

**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

APPROVED
 By the Board of Directors of
 The Metropolitan Water District
 of Southern California
 at its meeting held

JUN 13 1995

7-12

Baren E. Duff
 EXECUTIVE SECRETARY

May 25, 1995

To: Board of Directors (Organization & Personnel--Action)
 (Legal & Claims--Action)

From: General Counsel

Subject: Authorization to Amend Agreement No. 4633 with Special Counsel Katherine E. Stone.

RECOMMENDATION:

It is recommended that your Board authorize the General Counsel to amend Agreement No. 4633 with Katherine E. Stone to increase the maximum amount payable from \$250,000 to \$500,000 to provide additional legal services for litigation related to MWDSC v. JWP Controls, et. al.

N. Gregory Taylor
 N. Gregory Taylor
 General Counsel

<p><u>CONTRACT TYPE</u></p> <p><input type="checkbox"/> NEW</p> <p><input checked="" type="checkbox"/> AMENDED</p> <p><u>CONTRACT FORM</u></p> <p><input type="checkbox"/> LEASE</p> <p><input checked="" type="checkbox"/> PROFESSIONAL SERVICES</p>	<p><u>FUNDING</u></p> <p><input checked="" type="checkbox"/> CAPITAL</p> <p><input type="checkbox"/> O & M</p> <p><u>BUDGET STATUS</u></p> <p><input checked="" type="checkbox"/> FY 94/95 AMT_ \$169,000_</p> <p><input type="checkbox"/> OUT-YEAR AMT _____</p> <p><input type="checkbox"/> NON-BUDGET AMT _____</p>	<p><u>TYPE OF COMPETITION</u></p> <p><input type="checkbox"/> RFQ</p> <p><input type="checkbox"/> RFP NO. _____</p> <p><input type="checkbox"/> INFORMAL RFP</p> <p><input type="checkbox"/> OTHER COMPETITION</p> <p>_____</p> <p><input checked="" type="checkbox"/> SOLE SOURCE</p>
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PURPOSE/BACKGROUND:

In 1991, Contract No. 1396/Specifications No. 1207 with JWP Controls, Inc. (JWP) was bid and awarded in accordance with competitive bidding procedures. The Contract's completion date was May 18, 1993. Metropolitan terminated the contract with JWP for cause on April 15, 1994, and engaged unsuccessfully in protracted discussion with JWP, Seaboard, Transdyn regarding completion options. Seaboard Surety unreasonably refused to perform its obligation to complete the Contract in accordance with its performance bond. On June 24, 1994, Metropolitan filed a complaint against JWP and Seaboard for breach of contract and declaratory relief. The complaint was subsequently amended to add additional causes of action for fraud, bad faith and to add Transdyn as a defendant. Upon the motion of the defendants, the case has been transferred from Los Angeles County to San Luis Obispo County. Significant discovery is underway.

Metropolitan retained special counsel Katherine E. Stone to handle this matter on May 27, 1994. With your Board's approval, Ms. Stone's contract was increased from \$50,000 to \$250,000 on November 2, 1994. The complexity of the case, the additional causes of action and the defendants' evasive tactics and obstructive discovery practices necessitates an increase of Ms. Stone's contract from \$250,000 to \$500,000.

MBE/WBE:

Ms. Stone is a certified WBE and DBE.

CEQA COMPLIANCE / ENVIRONMENTAL DOCUMENTATION:

Pursuant to Section 15061 of the California Environmental Quality Act (CEQA) Guidelines, the action requested by this Letter is exempt from the provisions of CEQA as it does not constitute a project as defined in Section 15378 of the Guidelines.

<p><u>RFP STATISTICS</u></p> <p><u>0</u> FIRMS REQUESTED RFP</p> <p><u>0</u> FIRMS SUBMITTED PROPOSALS</p> <p><u>0</u> FIRMS WERE SHORT-LISTED</p> <p><u>CONTRACTS WITH CONSULTANT</u></p> <p><input checked="" type="checkbox"/> TOTAL NO. <u>1</u></p> <p><input checked="" type="checkbox"/> MAXIMUM DOLLAR AMT. <u>\$150,000</u></p>	<p><u>EVALUATION CRITERIA</u></p> <p>_____</p> <p>_____</p> <p>_____</p> <p><u>CONTRACTUAL DETAILS</u></p> <p><input checked="" type="checkbox"/> ANTICIPATED DURATION <u>18</u> MONTHS _____</p> <p><input checked="" type="checkbox"/> HOURLY RATES <u>\$210</u> _____</p>
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