

**CONTRACT FOR LEGAL SERVICES AMONG SAN JOAQUIN COUNTY,
CONTRA COSTA COUNTY AND CONTRA COSTA COUNTY
WATER AGENCY, SOLANO COUNTY, YOLO COUNTY,
CENTRAL DELTA WATER AGENCY, AND THE FREEMAN FIRM**

1. Parties and Effective Date. Effective December 6, 2023 (“Effective Date”), this contract is entered into by and among the County of San Joaquin (“San Joaquin”), the County of Solano (“Solano”), the County of Yolo (“Yolo”), the County of Contra Costa and the Contra Costa County Water Agency (together, “Contra Costa”), the Central Delta Water Agency (“CDWA”), (collectively, the “Agencies” and each an “Agency”), and the FREEMAN FIRM, a Professional Law Corporation, dba FREEMAN, D’AIUTO, PIERCE, GUREV, KEELING & WOLF (“Firm”). The Agencies and the Firm are sometimes referred to herein together as “Parties,” and each as a “Party.” The Parties mutually agree as follows:

2. Term. The term of this contract shall be from the Effective Date through the completion of the matters described in Section 3 below, unless sooner terminated as provided herein. This contract supersedes all previous contracts, if any, between or among the Parties hereto concerning the subject of this contract.

3. The Firm’s Obligations.

(a) Scope of Representation. As directed by the Agencies’ in-house attorneys and general counsels, the Firm shall:

1. Provide legal advice and representation to the Agencies in connection with the California Department of Water Resources’ (“DWR’s”) Delta Conveyance Project (“DCP”), including representation in litigation challenging DWR’s certification of the Environmental Impact Report (EIR) for the DCP and any other related state and/or federal approvals of the proposed project (hereinafter, the “DCP CEQA Litigation”);
2. Perform all legal research, prepare all pleadings, briefs, and filings, participate in assembling the administrative record, and complete any other tasks related to the representation of the Agencies in the DCP CEQA Litigation;
3. Provide each Agency an opportunity to review, comment on, edit, and revise all written pleadings and materials pertaining to the DCP CEQA Litigation, to the extent practicable, before filing or submitting the written pleadings and materials on behalf of one or more of the Agencies;
4. Confer with the Agencies’ in-house attorneys on litigation strategy and other significant matters relevant to the DCP CEQA Litigation;
5. Advise the Agencies of all hearings and other appearances in the DCP CEQA Litigation, and, unless directed otherwise by the Agencies, attend all hearing and court appearances on behalf of the Agencies; and
6. Coordinate the above activities with Agencies’ co-counsels, Osha R. Meserve, of the Soluri Meserve law firm, and Roger B. Moore, of the Law Office of Roger B. Moore, to avoid unnecessary redundancy and duplication of legal work.

(b) The Firm’s Principal, Thomas H. Keeling, shall have the primary responsibility for

rendering services for the Firm under this contract. However, certain assignments may be delegated to other attorneys or contract attorneys at the Firm who are qualified and competent to provide the professional legal services engaged hereunder. No major decision concerning the DCP CEQA Litigation, any commitment for substantial expenditure, or the hiring of a consultant is to be made without the prior approval of the Agencies' in-house attorneys, which may be subject to the prior approval of the Agencies' governing bodies.

- (c) The Firm cannot and does not guarantee the outcome of the DCP CEQA Litigation or any related litigation or non-litigation matter. Neither this contract nor any term herein or in the Firm's or its attorneys' other statements to the Agencies, express or implied, shall be construed as a guarantee about the outcome of the DCP CEQA Litigation or any related matter.

4. Compensation.

- (a) Fees. In consideration of the Firm's provision of services under this contract, the Firm shall charge the following hourly rates:

Principal	\$375/hour
Associate	\$250-325/hour
Contract Attorneys	\$250/hour
Paralegal	\$125/hour

Exhibit A to this contract sets forth the names of the Firm's current attorneys and paralegals and their current hourly rates. During the term of this contract, Exhibit A may be replaced whenever necessary to reflect staffing changes at the Firm, provided that Firm attorneys' and paralegals' hourly rates do not exceed the hourly rates set forth above. The Firm shall not adjust any of these hourly rates until after (a) the Firm provides at least 60 days' advance written notice to the Agencies regarding the proposed adjustment, and (b) the Agencies approve the proposed adjustment.

In the event our representation results in recovery of attorneys' fees (i.e., through award from a court or settlement), Agencies agree that the Firm may seek to recoup the difference between the reduced fees charged to the Agencies and reasonable market rate attorneys' fees. Provided, however, that attorney's fees and costs awarded to the Agencies pursuant to any fee motion and/or memorandum of costs, and attorney's fees and/or costs negotiated as a part of any settlement, will be allocated first among the Agencies in proportion to the percentage of the total amount of attorney's fees and costs that each Agency paid the Firm. If the Court awards, or settlement provides for, In-House Attorneys' fees, each Agency will be entitled to the amount of In-House Attorneys' fees that the Court awards, or that a settlement agreement directs, to that Agency.

- (b) Expenses. The Firm shall be entitled to reimbursement of the following expenses incurred while performing services under this contract:

- (1) Automobile mileage at the rate of the then-current IRS limit (\$0.67 per mile beginning in 2024);
- (2) Parking, lodging, and meals at actual costs; and
- (3) Messenger and delivery services, computerized research, videotape recording, conference call services, and court costs and filing fees, postage, long distance telephone charges, facsimile transmission, photocopying costs, and similar expenses at actual cost incurred. .

(c) Retainer. The Firm has elected not to request a retainer for this representation.

5. Billing and Payment. The Firm shall bill in six-minute increments for services provided under this contract. The Firm shall charge each of the Agencies its proportionate share of the Firm's attorney's fees and expenses incurred under this contract. The Firm shall submit to each Agency, through that Agency's in-house attorney's office, a properly documented demand for payment monthly, in the form and manner prescribed by the Agencies. The Firm shall include with its demand to each Agency a copy of each demand sent to each other Agency, unless the same demand is sent to all of the Agencies. Each demand for payment shall itemize the type of services performed under this contract related to the DCP CEQA Litigation, the date the services were performed, who performed the services, the amount of time spent on such services, the total fees and charges incurred, and the total to be paid individually by each Agency. Each Agency will remit payment to the Firm within 60 days of receipt of a billing statement.

6. Independent Contractor Status. This contract is by and among independent contractors and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association.

7. Subcontract and Assignment. The Firm may not subcontract any of the work or assign any of his rights or obligations under this contract without prior written consent of the Agencies.

8. Records. The Firm shall at all times keep a complete and thorough record of the time expended and services performed on behalf of Agencies and shall also make available to the Agencies for audit all such records maintained.

9. Indemnification. The Firm shall defend, indemnify, save, and hold harmless each Agency and its officers and employees from any and all claims, costs, and liability for any damages, injury, or death arising directly or indirectly from or connected with the services provided hereunder due to claimed or alleged to be due to negligent or wrongful acts, errors, or omissions of the Firm or any person under its control, save and except claims or litigation arising through the negligence or willful misconduct of any Agency or its officers or employees, and will make good to and reimburse each Agency for any expenditures, including reasonable attorney's fees, the Agency may make by reason of such matters. The obligations contained in this section shall survive the termination of this contract.

10. Insurance. The Firm shall maintain malpractice insurance throughout the term of this contract.

11. Fee Disputes. While the Firm does not anticipate any disputes about the quality of legal services rendered or the cost of those services, if any such disputes should arise the Firm's policy is to address disagreements promptly and equitably with the Agencies. The Agencies have the right to submit any dispute regarding the Firm's fees to the local bar association pursuant to California Business & Professions Code section 6200 et seq.

12. Conflicts of Interest.

- (a) Avoiding Conflicts. The Firm and members of the Firm's staff shall avoid any actual or potential conflicts of interest. The Firm agrees to notify each Agency immediately of any case or situation which may involve an actual or potential conflict of interest for Agency's review and decision.
- (b) Joint Representation. Notwithstanding Section 12(a), above, the Agencies are informed and understand that each Agency may disagree with the intent, strategy, or instruction to the Firm of one or more other Agencies related to the DCP CEQA Litigation, including but not limited to, settlement negotiations, pretrial motions, legal arguments and theories, and communications with opposing parties. Each Agency acknowledges and consents to such potential conflicts in the representation and agrees to work cooperatively with each other Agency and the Firm to resolve any such conflict. However, each Agency expressly reserves the right to file its own pleading if there is substantial disagreement among the Agencies regarding the content of a proposed pleading.
- (c) Adverse Litigation. The Firm and the Agencies agree that a lawsuit filed by the Firm on behalf of a third party against any Agency during the term of the Firm's representation of that Agency under this contract would create an actual conflict of interest, and the Firm shall not file such a lawsuit without the informed written consent of each Agency that would be a party to such litigation.

13. Termination.

- (a) This contract may be terminated by an Agency, at its sole discretion, upon written notice to the Firm and the other Agencies. Should any Agency exercise termination of the contract pursuant to Section 13(a), or elect to retain alternate counsel, each Agency agrees that the Firm may continue to represent the other Agencies in the DCP CEQA Litigation and this contract shall survive and continue with respect to the non-terminating Agencies.
- (b) The Firm may terminate this contract as to any Agency upon 90 days prior written notice to the Agency, provided the Agency is current on all billing invoices. If the Agency is delinquent on any billing invoice, the Firm may terminate this contract upon 60 days prior written notice, subject to any court authorization required. An Agency will be deemed delinquent if the Agency has not paid a billing statement sent to that Agency within 60 days of receipt, as long as that billing statement is not the subject of a dispute between the Agency and the Firm.

- 14. Reports. The Firm shall comply with California Government Code section 7550.
- 15. Entire Agreement. This contract contains the entire agreement among the Parties hereto and all prior understandings or agreements, oral or written, of whatsoever nature regarding this matter are superseded and terminated by this contract and are hereby abrogated and nullified. This contract may not be modified in any manner except by an instrument in writing executed by the parties or their respective successors in interest.
- 16. Counterparts. This contract may be executed in counterparts, each of which shall be deemed an original.

COUNTY OF SAN JOAQUIN

COUNTY OF SOLANO

Bernadette S. Curry, County Counsel

By: _____
Ed Kiernan, County Counsel

By: _____
Carrie Blacklock, Deputy County Counsel

**COUNTY OF CONTRA COSTA &
CONTRA COSTA COUNTY WATER
AGENCY**

COUNTY OF YOLO

Thomas L. Geiger, County Counsel

By: _____
Stephen M. Siptroth, Assistant County
Counsel

By: _____
Philip Pogledich, County Counsel

CENTRAL DELTA WATER AGENCY

By: _____
Dante J. Nomellini, Sr.
Nomellini, Grilli & McDaniel

FREEMAN FIRM

By: _____
Thomas H. Keeling

Taxpayer Identification No.: 68-0414832

EXHIBIT A

**THE FREEMAN FIRM
ATTORNEYS' & PARALEGALS' NAMES AND HOURLY RATES**

Name	Hourly Rate
Thomas H. Keeling	\$375 (Reduced from \$495 for this engagement)
Michael L. Gurev	\$375 (Reduced from \$495 for this engagement)
Lee Roy Pierce	\$375 (Reduced from \$495 for this engagement)
Arnold J. Wolf	\$375 (Reduced from \$495 for this engagement)
Franklin J. Brummett	\$325
Associate Attorneys	\$250-325
Contract Attorneys	\$250
Paralegals	\$125