

6/18/19
AI # 7

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RECEIVED
JUN 17 2019

CLERK. BOARD OF SUPERVISORS
by email

June 17, 2019

VIA EMAIL

Bernice E. Seidel
Clerk to the Board of Supervisors
COUNTY OF FRESNO
2281 Tulare Street, #301
Hall of Records
Fresno, CA 93721-2198

Re: Consent Agenda Item No. 7 to Adopt the Amended
FCERA Board Election Procedures

Dear Members of the Board of Supervisors:

My office represents several 2017 electors the Fresno County Employees' Retirement Association ("FCERA") Board of Retirement ("Board"), including Eulalio Gomez, Thomas Trester, Jeri Nowak, and Monica Diaz. My clients are also relators in conjunction with the California Attorney General a lawsuit challenging the election of Board members Riley Talford and John Robinson, Fresno County Superior Court Case No. 19CECG01846.

We would like to express our gratitude for the Board's consideration of our concerns about bulk ballot delivery and the courier system. As you recall, on May 14, 2019, the Board heard and considered our concerns about how the proposed FCERA election procedures were vulnerable to violating practices which we documented during the 2017 election. The Board directed County Counsel to address some of those concerns by revising the rules and

WANGER JONES HELSLEY PC

June 17, 2019

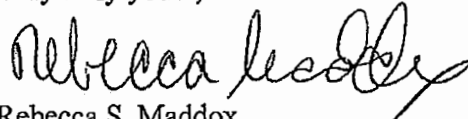
Page 2

tabling the rules for a month pending those revisions. The proposed rules now address much of the bulk ballot delivery seen during 2017 by ensuring the drop-box system and inter-county carrier delivery are not mobilized against the integrity of the election. The procedures also require FCERA candidates to receive copies of the Fresno County Code applicable to unlawful political activity. This common-sense approach will make for a more secure election.

Since the Board's May meeting, we also reached out to County Counsel and FCERA's counsel to confer in good faith about our concerns about the proposed FCERA election procedures. The conversation provided a productive opportunity to discuss our continued concerns, including enforcement, oversight, and legal remedies to the procedures and political activity violations. For example, we continue to have concerns that neither the County nor FCERA have authority regarding the impact of unlawful political activity on the outcome of the election. The result is that options are limited for FCERA candidates and require them to turn to filing a *quo warranto* application with the Attorney General, which can take a year to reach an initial decision, and arguably render some challenges moot due to the passage of time. It is very possible for unlawful political activity to impact the outcome of a FCERA election moving forward, and we believe, with further discussions, efficient resolutions may be possible to solve these complex problems.

We understand and respect that it is a priority for the Board to adopt the proposed revised procedures to ensure the revised rules improve the upcoming FCERA 2019 election. Moving forward, we would like to continue working with the County Counsel to address those concerns. Should the Board approve the resolution, we respectfully request the Board to also consider directing staff to continue conferring with us resolve these outstanding concerns and propose draft revisions, if necessary, prior to future FCERA election. Thank you very much for your time and consideration. We look forward to the opportunity to discuss these issues further.

Very truly yours,



Rebecca S. Maddox



County of Fresno

BOARD OF SUPERVISORS

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Nathan Magsig
District Five

Vice-Chairman
Buddy Mendes
District Four

Brian Pacheco
District One

Steve Brandau
District Two

Sal Quintero
District Three

Bernice E. Seidel
Clerk

June 20, 2019

Fresno County Employees' Retirement Association
7772 N. Palm Avenue
Fresno, California 93711

County Clerk / Registrar of Voters
2221 Kern Street
Fresno, California 93721

To Whom it May Concern:

Enclosed is a certified copy of the Board of Supervisors' Resolution No. 19-265, adopting the amended election procedures for the Board of Retirement of the Fresno County Employees' Retirement Association (FCERA), which the Board of Supervisors adopted on June 18, 2019.

If you have any questions, please feel free to contact my office at 559-600-3529 option 4.

Sincerely,

Bernice E. Seidel
Clerk of the Board of Supervisors



County of Fresno

BOARD OF SUPERVISORS

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Bernice E. Seidel
Clerk

STATE OF CALIFORNIA,
SS.
COUNTY OF FRESNO

I, BERNICE E. SEIDEL, Clerk of the Board of Supervisors of said Fresno County, do hereby certify the foregoing/enclosed/attached to be full, true and correct copies of the original Resolution No. 19-265 Amended Election Procedures for the Board of Retirement of the Fresno County Employees' Retirement Association.

IN WITNESS WHEREOF, I have hereunto set my hand of said Board of Supervisors, this 18th day of June, 2019.

BERNICE E. SEIDEL, Clerk
Board of Supervisors
Fresno County, California

By

Susan Bishop
Susan Bishop
Deputy Clerk I

1 B. The second and third members shall be members of FCERA, other than
2 safety members, elected by those members (*i.e.*, general members);

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

9 D. The seventh member shall be a safety member of FCERA elected by the
10 safety members;

11 E. The eighth member shall be a retired member of FCERA elected by the
12 retired members of FCERA;

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

19 WHEREAS, the Board of Supervisors' appointment of the Supervisor under
20 Government Code § 31520.1 shall be made pursuant to the Board of Supervisors'
21 policies and procedures for the appointment of any of its members to serve on
22 another public agency's governing board; and

23 WHEREAS, under Government Code § 31520.5, the Board of Retirement
24 alternate retired member, if any, shall be elected separately by retired members of
25 FCERA in the same manner and at the same time as the eighth member of the
26 Board of Retirement is elected;

27 ///

28 ///

1 WHEREAS, Government Code § 31520.1 permits the Board of Supervisors to
2 determine the manner in which elected members shall be elected to the Board of
3 Retirement;

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

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

14 WHEREAS, as the date of this Resolution, the Board of Retirement has an
15 alternate retired member;

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

19 WHEREAS, the Board of Supervisors has been informed that, on April 3, 2019,
20 the Board of Retirement approved certain further amendments to the Board of
21 Retirement Election Procedures, all of which are incorporated into the Board of
22 Retirement Election Procedures, as set forth below; and

23 WHEREAS, considering all such proposed further amendments, as approved
24 by the Board of Retirement, the Board of Supervisors further desires to amend the
25 Board of Retirement Election Procedures, as set forth below.

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

1 BOARD OF RETIREMENT ELECTION PROCEDURES

2
3 I. Dates of Elections; Officials; Reimbursement of Election Costs.

4 A. Regularly-Schedule Elections and Special Elections: Board of Retirement
5 regular elections shall be held on the third Thursday in November for odd election
6 years, and on the third Thursday in August for even election years, except for
7 Special Elections (as defined in Section 1.C, herein) called by the Board of
8 Supervisors under Section 1.C, herein. The Board of Retirement’s regular election
9 schedule is attached hereto and incorporated herein by this reference as Appendix A
10 – Election Schedule, and supersedes any prior Board of Retirement’s regular
11 election schedule adopted by the Board of Supervisors. These election procedures
12 shall govern all regularly scheduled elections for the Board of Retirement in
13 Appendix A – Election Schedule, and all Special Elections for the Board of
14 Retirement. From time to time, the Board of Supervisors may supplement Appendix
15 A – Election Schedule by amending this Resolution to add future regularly scheduled
16 elections.

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

1 complete the conducting of, a Board of Retirement election, or the election for a
2 particular member seat, under this Section I.B., then, subject to this Section I.B:

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

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

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

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

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

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

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

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

26 A. Types of Elections: The Board of Retirement shall have two types of
27 elections with separate but comparable election procedures for both types of
28 elections.

1 1. Active Member Election: One type of election shall be for the second and
2 third members (general members), seventh member (safety member), and, if
3 any, alternate seventh member (safety member) of the Board of Retirement,
4 who shall be employees of the County or a Special District, as well as be the
5 appropriate membership classification of FCERA for the related Board of
6 Retirement seat number, while they seek election for, and hold, such respective
7 offices (each an “Active Member Election”).

8 2. Retired Member Election: The other type of election shall be separate
9 elections that shall be held simultaneously for the retired member and alternate
10 retired member of the Board of Retirement, who shall be retired members of
11 FCERA while they seek election for, and hold, such respective offices, (each a
12 “Retired Member Election”).

13 B. Classifications of Eligible Members of FCERA: Members of FCERA eligible
14 to participate in a Board of Retirement election are identified and classified as the
15 following types of eligible voters, respectively:

16 1. “Eligible Active Members” are separately classified within their respective
17 eligible voter classifications:

18 a. “Eligible General Members” are all general members of FCERA who
19 either are employed by the County or a Special District, or have elected in
20 writing to come within the provisions of Article 9 (commencing with Gov.
21 Code, § 31700) of CERL, and on the date of such election was a general
22 member (also known as a “Deferred General Member”), or have otherwise
23 elected in writing under CERL to leave his or her accumulated contributions
24 on deposit with FCERA upon separating from the service of the County or
25 a Special District, and on the date of such election was a general member
26 (also known as an “Inactive General Member”), as of the Eligible Voter
27 Certification Date (as defined in Section VI.C.1., herein); and

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1 b. “Eligible Safety Members” are all safety members of FCERA who
2 either are employed by the County or a Special District, or have elected in
3 writing to come within the provisions of Article 9 (commencing with Gov.
4 Code, § 31700) of CERL, and on the date of such election was a safety
5 member (also known as a “Deferred Safety Member”), or have otherwise
6 elected in writing under CERL to leave his or her accumulated contributions
7 on deposit with FCERA upon separating from the service of the County or a
8 Special District, and on the date of such election was a safety member (also
9 known as a “Inactive Safety Member”), as of the Eligible Voter Certification
10 Date.

11 2. “Eligible Retired Members” are all retired members of FCERA as of the
12 Eligible Voter Certification Date. There shall not be any separate classifications
13 of eligible voters within Eligible Retired Members.

14 C. Eligibility to Participate in Elections; One (1) Vote per Eligible FCERA

15 Member: A member of FCERA who is eligible to participate in a Board of Retirement
16 election, as provided in Section II.B., herein, may vote only for one (1) candidate
17 who is designated within the same FCERA membership classification to which that
18 eligible member of FCERA belongs as of the Eligible Voter Certification Date (*e.g.*,
19 for an Active Member Election, the eligible member of FCERA may only participate
20 in the appropriate eligible voter classification either as an Eligible General Member
21 or as an Eligible Safety Member, but not both). This “one (1) vote per eligible
22 FCERA member” rule means that a FCERA member’s accumulated retirement
23 service credit in the other FCERA member classification (*e.g.*, Eligible Safety
24 Member who has accumulated retirement service credit as a prior general member
25 of FCERA), if any, shall not be considered in the determination of such FCERA
26 members’ eligibility to participate in a Board of Retirement election. A person’s
27 status as a beneficiary to a member of FCERA, whether living or deceased, does
28

1 not, in and of itself, make such beneficiary eligible to participate in a Board of
2 Retirement election.

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

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

9 2. An Eligible Safety Member may participate only in the election of (a) the
10 seventh member (safety member), and (b) the alternate seventh member, if any
11 (safety member), of the Board of Retirement. The alternate seventh member, if
12 any, shall be elected from the group under Government Code § 31470.2 or
13 31470.4, or any other eligible safety member in the County if there is no eligible
14 candidate from the groups under Government Code §§ 31470.2 and 31470.4,
15 which is not represented by a member of the Board of Retirement who received
16 the highest number of votes of all candidates in that group. If there is no
17 eligible candidate for the alternate seventh member, there may not be an
18 alternate seventh member.

19 E. Eligibility to Participate in Elections; Retired Member Elections:
20 Simultaneous elections shall occur for the retired member (eighth member) and the
21 alternate retired member of the Board of Retirement. Eligible Retired Members of
22 FCERA may participate only in the election of retired member (eighth member) and
23 the alternate retired member.

24 F. Observing the Election Process: Each candidate, including his or her
25 designated representative, and any member of the public may observe the
26 Retirement Administrator's drawing of lots for the order of placement of eligible
27 candidates' names on the official ballot under Section IV.G., herein, the County
28 Registrar of Voters and his or her designees' undertaking of the pre-count

1 procedures under Section VII.E., herein, and the opening and inspection of Official
2 Return Envelopes and the counting of returned voted official ballots under Sections
3 VII.E. and VII.F., herein, respectively, provided however, (1) each candidate, or his
4 or her designated single representative who is a County employee, but not both,
5 shall be allowed a reasonable amount of County release time (“County Allowed
6 Time”) for such activities and, (2) each candidate, including his or her representative,
7 and members of the public shall not interfere in any way with the Retirement
8 Administrator’s drawing of lots for the order of placement of candidates’ names on
9 the official ballot, or the County Registrar of Voters’ and his or her designees’ orderly
10 undertaking of such pre-count procedures and counting, including, but not limited to,
11 the touching or handling of any returned Official Return Envelopes or any returned
12 voted official ballots. Candidates, including their representatives, who are County
13 employees, shall not be allowed any County Allowed Time to obtain nominations or
14 campaign.

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

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

19 III. Request for Election.

20 A. Requirements. Not later than one hundred twenty (120) calendar days prior
21 to election day (E – 120; all references to “E-#” mean election day minus # of
22 calendar days) for a Board of Retirement election, the FCERA Authorized Officer
23 shall provide the following to the County Registrar of Voters for the election:

24 1. Written Request: Written request for the County Registrar of Voters to
25 conduct the Board of Retirement election that (a) specifies the date of the
26 election either according to Appendix A - Election Schedule, or as a Special
27 Election called by the Board of Supervisors under Sections I.C. or IV.F., herein,
28 respectively; (b) specifies the relevant member election, including the related

1 seat number, for the Board of Retirement; (c) includes a confirmation that the
2 County-FCERA cost reimbursement agreement is in effect (See Section I.E.,
3 herein); and (d) provides an estimate of the specific number of Official Ballot
4 Packets (as defined in Section VI.A., herein) that FCERA requests the County
5 Registrar to order for printing in relation to such election; and

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

8 IV. Nomination Process.

9 A. Notice of Election: Not later than E-70, FCERA shall provide a written
10 notice of the election (“Notice of Election”) as follows:

11 1. For Active Member Elections, to each County department, Special
12 District, and recognized employee representation organization having FCERA
13 members employed by the County or a Special District, and to each eligible
14 deferred and inactive FCERA member at the deferred or inactive FCERA
15 member’s then-current address on file with FCERA.

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

25 B. Member Seats: The Notice of Election shall state the following concerning
26 the election for each member seat on the Board of Retirement:

27 1. Each member seat for which the election is being held, specifying the
28 classification of (*i.e.*, for Active Member Election, specifying either the general

1 member or safety member classification, or for the Retired Member Elections,
2 specifying the retiree classification) and qualifications for the member seat, and
3 the related seat number, or reference to retiree alternate member, as
4 applicable.

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

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

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

14 1. For the Active Member Election:

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

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

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.

1 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 to safety member or vice-versa, shall automatically
5 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 2. For the Retiree Member Elections:

10 a. The nominee shall be, and at all relevant times remain, a retired
11 member of FCERA.

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

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

17 D. Nominations; Petitions and Nominee's Submittal: The FCERA Retirement
18 Administrator shall prepare (or caused to be prepared and approve) a petition form
19 for each Board of Retirement election according to the requirements of these
20 election procedures and make each petition form available to eligible members of
21 FCERA for such election. The petition, specifying the seat number (or for the Retired
22 Member Elections, specifying the retiree seat classification of the member) of the
23 Board of Retirement, and signed by at least fifteen (15) Eligible General Members
24 for the second or third member, or by at least fifteen (15) Eligible Safety Members
25 for the seventh member, or, if any, alternate seventh member, or by at least (15)
26 Eligible Retired Members for the retired member (eighth member) seat or the
27 alternate retired member seat of the Board of Retirement, as applicable, shall be
28 delivered to the FCERA Retirement Administrator together with the following

1 completed, signed, and dated Nominee's Submittal, provided by the nominee of said
2 petition, as applicable:

3 For the Active Member Election:

4 **NOMINEE'S SUBMITTAL**

5 **(Active Member Election)**

6 For the election of the BOARD OF RETIREMENT OF THE FRESNO COUNTY
7 EMPLOYEES' RETIREMENT ASSOCIATION to be held on _____, 20____.

8 **Name of nominee:** _____
9 **[Print your name]**

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 _____ Member [*specify:*
15 **General Member or Safety Member**] for Seat No. ____ [*specify: Seat No.*]
16 concerning the term of office from _____ to _____.

17 (b) I am a _____ Member [*specify: General Member or Safety*
18 **Member**] of the Fresno County Employees' Retirement Association.

19 (c) I am an employee of the: _____ [*specify employer*].

20 (d) (County employees only): The Department (including Division, if any) in
21 which I am employed is _____

22 **County Employees Political Activity**

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

25 **[Attach copy of County ordinance code § 3.08.110**
26 **(Employees—Political activity)]**

27 **Contact Information**

28 Telephone number that may be used to contact me: _____

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

SIGNATURE: _____

PRINT YOUR NAME: _____

DATE: _____

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

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

4 Notwithstanding anything to the contrary in these election procedures, (a)
5 County ordinance code § 3.08.110 (Employees—Political activity), referenced herein
6 and a copy of which is attached to any Nominee's Submittal, is not incorporated into
7 these election procedures or to be used for any purposes under these election
8 procedures except as expressly stated on the Nominee's Submittal, (b) neither the
9 FCERA Parties nor the County Parties have any responsibility under these election
10 procedures for any alleged or actual violation by a nominee, or any other County
11 employee allegedly or actually acting at the behest of or in concert with the nominee,
12 of County ordinance code § 3.08.110 (Employees—Political activity) relating to any
13 Active Member Election, and (c) the references, herein, to County ordinance code §
14 3.08.110 (Employees—Political activity) is only a statement of existing rules of
15 conduct for County employees and does not impose any new term or condition of
16 employment upon nominees who are County employees, and (d) the nominee's
17 receipt of a copy of County ordinance code § 3.08.110 (Employees—Political
18 activity) is only to be used by the County for the County's own purposes, in its
19 capacity as an employer with respect to the management of its employees.

20 For the Retired Member Elections:

21 **NOMINEE'S SUBMITTAL**

22 **(Retired Member Elections)**

23 For the election of the BOARD OF RETIREMENT OF THE FRESNO COUNTY
24 EMPLOYEES' RETIREMENT ASSOCIATION to be held on _____, 20____.

25 **Name of nominee:** _____

26 **[Print your name]**

27 *///*

28 *///*

1 **Certification**

2 I certify my willingness to serve on the BOARD OF RETIREMENT OF THE
3 FRESNO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION, and declare the
4 following:

5 (a) I am a nominee for the office of _____ [*specify:*
6 **Retired Member or Alternate Retired Member**] for _____
7 [*specify: Seat No. 8 or Retired Alternate Member Seat, as applicable*]
8 concerning the term of office from _____ to _____.

9 (b) I am a retired member of the Fresno County Employees' Retirement
10 Association.

11 **Contact Information**

12 Telephone number that may be used to contact me: _____

13 E-mail address that may be used to contact me: _____

14 SIGNATURE: _____

15 PRINT YOUR NAME: _____

16 DATE: _____

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

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

20 Each Eligible General Member, each Eligible Safety Member, and each
21 Eligible Retired Member, as applicable may nominate only one (1) person per
22 member seat on the Board of Retirement for which the election is (or elections are,
23 as applicable) being held and in which such Eligible General Member, Eligible Safety
24 Member, or Eligible Retired Member, respectively, may participate. The nominee
25 may also submit a candidate's statement of two hundred (200) words or less (the
26 "Candidate's Statement"), which shall be distributed with the official ballots, subject
27 to the following:

- 28 1. The Candidate's Statement may include the name and occupation (for
the Active Member Election, including the name of the County department or Special
District in which he or she is employed, or for the Retired Member Elections,
including the name of the County department or Special District in which he or she
was employed), of the candidate and a brief description of the candidate's

1 education, qualifications, and platform expressed by the candidate. The Candidate's
2 Statement shall be limited to a recitation of the candidate's own personal
3 background, qualifications, and platform, and shall not in any way refer to other
4 candidates for that office or to another candidate's qualifications, platform, character,
5 or activities.

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

8 3. Once submitted, the Candidate's statement may not be withdrawn,
9 revised, or refiled by the nominee.

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

14 5. Notwithstanding anything to the contrary in this Section IV.D., neither the
15 FCERA Parties nor the County Parties assume any responsibility for the
16 content or form of the Candidate's Statement or the distribution thereof to any
17 voters, or for making any changes to the content of the Candidate's Statement,
18 or for correcting its grammar, punctuation, or spelling, provided however, that
19 the County Registrar of Voters may, in his or her sole discretion, after providing
20 written notice to the affected candidate, delete any portion of the Candidate's
21 Statement that the County Registrar of Voters determines to be non-compliant
22 with the requirements of this Section IV.D.

23 E. Close of Nominations: The nomination period shall close twenty (20)
24 calendar days (E – 50) after the date FCERA provides the Notice of Election
25 pursuant to this Section IV. If the nomination period ends on a weekend or holiday,
26 it shall be extended to the end of the next FCERA business day.

27 F. Confirmation of Eligible Candidates: Prior to determining the order of
28 placement of candidates' names on the official ballot, the Retirement Administrator

1 shall determine that the nominees are duly nominated and eligible candidates,
2 according to these election procedures, for election of the relevant seat on the Board
3 of Retirement, and have timely delivered their respective signed and sufficiently
4 completed Nominee's Submittal according to these election procedures.

5 1. For any Active Member Elections, the Retirement Administrator shall
6 email a PDF copy of the signed Nominee's Submittal of such nominees to their
7 respective employer identified in their respective Nominee's Submittal, and
8 obtain email confirmation from such employer (e.g., for the County employer,
9 the nominee's identified County department is sufficient) that such nominee is
10 employed by such employer, and retain the original thereof for the same period
11 provided under Section XI, herein, solely for the purpose of keeping custody of
12 such documents, and no additional obligations of the Retirement Administrator
13 shall be inferred or implied therefrom.

14 2. If the Retirement Administrator determines that a nominee is not duly
15 nominated or eligible for such seat, or has not timely delivered his or her signed
16 and sufficiently completed Nominee's Submittal, the Retirement Administrator
17 shall declare such nominee as ineligible as a candidate for such seat. The
18 nominee's lack of sufficient Contact Information shall not be a basis for the
19 Retirement Administrator to determine that the nominee is not duly nominated
20 or eligible for such seat, provided however, the nominee shall, upon request by
21 any FCERA Authorized Officer, immediately deliver sufficient Contact
22 Information to the requesting FCERA Authorized Officer.

23 3. If the Retirement Administrator determines that no nominee is duly
24 nominated or eligible for such seat, the Retirement Administrator shall declare
25 that there is no nominee who is eligible as a candidate for such seat, and the
26 Retirement Administrator shall promptly request the Board of Supervisors to
27 call a Special Election for such seat, and simultaneously provide a copy of such
28 request to the County Registrar of Voters. Any such declaration by the

1 Retirement Administrator shall be final and conclusive, but only as to such
2 election for such seat, and the Retirement Administrator shall so inform the
3 nominee(s), if any, and the reason therefor.

4 G. Placement of Eligible Candidates' Names on Official Ballot: On E-47, the
5 FCERA Retirement Administrator shall determine the order of placement of duly
6 nominated and eligible candidates' names on the official ballot by drawing of lots at
7 FCERA's office in the manner provided for the County Registrar's drawing of lots to
8 break tie votes under Section VII.I., herein, except that the order of placement of
9 such candidates' names on the official ballot shall be based on descending order of
10 the lots as they are drawn. At least one (1) FCERA business day prior to such
11 drawing of lots, FCERA shall provide written notice to all such candidates that they
12 may observe such drawing of lots. The FCERA Retirement Administrator shall
13 provide such candidates' names, and order of placement of such candidates' names
14 on the official ballot, to the County Registrar of Voters not later than E – 45.

15 H. Unopposed Candidates: If any duly nominated and eligible candidate is
16 unopposed for election at the close of nominations, the Retirement Administrator
17 shall so certify to the Board of Supervisors, and the Board of Supervisors shall order
18 that no election be held for such seat and shall direct the Clerk of the Board of
19 Supervisors to cast a unanimous ballot in favor of the candidate pursuant to
20 Government Code § 31523, subdivision (c). The Clerk of the Board of Supervisors
21 shall deliver the casted ballot to the Board of Retirement, and a copy thereof to the
22 County Registrar of Voters.

23 V. Preparations for Elections.

24 A. Preparation of Elections Materials: For each Board of Retirement election,
25 not later than E-35, the Retirement Administrator, or any other FCERA Authorized
26 Officer, and the County Registrar of Voters or his or her designee shall coordinate
27 their respective pre-printing activities for the official ballot form and, if any,
28

1 candidates' statements (See Section VI.A., herein, regarding the County Registrar of
2 Voters' mailing of the Official Ballot Packet to eligible voters) as follows:

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

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

9 b. Sample proof of the candidates' statements, if any.

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

23 3. At least one FCERA Authorized Officer shall review all sample proofs of
24 the forms of official ballot and, if any, candidates' statements provided to the
25 County Registrar of Voters or his or her designee under Sections V.A.1.a. and
26 V.A.1.b, herein, respectively, and give final written verification to the County
27 Registrar of Voters or his or her designee that the form of official ballot and, if
28 any, candidates' statements are correct and ready to print.

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

4 C. FCERA-Certified Electronic Data Files: At the most recent payroll period
5 ending before E-45, a FCERA Authorized Officer shall, not later than E-43, deliver to
6 the County Registrar of Voters the following together in an individual transmittal for
7 each type of election that has been called (*i.e.*, Active Member Election or Retired
8 Member Elections), FCERA's then-current electronic data file, in a computer
9 program that is acceptable to the to the County Registrar of Voters:

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

22 **ACTIVE MEMBER ELECTION CERTIFICATION**

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

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

///
28

1 a. The accompanying electronic data file(s) for the [__insert date__] Active
2 Member Election represents and correctly identifies all current, eligible voters
3 who may vote in such election;

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

9 c. If an accompanying electronic data file represents Eligible General
10 Members, then that electronic data file correctly identifies and only includes all
11 current Eligible General Members who may vote for the Eligible General
12 Member seat(s) for such election;

13 d. If an accompanying electronic data file represents Eligible Safety
14 Members, then that electronic data file correctly identifies and only includes all
15 current Eligible Safety Members who may vote for the Eligible Safety Member
16 seat(s) for such election;

17 e. If an Active Member Election includes both the Eligible General Member
18 seat(s) and the Eligible Safety Member seat(s), there are no voters classified
19 in the accompanying electronic data file(s) both as an Eligible General
20 Member and an Eligible Safety Member for such election;

21 f. If an Active Member Election is only for one type of classification (i.e.,
22 Eligible General Member seat(s) or Eligible Safety Member seat(s)), there are
23 no voters classified in the accompanying electronic data file(s) from the other
24 classification for such election;

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

28 h. There are no identified voters in the accompanying electronic data file(s)
who are retired members of FCERA as of the Eligible Voter Certification Date;
and

i. The information in the accompanying electronic data file(s) of eligible
voters is complete and accurate for all such Eligible General Member's or
Eligible Safety Member's, as applicable, who may vote in such election, as of
the date that such electronic data file(s) of eligible voters and this certification
is delivered to the Fresno County Clerk/Registrar of Voters, which is the
"Eligible Voter Certification Date" under the Election Procedures.

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

Signature: _____
Title: _____
Date: _____

-End-

///

1 2. For Retired Member Elections: Eligible Retired Members of FCERA who
2 may participate in the election of retired member (eighth member) and the
3 alternate retired member of the Board of Retirement, if any, and their names
4 and mailing addresses for receipt of Official Ballot Packets (which mailing
5 address shall be his or her then-current mailing address as filed with FCERA)
6 accompanied by the FCERA Authorized Officer’s certification, which shall be
7 completed, signed, and dated as of the Eligible Voter Certification Date, and
8 shall state the following:

9 **RETIRED MEMBER ELECTIONS CERTIFICATION**

10 This certification is provided under the Election Procedures of the Board
11 of Retirement of FCERA, as adopted by the Fresno County Board of
Supervisors on [__insert date__] (the Election Procedures).

12 [__insert name__], [__insert title__] of the Fresno County Employees
13 Retirement Association (FCERA) certifies to the Fresno County
14 Clerk/Registrar of Voters that:

- 15 a. The accompanying electronic data file for the [__insert date__] Retired
16 Member Elections represents and correctly identifies all current, Eligible
Retired Members who may vote in such elections;
- 17 b. The accompanying electronic data file corresponds to the classification
18 of Eligible Retired Members who may vote in such elections (*i.e.*, the retired
member (eighth member) and the alternate retired member seats);
- 19 c. The accompanying electronic data file correctly identifies and only
includes all current Eligible Retired Members who may vote in such elections.
- 20 d. There are no identified voters classified in the accompanying electronic

21 data file(s) who are deferred or inactive general members of FCERA or
22 deferred or inactive safety members of FCERA, or general members of
FCERA who are employed by the County or Special District, or safety
23 members of FCERA who are employed by the County or Special District; and

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

27 ///
28

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

3 Signature: _____
4 Title: _____
5 Date: _____

6 -End-

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

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

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

1 mailing purposes, pre-counting, and official ballot counting (See Section V.B.,
2 herein).

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

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

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

13 c. Candidates' statements, if any; and

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

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

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

28 ///

1 b. Use non-profit postage for mailing of the Official Ballot Packets if
2 such method of mailing is available; and

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

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

7 A. Reissued Official Ballot Materials: The procedures for spoiled, mismarked,
8 undelivered, lost, or destroyed, official ballots or Official Return Envelopes are as
9 follows:

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

17
18 *“My spoiled/mismarked official ballot for the [inset date___] Board of*
19 *Retirement election has been surrendered to the Fresno County*
20 *Registrar of Voters.”*

21 Or

22 *“My spoiled/mismarked official return envelope for the [inset date___]*
23 *Board of Retirement election has been surrendered to the Fresno*
24 *County Registrar of Voters.”*

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

1 *"I did not receive my official ballot packet for the [inset date____] Board of*
2 *Retirement election. If I receive my official ballot packet, I will*
3 *immediately destroy the original official ballot."*

4 Or

5 *"I lost or destroyed my official ballot for the [inset date____] Board of*
6 *Retirement election. If I find my official ballot, I will immediately destroy*
7 *the official ballot."*

8 Or

9 *"I lost or destroyed my official return envelope for the [inset date____]*
10 *Board of Retirement election. If I find my official return envelope, I will*
11 *immediately destroy the official return envelope."*

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

16 B. Return of Voted Official Ballots: Each eligible voting member of FCERA
17 returning his or her voted official ballot to the County Registrar of Voters must return
18 the voted official ballot in the voted official ballot's like-kind, Official Return Envelope
19 provided to the eligible voting member by the County Registrar of Voters. Voted
20 official ballots may be returned by the eligible voting member to the County Registrar
21 of Voters only by United States Postal Service, overnight delivery by a commercial
22 carrier, such as FedEx or United Parcel Service, also known as UPS (each a
23 "Commercial Carrier"), or the eligible voting member returning his or her voted
24 official ballot by hand delivery to a County staff member who is attending the front
25 counter within the County Registrar of Voter's office, in each case, not later than
26 5:00 PM on the date of the election. A United States Postal Service postmark date
27 on the Official Return Envelope containing the voted official ballot, or a date that the
28 Official Return Envelope containing the voted official ballot was given to a
 Commercial Carrier, shall not be considered. A returned voted official ballot that is

1 not in the voted official ballot's like-kind, Official Return Envelope, or multiple voted
2 official ballots that are in a single Official Return Envelope, shall be rejected. If
3 during counting of returned voted official ballots, the County Registrar of Voters or
4 his or her designee discovers any returned voted official ballot that is not among like-
5 kind returned voted official ballots, such returned voted official ballot shall be
6 deemed to have been returned in an envelope other than its like-kind, Official Return
7 Envelope, and such returned voted official ballot shall be rejected. The County
8 Registrar of Voters shall not accept delivery of any returned voted official ballots
9 through any means other than those specified, above, in this Section VII.B. Without
10 limiting the generality of the foregoing sentence, the County Registrar of Voters shall
11 not accept delivery of any returned voted official ballots through any of the following
12 means: (i) any County means of internal communication among County
13 departments, including, but not limited to, County messenger, commonly known as
14 "stop mail" or County inter-office mail or delivery (however, any County means of
15 internal communication among County departments are not considered herein as,
16 and shall not be treated herein as, the use of Commercial Carriers); (ii) any County
17 Registrar of Voters drop box otherwise used by the County Registrar of Voters for
18 any elections other than an election of the Board of Retirement; and/or (iii) the
19 delivery to the County Registrar of Voters in any manner of multiple voted official
20 ballots.

21 C. Return of Voted Official Ballots from Outside Continental United States:

22 Eligible voting members of FCERA who reside outside of the continental United
23 States may, subject to these election procedures, return their voted official ballot
24 only by United States mail or Commercial Carrier to be received in the County
25 Registrar of Voters Office, in each case, not later than 5:00 PM on the date of the
26 election. A United States Postal Service postmark date on the Official Return
27 Envelope containing the voted official ballot, or a date that the Official Return
28 Envelope containing the voted official ballot was given to a Commercial Carrier, or

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

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

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

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

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

13 1. For the Active Member Election:

14 a. Returned official ballots for the active general member seat(s) shall
15 be grouped together, and kept separate from all other returned official
16 ballots; and

17 b. Returned official ballots for the active safety member seat(s) shall be
18 grouped together and kept separate from all other returned official ballots.

19 2. For the Retired Member Elections: returned official ballots for the retired
20 member (eighth member) seat and alternate retirement member seat shall be
21 grouped together (but in any event shall be considered as official ballots for
22 separate elections) and kept separate from all other returned official ballots.

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

27 1. The County Registrar of Voters shall tally the results of the official count
28 for the Active Member Election (including separate counts for the active general

1 member seat(s) and the active safety member seat(s) in the same regularly
2 scheduled election or Special Election), and for the Retired Member Elections
3 (including separate counts for the retired member (eighth member) seat and the
4 alternate retired member seat in the same regularly scheduled election cycle or
5 Special Election), according to the following categories, as applicable:

- 6 a. Official ballots issued;
- 7 b. Official ballots returned;
- 8 c. Rejected official ballots;
- 9 d. Votes cast;
- 10 e. Overvotes (*i.e.*, returned voted official ballot invalidated due to more
11 than one vote per member seat);
- 12 f. Blanks (*i.e.*, not voted);
- 13 g. Spoiled/reissued official ballots; and
- 14 h. Undeliverable official ballots.

15 2. In the event an electronic voting system cannot be used for counting all
16 of the returned voted official ballots, the County Registrar of Voters or his or her
17 designee(s) shall count the returned voted official ballots by hand. In the event
18 a returned voted official ballot cannot be counted by an electronic voting system
19 due to the condition of the voted official ballot, the County Registrar of Voters or
20 his or her designee(s) shall create a duplicate ballot, using the same
21 information in the returned voted official ballot, and count such duplicate ballot
22 in the same manner as all other like-kind returned voted official ballots are
23 counted by the electronic voting system. The County Registrar of Voters shall
24 retain the returned voted official ballot that cannot be counted by the electronic
25 voting system, and indicate on such returned voted official ballot that it cannot
26 be used and that the duplicate ballot has been used in its place; the created
27 duplicate ballot shall be deemed to be the voted official ballot.

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1 3. Any candidate receiving the highest number of votes, in the plurality of
2 all votes cast for the election of a member seat on the Board of Retirement,
3 shall be deemed elected for that seat.

4 G. Posting and Delivering Election Results: The County Registrar of Voters or
5 his or her designees shall complete all counting procedures for the Active Member
6 Election or the Retired Member Elections under Section VII.F, herein, prior to
7 posting the results of each election. After completing the counting procedures for
8 each election, the County Registrar of Voters or his or her designee shall, as soon
9 thereafter as may be practicable under the circumstances at such time, promptly
10 post the election results on its Department website and deliver the election results to
11 the FCERA Retirement Administrator by email or hand delivery.

12 H. Request for Recount Requirements: In the event a candidate desires to
13 request a recount of the election for the member seat that he or she is seeking on
14 the Board of Retirement, he or she must file a written request for the recount with the
15 County Registrar of Voters, and comply with this Section VII.H., not later than 5:00
16 PM on the fifth (5th) calendar day following the date that the County Registrar of
17 Voters or his or her designee has posted the election results on its Department
18 website pursuant to Section VII.G., herein. In the event of timely multiple requests
19 for a recount of the election for the member seat, each requesting candidate shall
20 comply with this Section VII.H, herein, without regard any other request for a
21 recount, but there shall be only one recount.

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

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

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

7 b. In the event the money so deposited is insufficient to pay the County
8 Registrar of Voters' costs of completing the recount, the County Registrar of
9 Voters shall suspend the recount and provide the candidate a written
10 estimate of the cost of completing the recount. The candidate must deposit
11 an amount equal to the cost estimate with the County Registrar of Voters
12 not later than the third (3rd) County business day thereafter. In the event the
13 County Registrar of Voters does not receive the estimated cost in the form
14 of a cash, cashier's check, or money order deposit within such time, the
15 recount shall be terminated, and any activities that the County Registrar of
16 Voters undertook toward the recount shall be disregarded and have no force
17 or effect.

18 c. In the event the moneys so deposited are sufficient to pay the County
19 Registrar of Voters' costs of the recount, the County Registrar of Voters
20 shall conduct recount, including breaking any resulting tie vote, according to
21 the election procedures for counting returned official ballots under Section
22 VII.F., herein, and the following procedures shall apply, depending on the
23 outcome of the recount:

24 i. If the recount does not change the result of the election in the
25 favor of the candidate requesting the recount, including a resulting tie
26 vote or breaking a tie vote, the County Registrar of Voters shall so inform
27 the affected candidates of the recount results and such recount shall be
28 disregarded.

1 ii. If the recount changes the result of the election in the favor of the
2 candidate requesting the recount, including a resulting tie vote or
3 breaking a tie vote, the County Registrar of Voters shall post the
4 changed election results on its Department website and deliver the
5 changed election results to the FCERA Retirement Administrator,
6 pursuant to Section VII.G., herein.

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

9 d. The amount of moneys deposited by the candidate for the costs of
10 a recount shall only be refunded to the candidate requesting the recount
11 upon the completion of the recount if such candidate achieves a new count
12 in the election that changes the result of the election in his or her favor,
13 including a resulting tie vote (in which case any such tie vote shall be
14 broken under Section VIII.I., herein, but if the outcome of the broken tie vote
15 is favorable to the candidate requesting the recount, that outcome shall not
16 give such candidate a right to the refund) or breaking a tie vote; otherwise
17 all of such moneys paid to the County Registrar of Voters and spent for the
18 recount shall be retained by the County Registrar of Voters.

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

26 I. Tie Votes: After the conclusion of, or passage of time allowed herein for,
27 any recount that may be conducted pursuant to Section VII.H, herein, if two or more
28 candidates receive an equal and the highest number of votes, in the plurality of all

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

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

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

25 3. The candidates or their representatives shall fold and place their signed
26 slips in identical small sealed containers (e.g., pill bottle with a cap), seal them,
27 and hand their sealed containers to the County Registrar of Voters or his or her
28 designee, and those sealed containers, once returned to him or her, shall be

1 placed by Registrar of Voters or his or her designee in a larger opaque
2 container (e.g., hat, bag, or bucket).

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

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

11 J. Certification of Final, Official Election Results: The County Registrar of
12 Voters or his or her designees shall complete all counting procedures for each
13 election under Section VII.F., herein, prior to certifying the final, official election
14 results of such election. After completing all such counting procedures for each
15 election, the County Registrar of Voters shall, as soon thereafter as may be
16 practicable under the circumstances at such time, certify the final, official election
17 results of such election, and, such certification shall be the final and conclusive,
18 official results of the election, except for any County Registrar of Voters final action,
19 or a response, in relation to the protest under Section VIII.A.2, herein. Upon
20 certification of the official election results of each election, the County Registrar of
21 Voters or his or her designees shall promptly post the certified final, official election
22 results on its Department website and deliver the certified final, official election
23 results to the FCERA Retirement Administrator by email or hand delivery. The
24 counting procedures and certification of the final, official election results shall be
25 completed not later than fourteen (14) calendar days following the first day of
26 opening the Official Return Envelopes for each such election, as applicable,
27 provided that the time for such completion shall be extended by any additional time
28 as may be necessary for the County Registrar of Voters to act upon or respond to

1 any request for recount, under Section VII.H., herein, and by five (5) County
2 business days in the event there is the need for the drawing of lots to break the tie,
3 as provided in Section VII.I., herein.

4 K. No Requirement for County Registrar of Voters to Act. Notwithstanding
5 anything to the contrary in these election procedures, the County Registrar of Voters
6 is not required to post or deliver any election results under Section VII.G., herein, or
7 certify, post and deliver any final, official election results under Section VII.J., herein,
8 when the County Registrar of Voters declares that he or she cannot conduct or
9 complete the conducting of the election, or the election of a particular member seat,
10 as provided in Section I.B., herein.

11 VIII. Protest; Legal Challenge.

12 A. Protest Requirements: In the event a candidate desires to protest the
13 results of any election, other than making a request for a recount of the election for
14 the member seat that he or she is seeking on the Board of Retirement, of the
15 election for the member seat that he or she is seeking on the Board of Retirement,
16 he or she must file the written protest with the County Registrar of Voters (and he or
17 she must include written proof that he or she has provided a copy of the written
18 protest to any other affected candidate), in compliance with this Section VIII.A., not
19 later than 5:00 PM on the fifth (5th) calendar day following the date that the County
20 Registrar of Voters has posted the election results on its Department website
21 pursuant to Section VII.G., herein. The County Registrar of Voters shall not be
22 obligated to consider any additional or amended grounds for the protest, or any
23 augmented documentation or other evidence from the protesting candidate, after
24 receipt of the written protest.

25 1. Protest in Writing. The written protest shall be based on the failure of the
26 FCERA Parties, the County Parties, and/or the Special District Parties, as
27 applicable, to comply with these election procedures, and must specify such
28

1 grounds for the protest and be accompanied by any documentation or other
2 evidence that may be referenced in the protest.

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

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

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

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

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1 IX. FCERA Posts Official Election Results.

2 Not later than ten (10) FCERA business days following the later of the date that
3 the County Registrar of Voters or his or her designees delivers the certified final,
4 official election results to the FCERA Retirement Administrator for each election, or
5 provides notice of final action, or a response to a protesting candidate, relating to his
6 or her protest under Section VIII.A., herein, to the FCERA Administrator, a FCERA
7 Authorized Officer shall post such results on FCERA's website
8 (www.FresnoCountyRetirement.org) and deliver a copy thereof as follows: (1) for an Active
9 Member Election, to each County department and Special District employing
10 members of FCERA who were eligible to vote in the election, and to each
11 recognized employee representation organization having FCERA members who
12 were eligible to vote in the election and employed by the County or a Special District,
13 and (2) for Retired Member Elections, to each organization recognized by the Board
14 of Retirement as representing the retired members of FCERA. A FCERA Authorized
15 Officer may provide any updating information under this Section IX in the event of
16 any legal challenge to any certified final, official election results.

17 X. Swearing in the Newly Elected Member.

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

20 XI. Retention of Tallied Returned Official Ballots.

21 The County Registrar of Voters shall retain tallied returned official ballots until
22 the later of: (i) six (6) months following the certified final, official election results
23 under Sections VIII.H.3., or VIII.H.4., herein, or (ii) the final judgment, including any
24 appeals, of any legal challenge brought pursuant to Section VIII.C., herein.

25 XII. Effectiveness.

26 This Resolution shall be effective immediately upon its adoption. From and after
27 its effective date, this Resolution supersedes any prior resolution of the Board of
28 Supervisors with respect to the subject of Board of Retirement Election Procedures,

1 including the prior resolutions of the Board of Supervisors referenced in the recitals
2 to this Resolution.

3 THE FOREGOING was passed and ADOPTED by the following vote of the
4 Board of Supervisors of the County of Fresno this 18th day of June 2019, to-wit:

5 AYES: Supervisors Brandau, Magsig, Mendes, Pacheco, Quintero

6 NOES: None

7 ABSENT: None

8 ABSTAINED: None



Nathan Magsig, Chairman of the
Board of Supervisors of the County of
Fresno

11 ATTEST:

12 Bernice E. Seidel
13 Clerk of the Board of Supervisors
14 County of Fresno, State of California

15
16 By: Susan Bishop
Deputy

17 2319124v1 / 19704.0001(revised)

Appendix A - Election Schedule

Category	Member No.	Term Expires	Election	
			Month	Year
General	2	12/31/2018	August	2018
Retired	8	12/31/2019	November	2019
Retired Alt.	8 Alt.	12/31/2019	November	2019
Safety	7	12/31/2020	August	2020
General	3	12/31/2020	August	2020
General	2	12/31/2021	November	2021
Retired	8	12/31/2022	August	2022
Retired Alt.	8 Alt.	12/31/2022	August	2022
Safety	7	12/31/2023	November	2023
General	3	12/31/2023	November	2023
General	2	12/31/2024	August	2024
Retired	8	12/31/2025	November	2025
Retired Alt.	8 Alt.	12/31/2025	November	2025
Safety	7	12/31/2026	August	2026
General	3	12/31/2026	August	2026
General	2	12/31/2027	November	2027
Retired	8	12/31/2028	August	2028
Retired Alt.	8 Alt.	12/31/2028	August	2028
Safety	7	12/31/2029	November	2029
General	3	12/31/2029	November	2029
General	2	12/31/2030	August	2030
Retired	8	12/31/2031	November	2031
Retired Alt.	8 Alt.	12/31/2031	November	2031
Safety	7	12/31/2032	August	2032
General	3	12/31/2032	August	2032

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