

City of Seattle
Legislative Department
CONSULTANT AGREEMENT

Title: Consultation for Decision-Making Regarding a Local Income Tax
AGREEMENT NUMBER: DC2017-0011

This Agreement is made and entered into by and between the City of Seattle ("the City"), a Washington municipal corporation, through its Legislative Department, as represented by the Council Central Staff Director; and Economic Opportunity Institute ("Consultant"), a non-profit corporation of the State of Washington and authorized to do business in the State of Washington.

The purpose of this contract is to provide Seattle City Council expertise on economics, financial forecasting, policy research and design, drafting legislation and legal issues to inform the drafting and defense of legislation anticipated by Resolution 31747, adopted by Seattle City Council on May 1, 2017.

In consideration of the terms, conditions, covenants and performance of the Scope of Work contained herein, the City and Consultant mutually agree as follows:

1. SCOPE AND TERM OF AGREEMENT

Term of Agreement

The term of this Agreement begins when fully executed by all parties, and ends on July 31, 2017, unless amended by written agreement or terminated earlier under the termination provisions.

Scope of Services

The Scope of Work of this Agreement and the time scheduled for completion of such Work are as follows:

| Task | Deliverable(s) | Completion Date | Est. Hours | Est. Cost |
|--|--|-----------------|------------|-------------|
| 1. Legal Counsel and Research | Legal pathways for Ordinance development including initial and subsequent Ordinance drafts (meeting attendance as needed). | July 2017 | 120 | \$35,500.00 |
| 2. Financial Forecasting for Revenue Estimates | Revenue estimates (meeting attendance as needed) | July 2017 | 70 | \$7,000.00 |
| 3. Administrative Research | Iterations for administration of tax to be written into Ordinance. | July 2017 | 70 | \$7,000.00 |

2. CHANGES

Either party may request changes to this Agreement. If the parties agree, such changes mutually agreed upon by and between the City and Consultant, shall be incorporated into the Amendment when signed by both parties.

3. PAYMENT

A. The Consultant will be reimbursed at the following rates:

- Legal Counsel – Subcontract with Smith & Lowney PLLC at **\$225-300/hr**
- EOI Economist & Subcontract Economist Gibson Economics at **\$100/hr**
- Tax Administration Consultant(s) at **\$100/hr**

Total compensation under this Agreement shall not exceed **\$49,500.00** unless modified by a written amendment to this Agreement. The parties agree that the hourly rate includes all direct, indirect, and fixed fees for the project.

- B. The Consultant may submit invoices to the City as frequently as once per month during progress of work, for partial payment for work completed to date. Payment shall be made by the City to the Consultant upon the City's receipt of an invoice containing the information listed in Section 4, Payment Procedures.
- C. Payment is subject to the continuing appropriation authority of the Seattle City Council. Consultant agrees that there is no guarantee of a minimum amount of work or payment under this Contract.

4. PAYMENT PROCEDURES

Deliver all invoices and invoice/billing notices under this Agreement to:

| If to the City: | If to the Consultant: |
|---|---|
| Patrick Wigren patrick.wigren@seattle.gov Legislative Department PO BOX 34025 Seattle WA 98124-4025 | John R. Burbank john@eoionline.org Economic Opportunity Institute 603 Stewart Street, #715 Seattle WA 98101 |

| Invoices must clearly display the following (sub-consultants' invoices must also include this information): |
|--|
| <ul style="list-style-type: none">• Invoice Date and Invoice Number• City Project Manager Name: Erik Sund (erik.sund@seattle.gov) (Please do not put PM's name in the address)• Department Contract No. DC2017-0011• Contract Title: Consultation for Decision-Making Regarding a Local Income Tax• Period covered by the invoice• Task # and title• Employee's name and classification• Employee's all-inclusive hourly rate and # of hours worked• Total labor costs per task• Itemization of direct, non-salary costs (per task, if so allocated)• The following Sub-Consultant payment information will be provided (attach Sub- Consultant invoices as backup):<ul style="list-style-type: none">○ Amount Paid to all Sub-Consultants for the invoice period (list separate totals for each Sub-Consultant).○ Cumulative To-Date amount paid to all Sub-Consultants (list separate totals for each Sub-Consultant).• Cumulative costs per task and for the total project |

5. PROMPT PAY

Definitions

- A. An invoice is considered received when it is date-stamped at point of entry into the department. If the invoice is not date-stamped or otherwise marked as received by a department, the date of the invoice will be considered the date the invoice is received.
- B. A payment is considered made on the day it is mailed or is available.
- C. Disputed items include, but are not restricted to, improperly prepared invoices, lack of appropriate supporting documentation, unapproved staff or staff rates on the invoice, and unsatisfactory work product or services.

Prompt Payment to Consultant

- A. Timely Payment: Except as provided otherwise herein, payment for an invoice will be issued and mailed to the Consultant within thirty (30) calendar days of receipt of the invoice.
- B. Disputed Items: The City may withhold payment for disputed items. The City will promptly notify the Consultant in writing, outlining the disputed items, the amount withheld and actions the Consultant must take to resolve the disputed items. The City default is to delay payment until a revised invoice is submitted and approved. However, the Consultant may request partial payment for the approved amounts, if the unapproved amount represents a small share of the total invoice. The City shall pay the revised invoice within thirty (30) calendar days of receipt.
- C. Legal Fees: In any action brought to collect interest due under this Section, the prevailing party is entitled to an award of reasonable attorney fees.

Prompt Payment to Subconsultants

- A. Cut-Off Date: Except as provided otherwise herein, payment for an invoice will be made to a subconsultant within thirty (30) calendar days of receipt by the Consultant. The Consultant may establish a monthly cut-off date of *(to be established by Prime)* that subconsultants must submit an invoice in order to assure 30-day payment.
- B. Disputed Items: The Consultant may withhold payment for disputed items. The Consultant will promptly notify the subconsultant in writing, outlining disputed items, the amount withheld and actions the subconsultant must take to resolve the disputed item(s). Such withheld amounts are limited only to items in dispute. The subconsultant can request partial payment for the approved amounts, or that the Consultant delay their entire payment until a revised invoice is submitted to and accepted by the Consultant. The Consultant shall pay the revised invoice within thirty (30) calendar days of receipt.
- C. Flow-Down Clauses: The Consultant shall require this provision in each subcontract of any tier.

6. ADDRESSES FOR NOTICES AND DELIVERABLE MATERIALS.

Deliver all official notices under this Agreement to:

| If to the City: | If to the Consultant: |
|--|---|
| Erik Sund (cc Patrick Wigren) erik.sund@seattle.gov patrick.wigren@seattle.gov Legislative Department PO BOX 34025 Seattle WA 98124-4025 | John R. Burbank john@eoionline.org Economic Opportunity Institute 603 Stewart Street, #715 |

7. INDEMNIFICATION

Consultant shall defend, indemnify, and hold the City harmless from and against all claims, demands, losses, damages or costs, including but not limited to damages arising out of bodily injury or death to persons and damage to property, caused by or resulting from:

- the sole negligence or willful misconduct of Consultant, its officers, employees, agents or subconsultants;
- the concurrent negligence of Consultant, its officers, employees, agents or subconsultants but only to the extent of the negligence of Consultant, its officers, employees, agents or subconsultants;
- the negligent performance or non-performance of the contract by the Consultant; or
- the use of any design, process, or equipment that constitutes an infringement of any patent in effect, or violates any other intellectual proprietary interest, including copyright, trademark, and trade secret.

Consultant waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the City and its officials, agents or employees.

8. INSURANCE

Insurance certification is not required. However, the Consultant agrees that it will maintain premises operations and vehicle liability insurance in force with coverages and limits of liability typically maintained by consultants performing work of a scope and nature similar to that called for under this Agreement, but in no event less than the coverages and/or limits required by Washington state law. Such insurance shall include "The City of Seattle" as an additional insured for primary and non-contributory limits of liability. Workers compensation insurance shall also be maintained if required by Washington state law.

9. AUDIT

Upon request, the Consultant shall permit the City and any other governmental agency involved in the funding of the Work to copy, inspect and audit all pertinent books and records related to the Work, including connected or related Work performed by subconsultants, up to six years after final payment.

10. TAXES, FEES AND LICENSES

Consultant shall obtain and pay all federal, state and local licenses required for the services rendered under this Agreement. Consultant shall pay all taxes arising out of or connected with the service described herein, and otherwise fulfill all statutory fiscal obligations required by law.

11. INDEPENDENT CONSULTANT

The Consultant is an independent contractor and is not intended to act in any way as a City employee. The parties agree the City has neither direct nor immediate control over the Consultant or the right to control the manner or means by which the Consultant performs the work. Neither the Consultant nor any Consultant employee is

deemed an employee of the City for any purpose. The Consultant is not authorized to act as an agent or legal representative of the City for any purpose. The Consultant is not granted express or implied right or authority to assume or create obligation or responsibility on behalf of or in the name of the City or to bind the City.

Use of City Office Space and Equipment: If the City determines it is in the City's best interests for the Consultant to Work on City premises and/or with City equipment, the City may provide such premises and equipment. Such premises and equipment are provided exclusively for the project and shall not be used for any other Consultant purpose. In such event, the Consultant remains independent and is not acting in the capacity of a City employee. The Consultant will not work on-site at City offices for more than 36 consecutive months without written authorization from the City Project Manager. The Consultant shall notify the City Project Manager if s/he or any other Workers are known to be within 90 days of a consecutive 36-month placement on City property. If the City determines the use of City premises or equipment is not necessary to complete the Work, the Consultant will be required to work from its own office space or in the field, as necessary. The City reserves the right to negotiate a reduction in Consultant fees or charge a rental fee, based on the actual costs to the City, for the use of City premises or equipment.

12. ASSIGNMENT

Rights granted by this Agreement are personal in nature and may not be assigned or subcontracted without the written consent of the City.

13. TERMINATION

The City may terminate the whole or part of this Agreement by written notice. This includes but is not limited to such reasons as Consultant failure to meet schedules specified herein, if timely completion is improbable, impossible, not feasible or illegal, or for City's convenience.

For Reasons Beyond Control of Parties: Either party may terminate this Agreement without recourse by the other where performance is rendered impossible or impracticable for reasons beyond such party's reasonable control, such as, but not limited to, an act of nature, war or warlike operation, civil commotion, riot, labor dispute including strike, walkout or lockout, except labor disputes involving the Consultant's own employees, sabotage, or superior governmental regulation or control.

Notice: Notice of termination under this Section shall be given by the party terminating this Agreement to the other, not fewer than five (5) business days prior to the effective date of termination.

14. DEBARMENT

The City may debar the Consultant pursuant to the provisions of SMC Ch. 20.70. Consultant confirms it is not debarred or excluded from participating in any Federal-aid contract nor has any subconsultant used to perform this work. Debarment shall be verified at <https://www.sam.gov>. Consultant shall keep proof of such verification within the subconsultant records.

15. COMPLIANCE WITH LAWS

Consultant shall comply with all applicable laws, ordinances, rules and regulations and orders of the Federal government, State of Washington, King County and The City of Seattle. Consultant shall also abide by all rules, regulations and directives of the same or of any administrative agency with jurisdiction over the subject matter of this Agreement.

16. SOCIAL EQUITY REQUIREMENTS

Non-discrimination & Equal Employment Opportunity: Consultant shall not discriminate against any employee or applicant for employment because of race, color, age, sex, marital status, sexual orientation, gender identity, political ideology, creed, religion, ancestry, national origin, honorably discharged veteran or military status or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. The Consultant shall affirmatively try to ensure applicants are employed, and employees are treated equally during employment, without regard to race, color, age, sex, marital status, sexual orientation, gender identity, political ideology, creed, religion, ancestry, national origin, honorably discharged veteran or military status or the presence of any sensory, mental or physical handicap. Such efforts include, but are not limited to employment, upgrading, demotion, transfer, recruitment, layoff, termination, rates of pay or other compensation, and training.

Upon request, Consultant shall furnish a report to the City Purchasing and Contracting Services Director of affirmative efforts to implement this section, and will permit access to employment records, employment advertisements, application forms, other pertinent data and records as requested for investigation of compliance with this section.

The Consultant shall insert this Equal Employment Opportunity provision in all subcontracts executed under this Agreement.

Women and Minority Business: Consultant shall use all good faith efforts to promote and seek utilization of woman and minority businesses for any subcontracting within the contract scope of work. A woman or minority business is one that self-identifies to be at least 51% owned by a woman and/or minority. Such firms do not have to be certified by the State of Washington but must be registered in the City Online Business Directory.

Efforts may include use of solicitation lists, advertisements in minority community publications, breaking requirements into tasks or quantities that promote WMBE utilization, making schedule or requirement modifications likely to assist WMBE firms, targeted recruitment, using minority community and public organizations to perform outreach.

Any violation of this section, or a violation of SMC Ch. 14.04, SMC Ch. 14.10, SMC Ch. 20.42, SMC Ch. 20.45, or other local, state or federal non-discrimination laws is a material breach for which the Consultant may be subject to damages and sanctions provided by the Agreement and applicable law. Consultants in violation of the requirements may be subject to debarment from City contracting in accordance with SMC Ch. 20.70.

Paid Sick Time and Safe Time Ordinance: The Consultant shall be aware that the City has a Paid Sick Time and Safe Time ordinance that requires companies to provide employees who work more than 240 hours within a year inside Seattle, with accrued paid sick and paid safe time for use when an employee or a family member needs time off from work due to illness or a critical safety issue. The ordinance applies to employers, regardless of where they are located, with more than four full-time equivalent employees. This is in addition and additive to benefits a worker receives under prevailing wages per WAC 296-127-014(4). City contract specialists may audit payroll records or interview workers as needed to ensure compliance to the ordinance. Please see <http://www.seattle.gov/laborstandards>, or you may call the Office of Labor Standards at 206-684-4500.

17. CONSULTANT PERFORMANCE EVALUATION

Consultant's performance will be evaluated at contract conclusion. The City's Consultant Performance Evaluation form is at <http://www.seattle.gov/contracting/docs/ccPE.doc>

18. MISCELLANEOUS PROVISIONS

- A. Background Checks and Immigrant Status: The City may require background checks for some or all of the employees that may perform work under this Agreement. The City has strict policies regarding the use of Background checks, criminal checks, immigrant status, and/or religious affiliation for contract workers. The policies are incorporated into the contract and available for viewing on-line at <http://www.seattle.gov/business/WithSeattle.htm>
- B. Americans with Disabilities Act (ADA): RESERVED
- C. Campaign Contributions (Initiative Measure No. 122): Elected officials and candidates are prohibited from accepting or soliciting campaign contributions from anyone having at least \$250,000 in contracts with the City in the last two years or who has paid at least \$5,000 in the last 12 months to lobby the City. Please contact Polly Grow at polly.grow@seattle.gov for more information about the measure, or call the Ethics Director with questions at 206-615-1248.

IN WITNESS WHEREOF, the parties have executed this Agreement by having legally binding representatives affix their signature below.

CONSULTANT

By John R. Burbank 7/6/17
Signature Date

John R. Burbank
Type or Print Name

Executive Director, EOI
Title

THE CITY OF SEATTLE

By K Arestad 7/6/17
Signature Date

Kirstan Arestad
Type or Print Name

Director, Council Central Staff
Title

City of Seattle Business License Number: 532166

Washington State Unified Business Identifier Number (UBI): 601982612

Attachments:

1. Seattle City Council Resolution 31747

Attachment 1: City Council Resolution 31747

Lisa Herbold
LEG Progressive Income Tax RES
D2

CITY OF SEATTLE

RESOLUTION _____

..title

A RESOLUTION expressing the City of Seattle's intent to adopt a progressive income tax targeting high-income households

..body

WHEREAS, Seattle is a growing and prosperous city that can offer great schools, good jobs, and

healthy communities for all, and yet our City faces many urgent challenges, including a

homelessness state of emergency, an affordable housing crisis, overcrowded classrooms,

education equity and racial achievement gaps, inadequate provision of mental health

services, and severe traffic congestion; and

WHEREAS, taxes are required to support the basic functions of municipal government, and the

tax code is as much an expression of our values as are the public goods and services we

choose to fund with the resulting revenue; and

WHEREAS, in Washington State, according to the Institute on Taxation and Economic Policy

(ITEP), households with incomes below \$21,000 paid on average 16.8% of their income

in state and local taxes in 2015, whereas households with income in excess of \$500,000

paid only 2.4%, making Washington State's tax code the most regressive in the nation;

and

WHEREAS, our state and local governments have been unduly and unnecessarily reliant on sales

tax, property tax, business and occupation tax, and other regressive taxes; and

WHEREAS, our upside-down tax system deepens poverty, diminishes opportunity for low and

middle-income families, disproportionately harms communities of color, hinders efforts

toward establishing a more equitable city, and protects and reinforces the privilege of the

wealthy; and

1 WHEREAS, without progressive revenue tools, Seattle is in a weak position to respond to
2 federal budget cuts proposed by the Trump administration, which could eliminate
3 millions of dollars per year from Seattle's budget for housing and human services and
4 hundreds of millions from regional transit projects; and

5 WHEREAS, Seattle's robust economic growth has created significant wealth and opportunity,
6 but has also exacerbated the housing affordability crisis, which is compounding the
7 financial strain on low- and middle-income households; and

8 WHEREAS, the City of Seattle can pioneer a legal pathway and build political momentum to
9 enable the State of Washington and other local municipalities to put in place progressive
10 tax systems; and

11 WHEREAS, the "Trump Proof Seattle" Coalition has called for a 1.5% tax on adjusted gross
12 income in excess of \$250,000 per year, estimating that this would raise over
13 \$125,000,000 per year in the City of Seattle; and

14 WHEREAS, revenue from such a systemic change in taxation could be dedicated to lowering the
15 property tax burden and the impact of other regressive taxes; replacing federal funding
16 potentially lost through Trump budget cuts; and providing public services, including
17 housing, education, and transit; creating green jobs and meeting carbon reduction goals;
18 and

19 WHEREAS, in 2010 Seattle residents voted by a 63% majority in support of imposing a state-
20 wide income tax on high-income households; and

21 WHEREAS, as there are no cities or counties currently imposing an income tax in a state that
22 does not also impose an income tax, the City of Seattle would need to establish an

1 administrative mechanism to ensure the accurate and enforceable collection of income
2 tax revenues; and

3 WHEREAS, these circumstances underscore the need for care in writing such an ordinance, and
4 also for urgency in passing it, so that this vital new revenue tool be available as soon as
5 possible; NOW, THEREFORE,

6 **BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE, THE**
7 **MAYOR CONCURRING, THAT:**

8 Section 1. The Seattle City Council intends to begin consideration of a progressive
9 income tax ordinance by May 31, 2017, with the goal of Full Council passage by July 10, 2017.

10 Section 2. The Council, Executive, the City Attorney, and members of the Trump Proof
11 Seattle Coalition will work together to craft the ordinance, and may engage outside legal counsel
12 as needed.

13 Section 3. Components of this legislation that need to be determined include:

- 14 a. What types of income can and will be taxed;
15 b. The threshold above which income is taxed, and/or below which households are exempted
16 from the tax;
17 c. At what rate (s) income is taxed;
18 d. The details of the distribution of the revenue so raised; and
19 e. The administrative mechanisms to ensure the accurate and enforceable collection of income
20 tax revenues.

21 Section 4. The guiding principle in crafting this legislation will be to chart the strongest
22 possible progressive income tax model, to exercise fully the City's local authority, and to provide
23 robust progressive revenue tools for municipalities throughout Washington State. In making

1 decisions about the aforementioned components of legislation, legal viability will be the primary
2 consideration.

3

The Mayor concurred the _____ day of _____, 2017.

Filed by me this _____ day of _____, 2017.

(Seal)