

RESOLUTION NO. 2002-90

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
RENEWING CITY ATTORNEY CONTRACT WITH
KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD FOR SERVICES**

WHEREAS, the City Council is authorized to appoint a City Attorney;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Elk Grove as follows:

1. Anthony B. Manzanetti on behalf of Kronick, Moskowitz, Tiedemann & Girard, a Professional Corporation, shall continue to serve as City Attorney for the City of Elk Grove, with all the powers, duties and responsibilities of these respective offices as may be provided by City ordinance and State law.

2. Anthony B. Manzanetti and Kronick, Moskowitz, Tiedemann & Girard, a Professional Corporation, shall serve as an independent contractor to the City for city attorney services and compensation shall be fixed by agreement with the City of Elk Grove. Said agreement, attached hereto as Attachment 1, is hereby approved and the Mayor is hereby authorized to execute it on behalf of the City. Upon execution, the agreement shall be filed with the City Clerk and shall be available for public review in the City offices.

PASSED AND ADOPTED by the City Council of the City of Elk Grove on this 5th day of June 2002.


MICHAEL P. LEARY, MAYOR of the
CITY OF ELK GROVE

ATTEST:


PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:


ANTHONY B. MANZANETTI,
CITY ATTORNEY

AYES: Leary, Scherman, Cooper
Soares, Briggs

NOES: None

ABSTAIN: None

ABSENT: None

Agreement For Legal Services

This Agreement for Legal Services is entered into between Kronick, Moskovitz, Tiedemann & Girard, A Professional Corporation ("KMTG") and City of Elk Grove ("Client") as of the date last set forth herein.

The parties hereto acknowledge that the Attorney-Client relationship works best when there is a mutual understanding about the legal services to be provided, the fees and related expenses, and billings. Accordingly, this Agreement for Legal Services is intended to explain KMTG's billing policies and procedures and to supplement the Engagement Letter dated April 25, 2000, which further defines the relationship between the parties.

Together the Agreement for Legal Services and Engagement Letter serve as the written agreement between the parties (the "Agreement"). Therefore, Client is strongly encouraged to review both documents carefully and ask any questions or request any clarifications that may facilitate Client's understanding of this Attorney-Client relationship.

By signing and returning the Agreement for Legal Services and the Engagement Letter, Client indicates its acceptance of the terms set forth in those documents.

1. SCOPE OF AGREEMENT

Client retains KMTG to provide legal services to Client as set forth in the Engagement Letter.

2. DUTIES OF KMTG AND CLIENT

KMTG DUTIES

KMTG shall provide those legal services reasonably required to represent Client in the matter described in the Engagement Letter. KMTG shall also take reasonable steps to keep Client informed of significant developments and to respond to Client's inquiries.

While Anthony B. Manzanetti ("ABM") will be primarily responsible for completing the work on Client's matter(s), ABM may also delegate work to other attorneys, paralegals, law clerks and officer personnel within KMTG when it is determined that such delegation is appropriate in representation of Client's interests. If Client so requests, Client will be notified prior to any delegation and a decision will be made in consultation with Client.

KMTG may, with Client's prior consent, select and hire attorneys, investigators, consultants and experts to assist in the preparation and presentation of Client's case. While these persons would report exclusively to KMTG to preserve the Attorney-Client privilege, they are employed by Client.

KMTG is not authorized or obligated to perform any services for Client until receipt of the signed Engagement Letter and this Agreement for Legal Services.

CLIENT'S DUTIES

Client shall be truthful with KMTG, cooperate with KMTG, keep KMTG informed of developments, perform the obligations Client has agreed to perform under this Agreement and pay statements from KMTG in a timely manner.

3. BILLING RATES

Certain senior or special skill attorneys would be billed at a maximum hourly rate of \$175. This would include the rate for Anthony B. Manzanetti, Ann M. Siprelle, Michael F. Dean, Robert E. Murphy and other senior attorneys with specific specialized municipal and public agency experience. The hourly rates for other senior attorneys would be \$160. The hourly rates for other senior or less specialized attorneys would be \$150. All other associates' hourly rates would range from \$100 to a maximum \$150, depending on experience. Otherwise, Client agrees to pay for legal services and for non-attorneys at the rates set forth in the attached Schedule of Rates. These rates are subject to adjustment at the beginning of each fiscal year. KMTG will give written notice of rate adjustments at least thirty (30) days prior to the effective date thereof, and the new rates will be instituted only in consultation with Client. These rates are based principally on experience, specialization and training.

KMTG will bill the Client a flat per-meeting charge for regular City Council meetings of \$175 per meeting, no matter how long each meeting may last, for one attorney. Otherwise, KMTG will bill its time in increments as set forth in the Engagement Letter and charges for all time worked on a matter, including travel time portal-to-portal, time waiting in court, and time spent in meetings, unless otherwise agreed to in writing.

4. COSTS AND EXPENSES

Whenever practical, Client shall directly pay for major costs and expenses by either advancing such costs or expenses to KMTG, or by paying third parties directly. Upon demand, Client shall advance funds to KMTG or directly pay third parties as specified by KMTG.

In all other cases, Client shall reimburse KMTG for all costs and expenses incurred by KMTG including, but not limited to, the following: costs of serving pleadings, filing fees and other charges assessed by courts and other public agencies, court reporters' fees, jury fees, witness fees, long distance telephone calls, messenger and other delivery fees, postage, photocopying, parking, mileage, travel expenses (including air fare at coach rates, lodging, meals, and ground transportation), research, investigation expenses, consultants' fees, expert witness fees, and other costs.

KMTG shall itemize all costs incurred on each periodic statement.

5. STATEMENTS

KMTG shall send Client a statement for fees and costs incurred every month. However, when the fees and costs for a particular month are minimal, they may be carried over to the next month's statement. Client shall pay statements from KMTG within thirty (30) days after each statement's date.

KMTG's statements shall clearly state the basis thereof, including the amount, rate and basis for calculation (or other method of determination) of KMTG's fees.

KMTG shall provide a statement to Client, upon Client's request, no later than ten (10) days following the request. Client is entitled to make subsequent requests for statements at intervals of no less than thirty (30) days following the initial request.

6. DISCLAIMER OF GUARANTEE

By signing this Agreement, Client acknowledges that KMTG has made no promises or guarantees to Client about the outcome of Client's matter, and nothing in this Agreement shall be construed as such a promise or guarantee.

7. DISCHARGE AND WITHDRAWAL

Either party may terminate this Agreement upon written notice to the other party. KMTG shall provide client with sixty (60) days written notice of termination if Client or KMTG elects to terminate this Agreement, KMTG shall be paid for all fees and costs, which have accrued up to the time of termination.

KMTG and Client each agree to sign any documents reasonably necessary to complete KMTG's discharge or withdrawal.

8. LEGAL ACTION UPON DEFAULT

If Client does not pay the balance when due or breaches any other terms of this Agreement, KMTG may demand that the entire unpaid balance be paid immediately and, as provided by law, commence any legal action for collection of the balance due.

Client and KMTG agree that all legal proceedings related to the subject matter of this Agreement shall be maintained in courts sitting within the State of California, County of Sacramento. Client and KMTG consent and agree that the jurisdiction and venue for proceedings relating to this Agreement shall lie exclusively with such courts. Further, the prevailing party in any such dispute shall be entitled to reasonable costs, including attorneys' fees.

9. ARBITRATION OF FEE DISPUTE

If a dispute arises between KMTG and Client regarding attorneys' fees or costs under this Agreement and KMTG files suit in any court, or begins an arbitration proceeding other than through the State Bar or a local bar association under Business and Professions Code Sections 6200-6202, Client will have the right to stay that suit or arbitration proceeding by timely electing to arbitrate the dispute through the State Bar or a local bar association under Business and Professions Code Sections 6200-6202, in which event KMTG must submit the matter to that arbitrator.

10. COMPLETION OF SERVICES

Upon the completion of KMTG's services, all unpaid charges for services rendered and costs incurred or advanced through the completion date shall become immediately due and payable.

11. CLIENT FILES

At Client's request, upon the termination of services under this Agreement, KMTG will promptly release all of Client's papers and property (subject to any applicable protective orders or non-disclosure agreements).

12. DESTRUCTION OF CLIENT FILE

If Client does not request the return of Client's papers and property, KMTG will retain Client's file for a period of seven (7) years from the last date of service in the matter described in the Engagement Letter, after which time KMTG may have Client's file destroyed. Client acknowledges that it will not be notified prior to the destruction of its papers and property and consents to the same. If Client desires to have Client's file maintained beyond seven (7) years after Client's matter is concluded, separate arrangements with KMTG must be made.

13. COMMENCEMENT OF SERVICES

KMTG's obligation to provide legal services shall commence upon KMTG's receipt of a Resolution of Intent to continue KMTG as the City Attorney and this Agreement for Legal Services. Should the Client not provide KMTG with a signed Agreement for Legal Services by June 30, 2002, KMTG's obligation to provide services under this agreement shall immediately cease. Upon ratification, this Agreement for Legal Services shall remain valid and binding upon the parties until July 1, 2004. The Client shall have the option to extend these services beyond the initial agreement time frame.

14. INSURANCE

Pursuant to Business and Professions Code Section 6148, Client is hereby informed that KMTG maintains errors and omissions insurance coverage applicable to the services to be rendered.

15. MODIFICATION BY SUBSEQUENT AGREEMENT

This Agreement may be modified only by a written instrument signed by both parties.

I understand and accept the foregoing terms.

DATE: _____ **CITY OF ELK GROVE**

DATE: _____ **Anthony B. Manzanetti**
KRONICK, MOSKOVITZ, TIEDEMANN &
GIRARD, a Professional Corporation