



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

**AGENDA ITEM NO.: 10
AGENDA DATE: Thu 08/04/2005
PAGE: 1 of 1**

SUBJECT: Approve an amendment of the outside counsel contract with SCOTT, DOUGLASS & MCCONNICO, L.L.P., Austin, TX, for legal representation in connection with the City's claims in *City of Austin v. Level 3 Communications, Inc. and Level 3 Communications, LLC*; Cause No. GN 304585, in the 353rd Judicial District Court, Travis County, Texas, for damages to the City's Onion Creek Tunnel and liner, in an amount not to exceed \$708,000 for a total contract amount not to exceed \$1,058,000.

AMOUNT & SOURCE OF FUNDING: Funding in the amount of \$708,000 is available in the Fiscal Year 2004-2005 Approved Operating Budget of the Austin Water Utility.

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

**REQUESTING Law
DEPARTMENT:**

**DIRECTOR'S
AUTHORIZATION: Anne Morgan**

FOR MORE INFORMATION CONTACT: David Smith, City Attorney / 974-2268; Anne Morgan, Assistant City Attorney / 974-2507

PRIOR COUNCIL ACTION: October 30, 2003

BOARD AND COMMISSION ACTION: N/A

On October 30, 2003 Council approved an outside counsel contract with Scott, Douglass & McConnico, L.L.P., for legal representation in this lawsuit. Additional fees are now needed to pay reasonably anticipated litigation fees and expenses because the case did not get resolved at the pre-trial stage and because Level 3 has added new parties to the lawsuit.

The Council is requested to approve an amendment to an outside counsel contract in the amount of \$708,000 with a total contract amount not to exceed \$1,058,000.