

SERVICES AGREEMENT

This Services Agreement (this “Agreement”) between MK Election Services, LLC, a Connecticut limited liability company with an address of 441 42nd Street, Pittsburgh, PA and Tuscan Water District, a California Special District with an address in Butte County, California, is effective this 16 day of July, 2024. MK Elections and Client shall be referred to collectively in this Agreement as the “Parties,” and each, individually, as a “Party.”

R E C I T A L S

A. MK Elections is a provider of election services for various organizations and administers elections on-site, by mail, by Internet, and by telephone.

B. Client desires to utilize the services of MK Elections, and MK Elections is willing to provide such services to Client, subject to the terms and conditions of this Agreement.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties hereby agree as follows:

1. Services to Be Provided by MK Elections. MK Elections agrees to provide to Client the services set forth on the Scope of Work, attached hereto as Exhibit A and made a part hereof.

2. Payment for Services Rendered. Client agrees to pay MK Elections for the services rendered by MK Elections in accordance with the pricing information and schedule set forth on the Scope of Work. Except as otherwise stated in the Scope of Work, an initial payment of \$3,000 shall be due from the Client and payable to MK Elections upon the signing of this Agreement and the balance of costs and fees for services rendered hereunder shall be billed through a final invoice that shall be due and payable to MK Elections upon completion of the election services as set forth in the Scope of Work. All other interim invoices, if any, for services rendered or costs advanced by MK Elections will be due and payable by Client within twenty (20) days of receipt of the invoice. Invoices shall be deemed to have been received by Client either (a) three (3) days from the date of mailing, or (b) on the date delivered, if hand-delivered, sent by overnight mail or transmitted electronically. If Client disputes an invoice in whole or in part, Client shall provide MK Elections with written notice of such dispute within ten (10) days of receipt of the invoice, after which period the invoice will be deemed undisputed. The Parties shall make good faith efforts to settle any disputed invoice amounts promptly. Interest at the rate one and one half percent (1.5%) of the invoice amount per month (but not more than the maximum interest permitted by law), prorated for any partial month, shall be paid beginning with the thirty-first (31st) day on the amount of any undisputed invoice, in whole or in part, that remains unpaid after the thirty (30) days following receipt of such undisputed invoice.

3. Confidentiality. Each Party shall keep the other Party’s Confidential Information, as hereinafter defined, confidential and shall not disclose, use it or exploit in any way or for any other means except to provide and receive, respectively, the services to be rendered under the particular Scope of Work attached hereto as Exhibit A, and neither party shall have, receive or claim

ownership in or to the other parties' Confidential Information nor use it in any way that might prejudice its confidentiality or result in unauthorized exploitation or use. "Confidential Information" includes any information and materials of a Party which are disclosed by that Party to the other Party and which has been identified as confidential or a trade secret and is not otherwise publicly available, and which relates to the respective parties business and/or business or electoral interests, processes, systems, techniques or trade secrets used by the disclosing Party in the course of its business. With respect to MK Elections, Confidential Information specifically includes, without limitation, all internal systems and processes relating to the election services provided by MK Elections to the Client. With respect to the Client, Confidential Information expressly includes all Client membership data. Confidential Information does not include information which is generally available in the public domain or was known by the receiving Party prior to its being disclosed by the disclosing Party to the receiving Party.

4. Limitation of Liability. MK Elections shall only be responsible for the specific election services performed by MK Elections for Client. MK Elections shall not be responsible for acts of third parties in connection with Client's election, including, without limitation, election committees, judges, or other employees or agents of Client, nor shall MK Elections be responsible for any errors in the administration of client's election arising from Client's or any such third parties' rules, practices or procedures. In any event, the collective dollar amount of damages not caused by MK Elections' intentional wrongdoing or gross negligence for which MK Elections may be liable to Client hereunder shall in no event exceed the amount of fees paid by Client to MK Elections for the services rendered hereunder. Further, in the event that MK Elections is named as co-defendant with Client in any legal proceeding brought against Client in connection with any election for which MK Elections provided services to Client, Client shall defend MK Elections at its own cost and expense except in the event of intentional wrongdoing or gross negligence on the part of MK Elections.

5. Independent Contractors. The Parties to this Agreement are independent contractors, and nothing in this Agreement shall constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in this Agreement.

6. Force Majeure. Neither Party shall be liable for any failure, inability to perform or delay in performance hereunder if such failure, inability or delay is due to any cause or circumstances beyond the reasonable control of the Party so failing, and due diligence is used in curing such cause and in resuming performance, if possible.

7. Execution of Supplementary Instruments. The Parties bind themselves, their heirs, executors, administrators, representatives, successors, and assigns to the faithful performance thereof relative to the execution of any instrument which may be necessary or incidental to carrying into effect this Agreement.

8. Notices. A notice or other communication connected with this Agreement shall have no legal effect unless it is in writing. In addition to any other method of service provided by law, the notice may be sent by pre-paid post to the address of the addressee as set out in the introductory paragraph

of this Agreement or sent by facsimile or e-mail to the facsimile number or e-mail address of the addressee.

9. No Third-Party Beneficiaries. This Agreement shall not confer any rights or remedies upon any person other than the Parties hereto, their respective successors and permitted assigns.

10. Headings and Recitals. Section headings contained in this Agreement are inserted for the convenience of the Parties only and shall have no effect or importance in the analysis of this Agreement or the rights and obligations of the Parties hereunder. The Recitals shall be deemed part of this Agreement as if fully set forth herein.

11. Termination and Amendment. This Agreement may be terminated by either Party by giving written notice to the other Party not later than thirty (30) days prior to the date on which services by MK Elections are first scheduled to be performed in accordance with the Scope of Work. Provided, however, that if this agreement is terminated by Client within 120 days prior to the election date scheduled hereunder, those fees paid upon execution of this Agreement shall be nonrefundable. This Agreement shall not be modified or amended except by a writing signed by all Parties hereto.

12. Invalid Provision. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and the Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

13. Entire Agreement. This Agreement supersedes all prior agreements, whether written or oral, between the Parties with respect to its subject matter and constitutes a complete and exclusive statement of the terms of the agreement between the Parties with respect to its subject matter. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. The language in this Agreement shall not be interpreted strictly for or against any Party. In determining whether or not an ambiguity exists within this Agreement, this Agreement shall only be construed according to its plain language within its “four corners”, without resort to extrinsic evidence for the purpose of determining whether any ambiguity exists.

14. Successors and Assigns. This Agreement shall be binding upon the heirs, executors, administrators, representatives, successors and assigns of each of the Parties hereto.

15. Governing Law. This Agreement shall be subject to and shall be construed under the laws of the State of Connecticut, without regard to conflicts-of-laws principles that would require the application of any other law. Any action or proceeding brought by either Party to enforce its rights under this Agreement shall be brought exclusively in any state or superior court of competent jurisdiction located in New Haven County, or in in the United States District Court for Connecticut.


16. Execution of Agreement. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of its signature pages by facsimile or other electronic transmission shall constitute

effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes.

The Parties have executed this Services Agreement on the date stated in the introductory paragraph.

MK ELECTIONS

Tuscan Water District

By: 

Kenneth Mostern, Principal

Rich McGowan, President
Tuscan Water District

Exhibit A

Scope of Work

(Attached)



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

SCOPE OF WORK

Tuscan Water District, Butte County, CA
2024-25 Proposition 218 Assessment Ballot

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:** Anticipated to mail in November or December 2024, and to be counted in January 2025.
- **Voters:** **Two variations are provided in this scope.** In case #1, there will be approximately **2400 voters** after accounting for consolidated ballots. In case #2, there will be approximately **1000 voters** after accounting for consolidated ballots. District expects to choose between them in August 2024.
- **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 <p>A.</p> <ul style="list-style-type: none"> • 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

B. • Business Reply Mail (if desired)	\$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 1100 pieces (including overs) • 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 • 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