



Contra  
Costa  
County

To: Board of Supervisors  
From: Sharon L. Anderson, County Counsel  
Date: October 24, 2017

Subject: DWR's WaterFix Bond Validation Action – Joint Defense Agreement and Legal Services Contracts

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**RECOMMENDATION(S):**

APPROVE and AUTHORIZE the County Counsel, or designee, to execute, on behalf of the County and the Contra Costa County Water Agency, a joint defense and fee allocation agreement and a contract for legal services with The Freeman Firm, effective July 1, 2017, and a contract for legal services with Rossmann & Moore, LLP, effective July 21, 2017, in connection with *California Department of Water Resources v. All Persons Interested in the Matter, etc.*, Sacramento County Superior Court Case No. 34-2017-00215965.

**FISCAL IMPACT:**

The County and Water Agency will be jointly responsible for one-seventh of the attorneys' fees and costs charged by The Freeman Firm and Rossmann & Moore to represent the co-defendants in the litigation.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY  
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD  
COMMITTEE

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Action of Board On: **10/24/2017** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

**VOTE OF SUPERVISORS**

AYE: John Gioia, District I Supervisor  
Candace Andersen, District II Supervisor  
Diane Burgis, District III Supervisor  
Karen Mitchoff, District IV Supervisor  
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: October 24, 2017

David Twa, County Administrator and Clerk of the Board of Supervisors

Contact: Stephen M. Siptroth, Deputy  
County Counsel, 335-1817

By: Stacey M. Boyd, Deputy

cc:

## BACKGROUND:

The County and the Water Agency are defendants in *California Department of Water Resources v. All Persons Interested in the Matter, etc.*, Sacramento County Superior Court Case No. 34-2017-00215965, filed July 21, 2017. This Board Order authorizes the County Counsel, or her designee, to execute three agreements in connection with the lawsuit.

The joint defense and fee allocation agreement will be executed by nine co-defendants in the case – Contra Costa County, the Contra Costa County Water Agency, San Joaquin County, Solano County, Yolo County, Central Delta Water Agency, Butte County, Plumas County, and the Plumas County Flood Control and Water Conservation District. This agreement authorizes the co-defendants to share privileged litigation-related communications and documents and describes how the co-defendants will pay the attorneys' fees and costs incurred in the litigation.

The above nine agencies will be represented by two law firms – The Freeman Firm and Rossmann & Moore. The contracts for legal services with The Freeman Firm and Rossmann & Moore authorize those law firms to represent all of the above agencies in this lawsuit. For billing purposes, the County and Water Agency constitute one client, and Plumas County and the Plumas County Flood Control and Water Conservation District constitute one client. Under these contracts, the County and Water Agency, together, and each of the other clients, will be responsible for paying one-seventh of all attorneys' fees and costs charged by the two law firms.

## CONSEQUENCE OF NEGATIVE ACTION:

The County and Water Agency would not be represented by these law firms, and there would be no agreement regarding the sharing of privileged documents and communications among the co-defendants in this lawsuit.