  
27 recount, or any other deposit of any amount by any other candidate for the cost of  
28 the recount, but there shall be only one (1) recount.

1. Recount Request in Writing. The written request for a recount must comply with ~~this~~ Section VII.H., herein.

2. One Request Per Candidate. A candidate may only request a recount of the election for the member seat that he or she is seeking on the Board of Retirement, and a recount will only be conducted if the requesting candidate first pays the County Registrar of Voters' the full cost of the recount pursuant to this Section VII.H.2.

a. In the event of a request for a recount of the election for the member seat, the County Registrar of Voters or his or her designee shall, not later than five (5) County business days thereafter, provide the requesting candidate a written estimate cost of the recount, and the requesting candidate must deposit an amount equal to the cost estimate, in the form of cash, cashier's check, or money order, with the County Registrar of Voters not later than the third (3<sup>rd</sup>) County business day thereafter.

b. In the event of multiple deposits due to multiple timely requests for a recount of the election for the member seat, the County Registrar shall determine how to apportion the use of such amounts to pay the County Registrar of Voters' costs of completing the recount.

///

c. In the event the money so deposited is insufficient to pay the County Registrar of Voters' costs of completing the recount, the County Registrar of Voters shall suspend the recount and provide the requesting candidate(s) a written estimate of the cost of completing the recount. The requesting candidate(s) must deposit an amount equal to the cost estimate with the County Registrar of Voters not later than the third (3<sup>rd</sup>) County business day thereafter. In the event the County Registrar of Voters does not receive the estimated cost in the form of a cash, cashier's check, or money order deposit within such time, the recount shall be terminated, and any activities



1 that the County Registrar of Voters undertook toward the recount shall be  
2 disregarded and have no force or effect.

3 ~~ed.~~ In the event the moneys so deposited are sufficient to pay the County  
4 Registrar of Voters' costs of the recount, the County Registrar of Voters  
5 shall conduct the recount, including breaking any resulting tie vote,  
6 according to the election procedures for counting returned official ballots  
7 under Section VII.F., herein, and the following procedures shall apply,  
8 depending on the outcome of the recount:

9 i. If the recount does not change the result, which is the highest  
10 number of votes of all votes cast for the election ~~in~~ of a member seat on  
11 ~~the favor of the candidate requesting the recount~~ Board of Retirement,  
12 including a resulting tie vote or breaking a tie vote, of the election in the  
13 favor of the requesting candidate, the County Registrar of Voters shall ~~so~~  
14 ~~inform~~ provide written notice thereof to the affected candidates ~~of the~~  
15 ~~recount results~~, and such recount shall be disregarded.

16 ii. If the recount changes the result, which is the highest number of  
17 votes of all votes cast for the election ~~in the favor of the candidate~~  
18 ~~requesting of a member seat on~~ the ~~recount~~ Board of Retirement,  
19 including a resulting tie vote or breaking a tie vote, of the election in the  
20 favor of the requesting candidate, the County Registrar of Voters shall  
21 post the changed election results on its Department website and deliver  
22 the changed election results to the FCERA Retirement Administrator,  
23 pursuant to Section VII.G., herein.

24 iii. No ~~affected~~ candidate shall be entitled to a new recount following  
25 the completion of a recount under these election procedures.

26 ~~d~~ e. The amount of moneys deposited by the requesting candidate(s)  
27 for the costs of a recount shall only be refunded to ~~the~~ a requesting candidate  
28 ~~requesting the recount~~ upon the completion of the recount if such candidate

1 achieves a new count ~~in the~~, which is the highest number of votes of all votes  
2 cast for the election that of a member seat on the Board of Retirement, and  
3 which changes the result of the election for the member seat in his or her favor,  
4 including by (i) such candidate obtaining the highest number of votes in at least  
5 a plurality of all votes cast for such election (pursuant to Section VII.F.3.,  
6 herein), (ii) such candidate obtaining a resulting tie vote, if two or more  
7 candidates, including such candidate, receive an equal and the highest number  
8 of votes, of all votes cast for the election of such member seat (in which case  
9 any such resulting tie vote shall be broken under Section VIII.I., herein, ~~but if~~  
10 ~~the outcome of the broken~~), provided that there was not a tie vote is favorable  
11 to the candidate requesting the recount, that outcome shall not give, where two  
12 or more candidates, including such candidate a right to, received an equal and  
13 the refund) or highest number of votes, of all votes cast for the election of such  
14 member seat, for a different count in the first place, or (iii) such candidate  
15 breaking a tie vote; that results in such candidate obtaining the highest number  
16 votes in at least a plurality of all votes cast for such election (pursuant to  
17 Section VII.F.3., herein); otherwise all of such moneys paid to the County  
18 Registrar of Voters and spent for the recount requested by such candidate shall  
19 be retained by the County Registrar of Voters.

20 e\_f. Any amount of such moneys so deposited with the County Registrar that  
21 is required to be refunded, as provided herein, or in any event not spent for the  
22 recount, will be refunded to the requesting candidate within thirty (30) County  
23 business days following the completion of the election process. In the event of  
24 timely multiple requests, and deposits of amounts, for a recount of the election,  
25 the County Registrar shall determine whether or how to apportion any such  
26 amounts to be refunded to the requesting candidates.

27 I. Tie Votes: After the conclusion of, or passage of time allowed herein for,  
28 any recount that may be conducted pursuant to Section VII.H. ~~7.2~~, herein, if two or

4 more candidates receive an equal and the highest number of votes, ~~in the plurality~~ of  
5 all votes cast for the election of a member seat on the Board of Retirement, the  
6 County Registrar of Voters shall direct the candidates who received the tie votes to  
7 appear before him or her or his or her designee at the office of the County Registrar  
8 of Voters at a time and date, not later than five (5) County business days thereafter,  
9 to be designated by him or her for the drawing of lots to break the tie, provided that a  
10 candidate may designate a representative to appear and act for him or her in his or  
11 her absence: so long as the candidate has given the County Registrar of Voters  
12 advance written notice of such designation, which advance written notice may be  
13 given by email. If a candidate or his or her representative is not in attendance at the  
14 specified time and date for, or attends but at any time does not participate in, the  
15 drawing of the lots, the County Registrar of Voters or his or her designee shall  
16 proceed and appoint a Department employee or employees (in either case, who is  
17 not a spouse, domestic partner, parent or child of any affected candidate) to act as  
18 the candidate's or candidates' representative(s) for all purposes relating to the  
19 drawing of lots, provided that, if a candidate or his or her representative appears, or  
20 attends but at any time does not participate, while the drawing of lots is in progress,  
21 the drawing of lots shall continue until completion without regard to the fact that the  
22 candidate or his or her representative had not appeared or participated. The County  
23 Registrar of Voters or his or her designee shall break the tie by drawing of lots in the  
24 following manner, using ordinary materials and supplies selected by the County  
25 Registrar of Voters or his or her designee:

26 ///

27 1. Before undertaking the drawing of lots, the following procedures shall be  
28 read aloud to the candidates or their representatives who are present.

29 2. The candidates or their representatives shall be provided a small slip of  
30 paper, each approximately the same size, upon which they shall write the name  
31 of the candidate.

1           3. The candidates or their representatives shall fold and place their signed  
2 slips in identical small sealed containers (e.g., pill bottle with a cap), seal them,  
3 and hand their sealed containers to the County Registrar of Voters or his or her  
4 designee, and those sealed containers, once returned to him or her, shall be  
5 placed by Registrar of Voters or his or her designee in a larger opaque  
6 container (e.g., hat, bag, or bucket).

7           4. Without looking into the larger container, the County Registrar of Voters'  
8 or his or her designee shall reach into the larger container, retrieve only one (1)  
9 of the smaller sealed containers, and open the retrieved sealed container. The  
10 name of the candidate whose name is in the retrieved sealed container shall be  
11 announced as the winner of the elected seat.

12           5. The candidate winning the tie for the election of a member seat on the  
13 Board of Retirement shall be deemed elected for that seat, and the completion  
14 of such drawing of lots to break the tie vote shall be final and conclusive.

15           J. Certification of Final, Official Election Results: The County Registrar of  
16 Voters or his or her designees shall complete all counting procedures for each  
17 election under Section VII.F., herein, and conduct all activities as may be necessary  
18 under Sections VII.G., VII.H., and/or VII.I., herein, prior to certifying the final, official  
19 election results of each such election. After completing all such counting procedures  
20 and activities for each such election, and the passage of time allowed for the timely  
21 filing of a valid written protest of the election results as required under Section  
22 VIII.A., herein for each such election, and if there is no written protest of the election  
23 results filed with the County Registrar of Voters within such allowed time for any  
24 such election, then, as to such election, the County Registrar of Voters shall, as  
25 soon thereafter as may be practicable under the circumstances at such time, certify  
26 the final, official election results of such election, and, such certification shall be the  
27 final and conclusive, official results of ~~the~~such election, ~~except for any County~~  
28 ~~Registrar of Voters final action, or a response, in relation to the protest under~~

1 ~~Section VIII.A.2, herein.~~ Upon such certification of the official election results of  
2 each such election, under this Section VII.J., the County Registrar of Voters or his or  
3 her designees shall promptly post the certified final, official election results on its  
4 Department website and deliver ~~the~~ a copy of such posted certified final, official  
5 election ~~results~~ to the FCERA Retirement Administrator by email or hand delivery.  
6 The counting procedures and certification of the final, official election results shall be  
7 completed not later than fourteen (14) calendar days following the first day of  
8 opening the Official Return Envelopes for each such election, as applicable,  
9 provided that the time for such completion shall be extended by (i) any additional  
10 time as may be necessary for the County Registrar of Voters to act upon or respond  
11 to any request for recount, under Section VII.H., herein, and by (ii) five (5) County  
12 business days in the event there is the need for the drawing of lots to break the tie,  
13 as provided in Section VII.I., herein, and (iii) any additional time as may be  
14 necessary for the County Registrar of Voters to act upon or respond to a protesting  
15 candidate relating to his or her protest under Section VIII.A., herein.

16 K. No Requirement for County Registrar of Voters to Act. Notwithstanding  
17 anything to the contrary in these election procedures, the County Registrar of Voters  
18 is not required to post or deliver any election results under Section VII.G., herein, or  
19 certify, post and deliver any final, official election results under Section VII.J., herein,  
20 when the County Registrar of Voters declares that he or she cannot conduct or  
21 complete the conducting of the election, or the election of a particular member seat,  
22 as provided in Section I.B., herein.

## 23 VIII. Protest; Legal Challenge.

24 A. Protest Requirements: In the event a candidate desires to protest the  
25 results of any election, ~~(other than making a request for a recount of the election for~~  
26 ~~the member seat that he or she is seeking on the Board of Retirement, of the~~  
27 ~~election, which request and recount shall be made pursuant to Section VII.H.,~~  
28 herein) for the member seat that he or she is seeking on the Board of Retirement, he

1 or she must file the written protest with the County Registrar of Voters (and he or  
2 she must include written proof that he or she has provided a copy of the written  
3 protest to any other affected candidate), in compliance with this Section VIII.A., not  
4 later than 5:00 PM on the fifth (5<sup>th</sup>) calendar day following the date, as applicable,  
5 that (1) the County Registrar of Voters has posted the election results (including any  
6 changed election results) on its Department website pursuant to Section VII.G.,  
7 herein, or (2) in the event of a recount that has been completed under Section VII.H.,  
8 herein, the County Registrar of Voters has provided written notice to the candidate,  
9 pursuant to Section VII.H.2.d.i., herein, that, after conducting the recount of the  
10 election, the recount did not change the result. Any recount that has been  
11 terminated under Section VII.H.2.c., herein, shall be disregarded for purposes of this  
12 Section VIII.A., and shall not extend the time within which the candidate must file the  
13 written protest with the County Registrar of Voters under this Section VIII.A. The  
14 County Registrar of Voters shall not be obligated to consider any additional or  
15 amended grounds for the protest, or any augmented documentation or other  
16 evidence from the protesting candidate, after receipt of the written protest.

17 1. Protest in Writing. The written protest shall be based on the failure of  
18 ~~the FCERA Parties, any of~~ the County Parties, and/or any County Party, the  
19 FCERA Parties and/or any FCERA Party, the Special District Parties and/or  
20 any Special District Party, as applicable, to comply with these election  
21 procedures, and must specify such grounds for the protest and be  
22 accompanied by any documentation or other evidence that may be referenced  
23 in the protest.

24 2. County Registrar of Voters Action or Response. Subject to the candidate's  
25 compliance with Section VIII.A., herein, the County Registrar of Voters shall, with  
26 thirty (30) County business days of receipt of the written protest, act upon or  
27 respond to the written protest and provide written notice thereof to the affected  
28 candidates and the FCERA Administrator.

4 3. Valid and Timely Protest; Final, Official Election Results. Once the  
5 County Registrar of Voters takes final action, or provides a response, in relation  
6 to any protest under Section VIII.A., herein, such final action or response, as  
7 applicable, shall be the final and conclusive, official results of the election.

8 B. Failure to Exhaust Administrative Remedies: Any candidate's failure to  
9 timely make a request for a recount or pay the County Registrar of Voters for the full  
10 cost of a requested recount, if any, as required in Section VII.H., herein, or timely file  
11 a valid written protest of the ~~official~~-election results as required under Section VIII.A.,  
12 herein (or raise any issue that could have been raised in a protest but was not  
13 raised), shall be considered a failure of the candidate to exhaust his or her  
14 administrative remedies with respect to (a) any failure of any of the ~~FCERA Parties,~~  
15 ~~the County Parties,~~ and/or any County Party, the FCERA Parties and/or any FCERA  
16 Party, the Special District Parties and/or any Special District Party, as applicable, to  
17 comply with these election procedures (or any issue, to the extent the issue could  
18 have been raised but was not raised in the protest); and (b) the election results- of  
19 the relevant Board of Retirement election.

20 C. Legal Challenge to Election and Writ of Mandate: Any legal challenge  
21 seeking review of, any right or duty of, act or omission including any failure by  
22 ~~FCERA Parties,~~any of the County Parties, and/or any County Party, the FCERA  
23 Parties and/or any FCERA Party, the Special District Parties and/or any Special  
24 District Party, as applicable, to comply with these election procedures relating to any  
25 election of the Board of Retirement under these election procedures or otherwise,  
26 shall be by writ of mandate under Code of Civil Procedure § 1085 in the Fresno  
27 Superior Court.

28 ~~++~~

IX. FCERA Posts Official Election Results.

Not later than ten (10) FCERA business days following the later of the date that  
the County Registrar of Voters or his or her designees delivers the copy of the

1 posted certified final, official election results to the FCERA Retirement Administrator  
2 for each election, pursuant to Section VII.J., herein, or provides written notice of  
3 final action, or a response to a protesting candidate, relating to his or her protest  
4 under Section VIII.A., herein, to the FCERA Administrator, a FCERA Authorized  
5 Officer shall post the copy of such posted results on FCERA's website  
6 (~~www.FresnoCountyRetirement.org~~)presently, www.FresnoCountyRetirement.org) and  
7 deliver a copy thereof as follows: (1) for an Active Member Election, to each County  
8 department and Special District employing FCERA members~~of FCERA~~ who were  
9 eligible to vote in the election, and to each recognized employee representation  
10 organization having FCERA members who were eligible to vote in the election and  
11 employed by the County or a Special District, and (2) for Retired Member Elections,  
12 to each organization recognized by the Board of Retirement as representing the  
13 ~~retired members of FCERA.~~Retired Members. A FCERA Authorized Officer may  
14 provide any updating information under this Section IX, in the event of any legal  
15 challenge to any certified final, official election results.

16 X. Swearing in the Newly Elected Member.

17 The Board of Retirement shall swear in the newly elected member as soon as  
18 practicable under the circumstances at such time.

19 XI. Retention of Tallied Returned Official Ballots and Undeliverable Returned Official  
20 Ballot Packets.

21 The County Registrar of Voters shall retain tallied returned official ballots, and  
22 Official Ballot Packets, as determined as undeliverable and returned by the USPS  
23 under Section VII.B., herein, until the later of: (i) six (6) months following the certified  
24 final, official election results under Sections ~~VIII.H.3~~VII.J., or ~~VIII.H.4A.~~, herein,  
25 ~~or whichever is later,~~ (ii) the final judgment, including any appeals, of any legal  
26 challenge brought pursuant to Section VIII.C., herein, or (iii) any time as may be  
27 required by law in the event of any legal challenge brought other than pursuant to  
28 Section VIII.C., herein, provided however, such reference to any other legal



challenge is not intended to, nor may it be inferred, authorize any legal challenge under any basis not provided for in these election procedures.

XII. Effectiveness.

This Resolution shall be effective immediately upon its adoption. From and after its effective date, this Resolution supersedes any prior resolution of the Board of Supervisors with respect to the subject of Board of Retirement Election Procedures, including the prior resolutions of the Board of Supervisors referenced in the recitals to this Resolution.

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