

OGDEN MURPHY WALLACE

ATTORNEYS

Introducing Your

CITY ATTORNEY TEAM



Emily Romanenko

Member

eromanenko@omwlaw.com
(206) 454-8321



Andrew Tsoming

Member

atsoming@omwlaw.com
(206) 447-2236



Jim Haney

Member

jhaney@omwlaw.com
(206) 447-2233



Drew Pollom

Associate

dpollom@omwlaw.com
(206) 447-2268



OGDEN
MURPHY
WALLACE
ATTORNEYS

City of Medina City Attorney **Proposal for Services**

Respectfully submitted by:
Emily Romanenko
eromanenko@omwlaw.com

Ogden Murphy Wallace, P.L.L.C.
901 Fifth Avenue, Suite 3500 Seattle, Washington 98164
(206) 447-7000 | WWW.OMWLAW.COM



OGDEN MURPHY WALLACE, PLLC
901 FIFTH AVENUE, SUITE 3500
SEATTLE, WA 98164-2008

T 206.447.7000
F 206.447.0215

OMWLAW.COM

EMILY F. ROMANENKO
206.447.2250
eromanenko@omwlaw.com

SUBMITTED VIA HAND-DELIVERY

December 1, 2023

City of Medina
Attn: Aimee Kellerman
City Clerk
501 Evergreen Point Road
Medina, Washington 98039

Re: Proposal for City Attorney Services

Dear Ms. Kellerman:

It is my pleasure to provide this letter and related enclosures on behalf of Ogden Murphy Wallace, P.L.L.C. ("OMW") to the City of Medina, in response to the City's Request for Proposals for City Attorney Services. OMW currently provides city attorney services to Medina, and we welcome the opportunity to extend our services into 2024 and beyond.

As detailed in our proposal, I would serve as the City Attorney and would be assisted by Andrew Tsoming and Drew Pollom as Assistant City Attorneys. Additionally, in recognition of the City's emerging and dynamic land use issues, especially in light of the changing state regulations from Olympia, we are also proposing to be supported by Jim Haney, a member of the firm with over forty years of experience in land use law and land use litigation.

Over the last five years, OWM has provided the full range of municipal services to Medina, leveraging our extensive experience working within the municipal environment to better serve the Medina Council, staff and community. As the incumbent provider, we know the issues, the people, and the processes in Medina. We have demonstrated that we listen to your needs, work diligently to achieve your objectives and strive to exceed your expectations.

We are an established good fit with the City's team, which will provide continuity and the ability to move forward seamlessly. We are confident in our abilities to continue to manage the complex and routine legal issues facing the City today and tomorrow; moreover, we are open to change and dedicated to continuous improvement. We stand ready to serve the City and meet its dynamic needs and future challenges. Below are OMW's qualification highlights for your consideration:

Qualification Highlights:

- OMW has a deep knowledge of municipal legal issues developed through decades of experience working with cities, towns, counties, and special purpose districts throughout the State of Washington and a proven track record of effectively assisting the Medina team. Highlights from our work with Medina over the last five years include assisting the Development Services Department with contracting, permitting, and land use issues; advising on code enforcement procedures and handling enforcement actions; substantial MMC code updates and new code provisions (e.g. Tree Code and Low Impact Development code); WSDOT LID matters; telecom negotiations; litigating the Fairweather Creek dispute; providing public records act assistance; and more. We have a customer-focused commitment to provide our clients with timely and direct answers to questions, requests for services, and needs for legal guidance.
- OMW proactively applies our extensive, collective municipal practice experience to our clients' current matters. This ensures a high degree of efficiency in our delivery of services and an exceptional value as we intentionally assign legal tasks in a manner that effectively manages legal costs.
- OMW and its Municipal Group have the resources and workforce to consistently provide quality, responsive service to our clients. In addition to the proposed team of myself, Andrew Tsoming, Drew Pollom, and Jim Haney, our Municipal Team also includes Zack Lell, Kari Sand, Karen Sutherland, Greg Rubstello, Daniel Kenny, and Nick Morton. Further, OMW has specialized attorneys in all of the following areas: land use and environmental planning; real estate development; employment and labor relations; public records and public meeting requirements; purchasing and procurement; tax and finance; tribal law; and litigation relating to the foregoing topics.

As the enclosed proposal demonstrates in greater detail, if chosen, OMW would continue to provide the City with exceptional and cost-effective representation encompassing the full spectrum of legal services.

Thank you for your consideration and the opportunity to submit this proposal. We look forward to hearing from you and hope to continue our successful relationship with Medina.

Very truly yours,

Ogden Murphy Wallace, P.L.L.C.



Emily Romanenko

Section 1: Experience

OMW's most relevant experience is its work as the current City Attorney for the City. Given that we know the issues, people, and processes in the City, we can uniquely provide continuity and a seamless transition. We have developed and will maintain strong relationships with staff and elected officials.

Proposed City Attorney Core Team

We propose that, if selected, **Emily Romanenko** will serve as your City Attorney and the primary point of contact. As detailed herein, Emily's areas of emphasis includes land use law, Public Records Act and Open Public Meeting act compliance, public works and procurement, and telecommunication and franchising. **Andrew Tsoming, Jim Haney and Drew Pollom** will assist Emily Romanenko in providing services and will continue to utilize a collaborative, practical, efficient, and cost-effective approach.

Emily Romanenko (Member/City Attorney) — Emily currently serves as the Assistant City Attorney for Medina. In her role as Medina Assistant City Attorney, she has:

- Responded to issues and questions from former Planning Manager, Stephanie Keyser, current Development Services Director, Steve Wilcox, as well as Planning Commissioners and Councilmembers regarding a wide variety of land use issues. Questions have ranged from vesting issues, application of recent land use legislation, issuance of land use permits, and interpreting plat requirements. She has met with staff and residents when requested to discuss code requirements and has worked collaboratively with opposing counsel to answer and resolve code interpretation questions. Emily also advised on a variety of code enforcement matters related to land use code violations.
- Assisted City staff in drafting and negotiating multiple different agreements. This has included real estate agreements, settlement agreements, construction utility reimbursement agreements, and franchises. She specifically assisted with negotiating and finalizing the MCImetro Franchise Agreement as well as construction agreements for utility work in the right-of-way.
- Worked closely with City staff on all things related to wireless issues. She is very familiar with the City's wireless code, having assisted in drafting updates in response to the 2018 FCC Small Cell Order. This work includes assisting staff with reviewing small wireless facility permits and macro facility permits. She also regularly advises the City on changing federal regulations to ensure the City's interests are protected.
- Collaborated with City staff to handle complex requests proactively, responsively, and transparently. Emily worked closely with staff to prepare a presentation to Council regarding the City's PRA program. This required becoming familiar with the City's PRA policy and history. Additionally, she met with staff to discuss "best practices" for PRA responses and provided template materials for standardized responses. She has also advised on the appropriate redactions for various documents and records.

- Provided City Council meeting coverage and participated in the presentation of code amendments, contracts, and policy changes. She has also responded to Councilmember questions outside of meetings regarding various issues (e.g., land use questions, OPMA concerns, and wireless issues).
- Advised on code violations and community concerns. Emily has a proactive and practical approach to problem solving that addresses staff concerns, assesses the legal risks following legal research on the issue, and provide guidance for next steps.

Emily currently serves as the Town Attorney for Yarrow Point, the City Attorney for Poulsbo, and the Assistant City Attorney for Sammamish, Tukwila, and Normandy Park. These roles and experiences enable Emily to quickly recognize issues, evaluate the range of options and solutions, and select the best course of action in consultation with City Staff. For additional information, please view <https://www.omwlaw.com/people/emily-romanenko>.

Andrew Tsoming (Member/Assistant City Attorney) – Andrew has over 10 years of legal experience and 5 years of general municipal experience. He is currently the City Attorney for Milton, the Assistant City Attorney for Tukwila, and the Assistant Town Attorney for South Prairie. Andrew’s work includes advising and representing clients on a wide variety of municipal issues, including constitutional law, land use, contract review and negotiation, interlocal agreements, franchise agreements, code compliance, legal review of police issues, drug forfeitures, ethics, and the Public Records Act. For additional information, please view <https://www.omwlaw.com/people/andrew-tsoming>.

James Haney (Member/Municipal and Land Use Attorney) – Jim has over forty years of experience in general municipal law with an emphasis on land use regulation and litigation, environmental law, condemnation and land acquisition, and public works contracting and construction. Jim began his municipal practice as the Black Diamond City Attorney and South Prairie Town Attorney in 1980. Currently, he is the lead City Attorney for the cities of Bainbridge Island and Redmond. Prior to becoming the Bainbridge Island City Attorney in 2023, Jim served as outside land use counsel for the City for nine years. Jim has also provided land use legal services for the City of Seattle, the City of Gig Harbor, the City of Poulsbo, and our other municipal clients.

Jim’s land use experience has proven successful in the following Growth Management Hearings Board and Court of Appeals matters:

Central Puget Sound Growth Management Hearings Board:

- Jha Family, LLC v. City of Redmond, 2018 WL 9801874 (2018) – successfully defended City’s decision to leave requested comprehensive plan amendment and rezone off the annual docket.
- Pier 67 Capital Partners v. City of Redmond, 2021 WL 5044790 (2021)- successfully defended City’s denial of comprehensive plan amendment and rezone request.

Washington State Court of Appeals, Washington Supreme Court, and U.S. Supreme Court:

- Westridge-Issaquah, LLP v. City of Issaquah, 20 Wn. App. 2d 344, 500 P.3d 157 (2021) – successfully defended City’s imposition of updated utility connection fees against claim that subdivision was vested to old fees.
- PRSM v. City of Bainbridge Island, 24 Wn. App. 2d 1047 (2022) (unpublished), *rev. denied*, 1 Wn.3d 1014 (2023); *petition for writ of certiorari pending* in U.S. Supreme Court – successfully defended City’s Shoreline Master Program and decision of Growth Board upholding it.

For additional information, please view <https://www.omwlaw.com/people/james-haney>.

Drew Pollom (Associate/Municipal Attorney) – Drew is an associate in the firm’s Municipal Law practice, assisting clients with a broad range of legal issues. Drew has recently assisted with projects for the City of Medina including but not limited to; code enforcement appeals, memorandums on obligations and regulations as well as several public records projects. For additional information, please view <https://www.omwlaw.com/people/drew-pollom>.

Additional OMW Attorneys with Specialized Expertise

In addition to the Core Team proposed above, OMW has the resources to provide other attorneys from our Municipal Practice Group for specific matters within their areas of emphasis.

All attorneys in OMW’s Municipal Team are fully qualified as general practitioners of municipal law and advise our city clients on a wide variety of issues, including land use, public works contracting and construction claims, the Open Public Meetings Act, the Public Records Act, and litigation.

OMW attorneys from our other practice areas are available to assist the City with matters in their areas of expertise, including **Zach Lell**, our resident land use litigator; **Karen Sutherland** who specializes in all facets of employment and labor law; **Kari Lester** who has successfully litigated Public Records Act claims for our municipal clients; **Jeff Dunbar and Geoff Bridgman** who can assist with complex litigation matters; and **Athan Tramountanas** whose practice focuses on all aspects of public works and construction law. Further information regarding each of these lawyers can be found on [OMW’s website](#).

OMW Collective Expertise

Collectively, OMW’s Municipal Team and specialized counsel can assist the City of Medina with the full spectrum of municipal legal services, particularly the following areas:

- **Land Use and Development.** Our municipal attorneys are 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, SEPA, the Shoreline Management Act, the Regulatory Reform statute, the Appearance of Fairness Doctrine, and other laws governing land use and development in local communities. Our attorneys have represented municipalities in land use litigation at every level of the judiciary, 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, the Shorelines Hearings Board, and the Pollution Control Hearings Board.

- *Legislative Monitoring and Analysis.* Our team monitors, reviews, and analyzes the impact of legislative and regulatory changes to stay abreast of the changing legal landscape. Our substantive knowledge and deep subject matter expertise on all manner of municipal issues ensures that we can provide advice that protects our clients' interests while ensuring compliance with state and federal regulations.
- *Council, Boards and Commissions Meetings.* Attendance at city council meetings, and boards and commissions meetings, is an important aspect of municipal law practice. Each of our municipal attorneys is familiar with the legal requirements of the Open Public Meetings Act, relevant parliamentary procedures, Council Rules of Procedure, and Boards and Commissions bylaws, and the executive/legislative division of responsibility under state law. Our land use expertise is also helpful to clients with quasi-judicial public hearings. We help facilitate orderly, productive public meetings for our client cities and their staff.
- *Ordinances and Resolutions.* A critical function of municipal government is the development and implementation of local legislation. Each of our municipal attorneys' review and draft ordinances and resolutions, and agenda bills as needed, as part of our daily practice. We are aware of the legal form requirements for these documents, and our substantive understanding of municipal law enables us to assist clients in crafting clear, concise, well-organized ordinances and resolutions that will effectively advance the legislative intent of the city council. Our approach to preparing local legislation is to verify that a particular document is defensible in both form and substance.
- *Litigation.* Our firm's goal is to act proactively to avoid disputes or to work toward resolution before the litigation stage is reached when possible. If litigation becomes necessary, we are ready to vigorously protect your interests. For over 40 years, our lawyers have successfully represented municipalities before a host of courts and administrative tribunals. The range of legal issues implicated in these proceedings is broad, and includes land use permitting and zoning, SEPA determinations, eminent domain, annexation, personnel matters, public records disclosure, public works matters, code enforcement, public nuisance abatement, homeless encampments, gambling ordinances, takings, and substantive due process challenges, among others.
- *Street, Utility, and LID.* We routinely work with clients as they perform street, sewer, and water improvement projects. These services include acquisition of easements and right-of-way, utility coordination, and latecomer agreements. Our attorneys also have expertise in forming local improvement districts and defending challenges to LID assessments.

- *Contracts, Interlocal Agreements and Real Estate Purchases.* Our attorneys recognize that every contract memorializes our client's legal relationship with a third party, and we review all aspects of each proposed agreement to ensure that the client's legal interests will be adequately protected. Our attorneys are familiar with the legal requirements governing competitive bidding, contracting with professional service providers and procurement of equipment and materials. We also routinely prepare interlocal agreements spanning a broad range of issues such as shared municipal services and joint financing programs. We regularly assist with real estate purchase and sale agreements, development agreements, and other documents necessary for real property conveyance and development.
- *Public Records Requests.* We assist our clients daily with Public Records Act compliance, whether advising on the requirements for timelines and responses or assisting with the many exemptions from disclosure found within the PRA and other laws. Our attorneys can also assist with the actual processing of requests in the event the City lacks adequate staffing resources. We provide periodic training for City staff, which we recommend to ensure effective customer service and to reduce the likelihood of penalties stemming from an inadvertent mistake. In the event of legal challenges arising out of the record disclosure process, our attorneys can assist with defense or mitigation as appropriate.
- *Employment.* OMW's Employment and Labor Law Group is a leader in employment law and workplace relations in the Pacific Northwest, primarily due to our emphasis on preventive practices such as workplace investigations, training, policy development and implementation, and alternate dispute resolution. The Employment and Labor Law Group includes Kari Sand, Karen Sutherland, Jennifer Berry, Julia Norton, and Peggy Rodriguez. Our Employment and Labor Law Practice Group provides advice on all aspects of employment law to our public sector clients, including negotiations with employee bargaining representatives and the drafting and implementation of labor contracts, as well as defending our public sector clients in agency proceedings such as EEOC complaints and PERC proceedings, and assisting them in risk management decisions to avoid litigation. We represent our public sector clients in grievance arbitrations, interest arbitrations, and in lawsuits regarding labor and employment issues in state and federal court.
- *Code Enforcement and Nuisance Abatement.* We routinely work with clients to resolve code enforcement problems and conduct nuisance abatement. Successful code enforcement requires being proactive and communicative and our office works closely with code enforcement officers and residents to find a way forward to bring properties into code compliance. Our attorneys have expertise in writing warning letters, voluntary compliance agreements, and notices of violation. When voluntary compliance is not achieved, our attorneys have successfully litigated nuisance abatement matters at the administrative (Hearing Examiner), superior court, and appellate levels.
- *Risk Assessment and Tort Law.* OMW routinely provides risk management services to our municipal clients to effectively manage risk exposure based on the client's risk

appetite in each situation. Not all risks are equal, but we are able to assist our clients with identifying, evaluating, analyzing, and mitigating day-to-day and complex risks to ensure the client's success. We typically advise our city clients to take a balanced risk approach, where potential negative impacts and completion of city goals and objectives are given equal consideration. Regardless of a client's particular risk appetite, we recognize our role as advisors, not decision-makers. We are very familiar with the Washington Cities Insurance Authority, of which Medina is a member, and the COMPACT requirements for its risk pool member cities. We routinely and carefully review contract provisions and revise them, or recommend further revisions, as appropriate under the circumstances to effectively reduce a client's exposure to liability and manage risk.

Section 2. Method of Service Provision

Scope of Work

We propose to perform the full scope of City Attorney services for the City of Medina. This includes, but is not limited to,

- Providing day-to-day legal advice, counsel, training, consultation, and opinions to the City Manager and Staff, City Council, and Planning Commission and other advisory bodies.
- Advising on land use planning and development issues, code enforcement and litigation, discrimination, construction, assist with purchasing and procurement, draft and review ordinances, resolutions and contract, advise on employment and labor matters, as well as tort issues, and aid in leasing and the purchase and sale of property.
- Commitment to attending meetings to furnish legal representation to Council, staff, and any boards and commissions as desired by the City.
- Appearing before courts and agencies to represent the City's interests.
- Assisting in the implementation of policies, programs, and projects, working cooperatively with WCIA, the municipal prosecutor, and other legal counsel retained for special projects.
- Assisting in maintaining awareness of ethical standards and appearance of fairness standards to avoid conflicts of interest and prohibited transactions.
- Advising on Open Public Meetings Act and Public Records Act compliance.
- Providing any other legal services and tasks assigned by the City Manager.

Method of Service Delivery

As stated in our cover letter, we welcome the opportunity to continue serving the City of Medina. Having served the City for the last five years, we have demonstrated our ability to effectively collaborate with the City's team and are proud of what we have accomplished together. **OMW's core team of Emily Romanenko, Andrew Tsoming, Jim Haney and Drew Pollom** – along with our talented group of general municipal and specialized attorneys – is committed to helping the City achieve its goals while maintaining its values. Emily has developed trusted working relationships with City staff and will further integrate her proposed City Attorney team into the City according to the City's preferences. We strive to continuously improve and are receptive to feedback and

suggestions for how we can best meet the City's needs. We hope to build on our collaboration with the City of Medina in 2024 and beyond.

We are a multi-specialty law firm committed to its clients and servicing their legal needs. With this focal point we have been and will continue providing practical, solution-oriented, and cost-effective legal services to Medina. OMW has the depth and breadth of experience to provide the full spectrum of legal services to Medina in an efficient, cost-effective, and comprehensive manner consistent with the City's goals and values.

Our firm's responsiveness to the needs of our clients is a point of professional pride for our attorneys. Our attorneys will be able to meet any reasonable level of availability Medina may require. As your lead attorney, Emily Romanenko will be available via email, text, cell, or fax. She is available to attend meetings on short notice and can be reached promptly by phone. In the event Emily is unavailable due to illness, vacation, or trials, Assistant City Attorney Andrew Tsoming and Drew Pollom will be available for meeting coverage.

Philosophy and Approach

Our philosophy is to provide our public entity clients with the highest quality legal services at an affordable price. We recognize that municipalities, particularly under today's economic circumstances, must receive efficient and effective representation on a fixed annual budget. We work with our clients to help them utilize our services efficiently and to manage their legal services to stay within their means.

We strive to provide our clients with legal services that help them accomplish their goals. We collaborate and communicate with our clients to be sure that we fully understand what they are trying to accomplish, and we then set about finding a way to accomplish that end within legal means.

We tailor our work product to meet the City's needs and preferences. This allows us to have a nuanced and tailored approach depending on the nature and complexity of the particular issue involved. For routine and relatively simple issues, our 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., preparing for union contract negotiations, drafting pleadings, briefs, contracts, or personnel policies, 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.

Uniqueness

As stated above, Emily Romanenko will be the lead City Attorney and primary point of contact; however, the proposed City Attorney team, and the entire firm, stand ready to assist the City as needed. Where appropriate, Emily will delegate and assign specific matters to other attorneys in the firm. This will enable the City to benefit from the specialized knowledge of OMW's various attorneys and practice groups whenever such expertise is needed. It will also ensure that less senior attorneys with lower billing rates will be assigned to perform routine, less complex tasks that do not require the direct attention of a firm Member. We believe that we are uniquely qualified to and prepared to serve the City and our goal will be to ensure we provide the City with

the highest level of client service, with the most efficient allocation of resources.

Section 3. Proposed Fee Structure

Our proposed rates are highly competitive with other Puget Sound area law firms with municipal practices. Additionally, OMW has demonstrated its ability over the last year to effectively manage legal services to achieve overall cost savings for the City. Based on our service model, we propose to continue providing general legal services at a standard hourly rate arrangement, which will increase by the greater of CPI or 4% effective January 1st each year.

2024 Hourly Billing Rates:

General Legal Services (meeting attendance, ordinance and resolution drafting, routine consultations, and all work not defined as “Specialty Services” below)

Member	\$330
Associate	\$285
Paralegal	\$170

Specialty Legal Services (real estate transactions, project-specific land use work, development agreement negotiations, franchise negotiations, and litigation including appeals)

Member	\$415
Associate	\$320
Paralegal	\$190

Travel Time

Travel time for City-related business will be billed at applicable hourly rates, with a \$75.00 discount applied.

Miscellaneous Expenses

The firm does not charge for normal clerical or secretarial work. Costs will be charged and reimbursed for the following: expenditures related to court costs and fees, copying, postage, computer-aided legal research when conducted on behalf of the City, mileage, and parking. Other expenses shall be reimbursed when authorized in advance by the City.

Billing Format

OMW will provide monthly invoices for services performed in the prior month. OMW’s invoice will show the service provided described in a manner sensitive to protecting the attorney-client privilege, the date, the person providing the service, and the time expended in tenths of an hour increments. OMW will work with the City to develop and implement a billing and invoicing process that meets the City’s needs. At the City’s preference, individual billing numbers can be established for each department, as well as for any specialty matter (e.g., litigation, franchise negotiations, etc.) that arises.

Section 4. Statement of Contract Compliance

OMW maintains adequate insurance coverage at all times. If selected, we would be pleased to provide the City of Medina with appropriate proof of insurance indicating a minimum of \$2,000,000 per occurrence or claim in both liability and errors and omissions coverage.

Section 5. References

Katy Kinney Harris

Town of Yarrow Point Mayor
4030 95th Ave NE Yarrow Point, WA
(425) 786-6099 | mayor@yarrowpointwa.gov

Mayor Harris currently works with Emily, who handles the town's complete range of day-to-day legal needs in her capacity as Town Attorney. Emily also attends Council meetings, board and commission sessions, and offers advice on land use planning and litigation strategy.

Carol Helland

City of Redmond Director of Planning and Community Development
P.O. Box 97101, Mail Stop 4SPL 15960 NE 85th Street, Redmond, WA 98052
(425) 554-2107 | chelland@redmond.gov

Ms. Helland has worked with Jim on many land use projects for the City of Redmond, including comprehensive plan amendments, rezones, development regulations, project permits, and land use appeals.

Nora Gierloff

City of Tukwila Director of Community Development
6200 Southcenter Boulevard, Tukwila, WA 98188
(206) 431-3686 | nora.gierloff@tukwilawa.gov

Ms. Gierloff has worked with Emily and Andrew on numerous land use planning and projects, including code enforcement matters, since OMW began providing city attorney services to Tukwila in April of 2020.

Additional references are available upon request.