

REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE TUSCAN WATER DISTRICT

Wednesday, July 17, 2024; 9:00 a.m.

Chico State University Farm, 311 Nicholas C Schouten Lane, Room 104, Chico, CA 95928

Any materials related to an item on this Agenda are available for public inspection online at <https://www.tuscanwaterdistrict.org/>

AGENDA

1. Call to Order, Roll Call, and Pledge of Allegiance
2. Consider Meeting Minutes for the TWD Board Meeting on June 19, 2024
3. Consider Resolution honoring retired board member Ed McLaughlin
4. Financial Issues:
 - a. Updates: bank account, EIN, cash on hand, status of invoice payment
 - b. Current Invoices:
 - i. Legal services
 - ii. Staff support
5. Consider Resolution requesting Board of Supervisors to establish electoral divisions
6. Authorize President to sign contracts for Proposition 218 services:
 - a. Provost: Proposal & Consultant Services Agreement
 - b. MK Elections: Proposal & Consultant Services Agreement
7. Updates:
 - a. LAFCO Condition 6(b) – Municipal Services Review
 - b. LAFCO Condition 13 – MOUs with Vina GSA and Butte Basin GSA
 - c. TWD Policy Development
 - i. Conflict of interest
 - ii. Voluntary landowner contribution
 - iii. Charitable contributions
 - d. Website
 - e. Ethics & Brown Act Training
 - f. Form 700s
 - g. Meeting with Rock Creek Reclamation District Board of Directors
8. Announcements and reports from Board members.
9. Requests of Board members for future agenda topics.
10. Public Comment: Members of the public may address the Board at this time on any matter not already listed on the agenda. The Board reserves the right to limit each comment to three minutes per speaker. The Board cannot take any action at this meeting on requests made under this section of the agenda.

NOTES

In compliance with the American with Disabilities Act, if you need disability-related modifications or accommodations, including auxiliary aids or services, to participate in this meeting, please email info@tuscanwaterdistrict.org by Noon on Tuesday prior to this meeting.

Written material related to an item on this agenda that is distributed less than 72 hours prior to this meeting to at least a majority of the members of the legislative body will be available for inspection during the meeting at North Valley Agricultural Services, 4936 Bell Road, Chico, CA 95973.

Written material distributed during a public meeting will be available for public inspection at the meeting, if prepared by the District or a member of its legislative body, or after the meeting if prepared by some other person.

MINUTES OF THE TUSCAN WATER DISTRICT

Meeting of Wednesday, June 19, 2024; 9:00 a.m.

Chico State University Farm, 311 Nicholas C Schouten Lane, Room 104, Chico, CA 95928

MEETING MINUTES**The meeting was called to order at 9:01 a.m.****Roll Call:**

- Board members present: Steve Koehnen (presided), Andrew Mendonca, Craig Knight, Brian Mori, James Paiva Jr., Todd Turley, Rayme Antonowich. (Bill Chance joined the board during item 2d.)
- Board members absent: Rich McGowan
- Public Present: Dillon Raney, Bill Chance, Lance Atkins, Mike Sohnrey, Emily Alma, Kamie Loeser, Catherine Hansen (by Zoom, presenter)

Item 2a: Meeting Minutes for the TWD Board Meeting on May 15, 2024.

- Public comment: None
- Approved 7-0 - Turley Motion, Mori Second.

Item 2d: TWD Vacancy

- Bill Chance, Lance Atkins and Mike Sohnrey attended and provided a brief recap of their experience and interest in being appointed to the Board.
- District Counsel provided context about the appointment process.
- Koehnen opened the floor to nominations.
- Antonowich nominated Mike Sohnrey. Todd Turley nominated Lance Atkins. Andrew Mendonca nominated Bill Chance.
- Board voted 7-0 to close Nominations. Antonowich motion, Mori second.
- Steve opened the floor to discussion.
- Mori asked the candidates to explain their water experience. Todd confirmed that all 3 nominations own land in the district.
- District counsel called for a roll vote: Bill Chance was appointed with 5 votes
- Koehnen thanked all 3 candidates for applying.

Item 2bi: Resolution to authorize opening a bank account and signatories

- Public comment: None
- Amendment: 2 signatures required; 4 signatories (President, Treasurer, Vice President, Secretary)
- Approved 8-0, with amendment – Antonowich motion, Knight second.

Item 2bii – Legal Services Agreement with District Counsel Joe Hughes

- Board question re: rates - \$395/hr is the Water District rate.
- Public comment: None
- Approved 8-0, Mori motion, Turley second.

Item 2biii – Payment of invoices, subject to funding

- Public comment: None.
- Approved 8-0, all 3 invoices – Antonowich motion, Mendonca second.

Item 2c – Resolution to detach territory

- District staff provided background and clarified which parcels would be removed, per question from Mendonca.
- Public comment: None
- Approved 8-0, Mori motion, Rayme second.

Item 3a – Staff provided brief updates regarding:

- LAFCO Conditions 6(b) – Municipal Services Review – update only
- LAFCO Condition 9 – Divisions (Resolution, Map preparation) – update only
- LAFCO Condition 13 – MOU with Vina GSA and Butte Basin GSA – update only
- TWD Policies – Voluntary Landowner Contribution, Charitable/Sponsorship Contribution
 - Board members asked for staff/counsel to prepare draft policies and run by Finance Ad Hoc for review prior to returning to board for approval
- SWEEP Grant – update only

Item 3b – Vina GSA Fee Study

- Vina GSA staff and consultants provided an update on the Vina GSA Fee Study. Attached is the presentation that was used.
- Staff is kicking of an outreach process.

Item 4 – Announcements and Reports from Board members – None.

Item 5 – Request of Board members for future agenda topics

- Finish Ethics and Brown Act training at the July or August board meeting

Item 6 – Public Comment – None.

Item 7 – Closed Session

- The Board held a closed session with legal counsel to discuss anticipated litigation under Government Code, § 54956.9(d)(2). No reportable action was taken.

Meeting adjourned: 11:45 a.m.



VINA GSA Board of Directors

Fee Study

June 26, 2024

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1

Today's Objectives

- Present and Discuss
 - Fee Study Goals
 - Funding Pathways
 - Fee Structure Options
 - Case Study Research
- Fee Study Timeline

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Fee Study Goals

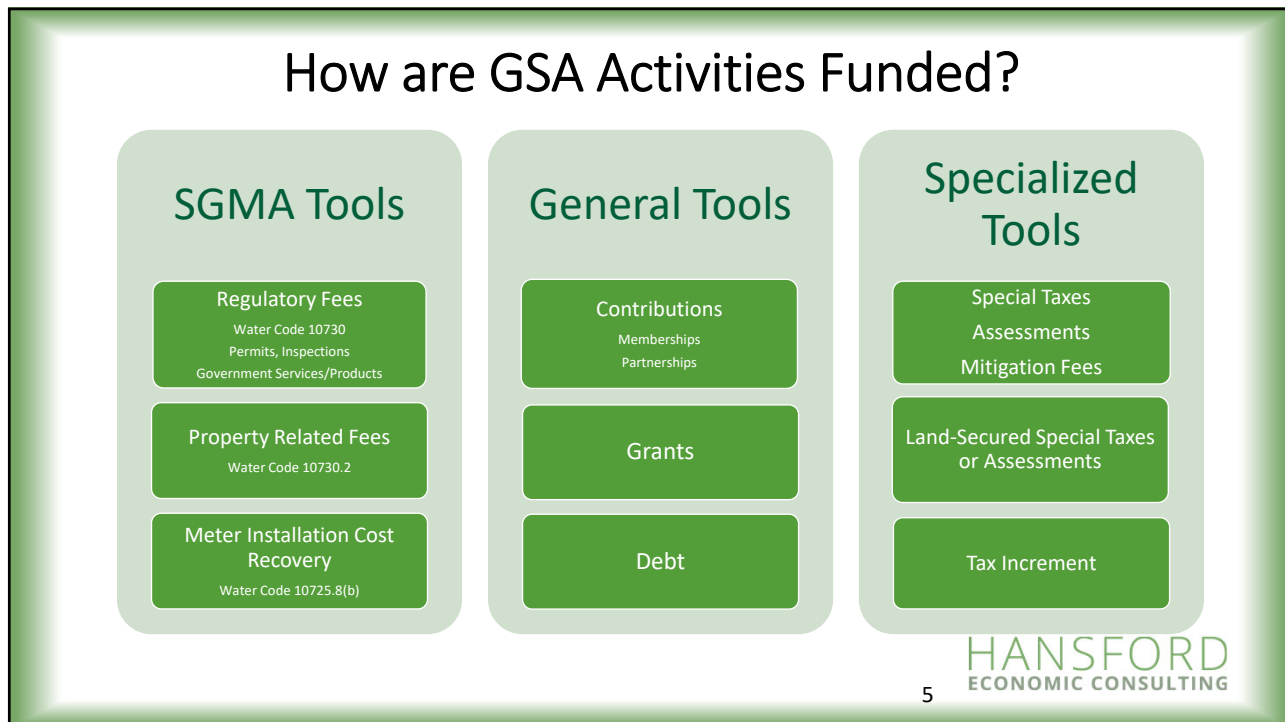
1. **Establish a fee that more accurately considers the diverse groundwater users and land uses within the GSA's boundaries**
2. Examine all fee setting options allowable under SGMA that are legally defensible
3. Secure a fee structure that generates a sufficient, stable revenue stream based on best available data and developed information
4. Secure a fee structure adopted with maximum buy-in from fee payors
5. Demonstrate due diligence to incorporate input and knowledge received during the outreach process into the fee-setting process

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Funding Pathways

4
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Decide Purpose of the New Fee

Regulatory Activity Only

- Report to the Department of Water Resources on mandated items
- Document well and pumping activity
- Conduct studies and run programs
- Fill data gaps (monitoring wells, weather stations etc.)
- Inspections/enforcement of regulations adopted by the GSA
- General program administration expenses

Management Activity

- Land acquisition for projects
- Build projects (recharge basins, surface water delivery pipelines etc.)
- Be a water provider

PROP
26

PROP
218

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ITEM 2

| | Regulatory Fee (Prop 26) | Property-Related Fee (Prop 218) |
|-------------------------|---|---|
| Capital Projects | Cannot fund | Can fund capital projects |
| Nexus | Must demonstrate reasonableness (\$ for the activity and burden to benefit received) | Must demonstrate reasonableness and meet 5 requirements in a cost-of-service study : 1. Revenues shall not exceed funds required to provide the service 2. Revenues shall not be used for any other purpose than for what the fee was imposed for 3. The fee is an incident of property ownership and must not exceed proportional cost-of-service attributable to the parcel 4. Service must be used by, or immediately available to, the owner of the property charged 5. Service is not available to the public at large |
| Noticing | Public noticing 14 days before the hearing in newspaper(s) and materials on VGSA website 20 days before | Notice mailed to every owner of record on the last equalized roll at least 45 days before the public hearing |

| | Regulatory Fee (Prop 26) | Property-Related Fee (Prop 218) |
|----------------------|--|--|
| Customer Vote | No vote / no ballot | No vote / no ballot Can protest (1 per parcel) |
| Adoption | Resolution or Ordinance | Resolution or Ordinance upon finding there is <u>not</u> a majority protest |
| Adjustments | Can adjust whenever needed by following the noticing and adoption requirements Consideration of annual inflation adjustment recommended in resolution | Maximum fees are set for the period noticed, or maximum fees could be indexed for up to 5 years New process required at end of the period noticed |

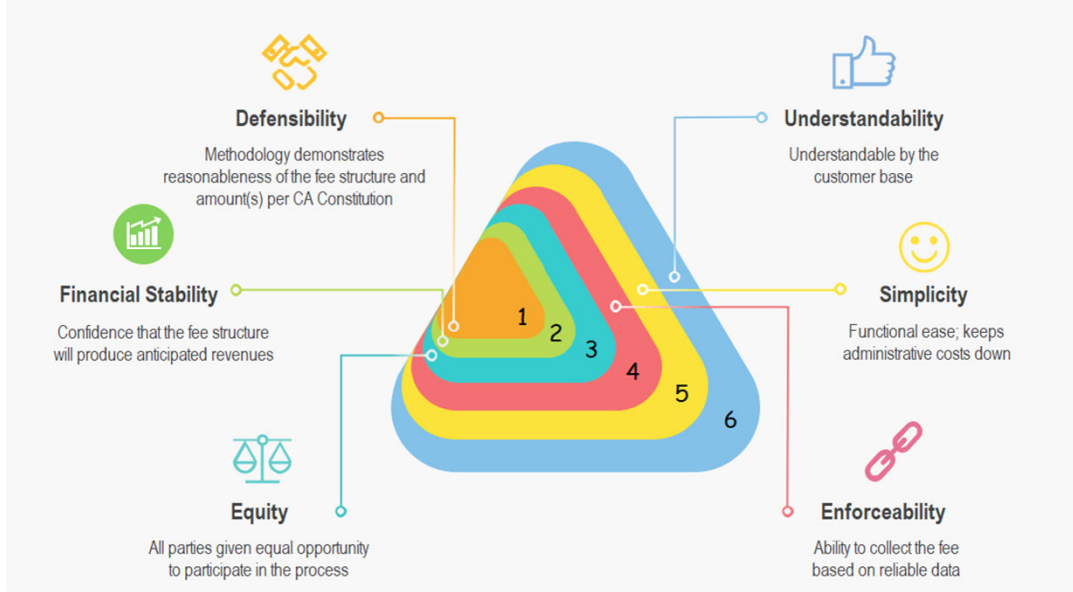


Fee Structure Options

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Vina Board Considerations



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Fee Structure Options

- Wellhead Fee
- Parcel Fee
- Acreage Fee
- Point of Connection Fee
- Extraction Fee
- Hybrid – combination of options

Fee Structure can have a base fee or minimum fee

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Case Study Research

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Researched GSAs (with a 10730 or 10730.2 Fee)

Northern California (16)

- Merced Subbasin
- Sonoma County (3 GSAs)
- Madera County (3 GSAs)
- Merced Irrigation-Urban
- Corning Subbasin
- Wyandotte
- Sacramento Central Groundwater Authority
- Solano Groundwater Authority
- Ukiah Valley Basin
- Salinas Valley Basin
- Colusa Groundwater Authority
- Tehama County

Southern California (9)

- McMullin Area
- Kings River East
- Indian Wells Valley
- Fillmore and Piru Basins
- Cuyama Basin
- Tri-County Water Authority
- Mound Basin
- Carpinteria
- Montecito Groundwater Basin

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Fee Pathway and Structure

Pathway

- ❖ 15 are Prop. 26 Fees
- ❖ 11 are Prop. 218 Fees (1 GSA has both a 26 fee and a 218 fee)

Structure

- ❖ 10 are extraction-only fee
- ❖ 12 have acreage-only fee
- ❖ 3 have hybrid fee (2 of which have base fees)

Note: GSAs with fees under injunction, or for a basin that is in probation, and GSAs with assessments were excluded.

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Summary of Researched GSA Fee Information

| | Extraction | Acreage | Hybrid |
|-----------------|----------------------------|---------------------------------|---------------------------------|
| PROP 26 | Mound Basin GSA | Merced Irrigation-Urban GSA | Salinas Valley Basin GSA |
| | Sonoma Valley GSA | Chowchilla (Madera Co. GSA) | Ukiah Valley Basin GSA |
| | Santa Rosa Plain GSA | Delta-Mendota (Madera Co. GSA) | |
| | Petaluma Valley GSA | Madera (Madera Co. GSA) | |
| | Fillmore & Piru GSA | Tehama County GSA | |
| | Cuyama Basin GSA | | |
| | Indian Wells Valley GSA | | |
| | Kings River East GSA | | |
| PROP 218 | Tri-County Water Authority | McMullin GSA | Sacramento Central GW Authority |
| | Indian Wells Valley GSA | Merced Subbasin GSA | |
| | Carpinteria GSA | Montecito Groundwater Basin GSA | |
| | | Solano Groundwater Authority | |
| | | Corning Subbasin GSA | |
| | | Wyandotte GSA | |
| | | Colusa Groundwater Authority | |
| | | | |

The 3 Sonoma GSAs & Carpinteria GSA are the only researched GSAs that place extraction fees on property tax bills

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How is the Fee Best Determined?



Considerations of:

- ❖ Reasonable relationship between the charge and benefit received
- ❖ Resources capabilities of the GSA to implement the fee
- ❖ Disparities in ability to pay
- ❖ Language and cultural barriers

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Summary Points

Researched GSA Fee Studies

Many of the fee studies that have been completed confuse assessments / engineer's reports, property-related fees / cost-of-service studies, and regulatory fees / fee studies

Comparison fees are not necessarily good for reference. VGSA should create a fee structure that works best for all the beneficiaries in VGSA; it could be unique to VGSA.

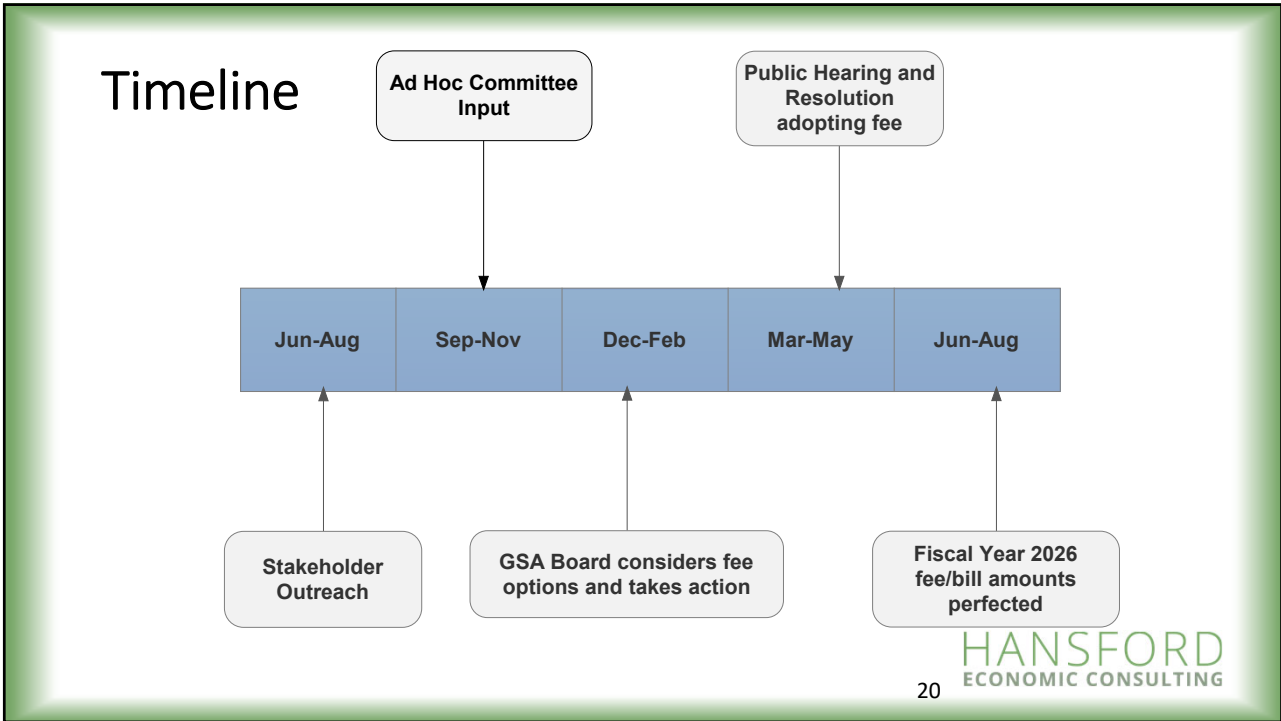


Fee Study Timeline

Fee Study Progress

| Item | Action | Percent Complete |
|---|---|------------------|
| Authorization to Proceed | March 2024 Board Meeting | |
| Data Gathering | Ongoing | 75% |
| Development of Interactive Web Map for Data Interpretation & Analysis | Prepared; the map will continue to be updated until the project is complete, when it will be published on the GSA's website | 80% |
| Outreach Plan | Complete | 100% |
| Case Studies Research | Complete | 100% |
| Stakeholder Meetings | In Progress | |

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Contact Information

Technical Questions:

Catherine Hansford

(530) 412-3676

catherine@hansfordecon.com

Process & Management:

Dillon Raney

(530) 552-3589

draney@buttecounty.net

Outreach:

Schaelene Rollins

(916) 397-1915

rollinsprconsulting@gmail.com

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**RESOLUTION NO. 2024-06****A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
TUSCAN WATER DISTRICT HONORING ED MCLAUGHLIN**

WHEREAS, Ed McLaughlin's leadership in agriculture began early, serving as a State FFA Officer and Treasurer in 1966, and later graduating from the Agricultural Leadership Program with Class 11; and

WHEREAS, He has shown exceptional dedication to the agricultural community, serving as Butte County Farm Bureau President from 1982 to 1984, remaining on the board until 2009, and continuing as an active member of the Land Use Committee; and

WHEREAS, Mr. McLaughlin represented agricultural interests as a California Farm Bureau Federation Delegate in the 1980s; and

WHEREAS, His commitment to public service is exemplified by his tenure on the Butte County Board of Supervisors from 1984 to 1996, including multiple terms as Chair; and

WHEREAS, He has demonstrated ongoing dedication to community development through his service on the Butte County Code Enforcement Advisory Board; and

WHEREAS, Mr. McLaughlin has shown a long-standing commitment to youth and education, serving as President of the Durham Unified School District Board of Trustees since his election in 2012, and as a founding member of the Chico High School Friends of Agriculture in 2007; and

WHEREAS, He has been a tireless advocate for the agricultural community, serving on the Silver Dollar Fair Board of Directors from 1998 to 2023 by Governor's appointment, including multiple terms as President; and

WHEREAS, Mr. McLaughlin has been instrumental in promoting local agriculture through his involvement with the Butte County Farm City Week Celebration Committee and as a Bus Tour Organizer to showcase agriculture in Northern California; and

WHEREAS, He has shown leadership in addressing critical water issues as a founding member of the Agricultural Groundwater Users of Butte County in 2017, working to implement the Sustainable Groundwater Management Act, and as a petitioner to form the Tuscan Water District from 2020 through 2024; and

WHEREAS, Mr. McLaughlin's contributions have been widely recognized, including receiving the 1995 Farm City Celebration Ag Service Award, being named the 1997 Butte County Farm Bureau Member of the Year, and receiving the 2020 Butte County Farm Bureau

Workboots Award; and receiving the California Ag Leadership Foundation Lifetime Leadership Award in 2024; and

WHEREAS, His service extends to numerous community organizations, consistently demonstrating a commitment to the betterment of Butte County and its agricultural community throughout his career; and

WHEREAS, Mr. McLaughlin was a founding member of the Butte County Tuscan Water District, demonstrating his ongoing commitment to water management in the region;

NOW, THEREFORE, BE IT RESOLVED that the Tuscan Water District hereby expresses its profound gratitude and appreciation to Ed McLaughlin for his invaluable service, leadership, and dedication to the district, the agricultural community, and the broader Butte County community;

BE IT FURTHER RESOLVED that this resolution be presented to Ed McLaughlin as a token of the district's esteem and gratitude for his years of service and contributions to water management, agriculture, education, and community development in Butte County.

PASSED AND ADOPTED this 17th day of July, 2024, by the Board of Directors of the Tuscan Water District.

Rich McGowan, President

Steve Koehnen, Vice President

Rayme Antonowich, Secretary

Andrew Mendonca, Treasurer

James Paiva Jr., Board Member

Todd Turley, Board Member

Craig Knight, Board Member

Brian Mori, Board Member

Bill Chance, Board Member

ITEM 4
Financial Issues

| TWD LEDGER | Approved 6/19 | Pending Approval | |
|--------------------------------------|--------------------|---------------------|---------------------|
| Expense | Apr - May | May - Jun | Total |
| District Counsel activities | \$ 1,350.00 | \$ 10,098.50 | \$ 11,448.50 |
| District Staff activities | \$ 3,500.00 | \$ 3,500.00 | \$ 7,000.00 |
| Website | \$ 1,700.00 | \$ - | \$ 1,700.00 |
| LAFCO Deposit for Condition 6(b) MSR | \$ 3,000.00 | \$ - | \$ 3,000.00 |
| MKE Elections | \$ - | \$ 3,000.00 | \$ 3,000.00 |
| Totals, as of July 14, 2024 | \$ 9,550.00 | \$ 16,598.50 | \$ 26,148.50 |

Other Updates:

Bank Account at NCNB opened week of July 8

EIN secured week of July 8

Cash on Hand - Verbal update

June 28, 2024

RICHARD MCGOWAN
30 INDEPENDENCE CIRCLE #300
CHICO, CA 95973

Invoice No. 1228715
Client No. 24618
Matter No. 001
Billing Attorney: JDH

INVOICE SUMMARY

For Professional Services Rendered for the Period Ending: June 19, 2024.

RE: TUSCAN WATER DISTRICT
GENERAL BUSINESS

| | |
|---------------------------|----------------------------|
| Professional Services | \$ 10,098.50 |
| Costs Advanced | <u>\$.00</u> |
| TOTAL THIS INVOICE | \$ 10,098.50 |
| Prior Balance | <u>\$ 1,350.00</u> |
| TOTAL BALANCE DUE | <u>\$ 11,448.50</u> |

Invoice No. 1228715

June 28, 2024

PROFESSIONAL SERVICES

| Date | Init | Description | Hours | Amount |
|---------|------|---|-------|----------|
| 5/22/24 | BCS | DRAFTED LEGAL SERVICES AGREEMENT. | .80 | 184.00 |
| 5/30/24 | JDH | CONFERENCE WITH R. MCGOWAN, T. GIEZENTANNER, AND PROVOST & PRITCHARD REGARDING REVENUE OPTIONS. | 1.10 | 434.50 |
| 6/03/24 | RMS | RESEARCHED PROP 218 ISSUES; TELEPHONE CONFERENCE WITH J. HUGHES REGARDING SAME. | 1.00 | 395.00 |
| 6/10/24 | RMS | CONTINUED RESEARCH ON PROP 218 ISSUES, SPECIAL TAXES AND ASSESSMENTS. | 5.20 | 2,054.00 |
| 6/11/24 | RMS | CONTINUED RESEARCH ON PROP 218 ISSUES; E-MAILED J. HUGHES REGARDING SAME. | 4.10 | 1,619.50 |
| 6/12/24 | JDH | CONFERENCE WITH B. SHERFY REGARDING ASSESSMENT RESEARCH. | .30 | 118.50 |
| 6/13/24 | JDH | CONFERENCE WITH B. SHERFY REGARDING ASSESSMENT ISSUES. | .40 | 158.00 |
| 6/13/24 | RMS | FURTHER RESEARCH ON PROP 218 ISSUES; TELEPHONE CONFERENCE WITH J. HUGHES REGARDING SAME. | 1.90 | 750.50 |
| 6/17/24 | RMS | CONTINUED RESEARCH ON PROP 218 ISSUES; PREPARED ANALYSIS AND SENT TO J. HUGHES. | 5.20 | 2,054.00 |
| 6/18/24 | JDH | PREPARED PRESENTATION REGARDING ASSESSMENT VS. SPECIAL TAX. | 2.10 | 829.50 |
| 6/19/24 | JDH | ATTENDED JUNE REGULAR BOARD MEETING; PREPARED PRESENTATION FOR SAME. | 3.80 | 1,501.00 |

TOTAL PROFESSIONAL SERVICES

\$ 10,098.50

SUMMARY OF PROFESSIONAL SERVICES

| Name | Init | Rate | Hours | Total |
|-----------------|------|--------|--------------|---------------------|
| SIRHALL, BAILIE | BCS | 230.00 | .80 | 184.00 |
| SHERFY, ROBERT | RMS | 395.00 | 17.40 | 6,873.00 |
| HUGHES, JOSEPH | JDH | 395.00 | 7.70 | 3,041.50 |
| Total | | | 25.90 | \$ 10,098.50 |

TOTAL THIS INVOICE

\$ 10,098.50

Invoice No. 1228715

June 28, 2024

OUTSTANDING INVOICES

| Invoice No. | Date | Invoice Total | Payments Received | Ending Balance |
|-------------|---------|---------------|-------------------|----------------|
| 1227963 | 6/14/24 | 1,350.00 | .00 | 1,350.00 |

PRIOR BALANCE \$ 1,350.00

Balance Due This Invoice \$ 10,098.50

TOTAL BALANCE DUE \$ 11,448.50

AGED ACCOUNTS RECEIVABLE

| Current - 30 | 31 - 60 | 61 - 90 | 91 - 120 | Over 120 | Total |
|--------------|---------|---------|----------|----------|-------------|
| \$ 1,350.00 | \$.00 | \$.00 | \$.00 | \$.00 | \$ 1,350.00 |

June 28, 2024

RICHARD McGOWAN
30 INDEPENDENCE CIRCLE #300
CHICO, CA 95973

Invoice No. 1228715
Client No. 24618
Matter No. 001
Billing Attorney: JDH

REMITTANCE

RE: TUSCAN WATER DISTRICT
GENERAL BUSINESS

| | |
|---------------------------------|----------------------------|
| BALANCE DUE THIS INVOICE | \$ 10,098.50 |
| Prior Balance | <u>\$ 1,350.00</u> |
| TOTAL BALANCE DUE | <u>\$ 11,448.50</u> |

All checks should be made payable to:
(Please return this advice with payment.)

Klein DeNatale Goldner
10000 Stockdale Hwy, Suite 200
Bakersfield, CA 93311

For payment by wire in USD:
(Please reference:
Client-Matter No. 24618-001,
Invoice No. 1228715)

J.P. Morgan Chase
Account No. 825707620
ABA No. 322271627

To pay by credit card, click here --->: [Pay Now](#) or call Accounting at (661) 395-1000.

DUE UPON RECEIPT

FEDERAL I.D. No. 95-2298220

Thank you! Your business is greatly appreciated.

ITEM 4
INVOICE

Giezentanner & Associates
698 East 5th Street
Chico, California 95928
United States

BILL TO
Tuscan Water District
30 Independence Circle
Chico, California 95973
United States

Invoice Number: 20201275

Invoice Date: July 14, 2024

Payment Due: August 13, 2024

Amount Due (USD): \$3,500.00

| Items | Quantity | Price | Amount |
|--|----------|------------|------------|
| Service May 20 to June 19, 2024 - For District staff support services as follows: - LAFCO Conditions of Approval compliance - Logistical and financial issues - Board meeting prep and follow up - Meetings and communication with board members & Ad Hoc committees | 1 | \$3,500.00 | \$3,500.00 |

Subtotal: \$3,500.00

Total: \$3,500.00

Amount Due (USD): \$3,500.00

| | |
|---|--|
| <ul style="list-style-type: none"> • Post office box setup | \$850 fee \$200 (approx.) for box rental, \$300 driving miles from Merced, lunch |
| <ul style="list-style-type: none"> • Business Reply Mail (if desired) | \$300 for use of MKE permit \$1.73 per piece for returned mail |
| Offset printing estimates, based on 1100 pieces (including overs) <ul style="list-style-type: none"> • Outgoing #10 window envelope • Return #9 envelope • Information sheet (one 8 ½ x 11, two-sided) | \$872 |
| Digital printing estimate, based on 1000 ballots or consolidated packages <ul style="list-style-type: none"> • Ballots • Consolidated Ballot information pages | \$320 |
| Mailing services for 1000 ballot packages (includes insertion, sealing, delivery, and outgoing first class postage) | \$910 |
| Replacement ballot service, per piece | \$6.00/piece plus postage; \$15/piece if recalculation of data is required. (Est. \$288 based on previous election.) |
| Travel and meals Two people, driving miles from Merced, meals, most likely one overnight | \$1000 |
| Estimated total Includes outgoing postage but does not include return postage as quantity is hard to predict. Includes business reply mail setup. | \$11,752 |

Terms

\$3000 deposit on signing of contract

Balance to be invoiced at end of project, due 20 days from sending of invoice



RESOLUTION NO. 2024-07

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE TUSCAN WATER DISTRICT
REQUESTING THE BUTTE COUNTY BOARD OF SUPERVISORS TO ESTABLISH ELECTORAL
DIVISIONS PURSUANT TO WATER CODE SECTIONS 35025 AND 35026
UTILIZING THE DISTRICT PREPARED MAP**

WHEREAS, the Tuscan Water District ("District") was formed by the Butte Local Agency Formation Commission ("LAFCO") on February 1, 2024, subject to certain terms and conditions; and

WHEREAS, LAFCO Condition No. 9 requires that within six months from the date of recording the Certificate of Completion, the District's Board of Directors shall adopt a resolution requesting the Butte County Board of Supervisors to establish electoral divisions based on equal size (acres) and the boundaries thereof in accordance with Water Code sections 35025 and 35026; and

WHEREAS, the number of divisions shall be equal to the number of directors, which is nine (9); and

WHEREAS, the District has prepared a map depicting the proposed nine (9) electoral divisions of equal size in acres, which complies with the requirements of Water Code sections 35025 and 35026, a copy of which is attached hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, the District desires to comply with LAFCO Condition No. 9 by requesting that the Butte County Board of Supervisors establish the nine (9) electoral divisions as depicted in the District prepared map.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Tuscan Water District as follows:

1. The Board of Directors hereby requests that the Butte County Board of Supervisors establish nine (9) electoral divisions for the Tuscan Water District based on equal size in acres, utilizing the boundaries as set forth in the map prepared by the District and attached hereto as Exhibit A, in accordance with Water Code sections 35025 and 35026.
2. The Board of Directors further requests that the Butte County Board of Supervisors take such actions as may be necessary to establish the electoral divisions and boundaries as depicted in Exhibit A as soon as practicable.

3. The Board of Directors directs District staff to cooperate with the Butte County Board of Supervisors and provide any requested information to assist in the establishment of the electoral divisions and boundaries.
4. The Board of Directors directs staff to transmit a copy of this resolution and the attached map (Exhibit A) to the Butte County Board of Supervisors and the Butte Local Agency Formation Commission.
5. This resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED by the Board of Directors of the Tuscan Water District on July 17, 2024, by the following vote:

AYES:
NOES:
ABSENT:
NOT VOTING:

Rich McGowan, President
Tuscan Water District Board of Directors

ATTEST:

Tovey Giezentanner, Interim General Manager
Tuscan Water District

CERTIFICATE OF SECRETARY

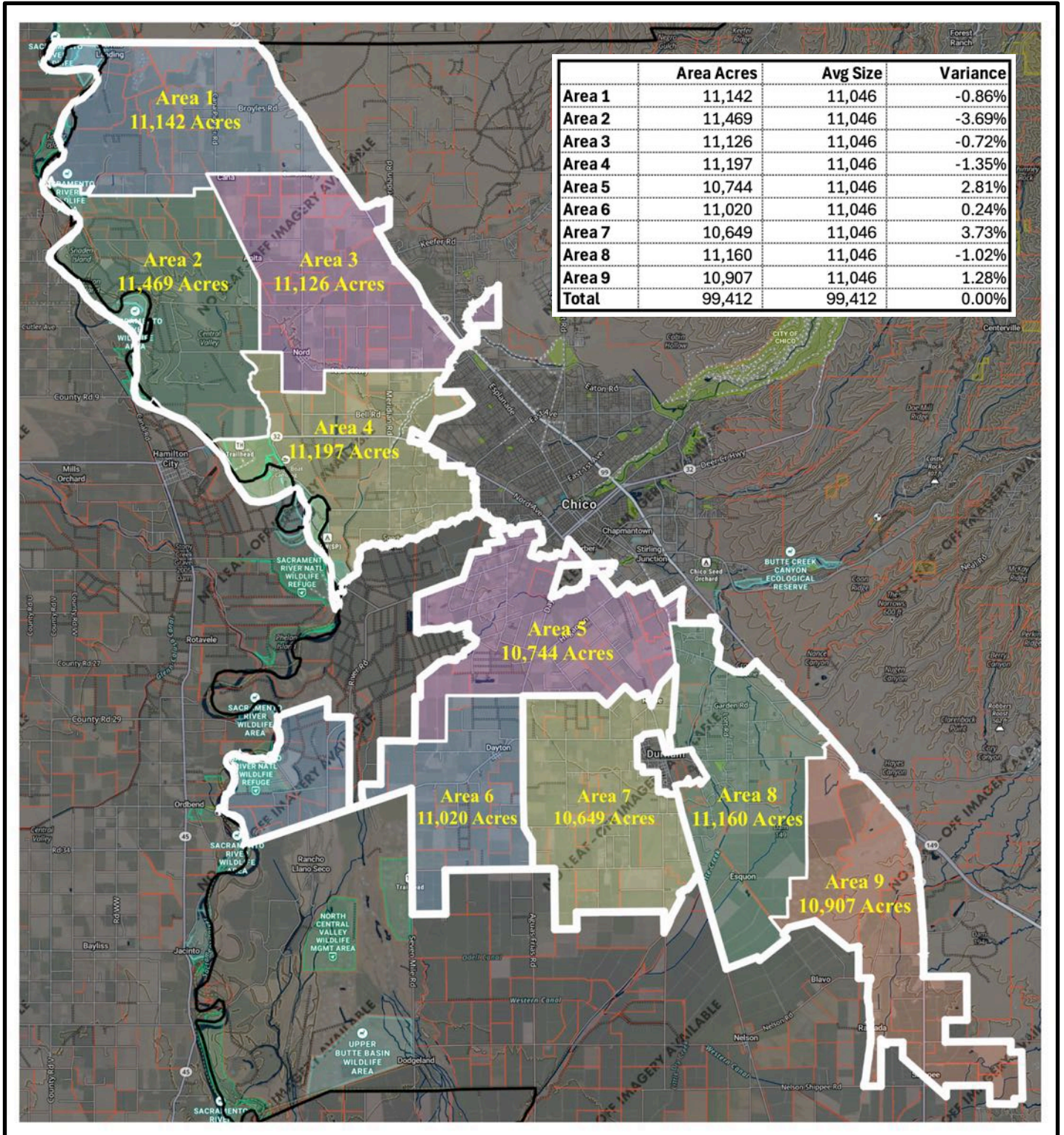
The undersigned, Secretary of the Tuscan Water District, hereby certifies that the foregoing Resolution was duly passed and adopted by the Board of Directors of said District at a regular meeting held on July 17, 2024, at which meeting a quorum of the Board of Directors was at all times present and acting.

IN WITNESS WHEREOF, I have set my hand this 17th day of July 2024.

Raymond Antonowich, Secretary
Tuscan Water District Board of Directors

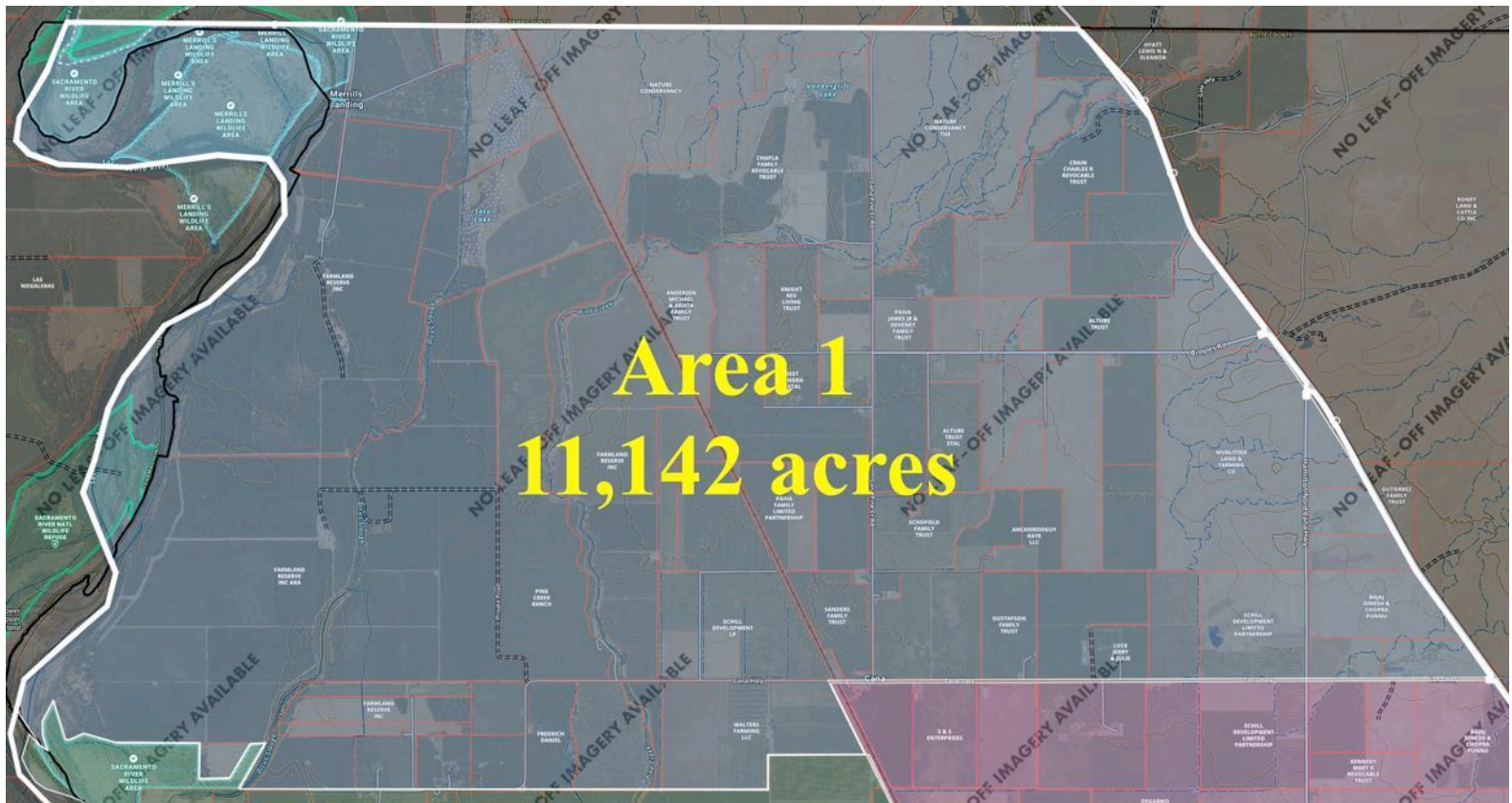
ITEM 5 - EXHIBIT A

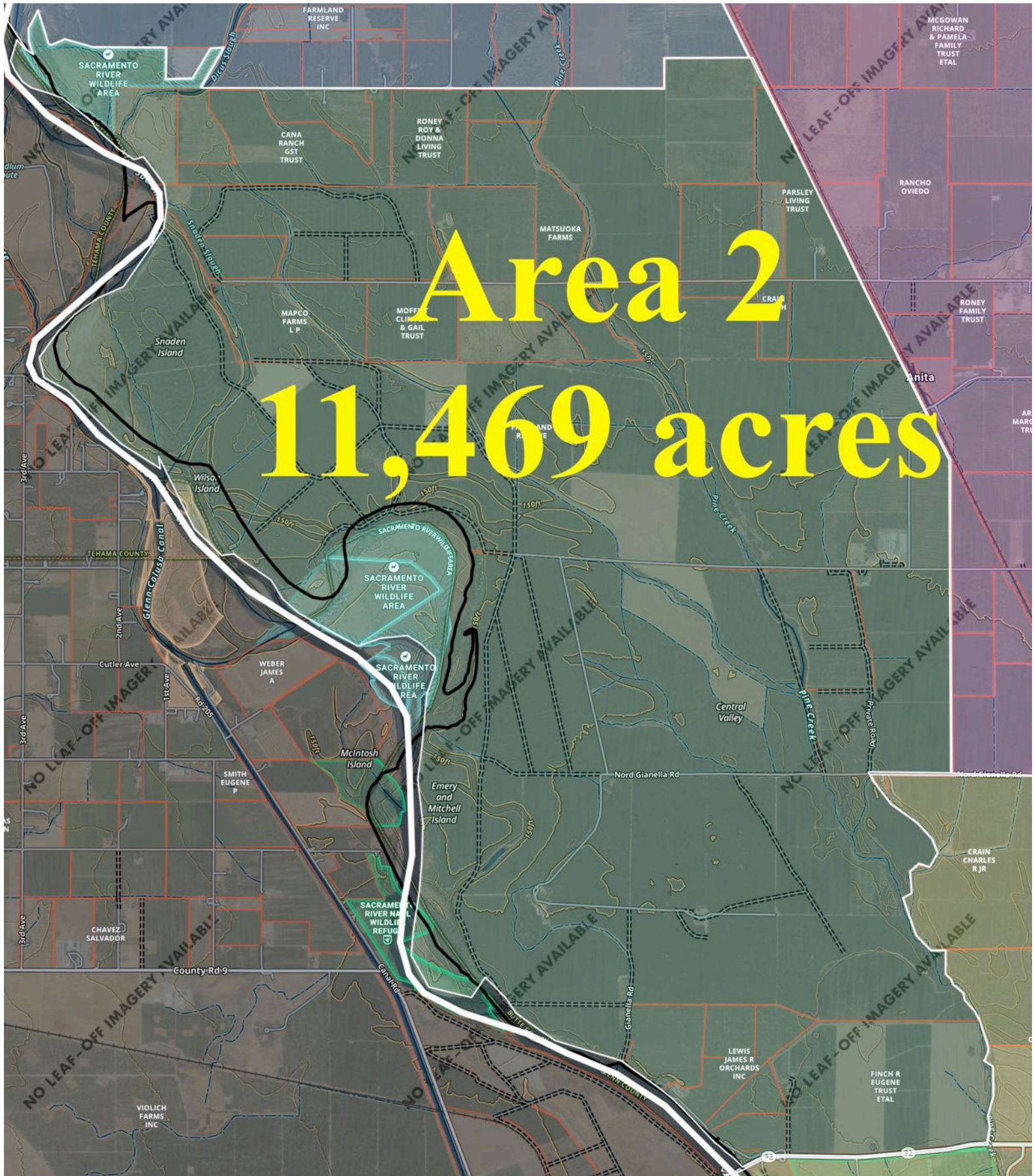
Tuscan Water District Proposed Nine Voter Areas



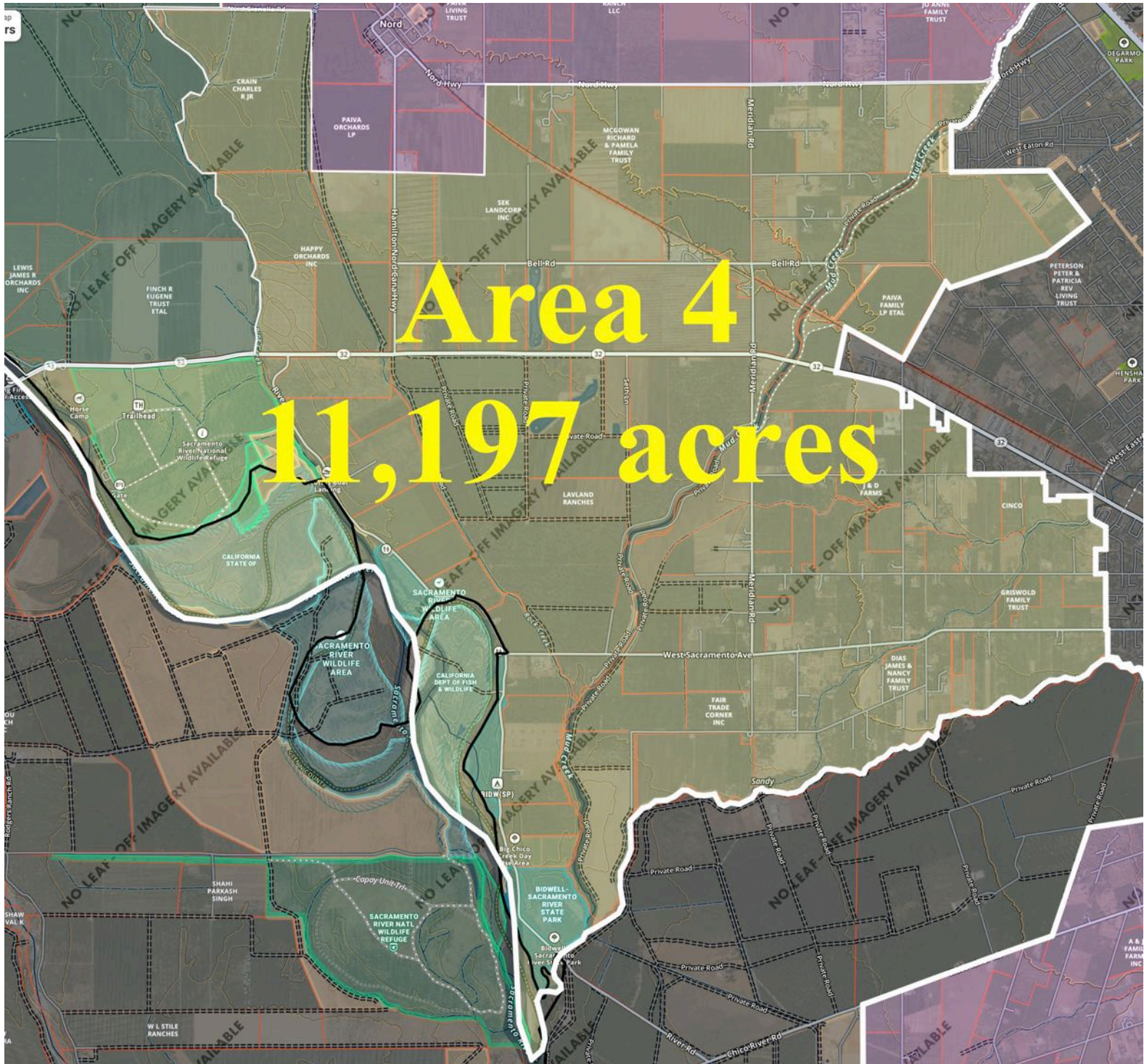
View the proposed map here:
[Proposed Nine Voter Areas](#)

ITEM 5 - EXHIBIT A

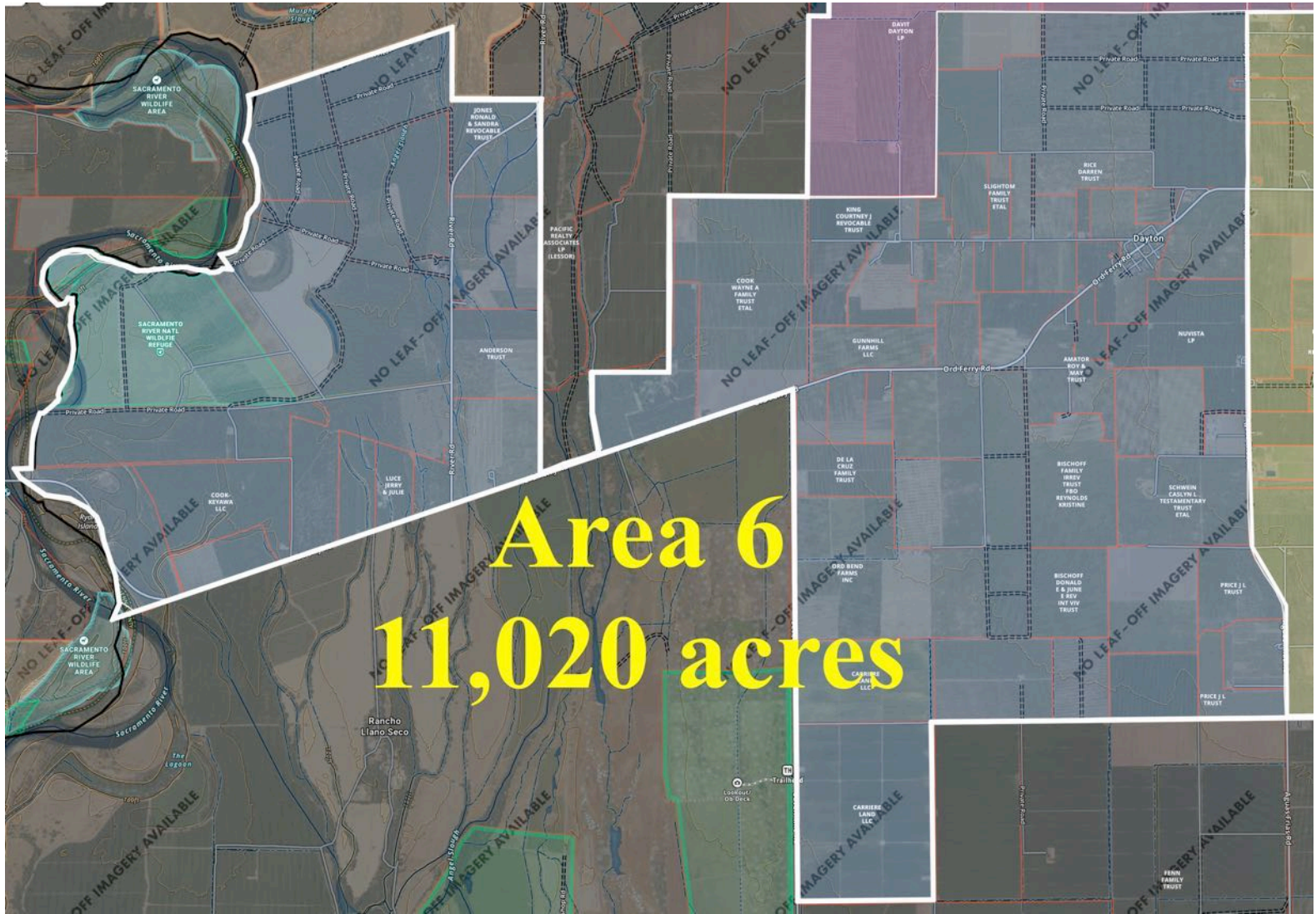




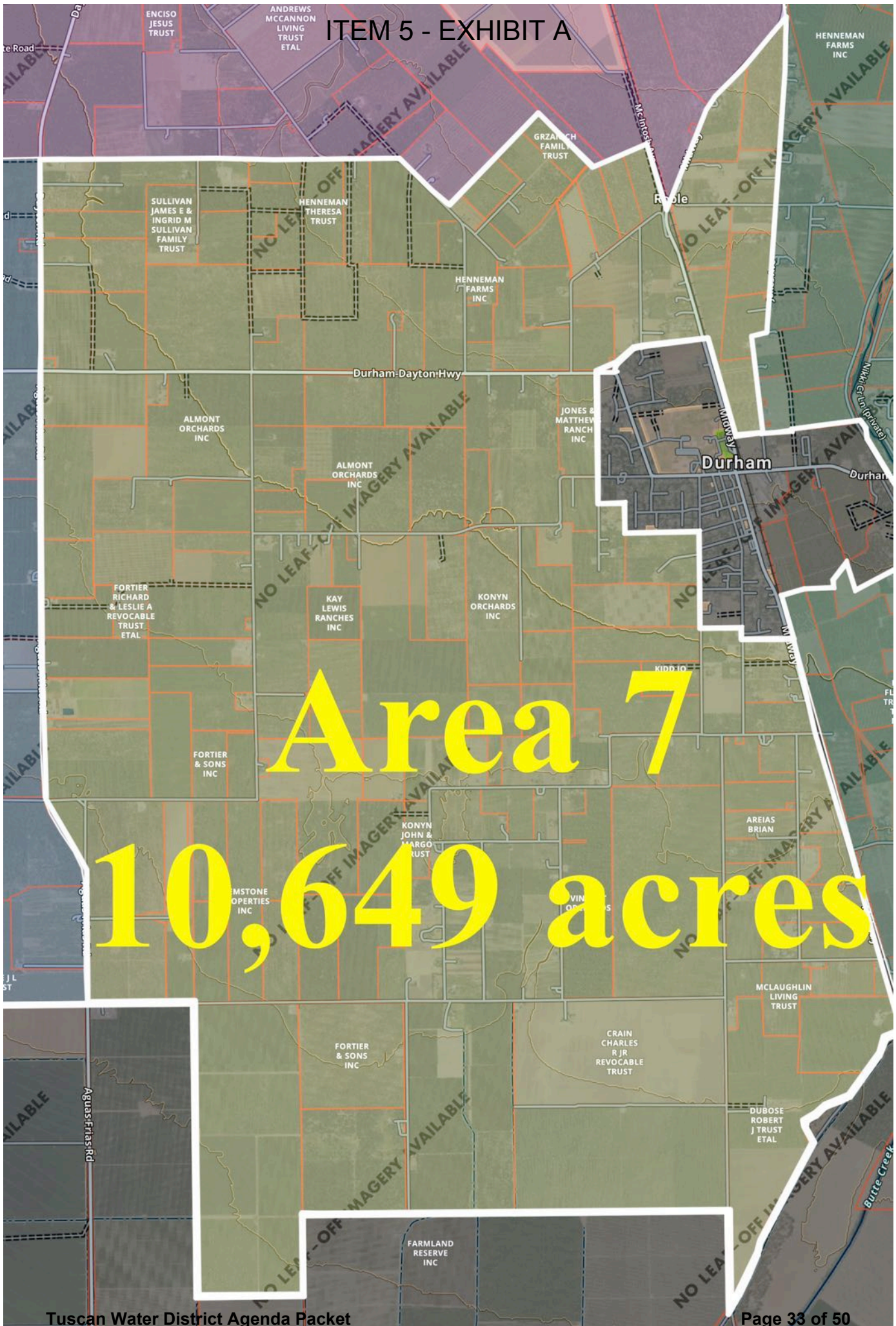
ITEM 5 - EXHIBIT A



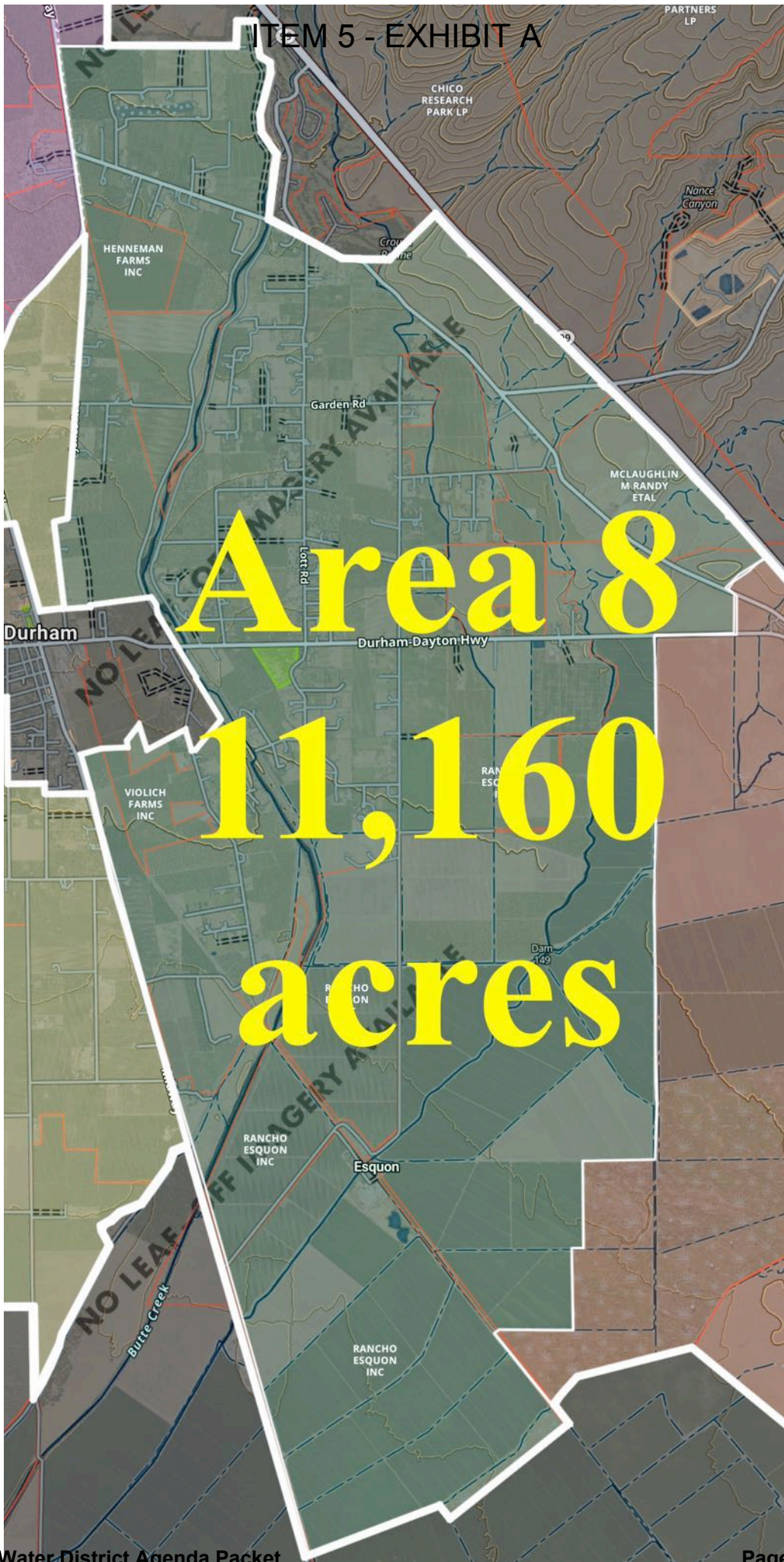
ITEM 5 - EXHIBIT A



ITEM 5 - EXHIBIT A

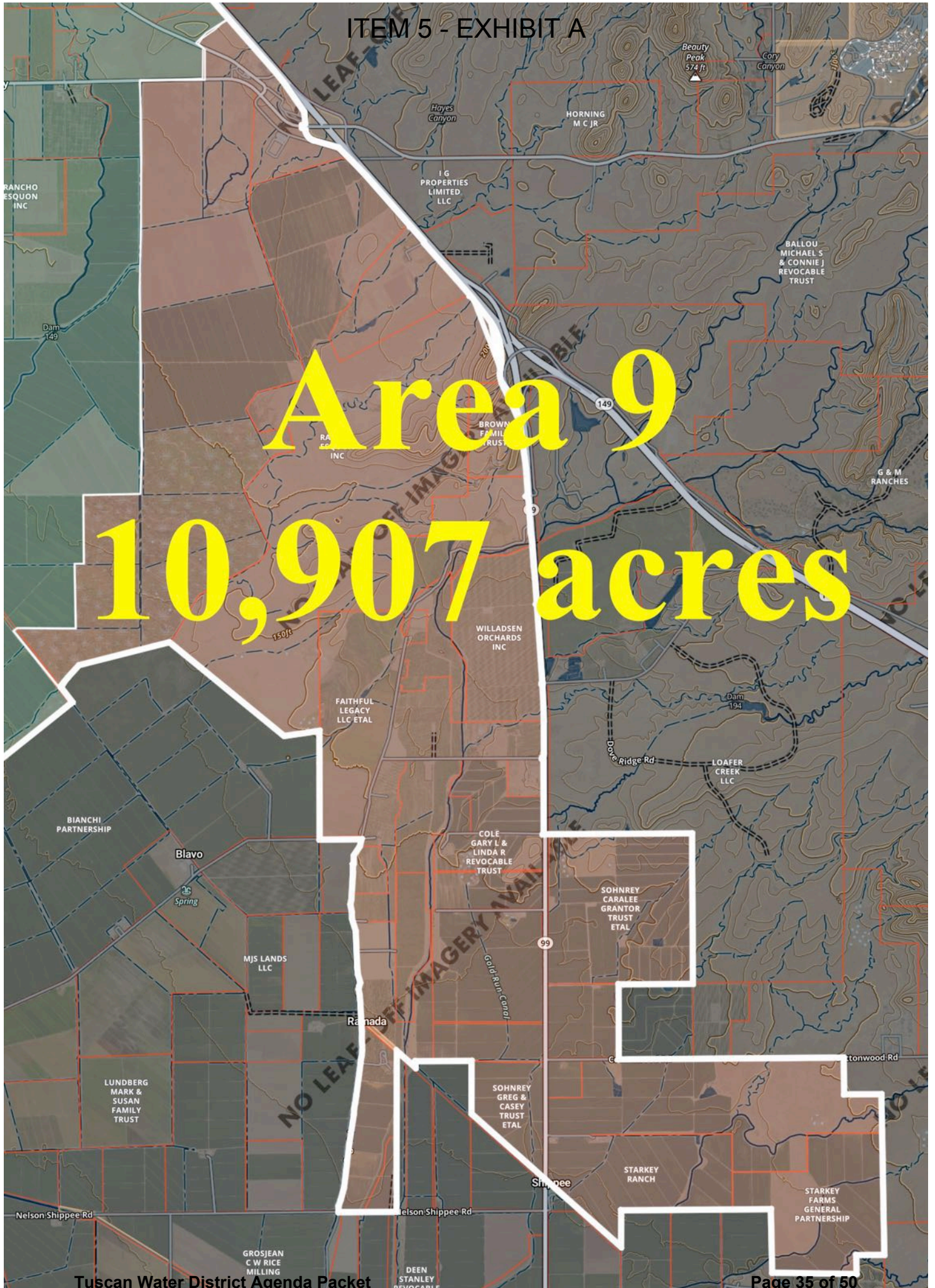


ITEM 5 - EXHIBIT A



Area 9

10,907 acres





Tuscan Water District Agenda Transmittal

Staff Use Only

Agenda Item:

ITEM 6

Subject:

Proposition 218 Proposals & Contracts

Date: 7-17-2024

REGULAR

SPECIAL

Agenda Item Summary:

On May 15, 2024, the Board voted 6-0 to engage Provost & Pritchard (P&P) and return at a future board meeting with a proposal outlining the Prop 218 process, cost and schedule and a Standard Contract (attached). To reduce cost, TWD will contract with the engineer and an elections consultant separately as outlined below:

TWD will contract with P&P, who will provide the following (please see attached Proposal for more detail):

- Roll of District Parcels with APNs, landowner information and parcel acreage
- Engineer’s Report Signed and Stamped by a California Civil Engineer, with the required figures and GIS maps.
- Assessment notice and voter guide

TWD will contract with MK Elections, who will provide the following (please see attached Proposal for more detail):

- Post office box and reply mail setup
- Ballot, mailing design, printing and mailing
- Administration, Data handling and security of the open election
- Ballot count, and post-election support

P&P anticipates completing this process no later than January 2025, which complies with LAFCO Condition 12. Please see Schedule on page 3 of P&P Proposal.

The total anticipated cost to process the Proposition 218 process for the engineer and elections consultant is between \$45,000 and \$60,000, which is consistent with earlier estimates.

Fiscal Impact:

Personnel Impact:

Action Requested:

- 1) Authorize Board president to sign the P&P 1) Standard Contract, and 2) Proposal
- 2) Authorize Board president to sign the MK Election Contract (will be forwarded in separate email)
- 3) Consider forming an Ad Hoc for the purpose of engaging with P&P, attorney, and staff during the months of July, August and September to review and provide input on P&P’s Scope of Services, Task 1

Staff Reviewer:

PROVOST & PRITCHARD CONSULTING GROUP

3387 Bodero Ln • Chico, CA 95973 • (866) 776-6200
www.provostandpritchard.com

July 12, 2024

Tovey Giezentanner
Tuscan Water District
30 Independence Circle, Suite 300
Chico, CA 95973

**Subject: Engineering Services for Tuscan Water District's Benefit Assessment Development Project,
Butte County, California**

Mr. Giezentanner,

Thank you for the opportunity to submit this proposal to provide engineering services for the subject project. This proposal discusses our understanding of the project, recommends a scope of services together with associated fees, deliverables and approximate schedules, sets forth our assumptions and discusses other services that may be of interest as the project proceeds.

PROJECT UNDERSTANDING

Tuscan Water District (District) was formed in February of 2024 for the purpose of offering local landowners the opportunity to better manage groundwater resources within the District's boundary. The area within the District is primarily used for permanent crop agricultural production (almonds, walnuts, etc.) and relies solely on groundwater for crop irrigation. The District lies within the Vina Groundwater Basin which is experiencing groundwater level decline and is in need of a more focused management effort. The lands currently in the District were previously managed by Butte County, leaving local landowners with little influence on groundwater management decisions.

According to the Tuscan Water District's LAFCo formation resolution, the District is required to enact a special assessment or other revenue generating mechanism sufficient to fund the District's ongoing operational expenses in an amount not less than \$445,600 per year. The District has developed project budgets for the next 10 years and these budgets will be the basis by which the assessment is determined.

SCOPE OF SERVICES

Our proposed scope of work for this proposal is included in a single task, described below.

TASK T1: BENEFIT ASSESSMENT ROLL AND ENGINEER'S REPORT

Provost & Pritchard will work with District staff to refine the assessment parcel roll, develop an assessment rate and prepare a stamped and signed Engineer's report supporting the District's proposed special benefit assessment in accordance with Proposition 218 (part of Article XIII D, Section 6 of the California Constitution). Specific work activities are described in more detail below:

- Coordinate with District staff to receive all District background, boundary, parcel, financial and other information required for the determination of the proposed assessment.

\\ppeng.com\pzd\data\docs\Marketing\Proposals\2024\Tuscan Water District - Assessment Prop 218 Assistance 24-164\Working Drafts\TWD Benefit Assessment Engr Report - Proposal.docx

Engineering • Structural • Geotechnical • Surveying • Planning • Environmental • GIS • Construction Services • Hydrogeology • Consulting
Clovis • Visalia • Bakersfield • Modesto • Los Banos • Chico • Sacramento • Sonora • San Luis Obispo • Boise, ID

- Meet with District staff and board subcommittee to discuss District financial goals, assessed parcels proposed assessment calculation, and other project related topics.
- Using the District existing parcel database, develop the assessment role including Assessor Parcel Numbers (APNs), legal landowner, mailing address, and parcel acreage.
- Develop a rate analysis for the parcels based on the proportional benefit for each parcel in the District. We will coordinate with District staff to determine the criteria that should be evaluated when determining the assessment fee amount. Critical to this discussion will be the ability and timing of escalation of assessments to account for inflation since the intent is for this Proposition 218 outcome to remain in effect for many years. As a final step under this task, we will recommend an assessment rate for District staff and Board subcommittee to consider.
- Develop an Engineer's Report to meet the requirements of Proposition 218 (part of Article XIII D, Section 6 of the California Constitution). The Engineer's Report will incorporate information developed and reviewed through the previous subtasks. The Engineer's Report will also substantiate that the assessment to be imposed will not exceed the reasonable cost of the proportional special benefit. The requirements of the Engineer's Report are still subject to various, and possibly contradictory, interpretations. Therefore, we will use our extensive professional experience and judgment to interpret and comply with applicable requirements of Proposition 218 and work closely with the District's legal counsel in order to complete the report. Supporting maps and tables will be included in the Engineer's Report, and the final product will be stamped by a Registered Civil Engineer.
- Assist District staff with preparation of assessment notice and voter guide, which will be included in mailed ballots.

Deliverables:

- Roll of District Parcels with APNs, landowner information and parcel acreage.
- Engineer's Report Signed and Stamped by a Civil Engineer Registered in California along with required supporting figures and GIS maps.
- Assessment notice and voter guide.

Assumptions:

- The District will contract directly with an election consultant for the Proposition 218 balloting process, should it choose to use one.
- P&P will attend 3 in-person meetings with District staff and/or Board subcommittee members: (1) for initial project coordination, (1) for review of draft assessment rates and Engineer's report and (1) for attendance at District Board Meeting for adoption of Engineer's Report.
- Landowner outreach and education will be carried out by the District.

PROFESSIONAL FEES

Provost & Pritchard Consulting Group will perform the services in this Phase on a time and materials basis, in accordance with our Standard Fee Schedule in effect at the time services are rendered. For budgeting purposes, our preliminary estimate is that over the next 5 months, our fees will be \$35,000 to \$40,000. These fees will be invoiced monthly as they are accrued. Reimbursable expenses will be invoiced in addition to professional fees and are included in the estimated ranges above. If it appears we will need to exceed the upper range above, we will notify you in writing before we do so and will provide a revised estimate. We will not continue to work beyond the initial budget without additional authorization.

SCHEDULE

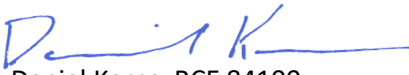
We understand that the District desires to prepare the assessment Engineer’s Report and undertake the Proposition 218 election process by early January 2025. Below is a project schedule showing anticipated durations of each primary task to complete the project by the desired date.

| Items | 2024 | | | | | | | 2025 | |
|---|------|------|--------|-----------|---------|----------|----------|---------|----------|
| | June | July | August | September | October | November | December | January | February |
| Start - Assessment Engineer's Replot & Prop 218 Process | | ■ | | | | | | | |
| Project Kickoff; Data Gathering | | ■ | | | | | | | |
| Review / Discussion on Methodology | | ■ | | | | | | | |
| Development of Engineer's Report | | ■ | ■ | ■ | ■ | | | | |
| Communication Plan Outreach | | | | ■ | ■ | ■ | | | |
| Roll Review and Update | | | ■ | | | | | | |
| Develop Ballots | | | | ■ | ■ | | | | |
| Acceptance by Board | | | | | ◆ | | | | |
| Mail Ballots: 45 day Public Notice Period | | | | | | ■ | ■ | | |
| Education Period | | | | | | | ■ | | |
| Public Hearing | | | | | | | | ◆ | |
| Tabulation of Ballots and Results | | | | | | | | ◆ | |
| ■ Provost & Pritchard ■ Election Consultant ■ Tuscan WD | | | | | | | | | |

TERMS AND CONDITIONS

In order to convey a clear understanding of our mutual responsibilities under this proposal, our standard Consultant Services Agreement is attached. Please sign both of these documents and mail or email a copy to our office. These documents will serve as our Notice to Proceed. This proposal is valid for 30 days from the date above.

Sincerely Yours,
 Provost & Pritchard Consulting Group


 Daniel Kerns, RCE 84100
 Senior Engineer


 Matt Klinchuch, RCE 83357
 Director of Operations

TERMS AND CONDITIONS ACCEPTED

By Tuscan Water District

Signature

Printed Name

Title

Date



MK ELECTION SERVICES, LLC

P.O. Box 722, Merced, CA 95341

Office: (209) 230-5165

Kenneth Mostern (California/Pennsylvania) and Caleb Kleppner (Connecticut), Principals
Cesar Casillas (California), Senior Election Administrator

PROPOSAL

Tuscan Water District, Butte County, CA
Via Kevin Johansen, Provost and Prichard
2024 Proposition 218 Assessment Ballot

June 28, 2024

Parameters

This proposal concerns one election with the following parameters:

- **Media:** This is a mail ballot election, in which voters return ballots by mail and the ballots are **scanned** on the day of the ballot count.
- **Legal Background:** Election to be conducted according to the **rules of California's Proposition 218**, and related laws and regulations.
- **Dates:** TBD.
- **Voters: We have been asked to price two options.** (1) There will be approximately **2400 voters** after accounting for consolidated ballots. (2) There will be approximately **1000 voters** after accounting for consolidated ballots.
- **Ballot Types:** The election will have **one** ballot type.
- **Weights:** Votes are weighted by proposed increase in assessment the voter will be subject to in the event the measure passes. This is determined by a formula that will be created by the Engineers, and the data will be presented to MKE in its final form, including the combining of parcels into consolidated ballots.
- **Other:** MKE to open and control post office box.

Services Provided by MK Elections

Post office box and reply mail setup

Ballots will use a unique post office box in or near Oroville, California. District to decide whether it wants to supply voters with postage paid return envelopes. MKE will set up business reply mail using its BRM permit.

Ballot and mailing design

Upon receipt of information about the assessments we layout your ballot and accompanying materials according to our technical standards. Parcel number, fee increase and calculations will all be printed on the ballot – this is not a secret ballot, and the voter can be identified by the information on the ballot. All design choices are explained and subject to modification according to

your needs. Final materials subject to approval of the District. Mailing will take place from Sacramento, California.

Printing and mailing

Printing of envelopes and notices/information inserts will be done by Gowans Printing in Modesto, California. Ballots and multi-parcel notices will be printed by ABS Direct in Modesto. Insertion and mailing will be done by ABS Direct in Modesto, California; ABS mails from Sacramento.

Data Handling and Security

You supply membership data in any standard text or spreadsheet format. The data is yours and we guarantee it will not be used or shared in any manner outside the scope of the contracted election.

Administration of the open election

While the election is open, we receive, track and report to you about any undeliverable mailed ballots returned, and, where a new address is supplied (whether by USPS or by your office) we mail a new ballot to the voter. We can handle requests for replacement ballots directly from your voters, or you can handle requests and pass them on to us. We can add voters during the open election period at your request.

Ballot Count

The ballot count consists of four processes:

- Authentication. Barcodes are scanned to ensure the authenticity of the ballot and qualification of the voter. Voter qualifications can be updated on the day of the count if your rules require it.
- Optical Scan and Preliminary Report. Ballots are scanned using a high-speed batch scanner, and images are processed against a template. Preliminary reports can be shown on screen periodically during the scanning process, or can be withheld until after all ballots are scanned as per your rules.
- Auditing and Certified Report. Testing protocols are followed to demonstrate that the software and equipment have functioned properly and provided accurate tallies. This can be done in front of representatives of the county, or, by projection the computer screen, in front of a whole room of witnesses, according to your wishes. The detail and extent of the audit is determined by the accuracy of the initial count and the closeness of the election. Ultimately, audits of as few as 50 ballots, or as many as 100% of all ballots cast, can be conducted, and the final determination of the depth of the audit is made by the county or other authority.
- Delivery of the legal record. Once the count is completed, the paper and electronic record of the election is consolidated in storage boxes and sealed, to be opened only in the case of a formal challenge. In most cases the client receives these for storage.

Because the ballot count is taking place at a public hearing, members of the public are invited to witness it. At your discretion we may project the computer screen on which ballots are being processed for easy viewing of multiple people. Date and time of ballot pickup may also, if you wish, be advertised so that individuals concerned with the custody of the ballots may follow that process.

Post-election support/investigations/legal challenges

In the event of a formal challenge, MK Elections cooperates with the investigation in consultation with the client. We will provide answers to questions by phone at no charge, and in all reasonable

circumstances we will appear at hearings asking only to be reimbursed for travel costs, but not for our time. If it is necessary to generate additional reports as the result of a challenge, we will in most cases do so at no additional charge.

Pricing

(1) Option 1 – 2400 assessed parcels

| | |
|---|---|
| Base Fee for MK Elections Services | \$7500 |
| Return ballot setup: <ul style="list-style-type: none"> • Post office box setup • Business Reply Mail (if desired) | \$850 fee \$200 (approx.) for box rental, \$300 driving miles from Merced, lunch \$300 for use of MKE permit \$1.73 per piece for returned mail |
| Offset printing estimates, based on 2500 pieces (including overs) <ul style="list-style-type: none"> • Outgoing #10 window envelope • Return #9 envelope • Information sheet (one 8 ½ x 11, two-sided) | \$1460 |
| Digital printing estimate, based on 2400 ballots or consolidated packages <ul style="list-style-type: none"> • Ballots • Consolidated Ballot information pages | \$425 |
| Mailing services for 2400 ballot packages (includes insertion, sealing, delivery, and outgoing first class postage) | \$2136 |
| Replacement ballot service, per piece | \$6.00/piece plus postage; \$15/piece if recalculation of data is required. (Est. \$288 based on previous election.) |
| Travel and meals Two people, driving miles from Merced, meals, most likely one overnight | \$1000 |
| Estimated total Includes outgoing postage but does not include return postage as quantity is hard to predict. Includes business reply mail setup. | \$14,171 |

(2) Option 2 – 1000 assessed parcels

| | |
|------------------------------------|--------|
| Base Fee for MK Elections Services | \$7000 |
| Return ballot setup: | |

| | |
|---|--|
| <ul style="list-style-type: none"> • Post office box setup | \$850 fee \$200 (approx.) for box rental, \$300 driving miles from Merced, lunch |
| <ul style="list-style-type: none"> • Business Reply Mail (if desired) | \$300 for use of MKE permit \$1.73 per piece for returned mail |
| Offset printing estimates, based on 1100 pieces (including overs) <ul style="list-style-type: none"> • Outgoing #10 window envelope • Return #9 envelope • Information sheet (one 8 ½ x 11, two-sided) | \$872 |
| Digital printing estimate, based on 1000 ballots or consolidated packages <ul style="list-style-type: none"> • Ballots • Consolidated Ballot information pages | \$320 |
| Mailing services for 1000 ballot packages (includes insertion, sealing, delivery, and outgoing first class postage) | \$910 |
| Replacement ballot service, per piece | \$6.00/piece plus postage; \$15/piece if recalculation of data is required. (Est. \$288 based on previous election.) |
| Travel and meals Two people, driving miles from Merced, meals, most likely one overnight | \$1000 |
| Estimated total Includes outgoing postage but does not include return postage as quantity is hard to predict. Includes business reply mail setup. | \$11,752 |

Terms

\$3000 deposit on signing of contract

Balance to be invoiced at end of project, due 20 days from sending of invoice

CONSULTANT SERVICES AGREEMENT

CSA NO: 24-164

Tuscan Water District
Client/Agency

Tovey Giezentanner, Interim General Manager
Attention

Tuscan Water District
Bill to

30 Independence Circle, Suite 300
Billing Address

Chico, CA 95973
City, Zip Code

Benefit Assessment Engineer’s Report
Project Title

24-164
Proposal No.

530-487-0139
Telephone

Fax

info@tuscanwaterdistrict.org
Email

Butte County, CA
Location

DESCRIPTION OF SERVICES

Please see attached proposal “Engineering Services for Tuscan Water District’s Benefit Assessment Development Project, Butte County, California” dated July 12, 2024. Additional scopes of work may be authorized under this Consultant Services Agreement at the request of the Client.

The provisions set forth below and on the following paragraphs 1 through 42 are incorporated into and made a part of this Agreement. In signing, the Client acknowledges that they have read and approved all such terms and hires Provost & Pritchard Engineering Group, Inc., dba Provost & Pritchard Consulting Group, (Consultant) to perform the above described services.

TERMS AND CONDITIONS

Client and Consultant agree that the following terms and conditions shall be part of this agreement:

1. In providing services under this Agreement, the Consultant shall perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the same time and in the same or similar locality. The Consultant makes no warranty, express or implied, as to its professional services rendered under this Agreement.
2. Client acknowledges that Consultant is not responsible for the performance of work by third parties including, but not limited to, the construction contractor and its subcontractors.
3. Client agrees that if Client requests services not specified in the scope of services described in this agreement, Client will pay for all such additional services as extra services, in accordance with Consultant's billing rates utilized for this contract.

DOCUMENTS

4. Client acknowledges that all reports, plans, specifications, field data and notes and other documents, including all documents on electronic media, prepared by Consultant (collectively Work Product) are instruments of service which shall remain the property of Consultant and may be used by Consultant without the consent of Client. Consultant shall retain all common law, statutory law and other rights, including copyrights. Consultant grants Client a perpetual,

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royalty-free fully paid-up, nonexclusive and irrevocable license to copy, reproduce perform, dispose of, use and re-use the Work Product in connection with the Project, in whole or in part, and to authorize others to do so for the benefit of Client. Client acknowledges that its right to utilize Work Product pursuant to this agreement will continue only so long as Client is not in default, pursuant to the terms and conditions of this agreement, and Client has performed all its obligations under this agreement.

5. Client agrees not to reuse Work Product, in whole or in part, for any project other than the project that is the subject of this agreement. Client further agrees to waive all claims against Consultant resulting in any way from any unauthorized changes or unauthorized reuse of the Work Product for any other project by anyone on Client's behalf. Client agrees not to use or permit any other person to use versions of Work Product which are not final and which are not signed and stamped or sealed by Consultant. Client shall be responsible for any such use of non-final Work Product. Client hereby waives any claim for liability against Consultant for use of non-final Work Product. If a reviewing agency requires that check prints be submitted with a stamp or seal, those shall not be considered final for purposes of this paragraph.
6. In the event Client (1) makes, agrees to, authorizes, or permits changes in Work Product, or (2) makes, agrees to, authorizes, or permits construction of such unauthorized changes, which changes are not consented to in writing by Consultant, or (3) does not follow recommendations prepared by Consultant pursuant to this agreement, resulting in unauthorized changes to the project, Client acknowledges that the unauthorized changes and their effects are not the responsibility of Consultant. Client agrees to release Consultant from all liability arising from such unauthorized changes, and further agrees to defend, indemnify and hold harmless Consultant, its officers, directors, employees and subconsultants from and against all claims, demands, damages or costs, including attorneys' fees, arising from such changes.
7. Under no circumstances shall delivery of Work Product for use by the Client be deemed a sale by the Consultant, and the Consultant makes no warranties, either express or implied, of merchantability and fitness for any particular purpose. In no event shall the Consultant be liable for indirect or consequential damages as a result of the Client's unauthorized use or reuse of the Work Product.
8. The Client is aware that differences may exist between electronic files delivered and the printed hard-copy construction documents. In the event of a conflict between the signed construction documents prepared by the Consultant and electronic files, the signed sealed hard-copy documents shall govern.

LIMITATIONS

9. Consultant makes no representations concerning soils or geological conditions unless specifically included in writing in this agreement, or by amendments to this agreement. If Consultant recommends that Client retain the services of a Geotechnical Engineer and Client chooses to not do so, Consultant shall not be responsible for any liability that may arise out of the making of or failure to make soils or geological surveys, subsurface soils or geological tests, or general soils or geological testing.
10. Client acknowledges that, unless specifically stated to the contrary in the proposal's description of services to be provided, Consultant's scope of services for this project does not include any services related in any way to asbestos and/or hazardous or toxic materials. Should Consultant or any other party encounter such materials on the job site, or should it in any other way become known that such materials are present or may be present on the job site or any adjacent or nearby areas which may affect Consultant's services, Consultant may, at its option, suspend or terminate work on the project until such time as Client retains a qualified contractor to abate and/or remove the asbestos and/or hazardous or toxic materials and warrant that the job site is free from any hazard which may result from the existence of such materials.

INDEMNIFICATION

11. To the fullest extent allowed by law, Consultant will indemnify and hold harmless, but shall have no duty to defend Client, its officers, directors, employees, and agents (collectively, the "Client indemnities") from, for and against any and all claims, demands, damages, losses, expenses, liabilities, and penalties arising out of or relating to the Project, but only to the extent caused by the negligent or other wrongful acts or omissions of Consultant, its subconsultants, or any person or entity for whose acts or omissions any of them are responsible, or by the failure of any such party to perform as required by this Agreement. To the fullest extent allowed by law, Client will indemnify and hold harmless, but shall have no duty to defend Consultant and its officers, directors, employees and agents from, for and

against any and all claims, demands, damages, losses, expenses, liabilities and penalties arising out of or relating to the Project, but only to the extent caused by the negligent or other wrongful acts or omissions of Client or any person or entity for whose acts or omissions it is responsible, or by the failure of any such party to perform as required by this Agreement. The obligations and rights of this Section are in addition to other obligations and rights of indemnity provided under this Agreement or applicable law.

FINANCIAL

12. All fees and other charges due Consultant will be billed monthly and shall be due at the time of billing unless specified otherwise in this agreement. If Client fails to pay Consultant within sixty (60) days after invoices are rendered, Consultant shall have the right in its sole discretion to consider such default in payment a material breach of this entire agreement, and, upon written notice, Consultant's duties, obligations and responsibilities under this agreement may be suspended or terminated for cause pursuant to Sections 26 through 31. In such event, Client shall promptly pay Consultant for all outstanding fees and charges due Consultant at the time of suspension or termination including all costs and expenses incurred in the performance of services up to suspension or termination.
13. Consultant shall not be liable to Client for any costs or damages that may result from the termination or suspension of services under this agreement due to Client's failure to pay Consultant invoices in accordance with the terms of this paragraph. In the event that Consultant agrees to resume terminated or suspended services after receiving full payment of all late invoices, Client agrees that time schedules and fees, as applicable, related to the services will be equitably adjusted to reflect any delays or additional costs caused by the termination or suspension of services.
14. In all cases where the proposal calls for payment of a retainer, that payment shall be made by Client to Consultant prior to commencement of services under this agreement. Upon receipt of retainer payment, the Consultant shall commence services as provided for under this Agreement. Unless otherwise provided for in the project proposal, such retainer shall be held by Consultant throughout the duration of the contract, and shall be applied to the final project invoice, and to any other outstanding AR, including late payment charges, on the project. Any amount of said retainer in excess of the final invoice and other outstanding AR shall be returned to the Client within 30 days of issuance of the final project invoice.
15. Client agrees that all billings from Consultant to Client will be considered correct and binding on Client unless Client, within ten (10) days from the date of receipt of such billing, notifies Consultant in writing of alleged inaccuracies, discrepancies, or errors in billing. In the event of a dispute over any billing or portion of billing, Client agrees to pay the undisputed portion of any billings in accordance with the payment terms set forth in Section 12.
16. Client agrees to pay a monthly late payment charge, which will be the lesser of one and one half percent (1-1/2%) per month or a monthly charge not to exceed the maximum legal rate, which will be applied to any unpaid balance commencing thirty (30) days after the date of the billing. Client acknowledges that payments applied first to unpaid late payment charges and then to unpaid balances of invoices.
17. In the event Consultant's fee schedule changes due to any increase of costs such as the granting of wage increases and/or other employee benefits to field or office employees or any taxes or fees imposed by local, state, or federal government on consultants' fees during the lifetime of this agreement, the new fee schedule shall apply to all subsequent work on time-and-materials contracts.
18. If payment for Consultant's services is to be made on behalf of Client by a third party lender, Client agrees that Consultant shall not be required to indemnify the third party lender, in the form of an endorsement or otherwise, as a condition to receiving payment for services. Client agrees to reimburse Consultant for all collection agency fees, legal fees, court costs, reasonable consultant staff costs and other expenses paid or incurred by Consultant in the event that collection efforts become necessary to enforce payment of any unpaid billings due to Consultant in connection with the services provided in this agreement.

LIMITATION OF LIABILITY

19. Notwithstanding any other provisions of this Agreement to the contrary, the aggregate liability of the Consultant under this Agreement, whether for breach of contract, tort, strict liability or any other legal theory, will not exceed the total amount of Consultant's compensation for performing services under this Agreement or \$50,000, whichever is greater, however this limitation of Consultant's liability does not apply to third-party claims, or to the Client's reasonable attorneys' fees and expert witnesses' fees and litigation expenses arising out of or related to such third-party claims for which Consultant is liable.

DISPUTE RESOLUTION

20. In an effort to resolve any conflicts or disputes that arise regarding performance under this agreement by either party, Client and Consultant agree that all such disputes shall be submitted to nonbinding mediation, using a mutually agreed upon mediation services experienced in the resolution of construction disputes. Unless the parties mutually agree otherwise, such mediation shall be a pre-condition to the initiation of any litigation. The parties further agree to include a similar mediation provision in their agreements with other independent contractors and consultants retained for the project and require them to similarly agree to these dispute resolution procedures. This provision shall not be interpreted to restrict the right of either party to file an action in a court of law, in the County of Fresno, State of California, having appropriate jurisdiction or to preclude or limit the Consultant's right to record, perfect or to enforce any applicable lien or Stop Notice rights.

CONSTRUCTION PROJECTS

21. If the scope of services contained in this agreement does not include construction phase services for this project, Client agrees that such construction phase services will be provided by Client or by others. Client assumes all responsibility for interpretation of the contract documents and for construction observation and supervision and waives any claim against Consultant that may in any way be connected thereto. In addition, Client agrees to indemnify and hold Consultant harmless from any loss, claim, or cost, including reasonable attorneys' fees and costs of defense, arising or resulting from the performance of such services by other persons or entities and from any and all claims arising from the modification, clarification, interpretation, adjustments or changes made to the contract documents to reflect changed field or other conditions, except for claims arising from the negligence or other wrongful acts of Consultant, its employees, its subconsultants, or any other person or entity for which Consultant is responsible.
22. Client agrees to include provisions in its contract with the construction contractor to the effect that in accordance with generally accepted construction practices, the construction contractor will be required to assume sole and complete responsibility for job site conditions during the course of construction of the project, including safety of all persons and property, and that this requirement shall apply continuously and not be limited to normal working hours. Neither the professional activities of Consultant nor the presence of Consultant or its employees or subconsultants at a construction site shall relieve the contractor and its subcontractors of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the work of construction in accordance with the contract documents and applicable health or safety requirements of any regulatory agency or of state law.
23. Client agrees to require its contractor and subcontractors to review the plans, specifications and documents prepared by Consultant prior to the commencement of construction phase work. If the contractor and/or subcontractors believe there are deficiencies, conflicts, errors, omissions, code violations, or other deficiencies in the plans, specifications and documents prepared by Consultant, contractors shall notify Client so those deficiencies may be corrected or otherwise addressed by Consultant prior to the commencement of construction phase work.
24. If, during the construction phase of the project, Client discovers or becomes aware of changed field or other conditions which necessitate clarifications, modifications or other changes to the plans, specifications, estimates or other documents prepared by Consultant, Client agrees to notify Consultant and, at Client's option, retain Consultant to prepare the necessary changes or modifications before construction activities proceed. Further, Client agrees to require a provision in its construction contracts for the project which requires the contractor to promptly notify Client of any changed field or other conditions so that Client may in turn notify Consultant pursuant to the provisions of this paragraph.
25. If, due to the Consultant's error, omission or negligence, a required item or component of the Project is omitted from the Consultant's construction documents, the Consultant shall not be responsible for paying the cost required to add such item or component to the extent that such item or component would have been required and included in the original construction documents. The Consultant will not be responsible for any cost or expense that enhances the value of the Project.

SUSPENSION AND TERMINATION

26. If the Project or the Consultant's services are suspended by the Client for more than thirty (30) consecutive calendar days, the Consultant shall be compensated for all services performed and reimbursable expenses incurred prior to the receipt of notice of suspension. In addition, upon resumption of services, the Client shall compensate the

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- Consultant for expenses incurred as a result of the suspension and resumption of its services, and the Consultant's schedule and fees for the remainder of the Project shall be equitably adjusted.
27. If the Consultant's services are suspended for more than ninety (90) days, consecutive or in the aggregate, the Consultant may terminate this Agreement upon giving not less than five (5) calendar days' written notice to the Client.
 28. If the Client is in breach of the payment terms or otherwise is in material breach of this Agreement, the Consultant may suspend performance of services upon five (5) calendar days' notice to the Client. The Consultant shall have no liability to the Client, and the Client agrees to make no claim for any delay or damage as a result of such suspension caused by any breach of this Agreement by the Client. Upon receipt of payment in full of all outstanding sums due from the Client, or curing of such other breach that caused the Consultant to suspend services, the Consultant shall resume services, and there shall be an equitable adjustment to the remaining project schedule and fees as a result of the suspension.
 29. Client acknowledges Consultant has the right to complete all services included in this agreement. In the event this agreement is terminated before the completion of all services, unless Consultant is responsible for such early termination, Client agrees to release Consultant from all liability for services not performed or completed by Consultant and from liability for any third-party reliance, use, interpretation or extrapolation of Consultant's work product. In the event all or any portion of the services by Consultant are suspended, abandoned, or otherwise terminated, Client shall pay Consultant all fees and charges for services provided prior to termination, not to exceed the contract limits specified herein, if any. Client acknowledges if the project services are suspended and restarted, there will be additional charges due to suspension of the services which shall be paid for by Client as extra services pursuant to Section 26. Client acknowledges if project services are terminated for the convenience of Client, Consultant is entitled to reasonable termination costs and expenses, to be paid by Client as extra services pursuant to Section 31.
 30. The Client may terminate this Agreement for the Client's convenience and without cause upon giving the Consultant not less than seven (7) calendar days' written notice.
 31. In the event of termination of this Agreement by either party, Consultant shall invoice Client for all outstanding services and expenses reasonably incurred by the Consultant in connection with the orderly termination of this Agreement, including but not limited to demobilization, reassignment of personnel, associated overhead costs and all other expenses directly resulting from the termination. The Client shall within thirty (30) calendar days of termination pay the Consultant for all services rendered and all reimbursable costs incurred by the Consultant up to the date of termination, in accordance with the payment provisions of this Agreement.

OTHER

32. This agreement shall be binding upon the heirs, executors, administrators, successors and assigns of Client and Consultant.
33. This agreement shall not be assigned by either Client or Consultant without the prior written consent of the other.
34. Consultant's or Client's waiver of any term, condition or covenant shall not constitute the waiver of any other term, condition or covenant. Consultant's or Client's waiver of any breach of this agreement shall not constitute the waiver of any other breach of the Agreement.
35. Client and Consultant agree that if any term or provision of this Agreement is determined to be illegal, in conflict with any law, void or otherwise unenforceable, and if the essential terms and provisions of this Agreement remain unaffected, then the validity of the remaining terms and provisions will not be affected and the offending provision will be given the fullest meaning and effect allowed by law.
36. This agreement shall be governed by and construed in accordance with the laws of the State of California. The Client agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Agreement and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Fresno, State of California.
37. Within the limits of the approved scope and fee, Consultant may engage the services of any subconsultants when, in the Consultant's sole opinion, it is appropriate to do so. Such subconsultants may include testing laboratories, geotechnical engineers and other specialized consulting services deemed necessary by the Consultant to carry out the scope of the Consultant's services.

- 38. Consultant shall be entitled to immediately, and without notice, suspend the performance of any and all of its obligations pursuant to this agreement if Client files a voluntary petition seeking relief under the United States Bankruptcy Code or if there is an involuntary bankruptcy petition filed against Client in the United States Bankruptcy Court, and that petition is not dismissed within fifteen (15) days of its filing. Any suspension of services made pursuant to the provisions of this paragraph shall continue until such time as this agreement has been fully and properly assumed in accordance with the applicable provisions of the United States Bankruptcy Code and in compliance with final order or judgment issued by the Bankruptcy Court.
- 39. This agreement shall not be construed to alter, affect or waive any design professional's lien, mechanic's lien or stop notice right, which Consultant may have for the performance of services pursuant to this agreement. Client agrees to provide to Consultant the current name and address of the record owner of the property upon which the project is to be located. Client also agrees to provide Consultant with the name and address of any and all lenders who may loan money on the project and who are entitled to receive a preliminary notice.
- 40. Consultant shall not be liable for damages resulting from the actions or inactions of governmental agencies including, but not limited to, permit processing, environmental impact reports, dedications, general plans and amendments thereto, zoning matters, annexations or consolidations, use or conditional use permits, project or plan approvals, and building permits. Client agrees that it is the responsibility of Client to maintain in good standing all governmental approvals or permits and to timely apply for any necessary extensions thereof.
- 41. Consultant and Client each agree to waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with paragraphs 26 through 31, except for termination expenses provided for in said paragraph 31. Client further agrees that to the fullest extent permitted by law, Consultant shall not be liable to Client for any special, indirect or consequential damages whatsoever, whether caused by Consultant's negligence, errors, omissions, strict liability, breach of contract, breach of warranty or other cause or causes whatsoever, including but not limited to, loss of use of equipment or facility, and loss of profits or revenue.
- 42. This Agreement is the entire Agreement between the Client and the Consultant. It supersedes all prior communications, understandings and agreements, whether oral or written. Amendments to this Agreement must be in writing and signed by both the Client and the Consultant.

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| <p>Tuscan Water District</p> <hr/> <p>Client/Agency</p> <hr/> <p>By</p> <hr/> <p>Name</p> <hr/> <p>Title</p> <hr/> <p>Date Signed</p> | <p>Provost & Pritchard Engineering Group, Inc., dba Provost & Pritchard Consulting Group</p> <hr/>  <p>By</p> <hr/> <p>Matt Klinchuch, PE 83357</p> <hr/> <p>Name</p> <hr/> <p>Director of Operations</p> <hr/> <p>Title</p> <hr/> <p>July 12, 2024</p> <hr/> <p>Date Signed</p> |
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