

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 \_\_\_\_\_ ) 19- \_\_\_\_\_ )  
\_\_\_\_\_ )

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 safety members;

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

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

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

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

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

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

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

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

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

24           WHEREAS, Government Code § 31520.1 permits the Board of Supervisors to  
25 determine the manner in which elected members shall be elected to the Board of  
26 Retirement;

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

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

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

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

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

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

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

25 BOARD OF RETIREMENT ELECTION PROCEDURES

26  
27 I. Dates of Elections; Officials; Reimbursement of Election Costs.

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

12 B. County Registrar of Voters Declaration Regarding Election. The County  
13 Clerk/Registrar of Voters (the "County Registrar of Voters") may declare that he or she  
14 cannot conduct, or complete the conducting of, an election, or the election for a particular  
15 member seat, due to any condition, including but not limited to any error, omission, or  
16 neglect, or any cause beyond the control of FCERA, including the Board of Retirement,  
17 and/or any officer, employee, or agent thereof (the "FCERA Parties"), or the County,  
18 including the Board of Supervisors and/or the County Registrar of Voters, and/or any officer,  
19 employee, or agent thereof (the "County Parties"), or any Special Districts, including their  
20 respective governing boards, and/or any officer, employee, or agent thereof, respectively  
21 (the "Special District Parties") that in the determination of the County Registrar of Voters  
22 may adversely affect the outcome of the election, or the election for a particular member  
23 seat, if the election, or the election for the particular member seat, were to proceed to  
24 completion. If the County Registrar of Voters makes a determination that he or she cannot  
25 conduct, or complete the conducting of, a Board of Retirement election, or the election for a  
26 particular member seat, under this Section I.B., then:

27 1. The County Registrar of Voters shall declare in writing that he or she cannot  
28 conduct, or complete the conducting of, the election, or the election for the particular

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1 member seat (and any such declaration concerning the particular member seat only  
2 affects that member seat):

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

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

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

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

23 D. Officials: The FCERA Retirement Administrator, the FCERA Assistant Retirement  
24 Administrator, the FCERA Executive Assistant or the FCERA employee whom the  
25 Retirement Administrator certifies in writing to the County Registrar of Voters as the  
26 functional equivalent of the FCERA Executive Assistant for purposes of these election  
27 procedures, and the FCERA officer who is designated by the Retirement Administrator as  
28 the clerk to the Board of Retirement shall be, and each of them acting alone is (each a

1 “FCERA Authorized Officer”), authorized to do any and all things for and on behalf of  
2 FCERA under these election procedures, unless the Retirement Administrator is specifically  
3 authorized to act hereunder for and on behalf of FCERA. The County Registrar of Voters  
4 (including his or her designee where specifically authorized to act hereunder) shall be and is  
5 authorized to do any and all things for and on behalf of the County under these election  
6 procedures, unless the Board of Supervisors is specifically authorized to act hereunder for  
7 and on behalf of the County.

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

13  
14 II. Types of Elections; Eligible FCERA Membership Classifications.

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

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

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

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

4 1. "Eligible Active Members" are separately classified within their respective voter  
5 classifications:

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

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

25 2. "Eligible Retired Members" are all retired members of FCERA as of the Eligible  
26 Voter Certification Date. There shall not be any separate classifications of voters within  
27 Eligible Retired Members.

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

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

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

21 2. An Eligible Safety Member may participate only in the election of (a) the  
22 seventh member (safety member), and (b) the alternate seventh member, if any  
23 (safety member), of the Board of Retirement. The alternate seventh member, if any,  
24 shall be elected from the group under Government Code § 31470.2 or 31470.4, or any  
25 other eligible safety member in the County if there is no eligible candidate from the  
26 groups under Government Code §§ 31470.2 and 31470.4, which is not represented by  
27 a member of the Board of Retirement who received the highest number of votes of all  
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1 candidates in that group. If there is no eligible candidate for the alternate seventh  
2 member, there may not be an alternate seventh member.

3 E. ~~Eligibility to Participate in Elections; Retired Member Elections; Simultaneous~~  
4 elections shall occur for the ~~retired member~~ (eighth ~~member~~) and the alternate retired  
5 member of the Board of Retirement. ~~Eligible Retired Members of FCERA may participate~~  
6 only in the election of retired member (eighth ~~member~~) and the alternate retired member.

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

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

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

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1 III. Request for Election.

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

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

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

18  
19 IV. Nomination Process.

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

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

27 2. For Retired Member Elections, which shall be separate elections held  
28 simultaneously for the retired member and alternate retired member of the Board of

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1 Retirement, (a) to each organization recognized by the Board of Retirement as  
2 representing the retired members of FCERA, and (b) for regularly-scheduled Retired  
3 Member Elections, to each retired member of FCERA at his or her then-current  
4 address on file with FCERA provided that such notice shall be by mailing a flyer (or  
5 including information, along with or in the monthly benefit statement mailed to each  
6 retiree) that provides basic information about the regularly-scheduled Retired Member  
7 Elections.

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

10 1. Each member seat for which the election is being held, specifying the  
11 classification of (i.e., for Active Member Election, specifying either the general member  
12 or safety member classification, or for the Retired Member Elections, specifying the  
13 retiree classification) and qualifications for the member seat, and the related seat  
14 number, or reference to retiree alternate member, as applicable.

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

16 3. Procedures for submissions of nominations and candidate's certification thereof  
17 and candidates' statements, including deadlines for submissions thereof, the date of  
18 the election to be held, and the time period for the pre-count and counting of returned  
19 voted official ballots, all of which shall comply with these election procedures.

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

22 1. For the Active Member Election:

23 a. The nominee who is a general member of FCERA may be elected and  
24 hold office only as the second or third member of the Board of Retirement,  
25 provided that, at all relevant times, he or she shall be an employee of the County or  
26 a Special District, and remain (a) employed by the County or a Special District, and  
27 (b) in the classification of a general member of FCERA.  
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1                    b. The nominee who is a safety member of FCERA may be elected and  
2                    hold office only as the seventh member, or, if any, alternate seventh member of  
3                    the Board of Retirement, provided that, at all relevant times, he or she shall be an  
4                    employee of the County or a Special District, and remain (a) employed by the  
5                    County or a Special District, and (b) in the classification of a safety member of  
6                    FCERA.

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

9                    d. Any nominee who is elected to any such seat on the Board of  
10                   Retirement, but either separates from the service of the County or a Special  
11                   District, or changes his or her FCERA membership classification from general  
12                   member to safety member or vice-versa, shall automatically vacate his or her  
13                   office.

14                   e. The 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 holding  
16                   such office.

17                   2. For the Retiree Member Elections:

18                   a. The nominee shall be, and at all relevant time remain, a retired member  
19                   of FCERA.

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

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

25                   D. Nominations; Candidates' Statements: A petition, specifying the seat number (or  
26                   for the Retired Member Elections, specifying the retiree classification of the member) of the  
27                   Board of Retirement, and signed by at least fifteen (15) Eligible General Members for the  
28                   second or third member, or by at least fifteen (15) Eligible Safety Members for the seventh

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1 member, or, if any, alternate seventh member, or by at least (15) Eligible Retired Members  
2 for the retired member (eighth member) seat or the alternate retired member seat of the  
3 Board of Retirement, as applicable, shall be delivered to the FCERA Retirement  
4 Administrator together with a certification from the nominee of said petition certifying his or  
5 her willingness and qualification to serve on the Board of Retirement for such specified  
6 member seat number (and for the Active Member Election, giving the name of the County  
7 department or Special District in which he or she is employed), and his or her contact  
8 information, which shall, among other things, include an email address; such email address  
9 may be used for all notices provided by FCERA or the County Registrar of Voters or his or  
10 her designee, to the candidate under these election procedures. Each Eligible General  
11 Member, each Eligible Safety Member, and each Eligible Retired Member, as applicable  
12 may nominate only one (1) person per member seat on the Board of Retirement for which  
13 the election is (or elections are, as applicable) being held and in which such Eligible General  
14 Member, Eligible Safety Member, or Eligible Retired Member, respectively, may participate.  
15 The nominee may also submit a candidate's statement of two hundred (200) words or less,  
16 which shall be distributed with the official ballots, subject to the following:

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

26       2. The candidate's statement shall be submitted with the petition, in Word form, 12-  
27 point font type.

1 3. Once submitted, the statement may not be withdrawn, revised, or refiled by the  
2 nominee.

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

6 5. Notwithstanding anything to the contrary in this Section IV.D., neither the  
7 FCERA Parties nor the County Parties assume any responsibility for the content or  
8 form of the statement or the distribution thereof to any voters, or for making any  
9 changes to the content of the statement, or for correcting its grammar, punctuation, or  
10 spelling, provided however, that the County Registrar of Voters may, in his or her sole  
11 discretion, after providing written notice to the affected candidate, delete any portion of  
12 the statement that the County Registrar of Voters determines to be non-compliant with  
13 the requirements of this Section IV.D.

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

18 F. Confirmation of Eligible Candidates: Prior to determining the order of placement of  
19 candidates' names on the official ballot, the Retirement Administrator shall determine that  
20 the nominees are duly nominated and eligible candidates for election of the relevant seat on  
21 the Board of Retirement. If the Retirement Administrator determines that a nominee is not  
22 duly nominated or eligible for such seat, the Retirement Administrator shall declare such  
23 nominee as ineligible as a candidate for such seat. If the Retirement Administrator  
24 determines that no nominee is duly nominated or eligible for such seat, the Retirement  
25 Administrator shall declare that there is no nominee who is eligible as a candidate for such  
26 seat, and the 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 request to  
28 the County Registrar of Voters. Any such declaration by the Retirement Administrator shall

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

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

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

21  
22 V. Preparations for Elections.

23 A. Preparation of Elections Materials: For each Board of Retirement election, not later  
24 than E-35, the Retirement Administrator, or any other FCERA Authorized Officer, and the  
25 County Registrar of Voters or his or her designee shall coordinate their respective pre-  
26 printing activities for the official ballot form and, if any, candidates' statements (See Section  
27 VI.A., herein, regarding the County Registrar of Voters' mailing of the Official Ballot Packet  
28 to eligible voters) as follows:

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

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

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

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

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

25           B. Confidentiality: The mailing addresses of the Eligible Active Members and Eligible  
26           Retired Members shall remain confidential, and not subject to public disclosure (See Gov.  
27           Code, § 31532; Cal. Const. Art I, § 1).  
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1 C. FCERA-Certified Electronic Data Files: At the most recent payroll period ending  
2 before E-45, a FCERA Authorized Officer shall, not later than E-43, deliver to the County  
3 Registrar of Voters the following together in an individual transmittal for each type of election  
4 that has been called (i.e., Active Member Election or Retired Member Elections), FCERA's  
5 then-current electronic data file, in a computer program that is acceptable to the to the  
6 County Registrar of Voters:

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

### 17 ACTIVE MEMBER ELECTION CERTIFICATION

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

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

24 a. The accompanying electronic data file(s) for the [ insert date ] Active  
25 Member Election represents and correctly identifies all current, eligible voters who  
26 may vote in such election;

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

c. If an accompanying electronic data file represents Eligible General Members,  
then that electronic data file correctly identifies and only includes all current Eligible

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General Members who may vote for the Eligible General Member seat(s) for such election;

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

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

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

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

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: \_\_\_\_\_

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

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**RETIRED MEMBER ELECTIONS CERTIFICATION**

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1 information set forth in each accompanying applicable FCERA-certified electronic data  
2 file of eligible voters delivered to the County Registrar of Voters.

3  
4 VI. Distribution of Official Ballot Packets to Eligible Voters.

5 A. Ballot Requirements; Mailing: Twenty-four (24) calendar days before the election  
6 (E – 24), the County Registrar of Voters shall mail a sealed outgoing official ballot packet  
7 (each an “Official Ballot Packet,” or collectively “Official Ballot Packets”) to each Eligible  
8 Active Member for the Active Member Election, or to each Eligible Retired Member for the  
9 Retired Member Elections, at the mailing address for each such eligible voter, based solely  
10 on the information set forth in each applicable FCERA-certified electronic data file of eligible  
11 voters, delivered to County Registrar of Voters and certified by a FCERA Authorized Officer  
12 under Section VI.C., herein. All such eligible voter name and address data shall remain  
13 confidential, including for mailing purposes, pre-counting, and official ballot counting (See  
14 Section V.B., herein).

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

17 a. One (1) official ballot that is applicable to the eligible voter’s FCERA  
18 member classification pursuant to Section II.B., herein, for an election of the Board  
19 of Retirement (i.e., either one official ballot for Eligible General Members in the  
20 Active Member Election, or one official ballot for Eligible Safety Members in the  
21 Active Member Election; or one official ballot for Eligible Retired Members in the  
22 Retired Member Elections);

23 b. Voting instructions, prepared by the County Registrar of Voters or his or  
24 her designee;

25 c. Candidates’ statements, if any; and

26 d. One (1) non-postage paid official ballot return envelope bearing the  
27 address of the Fresno County Clerk/Registrar of Voters Office, (“Official Return  
28 Envelope”), and providing a unique identifying number, code and/or symbol, as

1 determined by the County Registrar of Voters, that will enable the County Registrar  
2 of Voters to verify the identity of the eligible voter who returns the voted official  
3 ballot.

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

5 a. Use a company or companies, which is or are certified by the California  
6 Secretary of State to print ballots, to provide all ballots and undertake all ballot  
7 layout and preparation and/or inserting processes relating to such documents to be  
8 provided, prepared, laid out, and/or inserted into the Official Ballot Packets,  
9 provided however, the County Registrar of Voters or his or her designees instead  
10 may, at his or her option, undertake any or all of such functions:

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

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

14  
15 VII. Pre-Count; Counting; Election Results. The County Registrar of Voters shall process  
16 the receipt, pre-counting, and counting of returned voted official ballots for the election as  
17 follows:

18 A. Reissued Official Ballot Materials: The procedures for spoiled, mismatched,  
19 undelivered, lost, or destroyed, official ballots or Official Return Envelopes are as follows:

20 1. If a voter has spoiled or marked his or her official ballot or Official Return  
21 Envelope in error and needs a replacement, the County Registrar of Voters or his or  
22 her designees must receive the spoiled or mismatched ballot or Official Return  
23 Envelope back from the voter and a signed declaration under penalty of perjury from  
24 the voter, as applicable, before a new official ballot or Official Return Envelope is  
25 issued to the voter, as follows:

26  
27 "My spoiled/mismatched official ballot for the [inset date ] Board of  
28 Retirement election, has been surrendered to the Fresno County Registrar of  
Voters."

1 Or

2 "My spoiled/mismarked official return envelope for the [inset date \_\_\_\_] Board of  
3 Retirement election has been surrendered to the Fresno County Registrar of  
4 Voters."

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

10 "I did not receive my official ballot packet for the [inset date \_\_\_\_] Board of  
11 Retirement election. If I receive my official ballot packet, I will immediately  
12 destroy the original official ballot."

13 Or

14 "I lost or destroyed my official ballot for the [inset date \_\_\_\_] Board of Retirement  
15 election. If I find my official ballot, I will immediately destroy the official ballot."

16 Or

17 "I lost or destroyed my official return envelope for the [inset date \_\_\_\_] Board of  
18 Retirement election. If I find my official return envelope, I will immediately  
19 destroy the official return envelope."

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

24 B. Return of Voted Official Ballots: Each member of FCERA returning his or her voted  
25 official ballot to the County Registrar of Voters must return the voted official ballot in the  
26 voted official ballot's like-kind, Official Return Envelope provided to the member by the  
27 County Registrar of Voters. Voted official ballots may be returned to the County Registrar of  
28 Voters only by United States Postal Service, overnight delivery by a commercial carrier, or  
hand delivery to the County Registrar of Voter's office by the voting FCERA member whose



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

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

18 E. Opening and Inspecting Official Returned Envelopes; Separating Returned Voted  
19 Official Ballots: Upon opening the Official Returned Envelopes, and before the official voted  
20 ballots are separated from their respective Official Return Envelopes, the Registrar of Voters  
21 or his or her designees shall inspect each opened Official Returned Envelope solely for the  
22 purpose of determining whether the returned official ballot contained therein is in its like-  
23 kind, Official Returned Envelope. If the County Registrar of Voters or his or her designees  
24 discover that any returned voted official ballot is not its like-kind, Official Return Envelope,  
25 such returned voted official ballot shall be rejected. After all Official Returned Envelopes  
26 have been so opened and inspected for an election, the Registrar of Voters or his or her  
27 designees shall separate the returned official ballots from their respective Official Returned  
28 Envelopes, and, once separated, kept in separate groups, as follows:



1 1. For the Active Member Election:

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

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

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

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

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

- 21 a. Official ballots issued;
- 22 b. Official ballots returned;
- 23 c. Rejected official ballots;
- 24 d. Votes cast;
- 25 e. Overvotes (i.e., returned voted official ballot invalidated due to more than  
26 one vote per member seat);
- 27 f. Blanks (i.e., not voted);
- 28 g. Spoiled/reissued official ballots; and

1 h. Undeliverable official ballots.

2 2. In the event an electronic voting system cannot be used for counting all of the  
3 returned voted official ballots, the County Registrar of Voters or his or her designee(s)  
4 shall count the returned voted official ballots by hand. In the event a returned voted  
5 official ballot cannot be counted by an electronic voting system due to the condition of  
6 the voted official ballot, the County Registrar of Voters or his or her designee(s) shall  
7 create a duplicate ballot, using the same information in the returned voted official  
8 ballot, and count such duplicate ballot in the same manner as all other like-kind  
9 returned voted official ballots are counted by the electronic voting system. The County  
10 Registrar of Voters shall retain the returned voted official ballot that cannot be counted  
11 by the electronic voting system, and indicate on such returned voted official ballot that  
12 it cannot be used and that the duplicate ballot has been used in its place; the created  
13 duplicate ballot shall be deemed to be the voted official ballot.

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

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

25 H. Request for Recount Requirements: In the event a candidate desires to request a  
26 recount of the election for the member seat that he or she is seeking on the Board of  
27 Retirement, he or she must file a written request for the recount with the County Registrar of  
28 Voters, and comply with this Section VII.H., not later than 5:00 PM on the fifth (5<sup>th</sup>) calendar

1 day following the date that the County Registrar of Voters or his or her designee has posted  
2 the election results on its Department website pursuant to Section VII.G., herein. In the  
3 event of timely multiple requests for a recount of the election for the member seat, each  
4 requesting candidate shall comply with this Section VII.H, herein, without regard any other  
5 request for a recount, but there shall be only one recount.

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

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

12 a. In the event of a request for a recount, the County Registrar of Voters or his  
13 or her designee shall, not later than five (5) County business days thereafter,  
14 provide the candidate a written estimate cost of the recount, and the candidate  
15 must deposit an amount equal to the cost estimate, in the form of cash, cashier's  
16 check, or money order, with the County Registrar of Voters not later than the third  
17 (3<sup>rd</sup>) County business day thereafter.

18 b. In the event the money so deposited is insufficient to pay the County  
19 Registrar of Voters' costs of completing the recount, the County Registrar of Voters  
20 shall suspend the recount and provide the candidate a written estimate of the cost  
21 of completing the recount. The candidate must deposit an amount equal to the cost  
22 estimate with the County Registrar of Voters not later than the third (3<sup>rd</sup>) County  
23 business day thereafter. In the event the County Registrar of Voters does not  
24 receive the estimated cost in the form of a cash, cashier's check, or money order  
25 deposit within such time, the recount shall be terminated, and any activities that the  
26 County Registrar of Voters undertook toward the recount shall be disregarded and  
27 have no force or effect.

28

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

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

10 ii. If the recount changes the result of the election in the favor of the  
11 candidate requesting the recount, including a resulting tie vote or breaking a tie  
12 vote, the County Registrar of Voters shall post the changed election results on  
13 its Department website and deliver the changed election results to the FCERA  
14 Retirement Administrator, pursuant to Section VII.G., herein.

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

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

27 e. Any amount of such moneys so deposited with the County Registrar that  
28 is required to be refunded, as provided herein, or in any event not spent for the

1 recount, will be refunded to the candidate within thirty (30) County business days  
2 following the completion of the election process. In the event of timely multiple  
3 requests for a recount of the election, the County Registrar shall determine  
4 whether or how to apportion any such amounts to be refunded to the requesting  
5 candidates.

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

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

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

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

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

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

17          J. Certification of Final, Official Election Results: The County Registrar of Voters or  
18          his or her designees shall complete all counting procedures for each election under Section  
19          VII.F., herein, prior to certifying the final, official election results of such election. After  
20          completing all such counting procedures for each election, the County Registrar of Voters  
21          shall, as soon thereafter as may be practicable under the circumstances at such time, certify  
22          the final, official election results of such election, and, such certification shall be the final and  
23          conclusive, official results of the election, except for any County Registrar of Voters final  
24          action, or a response, in relation to the protest under Section VIII.A.2, herein. Upon  
25          certification of the official election results of each election, the County Registrar of Voters or  
26          his or her designees shall promptly post the certified final, official election results on its  
27          Department website and deliver the certified final, official election results to the FCERA  
28          Retirement Administrator by email or hand delivery. The counting procedures and

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1 certification of the final, official election results shall be completed not later than fourteen  
2 (14) calendar days following the first day of opening the Official Return Envelopes for each  
3 such election, as applicable, provided that the time for such completion shall be extended by  
4 any additional time as may be necessary for the County Registrar of Voters to act upon or  
5 respond to any request for recount, under Section VII.H., herein, and by five (5) County  
6 business days in the event there is the need for the drawing of lots to break the tie, as  
7 provided in Section VII.I., herein.

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

14  
15 VIII. Protest; Legal Challenge.

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

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

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

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

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

C. Legal Challenge to Election and Writ of Mandate: Any legal challenge relating to, or seeking review of, any right or duty of, act or omission including any failure by FCERA Parties, the County Parties, and/or the Special District Parties, as applicable, to comply with these election procedures relating to any election of the Board of Retirement under these



1 election procedures or otherwise, shall be by writ of mandate under Code of Civil Procedure  
2 § 1085 in the Fresno Superior Court.

3  
4 IX. FCERA Posts Official Election Results.

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

19  
20 X. Swearing in the Newly Elected Member.

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

23  
24 XI. Retention of Tallied Returned Official Ballots.

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

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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.

THE FOREGOING was passed and ADOPTED by the following vote of the Board of Supervisors of the County of Fresno this \_\_\_\_ day of \_\_\_\_\_, 2019, to-wit:

AYES:

NOES:

ABSENT:

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

ATTEST:

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

By: \_\_\_\_\_  
Deputy

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