



**Outside Counsel  
CITY OF AUSTIN  
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.: 11  
AGENDA DATE: Thu 02/12/2004  
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**SUBJECT:** Authorize negotiation and execution of an amendment to the outside counsel contract with SCOTT, DOUGLASS & MCCONNICO, L.L.P, Austin, TX, in *F.L. Vivion, N.K. Ballard, L.I. Ballard et al. v the City of Austin*; Cause No. GN103302; in the 261st Judicial District, Travis County, Texas, in the amount of \$350,000, with a total contract amount not to exceed \$593,000.

**AMOUNT & SOURCE OF FUNDING:** Funding in the amount of \$350,000 is available in the Fiscal Year 2003-2004 Approved Operating Budget of the Liability Reserve Fund.

**FISCAL NOTE:** There is no unanticipated fiscal impact. A fiscal note is not required.

**REQUESTING Law  
DEPARTMENT:**

**DIRECTOR'S  
AUTHORIZATION: Dana Johnson**

**FOR MORE INFORMATION CONTACT:** David Allan Smith, City Attorney, 512-974-2268; Dana Johnson, Acting Division Chief, 512-974-2171

**PRIOR COUNCIL ACTION:** 03/07/02 in the amount of \$200,000.

**BOARD AND COMMISSION ACTION:** N/A

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This amendment increases the amount of the legal services contract with Scott, Douglass & McConnico, L.L.P., for representation in *F.L. Vivion, N.K. Ballard, L.I. Ballard et al. v the City of Austin*; Cause No. GN103302; in the 261st Judicial District, Travis County, Texas.

The Law Department contracted with this firm on January 8, 2002 for an original contract amount of \$43,000. The City Council passed a resolution on March 7, 2002 in the amount of \$200,000, for an amount not to exceed \$243,000. The Vivion lawsuit is comprised of multiple class action claims, each with its own factual and legal particulars. Appeals are likely prior to trial court resolution. Outside counsel has provided their best estimate of the fee amount which will be necessary for representation in this matter, and \$350,000 will likely be needed this fiscal year.