



**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

8-7

December 22, 1993

(Land Committee--Information)  
(Legal and Claims Committee--Action)  
*To.* Board of Directors (Organization and Personnel Committee--  
Action)  
*From.* General Counsel  
*Subject:* Authority to Retain Counsel for Representation in Eminent  
Domain and Related Proceedings for the Inland Feeder Pipeline  
Project

### Report

At its meeting of April 13, 1993, your Board authorized an increase in Appropriation 559 to finance all costs in advance of award of construction contracts for the Inland Feeder Project. These costs include the acquisition of the property required for the project. There will be approximately 150 parcels of property which need to be acquired, including fee interests for tunnel portal sites, permanent pipeline and tunnel easements, and temporary construction easements. Of these 150 parcels, it is anticipated that as many as half will result in the filing of eminent domain actions. There are also a number of cases in which the property owner is expected to dispute the right of Metropolitan to acquire the property.

In order to handle the amount of litigation, requests for proposals were sent to eleven firms with eminent domain experience in San Bernardino, Riverside, Orange and Los Angeles counties. At its meeting on September 21, 1993, your Board approved the retaining of five of those firms. At that time it was agreed that the request for proposals would be sent to additional firms in a wider geographic area to locate other firms with lower billing rates. The request for proposal was sent to three firms in San Diego and one firm in the San Fernando Valley. Those firms are:

**Luce**, Forward, Hamilton & Scripps, San Diego, with the responsible attorneys being Steven S. Wall and Robert E. McGinnis;

**Asaro & Keagy**, San Diego, with the responsible attorney being Roscoe D. Keagy;

**Endeman, Lincoln, Turek & Heather**, San Diego, with responsible attorney being Ronald L. Endeman; and

Schimmel & Hillshafer, Sherman Oaks, with responsible attorney being Alan I. Schimmel.

After review of the responses to the request for proposals, Metropolitan staff interviewed the three San Diego firms. The fourth firm of Schimmel & Hillshafer was rejected due to its lack of eminent domain or related experience.

Each of the three firms interviewed has excellent credentials in eminent domain litigation. The billing rates for two of these firms are as low as any other proposal received, and the third firm falls in the middle range of fees. The cases will be assigned to each firm based on their fees as well as the complexity of the legal issues in the case and experience and qualifications of each firm. Based on the experience received in the Domenigoni Valley Reservoir eminent domain litigation, it is expected that all of the firms may be utilized to some degree in handling the Inland Feeder cases. Therefore, it is recommended that the General Counsel be authorized to retain the three San Diego firms in addition to the panel of firms this Board has already approved, to provide legal services in connection with eminent domain or related litigation for the Inland Feeder Project.

The agreement for services entered with each firm will be negotiated with the General Counsel at a rate not to exceed the firms' proposed rates shown on Attachment A to this letter.

All of the firms have expressed their commitment to affirmative action in their hiring and promotion practices.

The proposed action is exempt from the provisions of the California Environmental Quality Act.

#### Board Committee Assignments

This letter is referred for information to the Land Committee because of its authority to study, advise and make recommendations with regard to the conduct of condemnation and other proceedings relating to the purchase and sale of land under Administrative Code section 2451(g);

This letter is referred for action to:

The Legal and Claims Committee because of its authority to study, advise, and make recommendations with regard to the selection of special counsel and the scope of their assignments under Administrative Code section 2461(f); and

The Organization and Personnel Committee because of its authority to study, advise, and make recommendations with regard to the terms and conditions of employment of special counsel-under Administrative Code section 2471(g).

Recommendation

LEGAL AND CLAIMS AND ORGANIZATION AND PERSONNEL COMMITTEES FOR ACTION.

It is recommended that the Board of Directors authorize the General Counsel to contract for the services of the three law firms identified in this letter to represent Metropolitan in eminent domain and related litigation for the Inland Feeder Pipeline Project for a four year period commencing on February 1, 1994, at the rates agreed upon between the firms and the General Counsel, but not to exceed the rates stated in Attachment A.

  
N. Gregory Taylor

ATTACHMENT A

1. The rates for Luce, Forward, Hamilton & Scripps shall not exceed \$220 per hour for partners, \$170 per hour for associate attorneys, and \$65 per hour for paralegals.

2. The rates for Asaro & Keagy shall not exceed \$150 per hour for partners, \$125 per hour for associate attorneys, and \$60 per hour for paralegals.

3. The rates for Endeman, Lincoln, Turek and Heater shall not exceed \$150 per hour for partners, \$100 per hour for associate attorneys and \$50 per hour for paralegals.