

## **SULTAN CITY COUNCIL AGENDA ITEM COVER SHEET**

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ITEM NO: Action A 1

DATE: January 10, 2008

SUBJECT: Kenyon Disend – Municipal City Attorney Contract

CONTACT PERSON: Deborah Knight, City Administrator

**ISSUE:**

The issue before the City Council is authorizing the Mayor to sign a professional services contract with Kenyon Disend for general municipal attorney services.

**SUMMARY:**

In October 2007, the City Council authorized staff to issue a request for proposal (RFP) for municipal attorney services. The City's contract with Weed, Graafstra and Benson expired on December 31, 2007.

The City received six proposals. Copies of the proposals were provided to in-house staff and Council members for review. After the initial review the City invited three firms to interview – Kenyon Disend, Ogden Murphy Wallace, and Weed Graafstra and Benson.

The three firms were interviewed in mid-December by a panel including Mayor Elect Eslick, Planning Board Chair Kurt Latimore, City Administrator Deborah Knight, and City Clerk/Deputy Finance Director Laura Koenig. Mayor Ben Tolson was invited to attend the interviews but had to cancel at the last minute due to a church emergency.

Each firm was asked the same set of eight questions designed to understand the knowledge, skills and abilities of the lead attorney who would be assigned to Sultan. There was a 15-20 minute open discussion period for the attorneys to ask the City questions and get a feel for "fit". City staff called references listed in the RFP as well as other cities served by the lead attorney.

Mayor Elect Eslick also had a one-on-one follow-up meeting with Mike Kenyon and Kathy Hardy from Kenyon Disend before making her final decision and recommendation to contract with Kenyon Disend.

## DISCUSSION:

The municipal attorney is an essential member of the municipal team for purposes of managing legal affairs, risk and assisting the City in making legally sound policy decisions. The selection and continuity of the City Attorney is one of the most important decisions for a City Council.

General municipal attorney services include attending council meetings, legal services to the Mayor, Council and staff, preparation and review of ordinances, resolutions, contracts and other legislative documents, and legal representation in civil matters such as land use hearings and appeals.

Kenyon Disend specialize in serving small municipalities. The firm has 11 attorneys. The majority of their current city clients are in King County and include – Duvall, Sammamish, Hunts Point, North Bend and Covington. The firm serves nearly 30 cities, counties, and special purpose districts as both general and special counsel. Their current city clients gave them excellent reviews when contacted by Sultan staff during the RFP process. A copy of their response to the City's RFP is included as Attachment A.

The Mayor is recommending the City use Kathy Hardy as Sultan's lead attorney with Mike Kenyon as "second chair". Ms. Hardy joined Kenyon Disend in 2005. She is currently serving as Assistant City Attorney for the cities of Covington and North Bend. Her hourly rate is \$140/hour.

Mike Kenyon co-founded Kenyon Disend in 1993. He currently serves as City Attorney for North Bend and the town of Hunts Point. Mr. Kenyon's hourly rate is \$235/hour.

### Transition

Weed Graafstra and Benson have been Sultan's municipal attorneys since 1999. Since they have served Sultan for an extended period of time they are involved in a number of short- and long-term legal matters that will need to be transitioned to Kenyon Disend.

City staff recommend contracting separately with Weed Graafstra Benson to transition general municipal work to Kenyon Disend and bring closure to the long-term legal matters that are progressing to completion under their guidance.

The transition of general municipal work should be accomplished by January 31, 2008. The timeline to complete the long-term legal matters is unknown at this time. City staff recommend a one-year contract with a limited scope of work for Weed Graafstra and Benson to complete this work.

## FISCAL IMPACT:

The 2008 legal budget includes \$85,000 for municipal attorney services. Attorney invoices are based on the number of hours worked. Typically, the more hours worked the higher the invoices. The fewer hours worked the lower the invoices.

Kenyon Disend does offer some of its municipal clients a flat monthly fee in lieu of the hourly billings. City staff discussed the flat fee with Kenyon Disend. However after considering the risk of over-billing in the first year, the current proposal is to base the first year contract with Kenyon Disend on the basic hourly rate for services until both the City and Kenyon Disend can get a feel for the amount and types of work required by the City. With the proposal to use Kathy Hardy as the City's lead attorney the hourly rate will be \$140/hour. Mike Kenyon's hourly rate is \$235.

In 2007, the City paid \$125/month for the first 20 hours of work per month and \$140 hours for all hours over the initial 20. Litigation was billed at \$165/hour.

In 2007, the average monthly invoice was approximately \$8,000 per month for legal services. This equates to approximately 55 hours per month. Invoices include general municipal work, representation in court, representation at the Growth Management Hearings Board and attendance at two Council meetings per month.

The Council will have an opportunity to discuss hiring a land use attorney to assist the City with adopting a Comprehensive Plan consistent with the Growth Management Act. A decision to retain special counsel for land use work and a decision by the Council to retain Weed Graafstra and Benson to complete long-term legal matters in the police and community development departments will reduce the municipal attorney's billings by shifting these costs to other firms.

## ALTERNATIVES:

1. Authorize the Mayor to sign a professional services contract with Kenyon Disend for municipal attorney services.
2. Do not authorize the Mayor to sign a professional services contract with Kenyon Disend.
3. Do not authorize the Mayor to sign a professional services contract with Kenyon Disend and direct staff to areas of concern.

## RECOMMENDED ACTION:

Authorize the Mayor to sign a professional services contract with Kenyon Disend for municipal attorney services.

**ATTACHMENTS**

A – Kenyon Disend Response to Request for Proposals for City Attorney Services

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**COUNCIL ACTION:**

**DATE:**

# KENYON DISEND, PLLC

THE MUNICIPAL LAW FIRM

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

SANDRA S. MEADOWCROFT  
CHRIS D. BACHA  
MARGARET J. KING

11 FRONT STREET SOUTH  
ISSAQUAH, WASHINGTON 98027-3820  
WWW.KENYONDISEND.COM  
(425) 392-7090 • (206) 628-9059  
FAX (425) 392-7071

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

November 15, 2007

Ms. Deborah Knight, City Administrator  
City of Sultan  
319 Main Street  
P.O. Box 1199  
Sultan, Washington 98294

Re: Response to Request for Proposals for City Attorney Services

Dear Ms. Knight:

Thank you for the opportunity to provide you with information about Kenyon Disend, PLLC and the city attorney services we can offer to the City of Sultan. 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. REQUEST FOR INFORMATION

1. Describe the nature of your practice or your law firm's practice and your qualifications for providing City Attorney services for the City. Include a professional chronology of the individual(s) who will be designated to serve as City Attorney.

A. Nature of Practice and Qualifications. We founded Kenyon Disend, PLLC fourteen years ago solely to serve Washington cities and other public agencies. We now serve nearly thirty cities, counties, and special purpose districts as both general and special counsel.

- 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 public agencies.

- Our firm currently serves as city attorneys for the cities of Algona, Burien, Covington, DuPont, Duvall, Granger, North Bend, Orting, Roslyn, Sammamish, and Tukwila, and for the Towns of Hunts Point and South Cle Elum.

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- We provide specialized land use, condemnation, code enforcement, public works and public construction, taxation, and related legal services to numerous cities including Bellevue, Bonney Lake, Bothell, Des Moines, Everett, Federal Way, Kelso, Kent, Mercer Island, Newcastle, Pacific, Puyallup, Renton, Shoreline, Union Gap, and University Place, and to Pend Oreille, Lewis, and Mason Counties.

- We serve as city prosecutors for the cities of Burien, Kenmore, North Bend, Puyallup, Roslyn, and Tukwila.

In providing legal services, our firm was founded on, and remains 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 law firm compares to us with respect to value and service level received, in exchange for fees earned.

While most of our competitors will provide you with materials prepared by expensive marketing consultants (and their rates will reflect those additional expenses), we prefer to stand on our impeccable reputation for first-class municipal legal services at highly competitive rates. Our rates directly reflect the savings to our clients realized by foregoing extraneous marketing costs, downtown Seattle skyscraper office rent, and other easily controllable expenses.

We likewise invite you to review our website ([www.KenyonDisend.com](http://www.KenyonDisend.com)) for further information about our firm, our practice philosophy, and our clients. In particular, our clients will provide information far more useful than anything concocted in a marketing department about the firm's people and services.

**B. Professional Chronology of Michael R. 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.

**2. Provide the overall capabilities, qualifications, training and areas of expertise for each of the principals, partners, and associates of the law firm, including the length of employment for each person and his/her specialty.**

A. Michael R. Kenyon. Mike Kenyon co-founded Kenyon Disend, PLLC in 1993, and serves as the firm's Managing Member. Mike's 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. He currently serves as the City Attorney for the City of North Bend and as the Town Attorney for Hunts Point.

B. Bruce Disend. Bruce joined Kenyon Disend, PLLC in 1999 and became an owner 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.

C. Shelley Kerlake. Shelley joined Kenyon Disend, PLLC in 2003 and became an owner in 2006. 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.

D. Chris Bacha. Chris joined Kenyon Disend, PLLC in 2006, 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. He also remains actively involved in other areas of municipal law. Chris currently serves as the City Attorney for the Cities of Burien and Orting.

E. Kari Sand. Kari 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.

F. Margaret King. Margaret joined Kenyon Disend, PLLC in 2007. 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 responsible for advising on water issues. Before coming to Washington State, Ms. King served as the City Attorney for Ketchum, Idaho for seven years. She also worked in private practice exclusively on interstate and intrastate issues involving water rights, providing advice to Idaho, Colorado, and New Mexico water users, the State of Nebraska, and the Cities of Albuquerque and Las Cruces, New Mexico. Margaret's current practice focuses on all areas of municipal law, with a particular emphasis on land use and water rights issues. She currently serves as the City Attorney for Roslyn and handles special projects for various other cities.

G. Sandy Meadowcroft. Sandy joined Kenyon Disend, PLLC in 1998. Sandy heads the firm's municipal prosecution practice, and supervises all prosecutors and Rule 9 interns for the Cities of Burien, Kenmore, North Bend, Roslyn, and Tukwila. Sandy's practice emphasizes appellate briefings and drug forfeiture hearings.

H. Peter Beckwith. Peter joined Kenyon Disend, PLLC as an associate in 2004. Peter's practice focuses on all areas of municipal law, including public disclosure requests and civil litigation. Peter currently serves as an Assistant City Attorney for the Cities of DuPont and Tukwila, and as Town Attorney for South Cle Elum. Prior to joining Kenyon Disend, Peter interned with the Tacoma City Attorney's Office.

I. Kathy Hardy. Kathy joined Kenyon Disend, PLLC as an associate in 2005, after serving as a law clerk for the previous year. Kathy's practice focuses on all areas of municipal law, including land use, eminent domain, and public contracting. Kathy currently serves as Assistant City Attorney for the Cities of Covington and North Bend, and serves a large number of the firm's other clients on a wide range of issues.

J. Amy Jo Pearsall. Amy joined Kenyon Disend, PLLC in 2007. Prior to joining Kenyon Disend, Amy served for three years as an Assistant City Attorney for the City of Federal Way. Amy's practice focuses on all areas of municipal law, with a particular emphasis on land use issues and eminent domain. She currently serves as City Attorney for Covington and handles special projects for various other cities.

K. Renee Walls. Renee joined Kenyon Disend, PLLC in 2005. Renee devotes her entire practice to municipal prosecution, and currently serves as the City Prosecutor for the City of Burien. Prior to joining Kenyon Disend, Renee was a prosecutor for the City of Federal Way.

**3. For the person who will be designated as City Attorney, and for each person proposed as a deputy or back-up, provide the following:**

If selected as City Attorneys for Sultan, Mike Kenyon would serve as City Attorney with principal back-up provided by Kathy Hardy.

**a. Legal training and years of practice (including date of admission to the Washington Bar). Years of municipal or other local public sector law practice as a full-time local government attorney and/or in a private law office specializing in the representation of local governments.**

- Mike Kenyon – Mike has 21 years of municipal legal experience. In 1985 he graduated Cum Laude from the University of Puget Sound School of Law, and was admitted to the Washington State Bar in 1986. Upon admission to the Bar, Mike began working at LeSourd & Patten in Seattle, where one of his primary clients was the City of Tukwila. Mike's practice has been limited to municipal law since 1990. In 1993 he co-founded Kenyon Disend, PLLC solely to provide first class legal services to Washington cities.
- Kathy Hardy – Kathy graduated Cum Laude from Seattle University School of Law in 2005. Kathy started her legal career in 2004 as an intern for Kenyon Disend, where she gained valuable on-the-job training shadowing and working for the firm's partners. Upon admission to the Bar in 2005, Kathy became an associate with the firm and works on a wide range of projects for many of the firm's clients.

**b. Knowledge of, and experience with, Washington Municipal Law or other public sector experience.**

- Mike Kenyon – As mentioned above, Mike has 21 years of municipal legal experience. He has the full breadth of knowledge of, and experience with, virtually all aspects of Washington municipal law. As a regular practice, he provides advice and counsel to mayors, city councils, planning commissions, civil service commissions, and many other advisory bodies. He also routinely provides advice and counsel to all city departments and managers. In addition, Mike has substantial experience with and expertise in land use, eminent domain, constitutional law, open public meetings and public records, and dispute resolution.
- Kathy Hardy – Beginning over a year prior to admission to the Bar, Kathy's career has focused on serving local governments. Prior to starting her third year of law school, Kathy began interning at Kenyon Disend and becoming familiar

with a wide range of municipal issues. Since admission to the Bar, Kathy's practice has been entirely devoted to municipal law. Like Mike, she routinely provides advice and counsel to mayors, city councils, planning commissions, civil service commissions, and many other advisory bodies. She also routinely provides advice and counsel to all city departments and managers. Kathy is particularly knowledgeable about and experienced in the areas of land use, eminent domain, and public contracting.

**c. Types of clientele represented and years representing each.**

- Mike – Mike has been representing Washington municipalities, including cities, towns, commissions, and counties, for 21 years. Mike's practice has been limited to the representation of cities and other public agencies since 1990.
- Kathy - Kathy has been representing Washington municipalities, including cities and towns, as an attorney for two years, and for an additional year as a legal intern. Kathy's practice is limited to the representation of Washington cities and other public agencies.

**d. Litigation experience and demonstration of a good court track record. Cite examples of municipal litigation experience.**

- Mike – Mike has 21 years of litigation experience. Examples include:
  - *Primm v. Medina*. Criminal defendants challenged the authority of cities to conduct municipal court services by interlocal agreement. We prevailed at all levels of the court challenge, culminating with a decision by the Washington Supreme Court in May, 2007.
  - *Burien v. Strobel*. City filed condemnation lawsuit for the acquisition by condemnation of property for the construction of public streets, parks, and parking related to the Burien Town Square Project. We successfully defended the property owner's challenges all the way through the Washington Supreme Court.
  - *Burien v. Lipscomb*. City brought lawsuit for nuisance abatement against property owners of an 80-unit apartment complex for multiple violations of the municipal code, housing code, and building code. City obtained an injunction and other relief, including the evacuation and relocation of the apartment tenants. We settled the case with a \$200,000 payment to the City for staff time and abatement costs.

- *Tukwila School District v. Tukwila*. We successfully defended Tukwila in a matter challenging the validity of the City's common storm water utility. This case was widely viewed as a precursor to challenges state-wide to the continued existence of storm water utilities of many other cities.
- Kathy – Kathy has three years of litigation experience. Examples include:
  - *Open Frame v. Tukwila*. We successfully defended Tukwila in a matter alleging various violations of the Growth Management Act. The Growth Management Hearings Board dismissed all nine issues raised by Open Frame.
  - *Tukwila v. Anderson*. City brought lawsuit under the Model Toxics Control Act to recover cleanup costs associated with gasoline that had migrated under the City's right-of-way. We successfully negotiated a settlement from the party responsible for the contamination.
  - *Conrad v. Duvall*. We successfully defended a claim of inverse condemnation and complaint for damages. Our research motivated the opposing party to voluntarily dismiss his lawsuit against the City.
- e. **Experience with and knowledge and practice of law relating to land use and planning, environmental law including SEPA, the Growth Management Act, Shoreline Management Act, real estate and other related law.**

A substantial portion of our practice involves land use matters, including, permit processing, administrative hearings, and litigation. An equally important aspect of our work involves negotiation with developers on behalf of our municipal clients, and the drafting of related statutory development agreements, to best ensure clarity and precision in constructing the actual development. We regularly provide advice and guidance to city councils, planning agencies, and staff throughout the review and adoption process. Because all of the cities and counties that we regularly represent are required to plan under the Growth Management Act, we are eminently experienced in both the Act's substance and its application – it is a routine part of our practice.

- Mike – Mike leads our firm's land use team and is a recognized leader in this field. Specific examples of his experience include:

- *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.
- *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 – 39<sup>th</sup> Avenue Extension. We are currently negotiating with six property owners for multi-million dollar total takes necessary for construction of a substantial public transportation improvement project.
- Newcastle – Coal Creek Parkway Project. 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 work includes property acquisition, owner and tenant relocation, and eminent domain services involving nearly twenty different parcels.
- Kathy – Kathy has over three years of experience with and knowledge of law relating to land use and planning, environmental law including SEPA, the Growth Management Act, Shoreline Management Act, real estate and other related law. In particular, Kathy has worked on several lawsuits brought under the Growth Management Act, assisted a city with forming a utility local improvement district, and advised clients on the Shoreline Management Act. Kathy also regularly advises clients on planning and environmental issues.

**f. Experience in the area of contracts and franchises.**

- Mike - Mike has nearly 20 years of experience preparing and reviewing contracts and franchises on many different topics. Specific examples include franchises for water, sewer, electric, natural gas, telephone, and cable services, and literally hundreds of contracts related to development, labor and employment (including collective bargaining agreements), real estate conveyance, and other areas.
- Kathy - Kathy likewise has experience in preparing and reviewing franchises and contracts for several of our municipal clients. Kathy is currently working on a complicated franchise involving a water pipeline.

**g. Experience in the preparation and review of ordinances and resolutions.**

- Mike – Mike has nearly 20 years of experience preparing and reviewing ordinances and resolutions for numerous cities and counties.
- Kathy – Kathy has over three years of experience preparing and reviewing ordinances and resolutions for several cities, including North Bend, Sammamish, Covington and many more.

**h. Experience in the area of the Washington Public Records Act.**

Given the exclusive nature of our practice, we advise clients on a routine basis regarding the OPMA, its application, and its exemptions. Our firm provides regular training to public agencies and public officials regarding the Act, and members of our firm frequently serve as guest lecturers on the topic.

In the unfortunate event of an OPMA lawsuit, we have been retained by several cities across the state to resolve those matters. We are currently involved in such lawsuits on behalf of cities in King and Benton Counties.

Mike has nearly 20 years of experience and Kathy has three years of experience in this area of law.

**i. Intended office location and accessibility to the City.**

Kenyon Disend's law office is located in Issaquah, approximately 45 miles southwest of Sultan. Our accessibility, when you need it, has always been a hallmark of our service excellence. Both Mike and Kathy are accessible to the City by e-mail, telephone and cell phone, and in person, as may be regularly scheduled or specially requested.

**j. Professional honors and affiliations.**

- Mike – In addition to being a member of the Washington State Bar, Mike has been admitted to practice in the U.S. District Court, the Ninth Circuit Court of Appeals, and the United States Supreme Court. Mike's other professional affiliations include: Washington State Association of Municipal Attorneys; King County Bar Association; King County Bar Association Awards Committee; King County Superior Court Arbitrator; Municipal Courts Options Group; King County Executive's Task Force on Inquest Proceedings; The Dean's Advocacy Council, College of Humanities and Social Sciences, Western Washington University; and Athletic Director's Council, Western Washington University.
- Kathy – In addition to being a member of the Washington State Bar, Kathy is a member of the Washington State Association of Municipal Attorneys.

- k. If the firm/individual, or any of the attorneys employed by the firm have ever been sued by cities or other clients for malpractice, been the subject of complaints filed with the State Bar, or had discipline imposed by the State Bar, provide information on the nature of the incident, the dates of which the matter began and was concluded, and the results of the issue.**

No member or employee of Kenyon Disend, PLLC is being or ever has been sued related to his/her professional activities. No member or employee of the firm has ever had a complaint filed with the Bar Association by one of our clients. As is unfortunately the case in most jurisdictions, however, Bar complaints are occasionally filed by criminal defendants against prosecutors as a means of harassment and/or intimidation. The Bar has summarily dismissed all such complaints against firm prosecutors without the need for a response from the affected prosecutor.

- 4. Describe the staffing of your office, including all permanent and temporary employees and their general duties and work schedules. Include any staffing changes you would propose should your firm be awarded the contract to provide City Attorney services for Sultan.**

All of our attorneys are permanent, full-time employees, except for Kari Sand, who is employed at half-time. Our office hours are from 8:30 a.m. – 5:00 p.m., Monday – Friday; however, all of our attorneys carry cell phones and can be reached outside of normal office hours.

Every Kenyon Disend attorney is responsible for performing the day-to-day city attorney services for the cities he/she represents, as set forth in response to No. 2, above. In addition, when particular expertise is needed by a client, that client has available to it the full expertise of all of our attorneys (e.g., Bruce Disend might handle a labor matter; Chris Bacha might handle a telecommunications franchise; etc.), in order to most effectively serve that client.

Experienced paralegals and other staff also support the firm. On the civil side of our practice, there are four paralegals. Their experience in municipal law ranges from 2 – 12 years.

In the event Kenyon Disend is awarded a contract to serve as Sultan's City Attorney, no changes to the current Kenyon Disend staff would be necessary. We currently have the capacity to service Sultan's needs as set forth in its proposal.

- 5. Define the standard time frames for response by the City Attorney to direction and/or inquiry from the Mayor, City Council, City Administrator and staff.**

Kenyon Disend has a five-star reputation for providing its clients with timely, thorough responses. All clients have direct access to their designated city attorney. Clients are always

responded to 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.

**6. Describe the systems or mechanisms that would be established for monthly reporting of the status of projects, requests, and litigation. The city will require a billing methodology that identifies the specific task, the attorney completing the task and the time billed for completion of the specific task.**

Because we are in daily contact with our clients, we generally have no need to prepare monthly status reports for our clients. With that said, if Sultan desires a monthly status report, we are fully prepared to provide a status memorandum each month in the format most useful to city management.

With regard to billings, all of our clients receive monthly billing statements which provide detailed descriptions of the services provided each day, by whom, and for what length of time. Most of our clients prefer that significant projects and litigation be given separate billing numbers to track legal expenses, and this is something we are of course willing to offer Sultan.

**7. Describe the computer resources currently utilized within your office. The City requires compatibility with Microsoft Office. The attorney is required to maintain Internet services for e-mail and file transmission.**

Every attorney and staff person at Kenyon Disend has a dedicated computer, with Microsoft Office and internet access for e-mail and file transmission.

## II. CURRENT CLIENTS/CONFLICTS OF INTEREST

**1. List all current or former clients residing in, having an interest in a business or owning an interest in property within the City of Sultan in the past three (3) years.**

Kenyon Disend has no current or former clients residing in, having an interest in a business or owning an interest in property within the City of Sultan in the past three (3) years.

**2. List all cities and other public clients for which you or your firm currently provides services under a fee for services basis or on a retainer basis. Identify any foreseeable or potential conflicts of interest, which would result from such representation and the manner in which you would propose to resolve such conflicts.**

Kenyon Disend currently represents the following cities as city attorneys: Algona, Buriem, Covington, DuPont, Duvall, Granger, North Bend, Orting, Roslyn, Sammamish, and Tukwila, and the Towns of Hunts Point and South Cle Elum.

We provide specialized land use, condemnation, code enforcement, public works and public construction, taxation, and related legal services to numerous cities including Bellevue, Bonney Lake, Bothell, Des Moines, Everett, Federal Way, Kelso, Kent, Mercer Island, Newcastle, Pacific, Puyallup, Renton, Shoreline, Union Gap, and University Place, and to Pend Oreille, Lewis, and Mason Counties.

We serve as city prosecutors for the cities of Burien, Kenmore, North Bend, Puyallup, Roslyn, and Tukwila.

In light of our current clientele, we do not foresee any potential conflicts of interest which would result from our representation of Sultan. In the event of any potential conflict, however, we would of course comply with our professional obligation to inform each affected client in writing and, depending on the nature of the perceived conflict, either obtain a written waiver or withdraw from representation.

As a practical matter, however, we specifically designed our business model to avoid conflicts of interest in virtually every situation. Since we do not represent developers, criminal defendants, or others with positions adverse to Sultan, a conflict would be exceptionally rare.

**3. For the person to be designated as City Attorney, list all city clients as well as other public clients that person presently represents as City Attorney or general counsel. Please list the meeting dates and times for the City Council or governing body of these clients.**

Mike Kenyon currently serves as the City Attorney for the City of North Bend and as the Town Attorney for Hunts Point. North Bend's Council Meetings are held the first and third Tuesdays of every month, beginning at 7:00 p.m. Hunts Point's meetings are held the first Monday of each month, beginning at 7:00 p.m.

### III. COMPENSATION AND REIMBURSEMENT

In limiting our practice to municipal law and the representation of public agencies, we have developed efficiencies and economies of scale that provide substantial value to our clients. Our attorneys can usually perform a task in less time than attorneys who represent public agencies on a less than full-time basis. In many instances, our paralegal staff can initially prepare a document or otherwise undertake certain services for which other firms would assign attorneys at substantially higher rates.

Our preference is to provide legal services on an hourly basis. Once a baseline level of service is established, however, we are willing to consider a flat fee arrangement if the City prefers. If a flat fee arrangement is preferred, the following types of work would be considered outside the category of "general counsel" work, and would accordingly be billed at our usual

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hourly rates: Contested matters such as mediations, arbitrations, civil litigation and appeals, other court proceedings, and administrative hearings; employment investigations; collective bargaining; and, depending on their scope and complexity, certain annexations or LID/ULID formations.

The firm's 2008 hourly rates for legal services are attached for your review. We invite you to closely compare the hourly rates of our attorneys to the similarly experienced attorneys of our competitors. As briefly mentioned above, the firm's cost management efficiencies are directly passed through to our clients in the form of reduced rates.

Finally, we do not charge for mileage or long-distance telephone charges. We do seek reimbursement for customary fax and photocopy charges at the rate of fifteen cents per page, legal messenger service, court filing fees, charges to access computerized legal research databases, and other similar charges.

#### IV. PROFESSIONAL REFERENCES

Please consider the following six professional references for Mike Kenyon. We are confident that you will hear wholly positive comments, about both our service and our character.

Mr. Duncan Wilson  
City Administrator  
City of North Bend  
P.O. Box 896  
North Bend, WA 98045  
(425) 888-1211

Mr. Steve Clark  
Public Works Director  
City of Burien  
15811 Ambaum Blvd. SW, Ste. C  
Burien, WA 98166-3066  
(206) 241-4647

Mr. Jack McKenzie  
Town Administrator  
3000 Hunts Point Rd.  
Hunts Point, WA 98004  
(425) 355-1834

Ms. Terrie Battuello, Assistant to the  
City Manager Responsible for  
Economic Development  
City of Bothell  
18305 101st Avenue NE  
Bothell, WA 98011  
(425) 489-3387

Mr. Gary McLean, City Attorney  
City of Puyallup  
218 W. Pioneer  
Puyallup, WA 98371  
(253) 770-3324

Ms. Lisa Marshall, City Attorney  
City of Newcastle  
13020 Newcastle Way  
Newcastle, WA 98059  
(425) 649-4143

Kenyon Disend has not lost any public agency contracts in the last five years.

Ms. Deborah Knight  
November 15, 2007  
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V. AFFIRMATIVE STATEMENT REGARDING LICENSE TO PRACTICE

All attorneys employed by Kenyon Disend, PLLC are current members of the Washington State Bar Association and are licensed to practice law in the State of Washington.

We truly look forward to hearing from you in response to this material. In the meantime, please feel free to contact me directly if you have questions or need further information. Thank you.

Very truly yours,

KENYON DISEND, PLLC



Michael R. Kenyon

Enclosures

cc: Bruce Disend  
Shelley Kerslake  
Kathy Hardy

Ms. Deborah Knight  
November 15, 2007  
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**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
Sandra S. Meadowcroft	\$200.00
Margaret J. King	\$200.00
Kari Sand	\$190.00

Associate Attorneys:

Amy Jo Pearsall	\$165.00
Peter Beckwith	\$160.00
Renee Walls	\$150.00
Kathy Hardy	\$140.00

**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