

Gig Harbor Special City Council Meeting

**December 1, 2008
6:00 p.m.**



**AGENDA FOR
SPECIAL GIG HARBOR CITY COUNCIL MEETING
December 1, 2008 – 6:00 p.m.**

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

NEW BUSINESS:

1. Public Hearing to Consider City Attorney / Legal Counsel Proposals.
2. Addendum to Agreement for Legal Services / Ogden Murphy Wallace.

EXECUTIVE SESSION: To discuss pending and potential litigation per RCW 42.30.110(1)(i); property acquisition per RCW 42.20.110(1)(b) and guild negotiations per RCW 42.30.140(4)(a).

ADJOURN:



Summary of Information for City Attorney Services Selection Process

(Shown in random order)

Firm Name	Kenyon Disend, PLLC	Ogden Murphy Wallace	McGavic Graves
website address	http://www.kenyondisend.com/	http://www.omwlaw.com	http://www.mcgavickgraves.com/subsite/Index.htm
Proposed GH City Attorney	Shelly Kerslake	Angela Belbeck	Jennifer Forbes
Year admitted to WA Bar	1992	1994	1996
Yrs of experience as lead City/Town Attorney	5	2	1
Proposed GH back-up City Attorney	Kari Sand	Wayne Tanaka	Gregory Jacoby
Year admitted to WA Bar	1997	1975	1988
No of attorneys in firm	14	45	16
Year Firm was Founded	1993	Early 1900's	Early 1900's
Proposed Labor Attorney	Shelly Kerslake	Scott Snyder	Dave Luxenberg

KENYON DISEND, PLLC

—THE MUNICIPAL LAW FIRM—

SHELLEY M. KERSLAKE

Email: Shelley@KenyonDisend.com

Phone: (425) 392-7090, ext. 105

Experience & Practice Area.

Shelley Kerslake joined Kenyon Disend, PLLC in 2003. Prior to joining Kenyon Disend, Shelley served as an Assistant City Attorney for the City of Tacoma for eleven years. Shelley's practice focuses on all areas of municipal law, including but not limited to constitutional law, public records, employment law, employee misconduct and harassment investigations, and dispute resolution in the employment context. She currently serves as the City Attorney for the Cities of DuPont and Tukwila.

Education.

University of Puget Sound, J.D., 1992

University of Washington, B.A., 1989

Admitted to Practice.

Washington, 1992

U.S. District Court, Western District of Washington, 1996

U.S. Court of Appeals, Ninth Circuit, 1997

Professional Activities.

Washington State Association of Municipal Attorneys

Washington State Bar Association

KENYON DISEND, PLLC
— THE MUNICIPAL LAW FIRM —

KARI L. SAND

Email: Kari@KenyonDisend.com

Phone: (425) 392-7090, ext. 100

Experience & Practice Area.

Kari Sand joined Kenyon Disend, PLLC in 2005. Prior to joining Kenyon Disend, Kari served as an Assistant City Attorney for the City of Tacoma for six years, and as an associate attorney for two years at a general practice firm in Tacoma. Kari's practice focuses on all areas of municipal law, with particular emphasis on local taxation and tax litigation, fair housing and anti-discrimination laws, public bidding, public disclosure and FMLA, ADA and employment law matters. She currently serves as an Assistant City Attorney for Tukwila and handles special projects for various other cities.

Education.

University of Oregon, J.D., 1997

University of Washington, B.A., Cum Laude, 1993

Admitted to Practice.

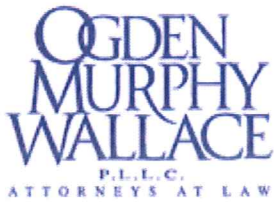
Washington, 1997

U.S. District Court, Western District of Washington, 1997

Professional Activities.

Washington State Association of Municipal Attorneys

Washington State Bar Association



[Attorneys](#) ▶ [Seattle](#) ▶ Angela Belbeck

Attorneys

Angela S. Belbeck

Member

Seattle office

Phone: (206) 447-7000

Fax: (206) 447-0215

E-mail: abelbeck@omwlaw.com

Biography

Angela Belbeck is a member in the firm's municipal department. Her practice includes many areas of municipal law, including public works, public procurement, public records, multi-jurisdictional projects, real property acquisition, employment issues and HIPAA compliance.

After graduating from law school, Ms. Belbeck served as counsel for Snohomish County and Thurston County. She is a former member of the Washington Association of Prosecuting Attorneys' Civil Committee.

Ms. Belbeck, a Washington native, received her B.A. in Political Science from the University of Washington in 1990 and her J.D. from the University of Washington School of Law in 1994. She is a member of the Washington State Bar Association (Construction Law section).

Publications by Angela S. Belbeck

[Publications](#)

Practice Areas

- [Municipal](#)
- [Contracts](#)
- [First Amendment - Free Speech](#)
- [Land Use and Development](#)

Association Memberships

- Washington State Bar Association
- King County Bar Association
- Washington Association of Municipal Attorneys

Education

- J.D., University of Washington School of Law, 1994
- B.A., Political Science, University of Washington, 1990

Professional and Community Activities

- Commissioner, Seattle Parks Board, 2004-2006

[Seattle](#)

[Wenatchee](#)



[Attorneys](#) ▶ [Seattle](#) ▶ [Wayne Tanaka](#)

Attorneys

Wayne Tanaka

Member

Seattle office

Phone: (206) 447-7000

Fax: (206) 447-0215

E-mail: wtanaka@omwlaw.com

Biography

Wayne D. Tanaka is a Member and past chair of the firm's Municipal practice area. As a lead attorney, Mr. Tanaka is responsible for the full range of projects associated with our municipal clients, which include land use decisions, growth management, municipal financing, personnel matters, public records and open public meetings. He also represents municipal clients on a variety of other matters, such as shoreline management, local improvement districts, civil service and tort litigation.

Mr. Tanaka has been President and was on the Board of the Washington State Association of Municipal Attorneys, the statewide organization of municipal attorneys. Mr. Tanaka served three terms on the Bellevue School District Board of Directors.

Mr. Tanaka was born in 1950 in Lufkin, Texas. He graduated *cum laude* from Harvard University in 1972 and received his law degree in 1975 from the University of Washington.

Publications by Wayne Tanaka

📄 [Publications](#)

Practice Areas

- [Condemnations](#)
- [Growth Management](#)
- [Municipal](#)
- [Land Use and Development](#)

Association Memberships

- Washington State Bar Association
- King County Bar Association
- Washington State Assn. of Municipal Attorneys

Education

- J.D., University of Washington School of Law, 1975
- A.B., *cum laude*, Harvard University, 1972

Professional and Community Activities

- King County and Washington State Bar Associations
- Washington State Association of Municipal Attorneys

[Seattle](#)

[Wenatchee](#)



Jennifer A. Forbes

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E-Mail: jaf@mcgavick.com

Print this Page

Practice Areas:

Municipal Law, Litigation, Real Estate, Land Use, Appellate Law

Kitsap County Deputy Prosecuting Attorney 1996-2006
Criminal Division 1996-2003
Civil Division 2003-2006

Assistant City Attorney, Port Orchard - 2006-Present
Assistant City Attorney, Fife - 2006-2008
Assistant City Attorney, Black Diamond - 2006-2007
Town Attorney, Ruston - 2007-2008
ProTem Judge, Gig Harbor Municipal Court

Place of Birth:

Idaho Falls, Idaho

Bar Admission:

1996, Washington

2003, U.S. District Court, Western District of Washington

Education:

Whitman College (B.A., 1993)

Seattle University School of Law (J.D. cum laude, 1996)

Memberships:

Washington State Bar Association

Kitsap County Bar Association

Washington State Association of Municipal Attorneys

Tacoma Pierce County Bar Association

Kitsap County home Builder's Association - Member

Community Involvement

American Red Cross of King and Kitsap Counties

West Sound Advisory Board Chair

Board of Directors - Member, Executive Committee

Award - Exemplary Service Award

Commission on Children and Youth

PALS Mentor

RESPECT Kitsap Youth, Chair and Member

Leadership Kitsap - Class of 2009



Gregory A. Jacoby

Phone: (253) 627-1181 x 102

Direct: (253) 682-3102

E-Mail: gaj@mcgavick.com

[Print this Page](#)

Practice Areas:

Municipal Law and Environmental Law

Place of Birth:

Boston, Massachusetts

Bar Admission:

1987, Massachusetts

1988, Washington and U.S. District Court, Western District of Washington

1996, U.S. Court of Appeals, Ninth Circuit

Education:

Kenyon College (B.A., 1979)

Northeastern University (J.D., 1987)

Memberships:

Massachusetts State Bar Association (Inactive)

Washington State Bar Association

American Bar Association

KENYON DISEND, PLLC

THE MUNICIPAL LAW FIRM

MICHAEL R. KENYON
BRUCE L. DISEND
SHELLEY M. KERSLAKE

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KARI L. SAND
JANET D. REIS
PETER B. BECKWITH
RENÉE G. WALLS
KATHRYN J. HARDY
AMY JO PEARSALL

RESPONSE TO REQUEST FOR PROPOSALS FOR CITY ATTORNEY SERVICES

Thank you for the opportunity to provide you with information about Kenyon Disend, PLLC and the legal services we offer to the City of Gig Harbor. We look forward to the opportunity to meet with you to discuss the City's needs and our qualifications in greater detail. In the meantime, please consider the following material regarding our firm.

I. VENDOR BUSINESS HISTORY

Attached please find a completed Business Statement form, Attachment A to the Request for Proposals for City Attorney Services.

II. FIRM EXPERIENCE

We founded Kenyon Disend, PLLC in 1993 for the express purpose of serving Washington cities. We now serve nearly thirty cities, counties, and other public agencies as city attorneys, special counsel, and prosecutors.

- We are the only firm in the state with a practice devoted to municipal law services, to the virtual exclusion of all other areas of law. We do not represent developers or others who take positions adverse to cities.
- Our firm currently serves as city attorneys for the cities of Algona, Burien, Cle Elum, Covington, DuPont, Duvall, North Bend, Orting, Roslyn, Sammamish, Sultan, and Tukwila, and for the Towns of Hunts Point and South Cle Elum.
- We provide special land use, litigation, code enforcement, and other specialized legal services to numerous cities including Bellevue, Bonney Lake, Bothell, Des Moines, Everett, Federal Way, Kelso, Kent, Kirkland, Maple Valley, Newcastle, Olympia, Pacific, Puyallup, Renton, Shoreline, Spokane, Tacoma, and University Place, and to Pend Oreille, Lewis, and Mason Counties. We also provide legal services to Si View Metropolitan Park District, Key Peninsula Metropolitan Park District, and Chelan Fire District No. 7.
- We serve as city prosecutors for the cities of Burien, Kenmore, North Bend, Roslyn, and Tukwila.

This firm exists solely to provide timely, professional, and comprehensive legal services to Washington cities and counties. The following briefly describes a portion of our more recent experience:

A. Municipal Legal Advice. We currently provide these services on an exclusive basis to fourteen cities as city attorneys, and to many others as special counsel. Our experience includes daily advice and counsel to mayors, city councils, planning commissions, civil service commissions, and many other advisory bodies. In addition, our service regularly entails advice and counsel to all city departments and managers.

In addition to our regular general counsel services, please consider the following representative sampling of recent cases involving general municipal issues in which we have served as counsel:

- *Tukwila School District v. Tukwila*. We successfully defended Tukwila in a matter challenging the validity of the City's common storm water utility. Until the Court of Appeals affirmed Tukwila's position, this case had been widely viewed as a precursor to challenges state-wide to the continued existence of storm water utilities of many other cities.

- *Burns, et al. v. Seattle, et al.* As lead counsel in superior court and on direct review in the Washington Supreme Court, Kenyon Disend successfully defended the cities of Burien and Tukwila, and coordinated the joint defense efforts of all other suburban cities named in the suit, in a class action attempt to invalidate fees paid by Seattle City Light to suburban cities pursuant to a franchise fee agreement. Specifically, the class representatives sought entry of a declaratory judgment that payments made by Seattle City Light to each of the suburban cities pursuant to franchise agreements between them constituted an illegal utility tax and, accordingly, were void and unenforceable, as well as an injunction enjoining any future payments by Seattle City Light to the suburban cities. In August 2007, the Supreme Court ruled in our favor, affirming the Superior Court's summary judgment order of dismissal.

- *Primm v. Medina*. In another recent Supreme Court victory for Washington cities, we successfully resisted a challenge to the authority of cities to conduct municipal court services by interlocal agreement.

B. Land Use. A substantial portion of our practice involves land use matters, including drafting ordinances, permit processing, administrative hearings, and litigation. We regularly provide advice and guidance to city councils, planning agencies, and staff throughout the review and adoption process. Mike Kenyon and Bob Sterbank lead our land use team, and both are recognized leaders in this field.

The firm has been responsible for the conduct of more than 75 contested land use matters over the past several years at the administrative level, the Growth Management Hearings Boards, and the superior and appellate courts. A representative sampling includes:

- *Heller v. Bellevue*. The City lost a superior court LUPA decision on substantial issues involving renovations to non-conforming commercial structures and a development moratorium. The developer also filed a related lawsuit for damages. We were hired to handle the appeal. Just six weeks after oral argument, the Court of Appeals issued a unanimous decision reversing the trial court, dismissing the LUPA Petition, and affirming Bellevue's actions.
- *R.D. Manning v. Kenmore*. City hearing examiner invalidated City permit conditions requiring developer of large multi-family development to acquire private property from adjacent landowners for subsequent dedication to City as road right-of-way to serve the project. On City's LUPA appeal, examiner's decision was reversed on the merits.
- *Foss v. Des Moines*. Influential property owner sued City, claiming contract and property rights to a valuable slip at the City's marina. Case dismissed on City's motion for summary judgment.
- *Mt. Pilchuck Ski & Sport v. Everett*. Two separate LUPA actions challenged City's decision to require abatement of non-conforming additions to large monument sign in violation of City sign code. Court's Order required removal of nonconforming additions.
- *Puget Sound Energy v. North Bend*. Utility company filed LUPA action challenging City Council decision related to siting of energy transmission facility. The case was dismissed on the City's motion at the statutory Initial Hearing.
- *Miller Land and Timber v. North Bend*. Large property owner sued for delay in permit processing and numerous other claims. Case was dismissed on City's motion, and City was awarded attorney's fees.
- *Heller et al. v. City of Sammamish and John F. Buchan Homes, Inc.* A multi-week, multi-party challenge to City approval of a 132-lot subdivision located on 56 acres. Issues raised included SEPA and transportation concurrency. Successfully defended the City's SEPA determination and plat approval at hearings conducted before the City hearing examiner and in King County Superior Court.
- *Maple Valley Citizens for Responsible Growth v. City of Maple Valley and Brown Family*. A citizen group challenged the City's approval of the subdivision of a former equestrian center into 65 residential lots on 16 acres of land. Successfully defended the subdivision approval before the City hearing examiner, the City Council, and the State Shorelines Hearings Board.

C. Labor and Employment Law. Both Bruce Disend and Shelley Kerslake are recognized leaders in this field. The firm has substantial experience with employment investigations (e.g., harassment/discrimination complaints), union negotiations, grievance and disciplinary matters, PERC hearings, Civil Service Commission matters, and employment litigation. A few representative examples of Shelley's experience are:

- *Kirby v. City of Tacoma et al.* Plaintiff alleged discrimination on the basis of a perceived disability, age, and for engaging in protected Union activity. The case was dismissed on the City's motion for summary judgment and affirmed by the Court of Appeals.
- *Fassel v. City of Tacoma.* Plaintiff claimed discrimination in the hiring process for a firefighter position. The case was dismissed upon a summary judgment motion and the Court of Appeals upheld the decision.
- *Wurzbach v. City of Tacoma.* Plaintiff claimed discrimination in a promotional process due to a disability. After a trial, judgment was entered in favor of the City and the decision was upheld by the Court of Appeals.
- *Hankins/Smalls v. City of Tacoma et al.* Plaintiffs claimed race discrimination, denial of promotional opportunities, and that they were disciplined more harshly than their white counterparts. The case was dismissed on summary judgment.

A representative sample of Bruce Disend's experience includes:

- Responsible for labor relations for eleven years as the Bellingham City Attorney negotiating labor agreements with Police, Fire, and general employee bargaining units. Conducted labor relations training for HR and management staff. Successfully defended City's position in two arbitrations with the Fire Department bargaining units.
- Serve as the City bargaining representative for the Cities of Duvall, DuPont, and Orting in collective bargaining with Police, Fire and general bargaining units.
- Served as City bargaining representative for the City of Bonney Lake with Police and general bargaining units.
- Frequent lecturer on personnel law at conferences conducted by the Washington State Association of Municipal Attorneys.

D. Code Enforcement. As city attorneys, our firm has extensive experience in code enforcement, both at the district court and superior court levels. We negotiate resolutions to code enforcement issues with literally dozens of property owners every year. In unusual cases, where negotiations are unsuccessful, we are well equipped to litigate these issues. Three recent cases include:

- *Burien v. Lipscomb*. The City brought lawsuit for nuisance abatement against property owners of an apartment complex for multiple violations of the municipal code, housing code, and building code. We obtained an injunction requiring the evacuation and relocation of the apartment tenants, and also recovered \$200,000 for the City in costs and penalties.

- *Burien v. Traut*. After attempting to work cooperatively with property owners who had constructed a garage and living quarters in the right-of-way, the City obtained a judgment and injunction requiring removal of the structure and reimbursement of the City's legal and other fees.

- *Bothell v. Suarez and Flanagan*. Similar to the *Burien v. Lipscomb* matter, the City brought lawsuit for nuisance abatement against property owners of an apartment complex for multiple violations of the municipal code, housing code, and building code. The City obtained an injunction and other relief, including the evacuation and relocation of the apartment tenants, and the currently on-going rehabilitation of the apartment complex in compliance with all applicable code provisions. Resolution of the cost and penalty portion of the action, by summary judgment or settlement, awaits completion of the on-going rehabilitation.

E. Tort Defense/Risk Management. Shelley Kerslake leads our team on these matters. Shelley has handled over 100 municipal tort cases, ranging from sidewalk slip and falls, to wrongful death and catastrophic injury cases. Because of this tort experience, Shelley has extensive experience with risk management. While with the City of Tacoma she served on the risk management team, advising city departments on how to avoid litigation and advising the Risk Management Department regarding complex insurance coverage matters. Some representative cases include:

- *Quackenbush v. City of Tacoma*. An eighteen-year-old boy was killed in an intersection accident. The estate claimed that the accident was caused by poor sight distance at the intersection. The case settled at mediation for \$29,000.

- *Massner v. LESA et al.* Plaintiff sustained a broken back and a head injury when she ran into a dump truck and trailer that was abandoned in the middle of the roadway in rural Pierce County. The case against the City and LESA was dismissed on the City's motion for summary judgment.

- *Reyes v. City of Tacoma*. Plaintiff claimed that the Fire Department failed to provide adequate medical care. The case was dismissed on the City's motion for summary judgment.

- *Weiss v. City of Tacoma*. Plaintiff's car, which was stopped in the middle of the roadway, was struck by a speeding patrol officer who did not have his siren activated. Plaintiff suffered massive facial injuries and head trauma. Plaintiff claimed two million dollars in damages (he was a high-income professional snowboarder). The case settled for \$262,000 prior to trial.

- *Huggler v. City of Tacoma*. Plaintiff was hit with a plexiglass enclosure at a hockey game, suffering a closed head injury. He claimed a disability and a diminution in earning capacity as a highly successful businessperson. The case settled for \$500,000. The City subsequently recovered all monies paid to the plaintiff, as well as all attorney's fees, from the insurer of the hockey event.

F. Eminent Domain. Over the past five years, we have been involved in the successful negotiation or litigation of nearly thirty cases in eminent domain. In no case has our client been held responsible for statutory attorney and expert witness fees. Representative recent cases include:

- Kenmore Flood Reduction Improvements. Acquired a total of six parcels by pre-condemnation negotiation and successful mediation. Successfully opposed a challenge to public use and necessity.

- Puyallup – 39th Avenue Extension. We are currently completing negotiations with six commercial property owners for multi-million dollar total takes necessary for construction of a substantial public transportation improvement project.

- Newcastle – Coal Creek Parkway and Transit Center Projects. This regionally significant project involves the completion of a four lane arterial which provides substantial congestion relief for traffic that would otherwise use Interstate 405. Our on-going work includes property acquisition, owner and tenant relocation, and eminent domain services involving nearly twenty different parcels.

G. Public Construction and Utilities Law. Given the breadth of our municipal practice, we are regularly and routinely involved with the pre-design, design, construction, and maintenance of public works projects of many sizes and types. Chris Bacha leads our team in this area. Our experience includes large and small street and sidewalk projects, water and sewer LIDs, waste water treatment plant reconstruction and expansion, acquisition and construction of several city halls, and much more.

Substantial recent or current projects include multi-million dollar property acquisitions and street improvements on SR 522 along the northern shore of Lake Washington, and assistance with

multi-million dollar acquisitions and property assemblages for significant downtown redevelopment projects in Burien and Tukwila.

A few representative examples of Chris Bacha's experience include:

- "D" Street Overpass Project (Tacoma). This was a \$28,000,000 FAST corridor grade separation project to remove an existing at-grade crossing located at the intersection of East "D" Street and the Burlington Northern Santa Fe ("the BNSF") mainline to support and enhance freight mobility. This project utilized multiple federal, state, and regional funding sources, and required coordination of rail, utility, and right of way improvements, the acquisition of property rights, and the development of construction and bid documents complying with, among other things, local employment and apprenticeship requirements of the different federal funding sources. Chris acted as the lead attorney for the City of Tacoma in drafting, reviewing, and negotiating the legal agreements necessary to support this project.
- Sound Transit Light Rail. Chris served as lead attorney for the City of Tacoma on this \$80,000,000 project which involved the construction of a 1.6 mile light rail line by Sound Transit in Tacoma. The project required development of multiple agreements for the use and occupancy of the public right of way for construction and operation of the light rail line and related relocation of public utilities.
- Greater Tacoma Convention and Trade Center. This \$120,000,000 project involved the construction of the 277,000 square foot convention and trade center in downtown Tacoma. Chris was the lead attorney in drafting the documents necessary for the creation of the Public Development Authority ("PDA") and the underlying agreements with the PDA that became the conduit through which the convention center was constructed.
- Sound Transit Commuter Rail Line (Tacoma). This project involved the reconstruction of a 1.7 mile portion of the Tacoma Rail Mountain Division Rail Line for use by Sound Transit for passenger commuter rail operations as part of the Sound Transit Commuter Rail operations. This project required negotiation of multiple agreements with Sound Transit for construction of the passenger rail improvements and operation of passenger rail service within the Tacoma Rail freight rail corridor. Chris acted as lead attorney in drafting and negotiating these agreements.

H. Contracts. In addition to the projects listed above, we have negotiated and drafted development agreements forming public/private partnership as well as annexation agreements for developments exceeding \$100,000,000.00, which have ensured phased growth and that the city was covered by the developer for any shortfall in revenue associated with serving the annexed area.

Other representative contracts and interlocal agreements include:

- North Bend/Miller Land and Timber - Complicated development agreement with the private landowner of the historic “Tollgate Farm” property, and related agreements with King County and Trust for Public Lands. As approved, desirable in-fill development was permitted on outlying portions of Tollgate Farm, while the historic farm structures and over 20 acres of meadow in the Mt. Si viewshed were preserved for recreation and passive open space.

- Interlocal agreement, charter, and bylaws forming the Capital Area Public Facilities District, among the cities of Olympia, Tumwater, and Lacey, and Thurston County. The purpose of the Public Facilities District was to facilitate construction of a convention center in downtown Olympia and a regional sports field complex in the City of Lacey.

- Interlocal agreement between the City of Olympia and the Port of Olympia for purchase of a former industrial property adjacent to Budd Inlet, and related purchase and sale agreement with Burlington Northern Railroad for a new City park. The property had been contaminated by subsurface leakage from an adjacent property formerly used as a tank farm, so the interlocal allocated cleanup liability, primarily, to the Port.

I. Environmental Law. We have worked extensively with our clients in the adoption of the mandated Sensitive Areas Ordinance as well as NPDES implementation. We are currently working with several “early adopter” clients on their Shoreline Master Program updates. In addition, we have successfully handled claims under the Model Toxic Control Act to recover clean-up costs associated with contamination of city-owned property.

J. Open Public Meetings Act and Public Records. Given the exclusive nature of our practice, we advise clients on a routine basis regarding the application of the OPMA and the Public Records Act and their exceptions and exemptions. Our firm provides regular training to public agencies and public officials regarding these Acts, and members of our firm frequently serve as guest lecturers on these issues. In the unfortunate event of an OPMA or public records lawsuit, we have been retained by several cities across the state to resolve those matters.

K. Water Law. Margaret King leads our team in the area of municipal water law. Prior to joining Kenyon Disend, Margaret served as Senior Legal Counsel to the Washington State Senate Water, Energy and Technology Committee for three years, where she was the primary attorney for water issues. Her prior private practice includes service to Idaho, Colorado, and New Mexico water users, the State of Nebraska, and the Cities of Albuquerque and Las Cruces, New Mexico. Margaret assisted the State of Nebraska in the case of *Nebraska v. Wyoming*, regarding enforcement of a 1945 decree rationing the North Platte River among users in Wyoming, Nebraska, and Colorado. Margaret also assisted the City of Albuquerque regarding utilization of the City’s annual right to 48,200 acre-feet of San Juan-Chama water, including drafting aquifer storage and recovery legislation as one of many strategies to address shortage of supply. Since joining Kenyon Disend, Margaret has assisted North Bend and Roslyn with water rights issues.

III. PROPOSED ATTORNEY/TEAM

If selected by Gig Harbor to provide city attorney services, Shelley Kerslake would serve as lead City Attorney, with primary back-up provided by Kari Sand. Shelley would likewise have all of the firm's other personnel and resources available to serve Gig Harbor.

Shelley is a partner at Kenyon Disend, PLLC. Shelley was admitted to the Washington State Bar in 1992, and served as an Assistant City Attorney for the City of Tacoma for eleven years. Shelley's practice focuses on all areas of municipal law, including but not limited to constitutional law, land use, public records, impact fee development, creation of special purpose districts, development agreement negotiation, employment law, litigation, employee misconduct and harassment investigations, and dispute resolution. She currently serves as the City Attorney for the cities of DuPont and Tukwila.

Kari Sand joined Kenyon Disend, PLLC in 2005. Prior to joining Kenyon Disend, Kari served as an Assistant City Attorney for the City of Tacoma for six years, and as an associate attorney for two years at a general practice firm in Tacoma. Kari's practice focuses on all areas of municipal law, with particular emphasis on local taxation and tax litigation, fair housing and anti-discrimination laws, public bidding, public disclosure and FMLA, ADA and employment law matters. She currently serves as an Assistant City Attorney for Tukwila and handles special projects for various other cities.

Our firm is unique in that it approaches each client as a team. Although individual attorneys are assigned to each client, the client has at its disposal all of the firm's attorneys and their various areas of expertise. This approach ensures that the City is being served in the most efficient manner possible. In addition, we strive to provide services in a cost effective manner by having routine matters often drafted by paralegals, when appropriate, and/or reviewed by attorneys with lower hourly rates than lead attorneys.

Please see the attached summary of experience for certain other firm members.

IV. ACCESSIBILITY AND RESPONSIVENESS

In providing municipal legal services, our firm is dedicated to the following three core values: Access, Timeliness of Response, and Value.

Access. Our accessibility, when you need it, has always been a hallmark of our service excellence.

Timeliness of Response. We provide timely, thorough responses to legal issues facing our clients. We move quickly to solve problems efficiently.

Value. Simply stated, no other municipal law firm compares to us with respect to value and service level received, in exchange for fees earned.

Kenyon Disend has a five-star reputation for providing its clients with timely, thorough responses. All clients have direct access to their attorneys. Clients virtually always receive a response within 24 hours, and in many cases within the hour. If a response requires legal research, our clients are informed of this fact and provided a firm deadline by which they can expect further response.

Because Shelley Kerslake and other firm members are located in the Tacoma area, availability for urgent meetings would be generally within fifteen minutes. It is common for our firm to provide, as part of our service, "office hours" at city hall. Our presence at city hall several days a week also assists in availability for unscheduled meetings and creates more opportunity for proactive legal advice.

V. PROPOSED FEE STRUCTURE

In limiting our practice to municipal law, we have developed efficiencies and economies of scale that provide substantial value to our clients. Accordingly, while our rates in an absolute sense may be higher than certain other firms, and lower than certain others, our value remains unparalleled. In other words, our attorneys can usually perform a task in less time than attorneys who represent cities on a less than full-time basis.

Although there are many different fee structures we would be willing to consider, based upon the City's desired level of service, we feel the proposal outlined below provides the City with more service than it was previously receiving for less cost. It also allows the City to control its costs and create more certainty with regard to its legal budget.

For general city attorney services, as outlined in the Scope of Work contained in the RFP, as well as human resource/labor relations services, environmental services, and contract services, we propose a flat monthly fee of \$20,000.00. This fee includes up to 120 hours of attorney/paralegal time per month. The 120 hours also includes 20 hours per week of "office hours" at City Hall to provide the opportunity for regular consultation with staff and elected officials. Travel time to and from City Hall will not be billed to the City. For hours which exceed 120 hours per month, the firm's regular hourly rates will apply. For litigation and other special matters, the firm's regular hourly rates will apply. A copy of the firm's hourly rates for 2008 is attached to this Response.

V. REFERENCES

We invite you to contact any of our clients, including the following references, to discuss our services:

Rhonda Berry, City Administrator
City of Tukwila
6200 Southcenter Blvd.
Tukwila, WA 98188
Phone: (206) 433-1800

Janean Parker, City Attorney
City of University Place
3715 Bridgeport Way W.
University Place, WA 98466
Phone: (253) 566-5656

Jim Morrow, Public Works Director
City of Tukwila
6300 Southcenter Blvd
Tukwila, WA 98188
Phone: (206) 433-0179

Paul Brachvogel
City Manager
City of Kelso
203 South Pacific
Kelso, WA 98626
Phone: (360) 721-0027

Steve Lancaster
City of Mercer Island
Community Development Director
9611 SE 36th Street
Mercer Island, WA 98040
Phone: (206) 275-7605

**SUMMARY OF EXPERIENCE
FOR OTHER SENIOR KENYON DISEND ATTORNEYS**

MIKE KENYON. Mike earned his law degree from the University of Puget Sound in 1985, where he graduated Cum Laude. Following law school, Mike began working at LeSourd & Patten, one of Seattle's oldest law firms. After serving as Tukwila's first in-house city attorney, Mike co-founded Kenyon Disend, PLLC in 1993 and has acted as the firm's Managing Member ever since that time. His practice focuses on all areas of municipal law, including but not limited to land use, eminent domain, constitutional law, open public meetings and public records, and dispute resolution.

BRUCE DISEND. Bruce joined Kenyon Disend, PLLC in 1999 and became a partner in 2000. Bruce's practice focuses on all areas of municipal law, including but not limited to land use, labor and employment law. Bruce brings a focused city perspective to his legal work, having served as in-house City Attorney for over 14 years with the cities of Bellingham, Puyallup and Shoreline. He currently serves as the City Attorney for the Cities of Duvall and Sammamish.

CHRIS BACHA. Chris was admitted to the Washington State Bar in 1987, and joined Kenyon Disend after 17 years with the City of Tacoma and two years before that with Lewis County. Chris's practice continues to emphasize telecommunications and other common carrier regulations, franchises, economic development, real property transactions, storm and surface water management, right of way management, and municipal contracting. Chris currently serves as City Attorney for the cities of Burien, Algonia and Orting.

MARGARET KING. Prior to joining Kenyon Disend, Margaret served as Senior Legal Counsel to the Washington State Senate Water, Energy and Technology Committee for three years, where she was the primary attorney for water issues. Her prior private practice includes service to Idaho, Colorado, and New Mexico water users, the State of Nebraska, and the Cities of Albuquerque and Las Cruces, New Mexico. Margaret assisted the State of Nebraska in the case of *Nebraska v. Wyoming*, regarding enforcement of a 1945 decree rationing the North Platte River among users in Wyoming, Nebraska, and Colorado. Margaret also assisted the City of Albuquerque regarding utilization of the City's annual right to 48,200 acre-feet of San Juan-Chama water, including drafting aquifer storage and recovery legislation as one of many strategies to address shortage of supply. Since joining the Kenyon Disend team, Margaret has provided a wide range of municipal services to many of the firm's clients, including assisting North Bend and Roslyn with water rights issues.

BOB STERBANK. Prior to joining Kenyon Disend, Bob served as the City Attorney for the Cities of Federal Way, Olympia, and Mercer Island. Bob's practice focuses on all areas of municipal law, including but not limited to land use, constitutional law, open public meetings and public records, and employment. In addition, he writes and lectures extensively on land-use and growth-management issues, including the topics of impact fees and environmental mitigation.

**KENYON DISEND, PLLC
HOURLY RATE SCHEDULE FOR YEAR 2008**

ATTORNEYS:

Partners and Senior Attorneys:

Michael R. Kenyon	\$235.00
Bruce L. Disend	\$235.00
Shelley M. Kerslake	\$205.00
Chris D. Bacha	\$205.00
Bob Sterbank	\$205.00
Sandra S. Meadowcroft	\$200.00
Margaret J. King	\$200.00
Kari Sand	\$190.00

Associate Attorneys:

Amy Jo Pearsall	\$165.00
Renee Walls	\$150.00

PARALEGALS:

Margaret C. Starkey	\$95.00
Sheryl A. Loewen	\$85.00
Pam M. Odegard	\$80.00
Shelly Crossland	\$80.00
Mary Eichelberger	\$80.00
Terry Cox	\$80.00
Kim Obermayer	\$80.00
Kathy Swoyer	\$80.00

LEGAL INTERNS:	\$95.00
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Attachment A: Submittal Form

Business Statement - Please complete and submit with your proposal response.

1. Name of Business: Kenyon Disend, PLLC
2. Business Address: 11 Front St. South, Issaquah, WA 98027
3. Phone: 425-392-7090 Business Fax: 425-392-7071 E-Mail: Shelley@kenyondisend
cc
4. Business Classification (check all that apply):
Individual Partnership Corporation x
5. Federal Tax Number (a SSN or Federal Tax Number): 91-201-6881
6. Name of Owner: Michael R. Kenyon, Bruce L. Disend, Shelley M. Kerslake
7. Does firm maintain insurance in amounts specified by the City contract:
Yes: x No: _____
*General Liability insurance of at least \$1,000,000 per occurrence;
\$2,000,000 aggregate, Combined Single Limit (CSL);
Automobile liability of at least \$1,000,000 per accident CSL
Professional Liability of at least \$ 1,000,000*
- If no, describe differences: _____
8. Are there claims that are pending against this insurance policy? Yes: _____ No: x
- If yes, describe: _____
9. During the past five years, has the firm, business, or any attorney in the firm or business, been involved in any (1) bond forfeiture, (2) litigation personally involving the firm, business or any attorney in the firm or business (other than dissolution of marriage), or (3) claims filed with any insurance carrier concerning the firm, business, or any attorney in the firm or business, and/or (4) Bar Association complaints?
- If yes, attach an explanation. Yes: _____ No: x
10. Has company been in bankruptcy, reorganization or receivership in last five years?
Yes: _____ No: x
11. Has company been disqualified or terminated by any public agency? Yes: _____ No: x



Angela S. Belbeck

October 22, 2008

Molly Towslee, City Clerk
City of Gig Harbor
3510 Grandview Street
Gig Harbor WA 98335

Re: Request for Proposals - City Attorney Services

Dear Ms. Towslee:

The law firm of Ogden Murphy Wallace P.L.L.C. is pleased to submit the enclosed Proposal for Attorney services. After reviewing the City of Gig Harbor's Request for Proposals, we are confident that our firm possesses the skills, capacity and expertise necessary to meet the City's legal needs.

Ogden Murphy Wallace is a well-established and highly regarded law firm that has served public and private sector clients throughout the Pacific Northwest for over 100 years. Our firm's longevity has enhanced our regional reputation for stability, and underscores the success we have enjoyed in attracting and retaining institutional clients over the past century. Many of OMW's institutional clients have remained with the firm for many decades.

OMW currently employs 45 attorneys in its Seattle and Wenatchee offices. The firm is divided into three main practice areas, focusing upon business, litigation and municipal law issues. Although our proposed representation of Gig Harbor would primarily involve OMW's municipal practice group, the diversity of our firm's practice enables us to draw upon the specific expertise of our business and litigation attorneys where necessary to best serve the City's needs.

The municipal attorneys at Ogden Murphy Wallace enjoy a statewide reputation for providing the highest quality legal services to Washington cities, towns, counties and special purpose districts. As a result of our expertise in this field, our firm currently serves as general counsel to more cities than any other Washington law firm. Included in our institutional client base are the cities of Edmonds, Redmond, Issaquah, Poulsbo, Mukilteo, Woodinville, Edgewood, Woodway, Milton, Normandy Park, Monroe, Carnation, Buckley, Index, Medina, Clyde Hill, Pomeroy, Bridgeport, Rock Island, Brewster and Deer Park. The numerous services we provide to our municipal clients include consultation and litigation regarding public contracting, real property acquisition, zoning, growth management, environmental law, complex agreements, sale and

Established 1902

A Member of the International Lawyers Network with independent member law firms worldwide



November 25, 2008

Attn: Angela Belbeck
Ogden, Murphy, Wallace
1601 Fifth Ave, Ste 2100
Seattle, WA 98101

Re: Gig Harbor City Attorney Proposal

Dear Angela S. Belbeck:

Thank you for proposing to provide city attorney services to the City of Gig Harbor, and congratulations on making it into the second round of the selection process.

The City of Gig Harbor received a wide variety of proposed options with respect to cost and estimated office hours as per our request for proposals for city attorney services. Without committing to a specific number of hours, office hours, cost or billing scheme, and while not trying to squash creative solutions which may benefit the City, we would like to be able to compare your firms cost solution with the other firms by requesting a cost proposal based on the following criteria:

- 90 hours of service per month – both a flat rate and an hourly proposal
- 8 hours of on-site office hours per week (this time is included in the 90 hours above)
- Hourly rate for hours over 90 during a month
- Travel time rate per hour
- Travel expense per mile
- Hourly rate for litigation

Please submit your response to this request so that it is received by noon on Monday, December 1, 2008 by: Faxing to: (253) 851-6170, Attn: David Stubchaer or Emailing to: stubchaerd@cityofgigharbor.net

Please keep in mind that any offer and subsequent final contract will be subject to negotiation and may be based on different criteria than that shown above.

There will be a public meeting on December 1, 6:00 pm at the Gig Harbor Civic Center to discuss your proposals to provide City Attorney services which you are welcome to attend. It is the City's intention to have a contract for City Attorney services approved at the regular City Council meeting on December 8, 6:00 pm also at the Gig Harbor Civic Center.

Sincerely,

David Stubchaer

David Stubchaer
Public Works Director

TRANSMISSION VERIFICATION REPORT

New Business - 1

TIME : 11/25/2008 15:41
NAME :
FAX : 2538537597
TEL : 2538516170
SER. # : BROH5J320281

DATE, TIME	11/25 15:41
FAX NO./NAME	12064470215
DURATION	00:00:28
PAGE(S)	01
RESULT	OK
MODE	FINE ECM



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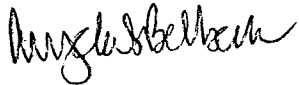
Molly Towslee, City Clerk
October 22, 2008
Page 2

leasing, labor and employment matters, land use issues, condemnation, telecommunications, public records disclosure, municipal ethics, parliamentary procedures and compliance with the Open Public Meetings Act.

As the enclosed Proposal demonstrates in greater detail, Ogden Murphy Wallace P.L.L.C. is able to provide the City of Gig Harbor with exceptional, cost-effective representation encompassing the full spectrum of municipal law issues. We look forward to hearing from you as the first step in what will hopefully be a long and successful relationship with the City of Gig Harbor.

Sincerely,

OGDEN MURPHY WALLACE, P.L.L.C.



Angela S. Belbeck

ASB:
Enclosures

**PROPOSAL FOR LEGAL SERVICES
CITY OF GIG HARBOR**

Submitted by:

**Ogden Murphy Wallace P.L.L.C.
1601 Fifth Avenue, Suite 2100
Seattle, WA 98101-1686
(206) 447-7000**

OGDEN MURPHY WALLACE P.L.L.C.

Donald W. Black, Managing Member

1601 Fifth Avenue, Suite 2100

Seattle, Washington 98101-1686

(206) 447-7000

Fax: (206) 447-0215

Firm Experience

Ogden Murphy Wallace P.L.L.C. was founded in 1902 when Raymond D. Ogden, Sr. opened a small general law practice. Since then, the firm has grown to over forty lawyers with offices in both Seattle and Wenatchee. Today Ogden Murphy Wallace is a leading multi-specialty law firm committed to providing practical, cost-effective legal services to businesses, municipal corporations and individuals. All of our attorneys are fully accredited and licensed to practice law in the State of Washington. We pride ourselves in addressing each client's needs with the most appropriate specialization available in our firm, employing a team approach to draw on the specialized knowledge of our attorneys across a broad spectrum of legal expertise. OMW has represented Washington cities, towns, counties and special purpose districts for over forty years, and currently serves more Washington cities as general counsel than any other law firm in the state. Our commercial clients include hospitals and healthcare providers, banks, agribusiness concerns, construction contractors, architects, insurance companies, manufacturers, information technology businesses and restaurants. We assist our clients with a wide range of matters, including business mergers and acquisitions, tax counseling, local and international commercial transactions, labor and employment, real estate and land use, litigation and much more.

Our Municipal Practice Group

The firm began its municipal practice in 1962, when Jim Murphy was hired to represent the City of Edmonds as its City Attorney. Today, nine of the attorneys in our Seattle office and three of the attorneys in our Wenatchee office emphasize municipal law in their daily practice. In addition, many of the other attorneys in both offices represent our municipal clients in specialized matters such as litigation, bankruptcy, real estate transactions, labor relations and personnel issues. Our current municipal practice involves representing 21 cities as general counsel and a number of others on specific matters. The cities we serve as general counsel include Edmonds, Redmond, Issaquah, Poulsbo, Mukilteo, Woodinville, Edgewood, Woodway, Milton, Monroe, Carnation, Buckley, Index, Medina, Clyde Hill, Normandy Park, Pomeroy, Bridgeport, Rock Island, Brewster and Deer Park. Our municipal practice is as diverse as this list of clients suggests. We provide everything from land use and development consultation to personnel advice and assistance with public works contracting. We also offer training for staff

members and elected officials, formal legal opinions, and coordination with special counsel as appropriate. One of the primary benefits of retaining our firm is our ability to employ an integrated approach to client representation, and to recognize when a particular legal issue requires the attention of a business or litigation attorney outside of the municipal practice group.

In addition to other legal specialties, our firm's municipal practice group offers expertise in each of the following areas:

- *Land Use and Development.* Land use issues are often paramount in local government. Each of our municipal attorneys is well versed in all aspects of Washington law related to zoning, planning and project permitting, with detailed knowledge of the Growth Management Act, the Planning Enabling Act, the Land Use Petition Act, the Shoreline Management Act, the Regulatory Reform statute, the Appearance of Fairness Doctrine, and all other laws governing land use and development in local communities. Our attorneys have successfully represented municipalities in land use litigation at every level of the Washington State court system, including the United States Supreme Court. We have also successfully defended local land use decisions and zoning actions before a variety of administrative tribunals, including the Growth Management Hearings Board and the Shoreline Hearings Board. A number of our attorneys routinely serve as Hearing Examiners in local land use matters, a role that enhances the depth and breadth of the municipal practice group's land use expertise. We have the specialized knowledge to advise our municipal clients at every stage of the planning and zoning process, and the proven skill to defend municipal zoning and permitting decisions against legal challenges.
- *Public Works.* Public works functions cover a wide variety of contracting, labor, finance and litigation issues. Our firm is experienced in each and every area. We routinely negotiate and draft contracts both large and small. We participated in major design build projects such as the Edmonds Public Safety Building, the Redmond City Hall and Redmond Public Safety Building, as well as litigation that stemmed from one of those projects, and a contractor's poor performance. We participated throughout the process as Edmonds and Monroe have upgraded their sewer treatment plants. We have also advised on innovative public private partnerships such as the construction of a fire station in Issaquah as a part of the Gilman Village construction, and the construction of public facilities in a similar context in the City of Monroe in its ongoing North Kelsey project.

We routinely work with our clients as they perform street, sewer and water projects. These services include the drafting of contracts, the negotiation of the purchase of easements and property, and the development of innovative financing techniques. Mr. Snyder is currently working with the City of Edmonds as it establishes a transportation benefit district. Mr. Tanaka is the firm's expert on local improvement districts and procedures in litigation. In addition, Mr. Snyder has represented the Cities of Edmonds and Monroe in clean water act litigation arising from the operation of their wastewater treatment plants.

- *Environmental Services.* Land use and public works often implicate environmental issues. As noted, we have handled clean water act cases for our clients who operate wastewater treatment facilities. We are familiar with shorelines and SEPA issues, and litigate them frequently in the courts and before appropriate administrative tribunals. As noted, with our experience is both as litigators and hearing examiners, we can see the problem from both sides.

At times, specific clean-up or environmental issues are implicated in real estate transactions and land use decisions. We partner with Salter Joyce Ziker in Seattle. We would be happy to provide their resumes and information to you upon request.

- *Ordinances and Resolutions.* A critical function of municipal government is the development and implementation of local legislation. Each of our municipal attorneys reviews and/or drafts ordinances and resolutions for the firm's municipal clients as part of our daily practice. We are keenly aware of the legal form requirements for these documents, and our substantive understanding of municipal law enables us to assist our clients in crafting clear, concise, well-organized ordinances and resolutions that will advance the legislative intent of the city or town council. Our approach to preparing local legislation is to constantly verify that a particular document is defensible in both format and substance, and we provide our clients with helpful drafting suggestions as appropriate to this end.
- *Contracts and Interlocal Agreements.* Many firms view municipal contract review as a *pro forma*, rubberstamp exercise. The municipal attorneys at OMW, however, recognize that every contract proposal embodies our client's legal relationship with a third party, and we vigilantly review all aspects of a proposed agreement to ensure that the client's legal interests will be adequately protected. We have significant expertise in all aspects of municipal contracting, and each of our attorneys is familiar with the legal requirements and procedural pitfalls of the processes and substantive standards governing competitive bidding, contracting with professional service providers and procuring necessary equipment and materials. We also routinely prepare interlocal agreements spanning a broad range of issues, including law enforcement matters, shared municipal services, environmental protection, and joint financing programs.
- *Council Meetings.* Attendance at city and town council meetings is a significant aspect of municipal law practice. Each of our municipal attorneys is familiar with the legal requirements imposed by the Open Public Meetings Act, relevant parliamentary procedures, and the mayor/council division of responsibility under state law. Likewise, our land use expertise is invaluable in assisting clients with quasi-judicial public hearings. We pride ourselves on our ability to contribute to orderly, successful public meetings.
- *Police/Fire/Public Safety.* Several of the cities within our firm's municipal client base operate their own police and fire departments; other cities contract with other municipalities, including special purpose districts, for these services. Our attorneys are

keenly aware of the unique legal challenges inherent in providing--or contracting for--law enforcement and fire protection, and we are able to knowledgeably advise our clients regarding safety concerns, risk management issues, personnel matters and other issues as necessary in a given case.

- *Employment and Labor.* Mr. Snyder's practice at Ogden Murphy Wallace emphasizes labor and/or employment issues. As his resume indicates, he conducts workplace investigations, represents clients in arbitration and mediation proceedings, drafts employee handbooks and personnel policies, and advises clients regarding a broad range of employment and labor issues, including but not limited to employee discipline, ethics, wage and hour issues and HIPAA compliance. Ms. Belbeck is also a member of Ogden Murphy Wallace's employment law practice group.
- *Litigation.* We prefer to resolve issues before they reach the litigation stage, but when litigation becomes necessary, we are ready. For over 40 years, our firm's lawyers have successfully represented municipal clients before a host of courts and administrative tribunals. The range of legal issues implicated in these proceedings is enormous, and includes personnel matters, public records disclosure, public works matters, code enforcement, public nuisance abatement, land use permitting and zoning, SEPA determinations, eminent domain, homeless encampments, gambling ordinances, annexation, *quo warranto* actions, takings and substantive due process challenges, among others.

Ogden Murphy Wallace emphasizes a team approach in representing our municipal clients. We provide a slate of experienced attorneys who can each become familiar contacts for Council Members, the Mayor, City Administrator, and other city staff members. Our practice is to assign to each municipal client an experienced City Attorney as lead attorney for each municipal client, with a primary member level attorney for backup and an associate level attorney to round out the team. Our other municipal practitioners serve in backup roles to cover temporary absences and assist in specialty matters such as telecommunications, eminent domain, employment, land use and public disclosure.

The depth and breadth of our municipal experience enables us to utilize this team approach. Having twelve attorneys in the firm whose primary practice involves representing municipalities ensures our flexibility in meeting the immediate needs of our municipal clients. It also allows us to provide a substantial degree of continuity in the representation of each city, and has instilled within our clients the confidence that no task is beyond our firm's ability to handle. We provide whatever personnel are necessary to perform the services required for any given project.

Our extensive municipal representation also benefits our clients in that we do not have to "reinvent the wheel" every time a particular issue arises. Municipalities often face similar challenges, and we have been able to significantly reduce our clients' legal costs by applying our previous and current experience with other cities. Where appropriate, when working on projects of common interest we spread the legal expense of that work throughout our client base so that no single municipality is forced to absorb the entire cost. This is not to say that we employ a one-size-fits-all approach. We recognize that each municipality has unique issues and circumstances, and we have always used an individualized approach for each client. This

requires the firm's attorneys to not only call upon their experiences with other municipalities, but also to perform quick and efficient research and to engage in innovative thinking. We pride ourselves in consistently achieving our clients' objectives and we are not deterred by the complexity or difficulty of any task.

Through the combined experiences of our municipal attorneys, Ogden Murphy Wallace has encountered virtually every conceivable type of municipal issue. We have represented our clients in all levels of state and federal courts, including the Ninth Circuit Court of Appeals and the United States Supreme Court. We have litigated dozens of administrative appeals before administrative tribunals, including the Growth Management Hearings Board, the Shoreline Hearings Board and the Washington Utilities and Transportation Commission. Our attorneys have successfully secured over one hundred properties in condemnation actions. We constantly monitor developments in the courts and state legislature, and we provide timely and proactive advice to our clients on current legal issues. Our office regularly sends the firm's municipal clients timely notification of important judicial opinions as well as a yearly summary of pertinent legislative enactments.

Proposed Attorney Team

Our proposed City Attorney team would feature firm member attorneys Angela Belbeck, Wayne Tanaka and W. Scott Snyder, as well as firm associate, Kristin Eick. We propose Ms. Belbeck as the lead attorney. Mr. Tanaka and Mr. Snyder would be her primary back ups, particularly for meeting coverage in the event of conflict. Mr. Tanaka would be primarily responsible for back up in litigation areas and Mr. Snyder in personnel matters. Having a lower cost associate involved in project formulation helps keep the City's costs to a minimum while assuring quality control through the supervision of a firm member.

Angela Belbeck

We are proposing Angela Belbeck as the lead City Attorney. Ms. Belbeck is a member level attorney in Ogden Murphy Wallace's Municipal Department. She is the City Attorney for the City of Mukilteo and also provides legal services to the Cities of Redmond, Poulsbo, Woodinville, Medina and other firm municipal clients.

Ms. Belbeck's experience includes a full spectrum of municipal legal services. She regularly drafts ordinances and resolutions relating to a wide range of municipal matters, defends and prosecutes civil matters including land use appeals and various damages actions. In addition, Ms. Belbeck has considerable experience with the Public Records Act and Open Public Meetings Act. She has been a speaker at conferences relating to HIPAA and public records for various local and state-wide organizations.

Ms. Belbeck also has significant experience relating to public works construction projects, from site selection and design to post-construction closeout. She has negotiated numerous interlocal cooperation agreements involving utility coordination and relocation in connection with road projects. She has handled prevailing wage issues, claims relating to project delay damages, and has prosecuted against performance bonds in cases of contractor default. She has extensive experience dealing with capital improvement projects including public works facilities large and

small, several park development and redevelopment projects, and numerous road improvement projects. She also has significant experience with storm and surface water matters.

Before joining Ogden Murphy Wallace in 2004, Ms. Belbeck was a Deputy Prosecuting Attorney in the Civil Division of the Snohomish County Prosecuting Attorney's Office where she represented various County departments including Public Works, Parks and Recreation, the Civil Service Commission, Human Services, Juvenile Court Services, Assessor and Treasurer. In addition, as a former Commissioner on the Seattle Board of Park Commissioners, Ms. Belbeck understands first-hand the issues related to serving on a public board.

Ms. Belbeck received her J.D. degree from the University of Washington School of Law in 1994 and her B.A. degree from the University of Washington in 1990 (Political Science). She is a member in good standing of the Washington State Bar Association.

W. Scott Snyder

Scott Snyder is a member at Ogden Murphy Wallace and has been the City Attorney of Edmonds since 1983. During the course of his career, he has served as the City Attorney of Columbia, Missouri and Poulsbo, Washington, a special deputy for Snohomish and King Counties, legal counsel to Kitsap Transit, and has represented the cities of Redmond, Issaquah, Gig Harbor, Mukilteo, Puyallup, Carnation and Woodway, the Mayor of Bremerton, and the Kitsap Regional Coordinating Council. He served as Managing Partner of Ogden Murphy Wallace from 1995 through 1999. He currently serves on the Washington State Association of Municipal Attorney's Board of Directors.

Mr. Snyder's practice emphasizes personnel and labor law, as well as land use. Relating to labor relations, Mr. Snyder regularly handles resolution of employee grievances and he has been instrumental in the development and implementation of "preventive" labor and employment law practices. He has negotiated labor contracts for a variety of Puget Sound cities. In addition to his work for Gig Harbor, Mr. Snyder has negotiated labor contracts for the cities of Poulsbo, Medina, Gig Harbor, Mukilteo and Edmonds. He has served as a lead negotiator for over 20 years and has 35 years experience in the public sector in mediation, civil service proceedings and advising public employers.

Mr. Snyder is a frequent public speaker for entities such as the Local Public Governmental Institute, the Washington State Association of Fire Chiefs, the Washington State Civil Service Conference and the Washington State Association of Municipal Attorneys. His pro bono service includes both individuals and a variety of social service agencies, such as the Washington Foundation for the Handicapped. He was a founding participant in the Family Violence and Workplace Initiatives of the Family Health Institute of the Washington Physicians for Social Responsibility.

Mr. Snyder attended Dartmouth College on a National Merit-General Motors Scholarship, receiving his A.B. in English and History. He earned his J.D. from the University of Missouri-Columbia in 1975. He is a member of good standing of the Washington State Bar Association.

Wayne D. Tanaka

Wayne D. Tanaka is a member of Ogden Murphy Wallace and has devoted his practice to municipal clients. Wayne was the firm's managing member from 2000 to 2005, and has also served as chair of the firm's municipal practice area. As lead attorney for the Cities of Issaquah and Medina, Wayne is responsible for the full range of projects associated with our municipal clients, which include land use decisions, growth management, open public meetings, personnel matters and public records requests. Wayne has extensive land use litigation experience with administrative appeals to the Growth Board and Shoreline Board. Wayne has also litigated many LUPA appeals in superior court as well as land use appeals under the former writ practice. Wayne has served as president and a member of the Board of the Washington State Association of Municipal Attorneys, the statewide organization of municipal attorneys. Wayne graduated *cum laude* from Harvard University in 1972 and received his law degree in 1975 from the University of Washington.

Kristin Eick

Kristin Eick is an associate level attorney in the firm's Municipal Department. Ms. Eick received a B.A. in History from Rollins College in Winter Park, Florida. She received her law degree, *magna cum laude*, from Seattle University School of Law in 2008. Ms. Eick served as a Research and Technical Editor of the *Seattle University Law Review*. During law school, Ms. Eick interned with Judge Sue L. Robinson in the United States District Court for the District of Delaware and with Administrative Judge Zulema Hinojos-Fall in the Equal Employment Opportunity Commission. Ms. Eick also participated in the Ronald A. Peterson Mediation Clinic at Seattle University School of Law and worked as a summer intern at Ogden Murphy Wallace between her second and third years of law school. She is a member in good standing of the Washington State Bar Association.

Accessibility and Responsiveness

Our firm's responsiveness to the needs of our clients is a point of professional pride for our attorneys. The large number of lawyers practicing municipal law at Ogden Murphy Wallace enables us to meet any level of availability the City of Gig Harbor may require. Although our firm's primary office is located in downtown Seattle, it has been our experience that--other than attendance at Council and staff meetings--the vast majority of our municipal work can be cost-effectively conducted via telephone and email. We nevertheless also recognize the importance of face-to-face meetings with staff, and would propose Monday office hours, as further described in the proposed fee structure below. All attorneys proposed for the City Attorney Team have availability for Monday night Council Meetings.

Each attorney, paralegal and legal assistant employed by Ogden Murphy Wallace is provided with a personal computer, and is proficient in online legal research, court docket access and monitoring, and internet communication. OMW utilizes Microsoft Office for its internal network, and the firm's information technology staff are adept at identifying and eliminating technological problems before they negatively impact client service.

In addition to our attorneys, the firm's Seattle office currently employs a team of 28 staff comprised of paralegals, legal assistants, law librarians, file clerks, accountants, record keepers, information technology experts and other support personnel. We also retain both a Human Resource Manager and an Executive Director who functions as the firm's chief executive officer. These highly valued employees enable the billing professionals of Ogden Murphy Wallace to focus upon their primary objective: efficiently providing top quality legal services to the firm's clients. No staffing changes would be necessary if the firm is ultimately awarded the Legal Services contract for Gig Harbor.

Our response time in providing requested advice and assistance to clients depends largely upon the nature and complexity of the particular issue involved as well as the client's needs for service. For routine and relatively simple issues, the initial response typically includes a substantive answer to the client's inquiry. For more complex or long-term matters requiring consultation with third parties or research (e.g., ordinance drafting, contract negotiation, preparation of formal legal opinions, etc.), the initial response is sometimes formatted as an acknowledgement of the client's request and an estimated timeframe for completing the necessary work. We are sensitive to our clients' needs for timely assistance and we can generally meet any reasonable deadline.

To respond specifically to Gig Harbor's needs we propose to provide two days a month at the City on Council meeting days for staff meetings and on-site meetings. In addition, our proposal includes provision to the City of video conferencing equipment to permit staff and Council to conference with Ms. Belbeck or members of our team on a timely, mutually convenient basis. Our fee structure contains additional detail.

Proposed Fee Structure

Our firm's service delivery model attempts to utilize technology to assure ready access and prompt response by an experienced professional. We have been providing services to suburban and rural communities for over 50 years. To do so efficiently and at a high professional level requires partnership with our clients. We utilize technology to avoid travel time. Many of our attorneys including Mr. Snyder and Ms. Belbeck have served as in-house city or county attorneys. We are well aware that office hours can equate to inefficient use of time if staff do not plan ahead. Excess meeting time and other factors can make an in-house model less than cost effective. We have found that efficient use of modern technology, and particularly e-mail, help provide both timely and high quality legal service. Our responsibility is providing quick turn-around based on timely information provided by staff. Requiring staff to organize their thoughts and provide background information in an e-mail allows us to give better advice. It also leaves a clear trail of that advice and through appropriate indexing, to access information within our firm and for you as our client.

Joining our municipal clients provides other cost-saving benefits. Our all-cities program provides legislative updates, sample policies and reports on matters of common interest. Joining cities of comparable size and interest together for litigation and negotiation purposes provides distinct cost savings. Our recent experience representing a dozen King and Snohomish County cities in franchise negotiations with Verizon resulted in a high quality legal product at very low per-city cost.

Our rates and charges are extremely competitive with other reputable law firms that practice in the fields of municipal and land use law. Indeed, our experience allows us to provide more efficient and cost-effective services than many other firms.

Based on our service model, for the 2009 calendar year, we would propose the following two-step rate structure:

Basic Services

We propose to provide 20 hours per week of basic service at a cost of \$180 an hour (“Basic Service Fee”). This is a significant reduction for services over our normal charges for the services of Ms. Belbeck, Mr. Tanaka and Mr. Snyder. These routine weekly services on an annual basis would total \$187,200. In addition, we propose to provide two Council meetings a month at the same rate. Assuming five hours of Council meeting and preparation time, this cost would be \$21,600 per year. This yields a total cost for basic services of 20 hours a week of staff time, plus 10 hours per month of Council time for \$208,800. We recognize that this is less time than that to which you have been accustomed, but we believe that a more collaborative approach, better use of technology and our experience, coupled with staff self-discipline and organization, can help control your legal fees.

The *Basic Service Fee* would apply to the following services:

- A. Attendance at two regular meetings of the City Council, additional Council meetings, meetings of the Planning Board or other boards and commissions as requested by the City.
- B. Twenty hours per week for:
 - 1. Routine consultation with City staff or officials as requested by the City for items not included as Additional Services below, preparation and legal research required in connection with such duties, and the drafting of ordinances, resolutions and legal memoranda.
 - 2. Review, consultation, revision and approval of public works contracts, professional services agreements, and interlocal agreements.
 - 3. All transit time, including transportation to and from required meetings, etc., incurred in furtherance of the above tasks (but not including transit time on regular City Council meeting/office hours days).

Additional Services

For additional services in the categories listed below, we offer a ten percent reduction over our normal rates. For 2009, Ms. Belbeck, Mr. Snyder and Mr. Tanaka will typically charge \$250 an hour for their time. We propose to provide their services at \$225 an hour for this additional work (“Additional Services Fee”). We will also provide a ten percent reduction on associate and paralegal time for rates of \$170 per hour and \$90 per hour respectively.

The *Additional Services Fee* would apply to the following services:

1. All services rendered in connection with any potential or actual litigation, arbitration, mediation, administrative hearings and/or enforcement proceedings wherein the City, one of its boards, or one of its officials is or likely will be a party.
2. All services rendered in connection with real property matters, including but not limited to the acquisition or disposition of easements, rights-of-way, or other personal property and real property interests.
3. All services rendered in connection with taxation issues, local improvement districts, assessments, bond issues and other matters where a special counsel has been or normally is retained. Such legal services, when requested to be performed by our office, will generally not substitute for but may supplement the services rendered by bond counsel.
4. All services rendered in connection with annexation proceedings.
5. All services rendered in connection with personnel matters, labor arbitrations and negotiations.
6. All services that exceed the 20-hour Basic Services cap.
7. All transit time, including transportation to and from required meetings, court appearances, etc., incurred in furtherance of the above Additional Services tasks.

For these Additional Services, the following rate structure would apply if our firm is selected:

Firm Members (Ms. Belbeck, Mr. Tanaka and Mr. Snyder):	\$225 per hour
Associates:	\$170 per hour
Paralegals:	\$ 90 per hour

If other firm attorneys are to be involved in litigation and specialty work, billing rates will be agreed upon prior to the commencement of their services.

The firm would work with the City to develop and implement a billing and invoicing framework that meets the City's recordkeeping and budgetary needs. At the City's preference, individual billing numbers can be established for each City department as well as for any specialty matter (i.e., litigation, contract negotiations, etc.) that arises. Legal services would be billed on a monthly basis, and each invoice would include a billing narrative for every time entry. Document reproduction charges, CALR charges, delivery fees, filing charges and other external expenses would be billed to the City at cost with no mark up. Transit time would be billed at the applicable hourly rate above. The City would not be separately invoiced for mileage reimbursement, long-distance telephone calls or facsimile transmissions.

Please note that this is a flexible proposal. We suggest that after six months, the City and our firm meet and discuss the potential, based on our mutual experience, for a flat fee rate for basic

services. Review of your bills indicates a potential for cost savings and we have a number of ideas that we would like to discuss for implementation. They include:

1. Use of video-conferencing capabilities. If selected, our firm will provide the hardware and software necessary to establish a video-conferencing site within your City. Our firm would own and maintain the equipment. The City would be free to use it for other municipal purposes at its convenience. The City would be responsible for providing sufficient bandwidth to support the conferencing function. This will enable our attorneys to conference with City officials and staff on short notice without wasted travel time thereby providing an efficient means of communication.
2. Our proposal includes an office day on site in conjunction with the Council meetings. We would provide eight hours of our 20 hours of weekly service on Council meeting days. Our travel costs are ours and would not be passed on to the City for these days.
3. We would use the video conferencing capability to participate in staff meetings regarding the agenda and other similar regular meetings. We of course are always available for in-person meetings and conferences. We also do not charge for long distance phone costs.
4. Finally, we would be happy to provide all or any portion of our services, litigation, personnel, contracting, LID and other specialized services to the City. Our standard rates as indicated above are negotiable depending on the volume of specialized services for which you contract. If the City elects to hire an individual as its city attorney, that person will obviously need assistance with workload, litigation and other specialty services. We would be happy to provide them.

References

For Ms. Belbeck:

Joe Hannan, City Administrator
CITY OF MUKILTEO
4480 Chennault Beach Road
Mukilteo, Washington 98275

425-355-4141

Rachel Baker, City Clerk
CITY OF MEDINA
P.O. Box 144
Medina, WA 98039

425-233-6411

Andrzej Kasiniak, P.E., City Engineer
CITY OF POULSBO
19050 Jensen Way NE
P.O. Box 98
Poulsbo, WA 98370

360-779-5111

For Mr. Snyder:

Mayor Gary Haakenson 425-771-0246
CITY OF EDMONDS
121 – 5th Ave. North
Edmonds, WA 98020

David O. Earling 206-389-2625
CPSGMHB
800 FIFTH Avenue, Suite 2356
Seattle, WA 98104

Duane Bowman, Development Services Director 425-771-0220
CITY OF EDMONDS
121 – 5th Ave. North
Edmonds, WA 98020

For Mr. Tanaka:

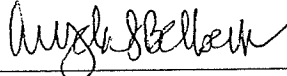
Leon Kos, City Administrator 425-837-3033
CITY OF ISSAQUAH
130 E. Sunset Way
Issaquah WA 98027
425-837-3033

Peter Block, Town Councilmember 206-542-4443
TOWN OF WOODWAY
23920 113th Place West
Woodway WA 98020

Douglas Schulze, City Manager 206-248-7603
CITY OF NORMANDY PARK
801 SW 174th Street
Normandy Park WA 98166

Conclusion

Ogden Murphy Wallace P.L.L.C. is extremely interested in serving as the City Attorney for the City of Gig Harbor. We believe that our professional experience and the depth and breadth of our expertise make us the logical choice to meet the City's needs. We hope you will agree after reviewing our Proposal, and we look forward to working with you.



Angela S. Belbeck

Attachment A: Submittal Form

Business Statement - Please complete and submit with your proposal response.

1. Name of Business: Ogden Murphy Wallace, PLLC

2. Business Address: 1601 Fifth Avenue, Suite 2100, Seattle, WA 98101

3. Phone: 206-447-7000 Business Fax: 206-447-0215 E-Mail: _____

4. Business Classification (check all that apply):
 Individual Partnership Corporation x

5. Federal Tax Number (a SSN or Federal Tax Number): 910344327

6. Name of Owner: Ogden Murphy Wallace, PLLC

7. Does firm maintain insurance in amounts specified by the City contract:

Yes: x No: _____

*General Liability insurance of at least \$1,000,000 per occurrence;
\$2,000,000 aggregate, Combined Single Limit (CSL);
Automobile liability of at least \$1,000,000 per accident CSL
Professional Liability of at least \$ 1,000,000*

If no, describe differences: _____

8. Are there claims that are pending against this insurance policy? Yes: _____ No: x

If yes, describe: _____

9. During the past five years, has the firm, business, or any attorney in the firm or business, been involved in any (1) bond forfeiture, (2) litigation personally involving the firm, business or any attorney in the firm or business (other than dissolution of marriage), or (3) claims filed with any insurance carrier concerning the firm, business, or any attorney in the firm or business, and/or (4) Bar Association complaints?

If yes, attach an explanation. Yes: x No: _____

10. Has company been in bankruptcy, reorganization or receivership in last five years?
Yes: _____ No: x

11. Has company been disqualified or terminated by any public agency? Yes: _____ No: x

ADDENDUM TO ATTACHMENT A, QUESTION 9

INTRODUCTION

No bond have occurred within the past five (5) years. As the attached summary notes, three (3) bar complaints were made within the period and have been dismissed by the Washington State Bar Association and all claims and suits have been resolved.

Bar Complaints:

- 1) Grievance by Branko Jurkovich against Donald W. Black (P; DOH: 5/5/97)
Date Filed: June 21, 2007
WSBA File No. 07-01019
Current Status: Dismissed
Area of Practice: Real Estate (Commercial)

Mr. Black represented Skagit County Public Hospital District No. 2, d/b/a Island Hospital (a public entity), in a proceeding to acquire real property from Branko Jurkovich, an adjacent landowner. The parties exchanged several offers and Island Hospital ultimately informed Mr. Jurkovich that if it was unable to reach an agreement with him, it would exercise its power of eminent domain to condemn the property. Mr. Jurkovich was not and has never been a client of Mr. Black or Ogden Murphy Wallace, P.L.L.C. Mr. Jurkovich alleged that Mr. Black misstated the \$1.4 million purchase price for the property by \$90,000. However, the price quoted by Mr. Black in his letter to Mr. Jurkovich was a restatement of the figures set forth in an offer sheet provided to Mr. Black by Mr. Jurkovich, so if there was a mistake, it was made by Mr. Jurkovich when he provided the offer sheet to Mr. Black. Given that the highest appraisal available for the property at the time was from Mr. Jurkovich's own appraiser was only for \$678,000, there is no evidence that the alleged mistake impacted the negotiations. The condemnation action was settled in June 2007 with the Hospital agreeing to buy the property for \$1,200,000.

The Washington State Bar Association dismissed the grievance filed by Mr. Jurkovich in a letter dated June 26, 2007. Mr. Jurkovich disputed that dismissal in a letter received by the Bar Association on July 27, 2007. Mr. Black provided further information to the Bar Association on the matter on August 7, 2007. Mr. Jurkovich filed a request for further review.

On November 18, 2007 we received a notice from the Washington State Bar Association dismissing with no further action Mr. Jurkovich's grievance. This dismissal is not appealable.

- 2) Grievance by Branko Jurkovich against James E. Haney (P; DOH: 3/1/83)
Date Filed: August 13, 2007
WSBA File No. 07-01288
Current Status: Dismissed
Area of Practice: Real Estate (Commercial)

Mr. Haney represented Skagit County Public Hospital District No. 2 in the condemnation action brought to acquire the Jurkovich property described above. Mr. Haney did not represent Mr. Jurkovich at any time. On August 13, 2007, Mr. Jurkovich filed a grievance against Mr. Haney with the Washington State Bar Association. The grievance alleges that Mr. Haney's inability to make the Hospital's then-appraiser available for deposition on two specifically requested dates in April 2006 caused him to be unable to obtain just compensation for the property. The Hospital subsequently obtained a different appraiser, who was deposed by Mr. Jurkovich's attorney. The second appraiser for the Hospital valued the property at \$900,000. As noted above, the condemnation action was settled in June 2007 with the Hospital agreeing to buy the property for \$1,200,000.

Mr. Jurkovich settled the case because the court granted the Hospital's motion to exclude Mr. Jurkovich's own appraisal from evidence. The Bar Association dismissed the grievance on August 16, 2007. Mr. Jurkovich filed a request for further review.

On November 20, 2007 we received a notice from the Washington State Bar Association dismissing with no further action Mr. Jurkovich's grievance. This dismissal is not appealable.

- 3) a. Attorneys: Phil A. Olbrechts, Seattle office (P; DOH: 1/2/01)
b. Claimant: Allyson Kemp-Sonsteng
c. Date of alleged error or misconduct: 2004
d. Name of insurance carrier and date reported: Lisa Ryder of Chubb Specialty Insurance (November 1, 2004) and Vivian Yamaguchi of Chicago Underwriting Group, Inc. (November 1, 2004)
e. Claim date: 7/14/04
f. Damages Sought: N/A
g. Amounts paid: \$0; Expenses incurred: \$0
h. Description: An individual who was not a client of the firm filed a grievance against Mr. Olbrechts with the Washington State Bar Association regarding his representation of one of our client municipalities and their mayor;
Current Status: This Washington State Bar complaint was dismissed September 17, 2004. We have not received any further communications from the Bar.
i. Area of Practice: Government (Municipal)

Claims and Litigation

- :
- a. Claimant: Michael Grassmueck, Federal Equity Receiver for Health Maintenance Centers, Inc.
 - b. Attorneys: Franklin Dennis, John O'Donnell, individually and as John J. O'Donnell, P.C., James Vandeberg
 - c. Additional Defendants: Ogden Murphy Wallace, P.L.L.C.
 - d. Date of alleged error or misconduct: May 1, 2001 (date OMW file was opened)
 - e. Name of insurance carrier and date reported: St. Paul Fire and Marine Insurance Company. Reported on July 5, 2002.
 - f. Claim date: July 3, 2002
 - g. Description: The federal equity receiver filed a complaint against our firm and three named attorneys of the firm: John O'Donnell, Frank Dennis (who has since left the firm) and James L. Vandeberg (who has since left the firm) on July 3, 2002 alleging negligence and breach of fiduciary duty.
 - i. Current Status: Claim settled within policy limits. Order of dismissal entered July 14, 2004.

Claim #2:

- a. Claimant: Michael Grassmueck, Federal Equity Receiver for Health Maintenance Centers, Inc.
- b. Attorneys: Franklin Dennis, John O'Donnell, individually and as John J. O'Donnell, P.C., James Vandeberg
- c. Additional Defendants: Ogden Murphy Wallace, P.L.L.C.
- d. Date of alleged error or misconduct: May 1, 2001 (date OMW file was opened)
- e. Name of insurance carrier and date reported: St. Paul Fire and Marine Insurance Company Reported on July 23, 2002.
- f. Claim date: July 19, 2002
- g. Description: The receiver filed a preference-related claim against the firm on July 19, 2002 seeking a return of \$200,000 paid to our firm for legal services allegedly provided within the preference period. This complaint sought funds that were also sought in Claim #1 only under a different legal theory.
- i. Current Status: Claim settled within policy limits.

Claim #3

- a. Claimant: Tim Conley, pro se
- b. Attorneys: Paul Kube, Mary Cusack, Camilla Glatt
- c. Additional Defendants: Todd M. Kiesz, Gregory L. and Joann Hampton, Land Title Co., et al
- d. Date of alleged error or misconduct: October 2, 2002
- e. Name of insurance carrier and date reported: St. Paul Fire and Marine Insurance Company. Reported on or about December 27, 2002.
- f. Claim date: 10/31/02, 11/15/02 and 4/22/03

- g. Description: Conley brought frivolous and harassing causes of action against individuals named above and other defendants. In all cases, the suits were dismissed with prejudice and sanctions were awarded against Conley.
- h. Amounts paid: \$0
- i. Expenses incurred: \$0
- j. Current Status: Case dismissed with prejudice and sanctions.

Claim #4:

- a. Claimant: Joubert, Christian v. John O'Donnell; King County Superior Court Cause No. 04-2-26363-8SEA
- b. Attorneys: John J. O'Donnell
- c. Additional Defendants: None
- d. Date of alleged error or misconduct: September, 2001
- e. Name of insurance carrier and date reported: St. Paul Fire & Marine; 12/30/04
- f. Claim date: 12/29/04
- g. Description: Complaint alleges prejudicial dismissal of two legal actions relevant to estate proceedings as well as deceit, breach of duty, fraud, negligence, and inflicting of emotional distress with regard to probate and distribution of trust assets.
- h. Amounts paid: None
- i. Expenses incurred: \$0
- j. Current Status: Dismissed on Summary Judgment 2/06; Plaintiff's appeal to Second Division of Washington State Court of Appeals was dismissed for failure to timely file a brief; Plaintiff's Petition for Review now pending with the Washington Supreme Court

Claim #5:

- a. Claimant: Bitterman, David and Melissa v. Ogden Murphy Wallace, P.L.L.C., Brian Walker, et vir, Cashmere Valley Bank, et al.
- b. Attorneys: Brian Walker
- c. Additional Defendants: Ogden Murphy Wallace, P.L.L.C., Cashmere Valley Bank, Brian and Jane Doe Walker, husband and wife, Tina Boynton and John Doe Boynton, husband and wife, and Sunday Lake LLC
- d. Date of alleged error or misconduct: April 29, 2005
- e. Name of insurance carrier and date reported: Chubb Group of Insurance Companies; 6/05
- f. Claim date: 5/26/05
- g. Description: Complaint alleges plaintiffs did not receive due and proper notice of the Notice of Default, Notice of Trustee's Sale, and Notice of Foreclosure as required by RCW 61.24 et seq. The Complaint asks that the Trustee's Sale and the Trustee's Deed be set aside; that title to the Property be quieted in Plaintiffs; that Plaintiffs be awarded judgment against the Bank, Mr. Walker (a member of OMW) and OMW in such amounts as shall be established at trial; and that

Plaintiffs be awarded judgment against all Defendants for Plaintiffs' costs and reasonable attorneys' fees.

- h. Amounts paid: \$0
- i. Expenses incurred: \$0
- j. Current Status: This matter was dismissed and the documents to that effect were forwarded to Chubb in February, 2006.

Claim #6:

- a. Claimant: William J. Kelly, Richard D. Block, et al petitioning in the matter of City of Woodinville v. Snohomish County, et al, Snohomish County Cause No. 06-2-0-8692-7
- b. Attorneys: Greg Rubstello, Scott Snyder and possibly other unnamed attorneys for the City of Woodinville
- c. Additional Defendants: None
- d. Date of alleged error or misconduct: August, 2006
- e. Name of insurance carrier and date reported: Chubb Group of Insurance Companies (Michael Ridenour, Claims Attorney); reported 11/3/06
- f. Claim date: 8/4/06 and 8/10/06
- g. Description: Potential claimants submitted a petition to file an amicus brief on 8/4/06 that included claims that the Woodinville City attorneys violated the Rules of Professional Conduct and asking the court to take action on their complaint. The court declined to do so by letter dated 8/10/06, which was not served on our firm. Our firm was informed by the attorneys involved in the lawsuit that the petitioners' request for relief was denied, which we believe to have resolved the matter. We obtained a copy of the judge's letter in October, 2006 and forwarded it to our insurance brokers on November 3, 2006.
- h. Amounts paid: None
- i. Expenses incurred: \$0
- j. Current Status: We have not received notice of any kind of action by the potential claimants following the judge's refusal to grant the relief they sought. The final entry in the Snohomish County Superior Court case summary for this matter indicates that a Satisfaction of Judgment was filed on November 6, 2006.

Claim #7:

- a. Claimant: Fred Morisaki in Fred Morisaki v. American National Municipal Corporation, et al, Case No. 06CC00174-Superior Court, Orange County, California
- b. Attorneys: Phil S. Miller
- c. Additional Defendants: Marshall J. Field, an individual; Ogden Murphy Wallace, P.L.L.C., an entity; Mason, Robbins, Gnass & Browning, an entity; Smurr, Henry & Geegan, an entity; Henry, Logoluso & Blum, an entity; Jerry E. Henry, an individual; Mark Blum, an individual; Colonial Trust Company, an entity; Dai-ichi Kangyo Trust Company of New York, an entity; IBJ Schroder Bank & Trust

- Company, and entity; Norwest Bank Arizona, N.A., an entity; and Does 1 through 100, inclusive
- d. Date of alleged error or misconduct: 1996-2000
 - e. Name of insurance carrier and date reported: St. Paul Fire and Marine Insurance Company (Mary King, representative); January 8, 2007
 - f. Claim date: October 27, 2006
 - g. Description: On January 4, 2007, Ogden Murphy Wallace, P.L.L.C. ("OMW") was served with a First Amended Complaint in the above-referenced matter. The matter was orally reported to Travelers Insurance Company on January 8, 2007. The matter was then reported in writing in a letter dated January 16, 2007 to Travelers and Ms. Mary King. The complaint arises out of the issuances of bonds that former OMW attorney Phil S. Miller worked on as underwriter's counsel and that were issued in the years 1996-2000. Mr. Miller is no longer an attorney with OMW. Travelers was our previous professional liability carrier and continues to maintain the tail insurance policy that covers the period in which the alleged conduct took place. In addition to tendering the matter to Travelers, we tendered it to our current insurance company, Chubb. On April 9, 2007, a judgment of dismissal was entered in the above-referenced matter dismissing OMW from the case. Plaintiffs then filed a Notice of Appeal in the matter on or about May 22, 2007.
 - h. Amounts paid: None
 - i. Expenses incurred: \$0
 - j. Current Status: Judgment in favor of Mr. Miller sustained on appeal.

Claim #8:

- a. Claimant: Wade-Doran: Boyd™©
- b. Attorneys: John O'Donnell, Seattle office
- c. Additional Defendants: Various members of the Washington State Bar Association
- d. Date of alleged error or misconduct: 8/13/04
- e. Name of insurance carrier and date reported: Lisa Ryder of Chubb Specialty Insurance (10/29/04); Vivian Yamaguchi of Chicago Underwriting Group, Inc. (10/29/04) and Mary King of St. Paul Fire and Marine Insurance Company (10/29/04)
- f. Claim date: 10/29/04
- g. Description: Mr. O'Donnell received a series of notices claiming Mr. O'Donnell, among others, owes Wade-Doran: Boyd™© close to \$1 trillion.
- h. Amounts paid: \$0
- i. Expenses incurred: \$0
- j. Current Status: The claimant filed a fraudulent 1099 Form and the IRS is now seeking criminal prosecution in Portland, Oregon. We have received no further information regarding this frivolous claim.

Claim No. 9:

- a. Claimant: Martinson, Wesley
- b. Attorneys: Chuck Zimmerman, Wenatchee office
- c. Additional Defendants: State of Washington, et al; Grant County Cause No. 04-2-01222-4
- d. Date of alleged error or misconduct: 2004; 9/25/04 is date of Complaint
- e. Name of insurance carrier and date reported: Lisa Ryder of Chubb Specialty Insurance (10/29/04) and Vivian Yamaguchi of Chicago Underwriting Group, Inc. (10/29/04)
- f. Claim date: 10/29/04
- g. Description: Plaintiff claims Civil Rights violations and other wrongful acts by the City of Cashmere, for whom Mr. Zimmerman acts as City Attorney, as well as other municipalities and the State of Washington.
- h. Amounts paid: \$0
- i. Expenses incurred: \$0
- j. Current Status: This matter was dismissed by court order on November 5, 2004



RESPONSE TO REQUEST FOR PROPOSAL

**CITY ATTORNEY SERVICES
CITY OF GIG HARBOR**

October 23, 2008

TRANSMISSION VERIFICATION REPORT

New Business - 1

TIME : 11/25/2008 15:47
NAME :
FAX : 2538537597
TEL : 2538516170
SER. # : BROH5J320281

DATE, TIME	11/25 15:47
FAX NO./NAME	6272247
DURATION	00:00:25
PAGE(S)	01
RESULT	OK
MODE	STANDARD ECM



November 25, 2008

Attn: Jennifer Forbes
McGavick Graves
1102 Broadway, Ste 500
Tacoma, WA 98402

Re: Gig Harbor City Attorney Proposal

Dear Jennifer:

Thank you for proposing to provide city attorney services to the City of Gig Harbor, and congratulations on making it into the second round of the selection process.

The City of Gig Harbor received a wide variety of proposed options with respect to cost and estimated office hours as per our request for proposals for city attorney services. Without committing to a specific number of hours, office hours, cost or billing scheme, and while not trying to squash creative solutions which may benefit the City, we would like to be able to compare your firms cost solution with the other firms by requesting a cost proposal based on the following criteria:

- 90 hours of service per month – both a flat rate and an hourly proposal
- 8 hours of on-site office hours per week (this time is included in the 90 hours above)
- Hourly rate for hours over 90 during a month
- Travel time rate per hour
- Travel expense per mile
- Hourly rate for litigation

Please submit your response to this request so that it is received by noon on Monday, December 1, 2008 by: Faxing to: (253) 851-6170. Attn: David Stuhbaer or Emailing to: stuhbaerd@cityofgigharbor.net



November 25, 2008

Attn: Jennifer Forbes
McGavick Graves
1102 Broadway, Ste 500
Tacoma, WA 98402

Re: Gig Harbor City Attorney Proposal

Dear Jennifer:

Thank you for proposing to provide city attorney services to the City of Gig Harbor, and congratulations on making it into the second round of the selection process.

The City of Gig Harbor received a wide variety of proposed options with respect to cost and estimated office hours as per our request for proposals for city attorney services. Without committing to a specific number of hours, office hours, cost or billing scheme, and while not trying to squash creative solutions which may benefit the City, we would like to be able to compare your firms cost solution with the other firms by requesting a cost proposal based on the following criteria:

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- 8 hours of on-site office hours per week (this time is included in the 90 hours above)
- Hourly rate for hours over 90 during a month
- Travel time rate per hour
- Travel expense per mile
- Hourly rate for litigation

Please submit your response to this request so that it is received by noon on Monday, December 1, 2008 by: Faxing to: (253) 851-6170, Attn: David Stubchaer or Emailing to: stubchaerd@cityofgigharbor.net

Please keep in mind that any offer and subsequent final contract will be subject to negotiation and may be based on different criteria than that shown above.

There will be a public meeting on December 1, 6:00 pm at the Gig Harbor Civic Center to discuss your proposals to provide City Attorney services which you are welcome to attend. It is the City's intention to have a contract for City Attorney services approved at the regular City Council meeting on December 8, 6:00 pm also at the Gig Harbor Civic Center.

Sincerely,

David Stubchaer

David Stubchaer
Public Works Director

**MCGAVICK
GRAVES**
ATTORNEYS AT LAW

A Professional Services Corporation

www.mcgavickgraves.com

1102 Broadway, Suite 500
Tacoma, Washington 98402-3534

Telephone (253) 627-1181
Fax (253) 627-2247

Lori M. Bemis
T. Gary Connett
Cameron J. Fleury
Jennifer A. Forbes
Brian L. Green
Henry Haas
Gregory A. Jacoby
K. Michael Jennings
Dave J. Luxenberg
Chris D. Maharry
Jesse D. Rodman
Barbara Jo Sylvester
Joseph P. Zehnder

Of Counsel
Ray Graves
Lawrence B. McNerthney
William P. Bergsten
Robert L. Beale
Gregory H. Pratt
James W. Feltus

Leo A. McGavick
(1904-1994)

October 22, 2008

Molly Towslee, City Clerk
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

RE: Request for Proposals – City Attorney Services

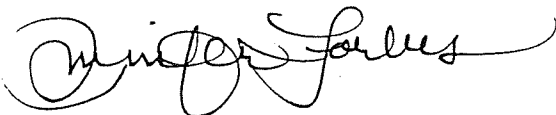
Dear Ms. Towslee:

It is our honor to submit a response to the City of Gig Harbor's Request for Proposal for City Attorney services (RFP). After reviewing the RFP, we are confident that the law firm of McGavick Graves, P.S. is in the best position to serve the City's legal needs. It is apparent that the City is facing many challenges and opportunities and we are excited at the prospect of serving as a team of professionals to assist the City.

As you will see from our enclosed response, we have proudly served the legal needs of municipal, corporate and individual clients throughout the Puget Sound Basin since the early 1900s. The depth and breadth of our experience should nearly eliminate the City's need to retain outside counsel. In addition, as a local firm we are able to offer regular on-site office hours and respond quickly as situations require.

Our professional experience is well suited to meet the City's legal needs. We look forward to meeting with you during the selection process.

Sincerely,



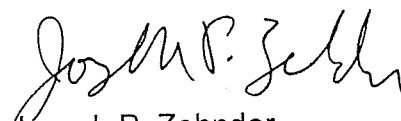
Jennifer A. Forbes



Dave J. Luxenberg



Gregory A. Jacoby



Joseph P. Zehnder

JAF:kmt
Enclosure

COPY

**McGAVICK
GRAVES
ATTORNEYS AT LAW**

A Professional Services Corporation

www.mcgavickgraves.com

1102 Broadway, Suite 500
Tacoma, Washington 98402-3534

Telephone (253) 627-1181
Fax (253) 627-2247

Lori M. Bemis
T. Gary Connett
Cameron J. Fleury
Jennifer A. Forbes
Brian L. Green
Henry Haas
Gregory A. Jacoby
K. Michael Jennings
Dave J. Luxenberg
Chris D. Maharry
Jesse D. Rodman
Barbara Jo Sylvester
Joseph P. Zehnder

New Business - 1

Of Counsel

Ray Graves
Lawrence B. McNerthney
William P. Bergsten
Robert L. Beale
Gregory H. Pratt
James W. Feltus

Leo A. McGavick
(1904-1994)

MCGAVICK GRAVES, P.S.

RESPONSE TO:

CITY OF GIG HARBOR
REQUEST FOR PROPOSAL
FOR
CITY ATTORNEY SERVICES

INDEX

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1. MCGAVICK GRAVES, P.S. BUSINESS HISTORY (RFP ATTACHMENT A)

Business Statement - Please complete and submit with your proposal response.

- 1. Name of Business: McGavick Graves, P.S.
- 2. Business Address: 1102 Broadway, Suite 500, Tacoma, WA 98402
- 3. Phone: 253-627-1181 Business Fax: 253-627-2247 E-Mail: jaf@mcgavick.com
- 4. Business Classification (check all that apply):
Individual Partnership Corporation
- 5. Federal Tax Number (a SSN or Federal Tax Number):
91-1504655

6. Name of Owner:
Shareholders

7. Does firm maintain insurance in amounts specified by the City contract:
Yes: No:
*General Liability insurance of at least \$1,000,000 per occurrence;
\$2,000,000 aggregate, Combined Single Limit (CSL);
Automobile liability of at least \$1,000,000 per accident CSL
Professional Liability of at least \$ 1,000,000*

If no, describe differences: _____

8. Are there claims that are pending against this insurance policy? Yes: No:
If yes, describe: _____

9. During the past five years, has the firm, business, or any attorney in the firm or business, been involved in any (1) bond forfeiture, (2) litigation personally involving the firm, business or any attorney in the firm or business (other than dissolution of marriage), or (3) claims filed with any insurance carrier concerning the firm, business, or any attorney in the firm or business, and/or (4) Bar Association complaints? If yes, attach an explanation. Yes: No:

McGavick Graves is proud of its reputation for high ethical standards. There are no matters responsive to this question that will impact the firm's ability to deliver high quality legal services to the City. McGavick Graves responds to this question as follows:

- (a) A firm attorney is currently named as a defendant in a civil suit. This civil suit was filed by a former criminal defendant relating to his

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criminal prosecution in which the charges were ultimately dismissed. The firm attorney is named in the attorney's official capacity as a criminal prosecutor. The attorney's former employer has denied the claim, determined that there was no wrong-doing, and that all conduct was within the attorney's scope of employment.

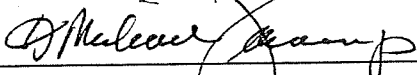
- (b) A firm attorney has an automobile accident claim against another driver who rear-ended the attorney's automobile.
- (c) A firm attorney has an automobile accident claim pending against the attorney related to an automobile accident caused by an uninsured motorist.
- (d) There are no founded bar complaints against any McGavick Graves attorney. To satisfy any concerns that the City might have, we encourage the City to contact the Washington State Bar Association.

- 10. Has company been in bankruptcy, reorganization or receivership in last five years?
Yes: ___ No: X
- 11. Has company been disqualified or terminated by any public agency?
Yes: ___ No: X
- 12. Has the proposed designated City Attorney practiced municipal law a minimum of 5 years? Yes: X No: ___
- 13. Is each proposed attorney accredited and in good standing with the State Bar?
Yes: X No: ___
- 14. Proposal Offers shall be good and valid until the City completes award or rejections of quotes. Failure to concur with this condition may result in rejection of the offer. Does the firm accept this condition?
Yes: X No: ___ (if no, state the desired exception: N/A).

Having carefully examined all the documents of the solicitation, including the instructions, the Contract and Terms and Conditions, the undersigned proposes to perform all work in strict compliance with the above-named documents, as well as in compliance with all submitted proposal information.

FIRM NAME: McGavick Graves, P.S.

FID #: 91-1504655

SIGNATURE: 

PRINT NAME: K. Michael Jennings, President

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2. FIRM EXPERIENCE

A. General Description of McGavick Graves.

McGavick Graves is a full service AV rated law firm that traces its roots in Pierce County to the early 1900s. Currently it employs more than 30 people, including 19 attorneys and 6 paralegals, with more than 400 years of combined legal experience.

Our firm is focused on serving the legal needs of municipal, corporate and individual clients throughout the Puget Sound Basin. Our corporate clients include numerous small and medium sized companies in the construction industry, land development and building industries, financial industry, and health care industry. We have also represented numerous government entities, including the cities of Fife, Port Orchard, Black Diamond, Tacoma, Fircrest, the towns of Carbonado and Ruston, Pierce County, Tacoma-Pierce County Health Department (TPCHD), and Tacoma Community Redevelopment Authority. McGavick Graves has developed a team of attorneys with expertise in municipal law, land use law, employment law, complex litigation, construction law, business law, health care law, contract law, environmental law and regulatory compliance, tax law, bankruptcy, and administrative procedures.

B. How Our Experience Will Best Meet the City's Needs.

McGavick Graves has the expertise to handle most, if not all, of Gig Harbor's civil legal needs (bond counsel is an exception). We believe that if our firm is chosen as the City's legal representative, the need for Gig Harbor to hire outside counsel for its civil work will be rare. We realize the issues that are the most pressing for the City in the near term are land development and infrastructure. We are also aware that Gig Harbor is attempting to accommodate growth while at the same time maintaining the community character and small town feel that citizens of Gig Harbor enjoy and want to preserve. We would be honored to assist your elected officials and staff in addressing these issues, and we are prepared to provide you with the legal expertise to accomplish these goals.

If we are chosen to represent you, we will not only assist with resolving existing legal issues, but we will also proactively assist you in avoiding future legal problems. Our firm will work with the City Administrator, the Mayor and City Council to provide a level of service that best suits the City's needs, and we are willing to adjust to those needs as they change over time.

Our firm is experienced in providing the necessary legal service and advice on issues that cities and towns are involved in daily. A more in-depth analysis of our municipal experience is provided below in Section D. The City of Gig Harbor will face the issues of growth forecasting and planning, environmental quality and protection, land development, and infrastructure development, maintenance and repair. All of these issues affect the people who live, work, and own businesses in Gig Harbor. We have a proven track record

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of providing quality legal service to our municipal clients on these and many other issues. Our firm charges competitive rates to its municipal clients; rates below what the firm charges as primary hourly rates for non-governmental entities. We recognize that government entities, such as cities and towns, have budgets constrained by their tax base – a fluctuating and somewhat unpredictable source of revenue. The fees we charge our municipal clients also reflect that legal services provided to governmental entities are a public service, which we are proud to provide. We can also propose a fee structure for Gig Harbor's consideration that will allow the City to charge back to developers fees paid for legal consultation on private land development. This is a system that works well in other cities and towns we represent.

The attorneys in our firm possess the necessary litigation experience to assist the City of Gig Harbor in its legal needs, such as representing municipalities in Land Use Petition Act (LUPA) cases, Shoreline Hearings Board cases, Writs of Mandamus and Writ of Certiorari cases. We have attorneys with complex litigation experience as well. Finally, several attorneys in our firm have specialized training as mediators, arbitrators and negotiators. This allows us to be able to litigate effectively in the courtroom, when necessary, but also to be successful in seeking alternative dispute resolution when appropriate.

C. Other Municipal Clients.

McGavick Graves currently represents the following government entities:

City of Port Orchard
City of Tacoma
City of Maple Valley
Tacoma – Pierce County Health Department, Environmental Health Division

McGavick Graves has also represented the following government entities in the past:

City of Fife
City of Black Diamond
City of Fircrest
Town of Carbonado
Town of Ruston
Pierce County
Tacoma Community Redevelopment Authority

In addition to the above municipal clients, McGavick Graves has represented various other government entities as special contract counsel or when the in-house counsel has had a conflict.

D. Experience with Municipal Issues.

The attorneys and staff at McGavick Graves have a broad range of experience with municipal issues. We have attained this experience through our continuous representation of many municipal clients, as well as representation of businesses in the utility, financial and construction industries that regularly work with municipal clients. The breadth of that experience is much greater than the experience gained from the representation of just one city. Below is a list of the types of issues that we have handled for our municipal clients over the last eighteen years:

1. Providing legal advice to Department Heads, Elected Officials, Boards and Council members;
2. Training for personnel, Department Heads, Mayor and Council Members on issues relating to environmental regulation, employment, risk management, legal process, general government, public records, appearance of fairness and conflict of interest issues;
3. Drafting ordinances, resolutions and other documents necessary in the normal course of municipal business;
4. Responding to public records requests;
5. Assisting in the preparation of land use ordinances and comprehensive plan updates;
6. Successfully defending against and prosecuting Land Use Petitions (LUPA) through the Court of Appeals;
7. Handling environmental clean up issues;
8. Appearing before the Growth Management Hearings Boards;
9. Handling annexation issues;
10. Handling all issues related to the construction of millions of dollars worth of municipal facilities, including buildings, streets, water reservoirs, and various utility projects;
11. Resolving claims arising out of public works projects;
12. Forming Local Improvement Districts;

13. Handling labor grievances, civil service hearings, arbitrations, whistleblower claims, and other employment related litigation;
14. Drafting/updating Civil Service regulations;
15. Negotiating Collective Bargaining Agreements;
16. Successfully defending through the Court of Appeals a claim against a municipal entity for wrongful termination;
17. Handling complex employment related issues including disciplinary and termination proceedings;
18. Participating in the strategic planning of the execution and implementation of various municipal policies;
19. Handling complex litigation involving tax, employment and tort issues;
20. Drafting complex real estate and financial documents;
21. Handling abatement of nuisance proceedings and other code enforcement actions; and
22. Advising on condemnation issues and representing municipal entities in condemnation proceedings.

3. **PROPOSED LEGAL TEAM FOR THE CITY OF GIG HARBOR.**

The proposed Legal Team for the City of Gig Harbor includes: Jennifer A. Forbes, Gregory A. Jacoby, Dave J. Luxenberg, and Joseph P. Zehnder. Other attorneys in our firm are proposed as back-up members of the City of Gig Harbor Legal Team.

Legal Team:

1. Jennifer A. Forbes – 12 years of legal experience, including in-house and contract municipal experience, land use, and litigation.
2. Gregory A. Jacoby – 21 years of legal experience, including contract municipal, environmental, and land use.
3. Dave J. Luxenberg – 10 years of legal experience, including public and private employment/labor matters and related litigation.
4. Joseph P. Zehnder – 10 years of legal experience, including public and private construction, real estate, and contract matters.

The proposed organizational structure is for Ms. Forbes and Mr. Jacoby to be the primary and principal contacts with the City's elected and appointed officials and staff, with Ms. Forbes being appointed as the City Attorney. However, if a particular City project is assigned to another attorney in our firm, it will be due to that attorney's particular expertise on that issue. In that event, the other attorney will have direct contact with the City under the supervision and direction of Ms. Forbes and Mr. Jacoby. This methodology has worked successfully in the past with our other municipal clients. The organizational structure as proposed can and will be modified, as necessary, to fit the needs of the City.

The four attorneys proposed above as the Legal Team for Gig Harbor will be considered the primary attorneys for Gig Harbor's municipal work; however, all attorneys with McGavick Graves will be available to provide the level of service necessary to represent the City of Gig Harbor. An example of an attorney that has expertise that may assist the City but will not be a designated team member is Jesse D. Rodman. Mr. Rodman has an advanced degree in tax law in addition to his law degree. Mr. Rodman has previously advised municipalities in the following areas: 1) retirement plan and deferred compensation plan compliance and structure, 2) federal employment tax withholding requirements, 3) operational requirements for municipality-owned cemeteries, 4) imposition of the natural or manufactured gas use tax, 5) imposition of additional sales and use tax to offset municipal service costs to newly annexed areas, and 6) various other state, local and federal tax issues relevant to municipalities. Additionally, Mr. Rodman's expertise may be utilized by the City for the creation of Charitable Remainder Trusts for the acquisition of park lands.

K. Michael Jennings and Lori Bemis are other attorneys in the firm who frequently work with our municipal clients. Both Mr. Jennings and Ms. Bemis have

experience in complex litigation. Although neither will be a regular Team Member, they have both previously and successfully represented our municipal clients.

Below are general biographical sketches of all the attorneys in the firm. The list begins with biographies of the proposed Legal Team for Gig Harbor, and follows with the biographies of all the other attorneys in the firm.

Proposed Gig Harbor Legal Team:

Jennifer A. Forbes, born Idaho Falls, Idaho, July 23, 1971; ADMITTED TO PRACTICE: Washington, 1996; and U.S. District Court, Western District of Washington; EDUCATION: Whitman College (B.A., 1993); Seattle University (J.D. *cum laude*, 1996); MEMBER: Washington State Bar Association, Kitsap County Bar Association, Tacoma-Pierce County Bar Association, Washington State Association of Municipal Attorneys; JUDGE PRO TEMPORE: Gig Harbor Municipal Court, 2005-Present; PUBLISHED DECISIONS: Lead Counsel for Kitsap County in: *Asche v. Bloomquist*, 132 Wn. App. 784 (2006), *State v. Cannon*, 120 Wn. App. 86 (2004), *State v. Van Buren*, 123 Wn. App. 634 (2004), Trial Counsel for *State v. Phillips*, 123 Wn. App. 761 (2004); COMMUNITY SERVICE: Red Cross Board and Westsound Service Area Advisory Board, Friends of SAIVS, PALS Mentor, United Way Day of Caring Volunteer, RESPECT Kitsap Youth, Attorney Mentor – Youth Court, and Kitsap County Commission on Children and Youth. PRACTICE AREAS: Municipal Law, Land Use, Criminal Litigation, and Civil Litigation.

Ms. Forbes has dedicated her practice almost exclusively to the representation of governmental entities. Before joining McGavick Graves, Ms. Forbes worked for Kitsap County as a Deputy Prosecuting Attorney for ten years. During that ten-year period, Ms. Forbes handled complex criminal matters for several years before moving into the civil division of the Prosecutor's Office in 2003. After becoming a member of the civil division, Ms. Forbes was assigned a diverse case load which included litigation in both federal and state Courts, LUPA appeals, mental commitment hearings, evictions, client advice, real estate matters, WRIA 15 issues, canvassing board representative, Indian law, construction litigation, Petitions for Habeas Corpus and appeals to the Washington State Court of Appeals. Ms. Forbes also conducted annual training of Reserve Officers and Juvenile Detention Officers on civil liability issues.

While working for Kitsap County, Ms. Forbes' clients included: Board of County Commissioners, Juvenile Department, District Court, Department of Community Development (Planning), Planning Commission, Health District, Kitsap Mental Health, Public Works and the Kitsap County Sheriff's Office.

Since joining McGavick Graves in 2006, Ms. Forbes has principally represented the firm's municipal clients. Ms. Forbes has represented the cities of Port Orchard, Fife, Tacoma, and Black Diamond and the Towns of Carbonado and Ruston. Ms. Forbes has regularly acted as counsel for the City of Port Orchard, City of Fife, and Town of Ruston at

their council meetings. From December 2007 through May 31, 2008, Ms. Forbes acted as interim Town Attorney for the Town of Ruston.

Ms. Forbes regularly handles complex land use cases. Ms. Forbes has represented both public and private clients at the administrative level, in Superior Court, and at the Court of Appeals. Ms. Forbes has also successfully defended several land use appeals filed against municipal clients. Such appeals have varied from the construction of a new high school in North Kitsap County, to appeals of permits issued to private parties. In 2006, Ms. Forbes obtained a favorable ruling from the Court of Appeals in *Asche v. Bloomquist*, 132 Wn. App. 784 (2006).

Ms. Forbes currently works with Mr. Jacoby in advising the City of Port Orchard on a wide-range of municipal matters including ordinances and resolutions, contracts and interlocal agreements, land use and development, permitting, public works, police issues, public records, and litigation. She regularly advises executive and legislative bodies on issues of process and procedure.

Ms. Forbes is an active member of her community. She is a member of the RESPECT Kitsap Youth Committee, and has regularly volunteered her time as a mentor. She is a member of Leadership Kitsap, Class of 2009. Ms. Forbes currently serves on the Board of Directors for the Red Cross serving King and Kitsap Counties and on the Advisory Board for the Westsound Service area of the Red Cross. She is the recipient of the 2006-08 Exemplary Service Award and a 2007 Spirit of Involvement Award.

Gregory A. Jacoby, born Boston, Massachusetts, May 18, 1958; ADMITTED TO PRACTICE: Massachusetts, 1987, Washington and U.S. District Court, Western District of Washington, 1988; U.S. Court of Appeals, Ninth Circuit, 1996; EDUCATION: Kenyon College (B.A., 1979); Northeastern University (J.D., 1987); MEMBER: Massachusetts and Washington State Bar Associations; PRACTICE AREAS: Municipal Law; Environmental Law; and Land Use.

Greg Jacoby currently serves as the City Attorney for the City of Port Orchard. He previously served as an Assistant City Attorney for the cities of Port Orchard, Fife, and Black Diamond where he has provided general legal advice, drafted resolutions, and ordinances, reviewed contracts, attended council meetings, and advised department heads. He has advised municipal clients regarding land use and zoning matters, including critical areas issues; and has worked with municipal clients regarding the preparation of downtown overlay district regulations and transportation impact fee ordinances. Mr. Jacoby is under contract to advise the TPCHD Environmental Health Division. He also advises municipal and private clients regarding issues relating to state and federal Superfund sites; environmental compliance; Endangered Species Act; environmental insurance; Clean Water Act permit issues; and he is knowledgeable regarding municipal storm water discharge requirements. Mr. Jacoby currently serves as an Acting Land Use Administrator under contract with the City of Tacoma.

Dave J. Luxenberg, born Alexandria, Virginia, December 12, 1973; ADMITTED TO PRACTICE: Washington, 1998. EDUCATION: University of Arizona (B.A. cum laude, 1995); Willamette University (J.D., magna cum laude, 1998). MEMBER: Willamette Law Review 1996-98. AUTHOR: "Why Viatical Settlements Constitute Investment Contracts Within the Meaning of the 1933 & 1934 Securities Acts," Willamette Law Review, vol. 34 #2. PROFESSIONAL MEMBERSHIPS: Tacoma-Pierce County Bar Association; Washington State Bar Association; Labor and Employment Section of the Washington State Bar Association; United States District Court – Western and Eastern Districts; Ninth Circuit Court of Appeals; and Society for Human Resource Management. JUDICIAL CLERK: Justice Gerry Alexander, Washington State Supreme Court, 1998-99; PRACTICE AREAS: Employment Law, Civil Litigation, and Municipal Law.

Mr. Luxenberg joined McGavick Graves in 1999, where he has focused his practice upon labor and employment issues. In 2006, Mr. Luxenberg was named a "Rising Star" by *Washington Law & Politics* magazine. Mr. Luxenberg focuses his practice upon representing, counseling, and defending municipalities, businesses, and non-profit organizations regarding a wide variety of employment and labor issues under Washington State and federal law, including: discrimination and civil rights; wage and hour; leaves of absence; negotiation of collective bargaining agreements; drafting memorandums of understanding to collective bargaining agreements; required employee accommodation and other medical issues; and privacy rights. As part of his practice, Mr. Luxenberg also regularly conducts on-site employment training/presentations for employees, Department Heads, management, and professional groups. He has also drafted numerous personnel policies and employee handbooks for both public and private employers.

Mr. Luxenberg has represented and defended municipal employers and private employers in federal district court, state superior court, the Ninth Circuit Court of Appeals, Washington's Court of Appeals, Civil Service Boards, arbitration, mediation, matters before the EEOC, PERC, Washington Employment Security Department, Washington's Board of Industrial Appeals, and Washington's Office of Administrative Hearings. These cases involved the defense of employers regarding a variety of complex labor and employment issues, such as: grievances and other workplace complaints, disciplinary actions, sexual harassment, retaliation, hostile work environment and other types of discrimination, whistleblower complaints, and wage and hour claims.

Mr. Luxenberg also has extensive experience working with the Police Departments of municipalities regarding a wide range of issues unique to police departments, such as drafting General Orders/Standard Operating Procedures, assisting with Internal Affairs investigations, representing Police Departments in Civil Service disciplinary hearings and arbitrations, and negotiating collective bargaining

agreements. Mr. Luxenberg has negotiated collective bargaining agreements for other municipal departments as well.

Joseph P. Zehnder, born Warwick, Rhode Island, February 16, 1971; ADMITTED TO PRACTICE: Washington, 1998; U.S. District Court, Western District of Washington, 1999; U.S. Tax Court, 2004; EDUCATION: University of Washington (B.A., summa cum laude, 1995); University of California, Hastings College of the Law (J.D., 1998); Recipient, American Jurisprudence Award, Legal Writing and Research; CALI Award, Judicial Administration of the Federal Courts; Member, Hastings Law Journal, 1996-98; Production Editor, Hastings Law Journal 1997-1998.; PROFESSIONAL MEMBERSHIPS: Tacoma-Pierce County Bar Association; Washington State Bar Association; Association of General Contractors; Master Builders Association of Pierce County; and Washington State Society of Healthcare Attorneys; COMMUNITY SERVICE: Board Member, Broadway Center for the Performing Arts, 2007-present; Leadership Team Member, American Cancer Society Relay for Life of Tacoma, 2004-06; JUDICIAL EXTERNSHIP: United States District Court, Northern District of California, 1998; LANGUAGES: Swedish. PRACTICE AREAS: Construction, Real Estate, Corporate Law, and Business Law.

Mr. Zehnder joined McGavick Graves in 1998. His practice has focused primarily upon real estate and business transactions and litigation and construction matters. Mr. Zehnder has represented the firm's municipal clients in special projects and general civil litigation.

From 2004 through 2007, Mr. Zehnder represented the City of Black Diamond as assistant legal counsel concerning construction, contract, real estate, land use, and public works issues. Mr. Zehnder acted as lead counsel to the City of Black Diamond in the construction of the City's new 4.2 million gallon water reservoir, including all issues involving financing, land acquisitions, boundary line adjustments, all construction issues (preparing, amending, bidding, awarding, overseeing, and closing three general contracts), hiring and directing consultants, negotiating and preparing licenses and easements (construction and otherwise), preparing resolutions, and preparing and negotiating interlocal agreements.

Presently, Mr. Zehnder represents the City of Tacoma in its real estate transactions with Burlington Northern Santa Fe Railroad Company ("BNSF") and ProLogis, a publicly traded real estate investment trust. These transactions involve the negotiation and preparation of real estate conveyance documents and associated contracts related to BNSF's Prairie Line property through downtown Tacoma and the development of BNSF's 157-acre South Tacoma property.

Attorneys Available for Gig Harbor Legal Representation; not proposed as members of Gig Harbor Legal Team:

K. Michael Jennings, born Freeport, Texas, August 17, 1944; ADMITTED TO PRACTICE: Washington, 1971; U.S. District Court, Western District of Washington, 1972; U.S. Tax Court; U.S. Court of Appeals, Ninth Circuit; U. S. Supreme Court, 1989. EDUCATION: Washington State University (B.S. in Civil Engineering, 1967); University of Washington (J.D., 1970). Phi Alpha Delta. MEMBER: Tacoma-Pierce County Bar Association (Member, Board of Trustees, 1985-1986; Committees, Judicial Qualification and Superior Court Liaison), Washington State Bar Association; Washington Trial Lawyers Association. [Capt., U.S. Army Reserves, 1970-1973. PRACTICE AREAS: Civil Litigation; Insurance Defense; Product Liability; Construction Law; Municipal Law; Employment Law.

Henry Haas, born Berlin, Germany, April 8, 1938; ADMITTED TO PRACTICE: Washington, 1962. EDUCATION: University of Puget Sound (B.A., 1960); University of Washington (J.D., 1962); LEGAL EXPERIENCE: Law Clerk, Washington State Supreme Court, 1962-63; Assistant State Attorney General, 1963; Deputy Land Use Hearing Examiner, 1984-96; Board of Trustees, City of Tacoma Library, Member, 1984-93, President, 1987 and 1991; Legal Counsel, Tacoma-Pierce County Chamber of Commerce, 1993-95; Experienced Arbitrator/Mediator and Pro Tem Superior Court Judge/Commissioner; MEMBER: Tacoma-Pierce County and Washington State Bar Associations (Pierce County Board of Trustees, 1973-75, 1979-81, President, 1987; Chairman, Pro-bono Committee, 1989-92; Member, State Disciplinary Board, 1989-92, Chairman, 1991-1992); Washington State Trial Lawyers Association; LANGUAGES: German; PRACTICE AREAS: Civil Litigation including Commercial Law, Personal Injury, Real Property, Insurance, Contracts, Probates and Trusts.

Barbara Jo Sylvester, born Tacoma, Washington, February 25, 1951; ADMITTED TO PRACTICE: Washington and U.S. District Court, Western District of Washington, 1977; EDUCATION: University of Washington (B.A., 1973); University of Puget Sound (J.D., 1977); COMMUNITY SERVICE: Adoption Services of WACAP, Director, 1984-90, Treasurer, 1984-85, Vice President, 1985-86, 1988-89 and President 1986-88, 1989-90; Director, Washington Women Lawyers, 1980-82; MEMBER: Tacoma-Pierce County (Member, Judicial Qualifications Committee, 1980-86, 1991-92; Chair, 1982-86) and Washington State (Member, Committees on: Code of Professional Responsibility, 1980-82; Civil Rights, 1985-87) Bar Associations; PRACTICE AREAS: Family Law, Aged and Aging, Alternate Dispute Resolution, Mediation, Children, Civil Rights, Discrimination, Disabilities, Labor and Employment.

Gary T. Connett, born Alamogordo, New Mexico; ADMITTED TO PRACTICE: Florida, 1983; Washington, 1994; EDUCATION: Ohio State University (B.A., 1973); Northwestern School of Law at Lewis and Clark College (J.D., 1980); MEMBER: Washington State Bar Association (Taxation Committee, Real Property, Probate and

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Trust Committee); Florida State Bar Association; Tacoma Estate Planning Commission; South Sound Planned Giving Study Group; Society of Financial Service Professionals; Wealth Counsel; PRACTICE AREAS: Estate Planning and Tax.

Cameron J. Fleury, born Seattle, Washington June 6, 1966; ADMITTED TO PRACTICE: Washington 1993; U. S. District Court, Western District of Washington, 1996; EDUCATION: University of Washington (B.S., 1989), University of Puget Sound (J.D., 1993); LEGAL EXPERIENCE: Pierce County Superior Court Commissioner Pro Tempore 1999 – Present; MEMBER: Tacoma-Pierce County Bar Association Executive Board (second term), Pierce County Family Law Section Board (second term), Family Law Efficiency and User Friendliness Committee of Pierce County, Pro Bono attorney of the year 2007. PRACTICE AREAS: Family Law, Mediation, Parentage, Divorce, Child Custody, Child Support, Domestic Partnerships.

Lori M. Bemis, born Tacoma, Washington, September 29, 1976; ADMITTED TO PRACTICE: Washington, 2002; EDUCATION: Gonzaga University (B.B.A., 1999); Gonzaga School of Law, (J.D., *cum laude*, 2002); Recipient, CALI Award, Criminal Procedure; MEMBER: Tacoma-Pierce County Bar Association; Washington State Bar Association; PRACTICE AREAS: Litigation, Employment Law, Personal Injury, and Construction.

Jesse D. Rodman, born Whitefish, Montana, February 24, 1976; ADMITTED TO PRACTICE: Washington, 2002; U.S. Tax Court, 2005. EDUCATION: Idaho State University (B.A. in English); Gonzaga University School of Law (J.D., *cum laude*, 2002); Recipient, CALI Award, Advanced Partnership Tax; University of Washington School of Law (LL.M. in Taxation, 2005). MEMBER: Washington State Bar Association (Taxation Section and Real Property and Probate Section); Alpha Sigma Nu. PRACTICE AREAS: Estate Planning, Probate, Business Planning, and Tax.

Chris D. Maharry, born Santa Rosa, California, May 17, 1977; ADMITTED TO PRACTICE: Washington, 2003; EDUCATION: Western Washington University (B.A., 2000); Seattle University School of Law (J.D., 2003); MEMBER: Washington State Bar Association, Tacoma-Pierce County Bar Association (Member, Family Law Section; Young Lawyers Division, Trustee, 2005 - Present); PRACTICE AREAS: Family Law.

Brian L. Green, born Tacoma, Washington, May 27, 1979; ADMITTED TO PRACTICE: Washington, 2006; EDUCATION: University of San Diego (B.A., 2002; J.D., 2006); Judicial Extern for Judge Ronald B. Leighton, United States District Court, Western District of Washington, 2006; PRACTICE AREAS: Construction, Real Estate, Civil Litigation.

Of Counsel

Ray Graves, born Seattle, Washington, February 23, 1924; ADMITTED TO PRACTICE: Washington and U.S. District Court, Western District of Washington, 1952;

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U.S. Court of Appeals, Ninth Circuit, 1955; U.S. Court of International Trade, 1971; U.S. Tax Court, 1977; EDUCATION: State College of Washington (B.A., 1950); Duke University (J.D., 1952); Delta Theta Phi; Order of the Coif; Editor, Duke Law Journal, 1951-52; AUTHOR: "Strategy for Washington Lawyers in Child Custody Cases," Washington Law Review, 1954; "Washington Receivership," Washington Law Review, 1962; MEMBER: Tacoma-Pierce County (Trustee, 1957-58, 1968-69) and Washington State (Member, Board of Bar Examiners, 1968-76) Bar Associations; PRACTICE AREAS: Corporate Law, Business Law, Mergers and Acquisitions, Real Estate, Estate Planning, Probate.

Lawrence B. McNerthney, born Tacoma, Washington, August 12, 1939; ADMITTED TO PRACTICE: Washington, 1965; U.S. District Court, Western District of Washington, 1966; U.S. Tax Court, 1977; EDUCATION: Gonzaga University (B.A., 1961; J.D., 1965); New York University; Alpha Sigma Nu; MEMBER: Tacoma-Pierce County (CLE Committee, 1984-90) and Washington State (Chairman, Law Office Management and Economics Section, 1988-89) Bar Associations; PRACTICE AREAS: Real Property, Estate Planning, Probate, General Business, and Commercial Law.

Robert L. Beale, born Port Angeles, Washington, September 10, 1936; ADMITTED TO PRACTICE: Washington, 1964; EDUCATION: University of Puget Sound (B.A., 1958); University of Washington (LL.B., 1963); Order of the Coif; Member, Board of Editors, Washington Law Review, 1962-63; Member, Board of Visitors, University of Puget Sound School of Law, 1972-82; MEMBER: Tacoma-Pierce County, Washington State (Member, Board of Bar Examiners, 1977-92) and American Bar Associations; PRACTICE AREAS: Bankruptcy, Foreclosure, Banks and Banking, Collections, Foreclosures, Secured Lending, Real Estate, Boundary Disputes, Conveyancing, Easements, and Sales.

William P. Bergsten, born Tacoma, Washington, January 30, 1939; ADMITTED TO PRACTICE: Washington and U.S. District Court, Western District of Washington, 1968; U.S. Court of Appeals, Ninth Circuit, 1978; EDUCATION: Washington State University (B.A. in Business, 1962); University of Oregon (J.D., 1967); Phi Delta Phi; LEGAL EXPERIENCE: Trial Attorney, Federal Trade Commission, 1967-71; Deputy Prosecuting Attorney, 1971-72; Arbitrator and Mediator, American Arbitration Association, National Arbitration Forum; MEMBER: Tacoma-Pierce County (Member, Board of Trustees, 1978-80), Washington State (Member, Board of CLE, 1978-81, 1987; Member, Washington State Bar Association Board of Governors, 1987-90; Treasurer, 1989-90) and Federal Bar Association; Washington State Trial Lawyers Association; Legal Foundation of Washington (Board Member, 1991-94; President, 1993); Law Fund (Vice-President, Board Member, 1997-present); Puget Sound Chapter of American Inns of Court; 1st Lieut., U.S. Army, 1962-64; PRACTICE AREAS: General Civil Law, Civil Litigation, Alternative Dispute Resolution, Arbitration, Mediation.

James W. Feltus, born Grand Junction, Colorado, April 12, 1952; ADMITTED TO PRACTICE: Washington, 1984; U.S. District Court, Western District of Washington, 1987;

U.S. Court of Appeals, Ninth Circuit, 1989; U. S. Supreme Court, 1998; EDUCATION: University of Colorado (B.A., 1974); University of Puget Sound (J.D., cum laude, 1983); LAW CLERK: Federal Magistrate Franklin D. Burgess, 1983-85; United States District Judge Jack E. Tanner, 1985-87; MEMBER: Washington State and Federal Bar Associations; PRACTICE AREAS: Complex Civil Litigation, Commercial Litigation, Environmental Litigation, Employment Law, Copyrights, Trademarks.

4. **ACCESSIBILITY AND RESPONSIVENESS**

The attorneys and staff at McGavick Graves take professional pride in being responsive to the needs of the firm's clients. We understand that the City has obligations to meet deadlines and to maintain high quality customer service to its citizens. Our firm recognizes these obligations and has developed an internal system to track assignments received from our municipal clients and to ensure that deadlines are met.

We believe that regular face-to-face contact with clients is not only preferable, but is necessary for effective representation. Ms. Forbes and Mr. Jacoby, as the lead Attorneys, will be readily accessible to the City Administrator, Department Heads, Mayor and City Council. Ms. Forbes will be available to hold regular on-site office hours at City Hall and attend all department and/or staff meetings at the direction of the City.

Our office in downtown Tacoma is approximately a 20 minute drive to the Gig Harbor City Hall. Ms. Forbes lives in Poulsbo, and is approximately 35 minutes from Gig Harbor City Hall. Mr. Jacoby lives in University Place, and is approximately 15 minutes from Gig Harbor City Hall. All members of the proposed team are available by cell phone and will provide the City with their phone numbers.

Ms. Forbes will attend all City Council meetings with Mr. Jacoby as her back-up on the occasions when Ms. Forbes is unable to attend. Ms. Forbes and Mr. Jacoby will work with each other, and other members of the proposed Legal Team to provide accessibility to the City of Gig Harbor at all times.

Ms. Forbes and Mr. Jacoby will adjust their schedules in order to meet the needs of the City and to be available for *ad hoc* meetings. In our experience over the last eighteen years with our other municipal clients, we have regularly responded to urgent meetings within minutes of being notified that an attorney was needed on an emergency basis. We will provide this high level of service to the City.

5. PROPOSED FEE STRUCTURE

It is the goal of McGavick Graves to provide quality legal service at a fair price. McGavick Graves will work with the City to develop a compensation methodology that shows that taxpayer dollars are being wisely used. McGavick Graves proposes a base monthly retainer schedule to handle all routine civil work. Projects defined as "special projects," would be provided on the basis of additional compensation to be negotiated either at a flat rate or an agreed hourly rate.

1. Base Monthly Retainer; Hourly Rate Beyond Base Monthly Retainer. All routine civil legal services, except those set forth below as "special projects," are included in the base monthly retainer amount. Routine civil legal services include:

- a. Provide legal advice to the Mayor, Department Heads, City Council, and all City Boards and Commissions regarding all legal matters relating to the performance of their duties;
- b. Attend and provide legal representation to the City at all City Council business meetings, unless excused from attendance by the Mayor;
- c. Represent the City in administrative hearings before the City Council and/or Hearing Examiner, except on matters for which the City Prosecutor or the City's insurance carrier is providing representation;
- d. Represent the City in Land Use Petition actions filed in Superior Court;
- e. Prepare and/or review ordinances, resolutions, contracts and other documents as necessary to represent and protect the City's interest, and advise the City with regards thereto;
- f. Provide training and updates on legal issues on an as needed or requested basis;
- g. Advise the Mayor, Council, staff, and Planning Commission on procedural matters and processes;
- h. Provide legal guidance and advice to the Council and Mayor on governmental issues impacting the City;
- i. Prepare written legal opinions as requested by the Mayor or Council; and
- j. Coordinate with special counsel retained by the City.

The proposed base monthly retainer amount is \$17,000. The base monthly retainer amount shall apply to the first one hundred (100) hours of attorney time. The billable rate for the base retainer amount equals \$170/hour. This base monthly retainer amount was derived from information provided by the City that they currently require legal service on an average of 24+ hours per week with an anticipation of some moderate growth.

The one hundred-first hour and beyond of legal services in any given month shall be billed at the increased rate of \$175.00 per hour. In order to help the City manage its

legal resources, we can notify the City Administrator when the monthly hours exceed eighty (80).

In the event the City uses fewer than one hundred (100) retainer hours in a month, the balance shall be carried forward into subsequent months and the levels at which higher hourly rates apply shall be adjusted accordingly; provided, no retainer hours shall be carried beyond the termination date of any agreement between the City and the law firm. By way of example, in Month #1, the City uses 85 retainer hours. In Month #2, the base monthly retainer amount would apply to the first 115 hours because there were 15 carry-over hours from Month #1, and the increased hourly rate would not take effect in Month #2 until the 116th hour of legal services had been performed.

If the City decided to increase the level of service (for example, the City Attorney being asked to attend every Planning Commission meeting, or requiring monthly training seminars), then the base monthly retainer amount would be adjusted by a mutually agreed amount, and the contract between the firm and the City would be amended accordingly.

2. Special Projects Hourly Rate. Special projects will be billed at \$200 per hour. For attorneys and paralegals whose normal hourly billing rate is less than \$200 per hour will be billed at their normal hourly rate. The law firm reserves the right to donate its time on certain special projects. Special projects include but are not limited to:

- a. All litigation and administrative hearings and processes, other than before the City Council and Hearing Examiner, and LUPA petitions in Superior Court;
- b. Regulatory actions;
- c. Comprehensive code re-writes;
- d. Real estate closings where the firm provides escrow services;
- e. Labor negotiations including arbitration or mediation, and collective bargaining;
- f. Other special projects that are outside the normal course of the City Attorney's regular and routine duties, as specified above, for the base monthly retainer.

3. Pass Through/Reimbursement Rates. Absent a written agreement to the contrary, the firm will charge its normal hourly billing rate for each attorney as set annually by the firm for items that will be charged back to applicants (e.g., applicants for project permits/land use approval whose projects require legal review), or for matters for which legal fees would be reimbursed to the City (e.g., LID work).

4. Reimbursement of Out-of-Pocket Costs. In addition to the above referenced compensation the firm will be reimbursed for out-of-pocket costs associated with

authorized City work. This includes, but is not limited to: filing fees, deposition fees, service of process fees, and large copying projects.

5. Travel Time and Mileage Costs. The firm will be reimbursed for travel time and mileage for any meetings and/or court appearances outside the Gig Harbor – Pierce County metropolitan area. The firm will *not* charge the City for travel time or mileage between Tacoma and Gig Harbor.

6. Annual Rate Adjustments. The rates set forth above will not be increased except as authorized in this paragraph or by written agreement. On January 1, 2010 and each year thereafter the base retainer amount and all hourly rates referenced above shall be adjusted by the percentage increase in the salaries of City Department Directors attributable to a cost of living adjustment.

6. REFERENCES

Rob Cerqui
Fife City Council Member
7323 Valley Avenue East
Fife, WA 98424
(253) 381-6709

Lary Coppola
Mayor
City of Port Orchard
216 Prospect Street
Port Orchard, WA 98366
(360) 876-4407

James Hedrick
Ruston Town Council Member
5342 North Commercial
Ruston, WA 98407
(253) 789-4700

Alan Townsend
Chief of Police
City of Port Orchard
546 Bay Street
Port Orchard, WA 98366
(360) 876-1700

Michael Transue
Former Mayor
Town of Ruston
5420 North Commercial
Ruston, WA 98407
(253) 223-2508

Steve Worthington
City Manager
City of Fife
5411 23rd Street East
Fife, WA 98424
(253) 922-2489

Additional references will be made available upon request.



Summary of Information for City Attorney Services Selection Process

(Shown in random order)

Firm Name	Kenyon Disend, PLLC	Ogden Murphy Wallace	McGavic Graves
website address	http://www.kenyondisend.com/	http://www.omwlaw.com	http://www.mcgavickgraves.com/subsite/Index.htm
Proposed GH City Attorney	Shelly Kerslake	Angela Belbeck	Jennifer Forbes
Year admitted to WA Bar	1992	1994	1996
Yrs of experience as lead City/Town Attorney	5	2	1
Proposed GH back-up City Attorney	Kari Sand	Wayne Tanaka	Gregory Jacoby
Year admitted to WA Bar	1997	1975	1988
No of attorneys in firm	14	45	16
Year Firm was Founded	1993	Early 1900's	Early 1900's
Proposed Labor Attorney	Shelly Kerslake	Scott Snyder	Dave Luxenberg

Summary of Fee Proposals as per City's Request for Comparison Purposes
Actual fees/fee structure/terms subject to negotiation and may be different than shown

	Kenyon Disend, PLLC	Notes	Ogden Murphy Wallace	Notes	McGavic Graves	Notes
	Shelly Kerslake		Angela Belbeck		Jennifer Forbes	
90 hours service per month (flat fee)	\$14,940		\$16,200		\$14,850	
90 hours service per month (hourly)	\$190	1	\$180		\$170	
Hourly rate over 90 hours per month	\$190	1	\$225	4	\$210 - \$240	
Travel time rate per hour	\$0	2	\$0	5	\$0	6
Travel expense per mile	\$0		\$0		\$0	6
Hourly rate for litigation	\$160 - \$245	3	\$225	4	\$210 - \$240	

Notes:

- 1 \$75 for paralegals
- 2 No charge to City Hall; other locations \$190/hr
- 3 \$85 - \$100 for paralegals
- 4 \$225 partner, \$170 associate, \$90 paralegal
- 5 No charge to City Hall; other locations \$180/hr
- 6 No cost for travel time/mileage in Gig Harbor/Tacoma area, other areas firm to be reimbursed



**Business of the City Council
City of Gig Harbor, WA**

Subject: Addendum to Agreement for Legal Services

Dept. Origin: Administration

Prepared by: Rob Karlinsey, City Administrator

For Agenda of: 12-1-08

Proposed Council Action:

Exhibits: Amendment - Legal Services Agreement
Initial & Date

Authorize the Mayor to sign the Addendum to Agreement for Legal Services with Ogden Murphy Wallace, P.L.L.C.

Concurred by Mayor: CLA 11/26/08
Approved by City Administrator: ROK 11/26/08
Approved as to form by City Atty: _____
Approved by Finance Director: _____
Approved by Department Head: _____

Expenditure	Amount	Appropriation	
Required	Budgeted	Required	0

INFORMATION / BACKGROUND

The city has utilized Scott Snyder of Ogden Murphy & Wallace for labor and personnel services. The attached amendment will allow Mr. Snyder to provide legal services generally performed by a City Attorney until the transition of a new firm in 2009. The rates are the same as the original agreement with Ogden Murphy Wallace.

2008 Rates

Senior Member	\$215
Member	\$200
Associate	\$160
Law Clerk	\$110
Paralegal	\$100

FISCAL CONSIDERATION

Sufficient funds are in the administration budget to cover these services.

BOARD OR COMMITTEE RECOMMENDATION

None

RECOMMENDATION / MOTION

Move to: Authorize the Mayor to sign the Addendum to Agreement with Ogden Murphy Wallace, P.L.L.C. for Legal Services in 2008.

**ADDENDUM TO AGREEMENT
FOR LEGAL SERVICES**

WHEREAS, the contractor, Ogden Murphy Wallace, PLLC (hereinafter "OMW") and the City of Gig Harbor (hereinafter "the City") entered into an agreement for certain labor-related legal services for budget year 2008, and

WHEREAS, the City desires to engage OMW for interim legal services as its City Attorney until such time as a regular City Attorney can be retained, NOW, THEREFORE,

In consideration of the terms and conditions set forth below, the parties agree to amend the Agreement for Labor and Personnel-Related Legal Services in, but only in, the following respects:

1. Paragraph 1. "Services to be Provided" of the underlying agreement is amended to add the following sub-paragraph H.

H. Other legal services as specifically authorized by the Mayor and City Council including all duties generally performed by a City Attorney for the City. These services shall be provided on an interim basis until terminated as provided below.

2. The provisions of paragraph 5. "Term of Agreement" is amended by the addition of the following language. The remainder of the paragraph shall remain intact:

The interim attorney services provided for by paragraph 1 (H) may be terminated by the City at any time. It is the understanding and intention of the parties that OMW serve as interim City Attorney until such time as a new City Attorney has been selected, and either hired or a contract executed. Additional services may be provided as specifically authorized by the City to coordinate the transition of the new City Attorney.

3. All of the provisions of the underlying contract shall remain in full force and effect.

CITY OF GIG HARBOR

OGDEN MURPHY WALLACE, P.L.L.C.

Charles L. Hunter, Mayor

W. Scott Snyder

Date:_____

Date:_____

ATTEST/AUTHENTICATED:

Molly Towslee, City Clerk

APPROVED AS TO FORM:
