RESOLUTION - ACTION REQUESTED 2014-658

MEETING: December 16, 2014

TO: The Board of Supervisors

FROM: Keith Williams, Treasurer/Tax Collector

RE: Special Election

RECOMMENDATION AND JUSTIFICATION:
Adopt a Resolution Calling for a Special Election for the John C. Fremont Healthcare District Board of Directors Seat Pursuant to Elections Code section 10004.

The John C. Fremont Healthcare District ("District") elects their Board of Directors every even year and the election is usually consolidated with the countywide election held at the same time. A board member of the District resigned during the first half of his term in office and more than 130 days before the date of the next general district election. Pursuant to Government Code §1780(d)(1) the remaining board members appointed a new member. This seat should have been placed on the ballot for the general November 4, 2014 election; however, the District did not take the steps necessary to place the seat on the ballot by the filing deadline.

California Elections Code Section 10004 governs the District’s situation. That section provides that if the governing body of any special district “fails to call or to take any other steps necessary” to the holding of the regular district election at which any member or members of the governing body of the district are to be selected, the board of supervisors of the county in which the district is located, upon being notified of the district’s failure by any district voter, “may call a special election within the district for the selection of the governing board member.” The election to be held under section 10004 must occur within 90 days of being called by the board of supervisors and must be conducted in the same manner as a regular district election. The costs of the special election will be borne by the district. Although the language of the statute says that the County “may” call the special election, the only relevant case law interprets “may” to mean “must” in this scenario in order to effectuate legislative intent. (See Hofacker v. Board of Supervisors (1968) 264 Cal.App.2d 290.)

BACKGROUND AND HISTORY OF BOARD ACTIONS:
There is no history of Board actions regarding this matter.
ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
If the Board of Supervisors does not call for a special election it will be in violation of Election Code section 10004.

FINANCIAL IMPACT:
Additional Revenue will Offset Expenses.

ATTACHMENTS:
RESOLUTION NO       (DOCX)

CAO RECOMMENDATION
Requested Action Recommended

Mary Hodson
Mary Hodson, Interim CAO 12/10/2014

RESULT:       ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVED: Janet Bibby, District III Supervisor
SECONDED: Lee Stetson, District I Supervisor
AYES: Stetson, Jones, Bibby, Cann, Carrier
RESOLUTION NO. 14-658

A RESOLUTION OF THE MARIPOSA COUNTY BOARD OF SUPERVISORS CALLING AN ELECTION FOR MARCH 10, 2015 TO FILL AN UNEXPIRED SEAT ON THE JOHN C. FREMONT HEALTHCARE DISTRICT BOARD OF DIRECTORS

WHEREAS, Candace (Candy) Harrison was elected to the John C. Fremont Healthcare District ("District") Board of Directors with a term set to run through December 2, 2016; and

WHEREAS, Candace (Candy) Harrison resigned her position on the District effective December 18, 2012 and her replacement, Mike McCreary, was appointed to her vacated position by the District within the time frames set forth in Government Code section 1780; and

WHEREAS, Government Code section 1780(d)(2) requires the District to call an election to fill this seat held by appointment at the next regularly scheduled General Election; and

WHEREAS, the District failed to call for the election at the last regularly scheduled General Election, and therefore a special election is required to be conducted per Election Code; and

NOW, THEREFORE, BE IT RESOLVED by the Mariposa County Board of Supervisors as follows:

- The Mariposa County Board of Supervisors calls a special election for the remaining term of the seat vacated by Candace (Candy) Harrison and currently held by Mike McCreary for March 10, 2015 pursuant to Election Code section 10004; and

- That if an actual election and balloting become necessary because two or more qualified persons submit timely declarations of candidacy, the election shall be conducted by all mail ballot pursuant Elections Code section 4108; and

- The John C. Fremont Hospital District agrees to reimburse the County of Mariposa for all costs incurred in conducting the election including but not limited to the publication of the notice and candidate handling time.

PASSED AND ADOPTED by the Mariposa County Board of Supervisors this 16th day of December, 2014 by the following vote:

Ayes: Stetson, Jones, Bibby, Cann, Carrier
Noes: None
Absent: None
Abstained: None

Kevin Cann, Chairman
Board of Supervisors

ATTEST:

Rene LaRoche, Clerk of the Board

APPROVED AS TO FORM:

Steven W. Dahlem, County Counsel
December 10, 2014

Rene' LaRoche, Board Clerk
Board of Supervisors
P.O. Box 784
Mariposa, CA 95338-0784

Dear Rene',

Even though you do not require it – our Board approved a resolution at our last board meeting to ask your Board to go ahead with the special election. See enclosed resolution.

Please do not hesitate to call me if you need anything further (966-3631, x271)

Thank you,

Kym Brownell,
Executive Assistant to the CEO & Board Clerk
BEFORE THE BOARD OF DIRECTORS OF THE
JOHN C. FREMONT HEALTHCARE DISTRICT

RESOLUTION 15-14

RESOLUTION IN SUPPORT OF CALL FOR SPECIAL ALL MAIL BALLOT ELECTION

The Board of Directors of the John C. Fremont Healthcare District does hereby resolve as follows:

WHEREAS, a vacancy was created on the Board of Directors of the John C. Fremont Healthcare District on December 18, 2012 and filled by interim appointment on January 30, 2013 pursuant to Government Code Section 1780(d)(1).

WHEREAS, no election to fill the remaining term of that vacancy was held at the next regularly scheduled general district election on November 4, 2014.

WHEREAS, Elections Code Section 10004 provides that if an election to fill a seat on the governing body of a special district at the appropriate election date fails to occur, the board of supervisors of the county in which the district is located shall call a special election for the selection of the governing board member.

Whereas Elections Code 4108 permits any healthcare district election to be conducted by all-mailed ballot notwithstanding any other provisions of law and regardless of the number of eligible voters within its boundaries.

NOW THEREFORE, BE IT RESOLVED AS FOLLOW:

RESOLVED, that the Board of Directors of the John C. Fremont Healthcare District supports an all-mailed special ballot election called by the Board of Supervisors of the County of Mariposa pursuant to the County’s authority contained in Section 10004 of the Elections Code of the State of California.

BE IT FURTHER RESOLVED, that pursuant to Elections Code section 10002, the Board of Directors of the John C. Fremont Healthcare District hereby requests the Board of Supervisors of the County of Mariposa to authorize the Mariposa County Elections Official to render all services required to be performed for the conduct of said special election. Said services include, but are not limited to:

- Publication of Notices calling the election
- Provision of voter lists
- Preparation, printing, and mailing of ballots
- Counting of ballots
- Certification of election
- All aspects of election not specified above that may be agreed upon by the County Clerk and the Secretary of the District
BE IT FURTHER RESOLVED, that the District Chief Executive Officer or his designate(s) are hereby authorized to execute any other document and to perform all acts necessary to place the vacancy on the ballot including signing a services agreement with Mariposa County, and to comply with requirements of law and election officials.

BE IT FURTHER RESOLVED, that the John C. Fremont Healthcare District shall reimburse the County of Mariposa for all costs and expenses incurred by the County in conducting said election upon presentation of a bill to the District and in compliance with any service agreement that may be entered into between the District and the County.

BE IT FURTHER RESOLVED, that the District Secretary is hereby authorized and directed to file a copy of this Resolution with the Board of Supervisors and the County Clerk upon its adoption by the Board of Directors of the John C. Fremont Healthcare District.

PASSED AND ADOPTED this 25th day of November, 2014, by the following votes:

AYES: Prue, Farquhar, O'Donnell, Browne & McCready

NOES: None

ABSENT: Wood

Carl Wood, R.Ph.,
Secretary-Treasurer of the Board of Directors of the
John C. Fremont Healthcare District

Samuel M. McCreary, Ph.D.,
Chair of the Board of Directors of the
John C. Fremont Healthcare District