



SEATTLE CITY COUNCIL

Finance and Housing Committee

Agenda

Tuesday, April 20, 2021

9:30 AM

Remote Meeting. Call 253-215-8782; Meeting ID: 586 416 9164; or
Seattle Channel online.

Teresa Mosqueda, Chair
Lisa Herbold, Vice-Chair
M. Lorena González, Member
Andrew J. Lewis, Member
Dan Strauss, Member
Tammy J. Morales, Alternate

Chair Info: 206-684-8808; Teresa.Mosqueda@seattle.gov

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<http://seattle.gov/cityclerk/accommodations>.



SEATTLE CITY COUNCIL
Finance and Housing Committee
Agenda
April 20, 2021 - 9:30 AM

Meeting Location:

Remote Meeting. Call 253-215-8782; Meeting ID: 586 416 9164; or Seattle Channel online.

Committee Website:

<http://www.seattle.gov/council/committees/finance-and-housing>

This meeting also constitutes a meeting of the City Council, provided that the meeting shall be conducted as a committee meeting under the Council Rules and Procedures, and Council action shall be limited to committee business.

In-person attendance is currently prohibited per Washington State Governor's Proclamation 20-28.15, until the COVID-19 State of Emergency is terminated or Proclamation 20-28 is rescinded by the Governor or State legislature. Meeting participation is limited to access by telephone conference line and online by the Seattle Channel.

Register online to speak during the Public Comment period at the 9:30 a.m. Finance and Housing Committee meeting at <http://www.seattle.gov/council/committees/public-comment>.

Online registration to speak at the Finance and Housing Committee meeting will begin two hours before the 9:30 a.m. meeting start time, and registration will end at the conclusion of the Public Comment period during the meeting. Speakers must be registered in order to be recognized by the Chair.

Submit written comments to Councilmember Mosqueda at Teresa.Mosqueda@seattle.gov

Sign-up to provide Public Comment at the meeting at <http://www.seattle.gov/council/committees/public-comment>

Watch live streaming video of the meeting at <http://www.seattle.gov/council/watch-council-live>

Listen to the meeting by calling the Council Chamber Listen Line at 253-215-8782 Meeting ID: 586 416 9164

One Tap Mobile No. US: +12532158782,,5864169164#

Please Note: Times listed are estimated

A. Call To Order

B. Approval of the Agenda

C. Public Comment

D. Items of Business

1. American Rescue Plan Act Community Panel

Briefing and Discussion

Presenters: Phoebe Sade Anderson, Child Care Resources; Matt Lander, Greater Seattle Business Association; Mallory Van Abbema, Housing Development Consortium; Derrick Belgarde, Chief Seattle Club; Chloe Gale, REACH; Tiarra Dearbone, Public Defenders Association; Victor Loo, Asian Counseling and Referral Service

Continuation of the COVID Relief Funds Emergency Allocation of \$18 million

- 2. [CB 120041](#) AN ORDINANCE relating to the 2021 Budget; amending Ordinance 126237, which adopted the 2021 Budget; changing appropriations to various departments; creating positions exempt from civil service; and ratifying and confirming certain prior acts; all by a 3/4 vote of the City Council.**

Supporting Documents: [Summary and Fiscal Note](#)
[Presentation](#)

Briefing, Discussion, and Possible Vote

Presenters: Julie Dingley, City Budget Office; Aly Pennucci, Council Central Staff

3. Economic Revenue Forecast

Supporting Documents: [Presentation](#)

Briefing and Discussion

Presenters: Ben Noble, Director, Dave Hennes, Jan Duras, and Joe Russell, City Budget Office; Aly Pennucci, Council Central Staff

4. Northgate Commons Acquisition and Redevelopment Partnership with the City of Seattle

Supporting Documents: [Presentation](#)

Briefing and Discussion

Presenters: Andrew Lofton, Executive Director, and Terry Galiney, Seattle Housing Authority; Traci Ratzliff, Council Central Staff

5. Transparency Requirements for Contract Workers

Supporting Documents: [Draft Legislation](#)
[Central Staff Memo](#)

Briefing and Discussion

Presenter: Karina Bull, Council Central Staff

E. Adjournment



Legislation Text

File #: Inf 1787, **Version:** 1

American Rescue Plan Act Community Panel



Legislation Text

File #: CB 120041, **Version:** 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to the 2021 Budget; amending Ordinance 126237, which adopted the 2021 Budget; changing appropriations to various departments; creating positions exempt from civil service; and ratifying and confirming certain prior acts; all by a 3/4 vote of the City Council.

WHEREAS, the World Health Organization (WHO) has declared that COVID-19 disease is a global pandemic, which is particularly severe in high risk populations such as people with underlying medical conditions and the elderly, and the WHO has raised the health emergency to the highest level requiring dramatic interventions to disrupt the spread of this disease; and

WHEREAS, on February 29, 2020, Governor Jay Inslee declared a statewide state of emergency in response to outbreaks of the COVID-19 disease in Washington; and

WHEREAS, in response to outbreaks of the COVID-19 disease in Seattle, Mayor Jenny Durkan proclaimed a civil emergency exists in the City of Seattle in the Mayoral Proclamation of Civil Emergency dated March 3, 2020, modified by the City Council through Resolution 31937; and

WHEREAS, on March 23, 2020, the Governor issued a “Stay Home, Stay Healthy” order, which, combined with other measures taken to prevent the transmission of COVID-19, effectively closed many businesses in the state of Washington; and

WHEREAS, many people in Seattle continue to struggle with the impacts of the COVID-19 public health emergency and the measures taken to prevent its spread, including unemployment, housing insecurity, food insecurity; and

WHEREAS, local companies have reported laying off employees, experiencing substantial revenue losses,

dealing with lost business due to fear and stigma, and seeing major declines in foot traffic as tens of thousands of employees are being asked to work from home; and

WHEREAS, these impacts are being felt across all industry sectors, including retail, restaurant, hospitality, transportation, logistics, arts, and culture; and

WHEREAS, many of the impacts of the COVID-19 pandemic and resulting economic downturn are being felt disproportionately by our communities of color; and

WHEREAS, the COVID-19 pandemic requires additional efforts to protect and address the needs of people experiencing homelessness, including expanding and de-intensifying emergency shelter, increasing access to hygiene services and increasing the provision of meals; and

WHEREAS, a number of City departments have implemented immediate assistance for affected local small businesses and displaced workers; and

WHEREAS, the federal CARES Act was adopted on March 27, 2020 and contained approximately \$131.5 million of Coronavirus Relief Fund that was distributed directly to the City to respond to the public health emergency, and responses to the secondary effects of the emergency such as expanded shelter, food procurement and distributions, and economic support to those suffering from employment or business interruptions; and

WHEREAS, the City appropriated those Coronavirus Relief Fund funds in 2020, although not all of those funds were spent, making them available to support continued relief in 2021; and

WHEREAS, the Mayor and City Council wish to reappropriate these funds in 2021 to continue to support the people of Seattle during the ongoing COVID-19 public health emergency and resulting economic downturn; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. In order to pay for necessary costs and expenses in 2021, but for which insufficient appropriations were made due to causes that could not reasonably have been foreseen at the time of the making

of the 2021 Budget, appropriations for the following items in the 2021 Budget are increased from the funds shown, as follows:

Item	Department	Fund	Budget Summary Level/ BCL Code	Amount
1.1	Department of Education and Early Learning	General Fund (00100)	Early Learning (BO-EE-IL100)	\$600,000
1.2	Executive (Office of Sustainability and Environment)	General Fund (00100)	Office of Sustainability and Environment (BO-SE-X1000)	\$100,000
1.3	Human Services Department	General Fund (00100)	Supporting Affordability and Livability (BO-HS-H1000)	\$2,120,000
1.4	Executive (Office of Sustainability and Environment)	General Fund (00100)	Office of Sustainability and Environment (BO-SE-X1000)	\$1,141,600
1.5	Executive (Office of Immigrant and Refugee Affairs)	General Fund (00100)	Office of Immigrant and Refugee Affairs (BO-IA-X1N00)	\$1,317,000
1.6	Department of Neighborhoods	General Fund (00100)	Community Building (BO-DN-I3300)	\$183,000
1.7	Human Services Department	General Fund (00100)	Supporting Affordability and Livability (BO-HS-H1000)	\$1,663,200
1.8	Human Services Department	General Fund (00100)	Supporting Affordability and Livability (BO-HS-H1000)	\$3,734,800
1.9	Seattle Department of Transportation (SDOT)	General Fund (00100)	Maintenance Operations (BO-TR-17005)	\$2,500,000
1.10	Seattle Parks & Recreation (SPR)	General Fund (00100)	Parks and Facilities Maintenance and Repairs (BO-PR-10000)	\$2,900,000
1.11	Executive (City Budget Office)	General Fund (00100)	City Budget Office (BO-CB-CZ000)	\$290,320

1.12	Department of Finance and Administrative Services	Finance and Administrative Services Fund (50300)	Facilities Services (BO-FA-FACILITY)	\$234,213
1.13	Executive (Office of Emergency Management)	General Fund (00100)	Office of Emergency Management (BO-EP-10000)	\$274,255
1.14	Seattle Public Utilities (SPU)	General Fund (00100)	Utility Service and Operations (BO-SU-N200B)	\$100,000
1.15	Seattle Public Utilities (SPU)	General Fund (00100)	Utility Service and Operations (BO-SU-N200B)	\$320,000
Total				\$17,478,388

Section 2. The following new positions, which are exempt from Civil Service and Public Safety Civil Service rules and laws, are created in the department listed below:

Department	Position Title	Position Status	Number
Executive (City Budget Office)	Strategic Advisor 2	Full-time	3.0

The Director of the department listed above is authorized to fill these position subject Seattle Municipal Code Title 4, the City’s Personnel Rules, and applicable employment laws. It is the intent of the Council and Mayor that these positions will be abrogated on December 31, 2024.

Section 3. Any act consistent with the authority of this ordinance taken after its passage and prior to its effective date is ratified and confirmed.

Section 4. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by a 3/4 vote of all the members of the City Council the _____ day of

_____, 2021, and signed by me in open session in authentication of its passage this
____ day of _____, 2021.

President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, 2021.

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2021.

Monica Martinez Simmons, City Clerk

(Seal)

SUMMARY and FISCAL NOTE*

Department:	Dept. Contact/Phone:	CBO Contact/Phone:
LEG	Aly Pennucci / 4-8148	Julie Dingley / 4-5523

** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

Legislation Title: AN ORDINANCE relating to the 2021 Budget; amending Ordinance 126237, which adopted the 2021 Budget; changing appropriations to various departments; creating positions exempt from civil service; and ratifying and confirming certain prior acts; all by a 3/4 vote of the City Council.

Summary and background of the Legislation: The federal CARES Act was adopted on March 27, 2020 and contained approximately \$131.5 million in direct funding to the City of Seattle to support the City's response to the COVID-19 public health emergency and resulting economic downturn. Those funds were accepted and appropriated in August 2020 via Ordinance 126130.

City departments used these relief funds to provide direct support to the people of Seattle in a number of ways, including food vouchers, rental assistance, small business relief, assistance to immigrant and refugee families, and emergency child care. The funds were also used to change City operations for things like the Stay Healthy Street program, making City facilities safe for employees and visitors, and providing free COVID-19 testing to the public.

At the conclusion of 2020, approximately \$18 million of the City's \$131.5 million in Coronavirus Relief Funds remained unspent. This legislation reappropriates those funds in 2021 for continued support to the people of Seattle, including:

- \$600,000 in the Department of Education and Early Learning (DEEL) for the City's childcare operator stabilization grant fund. These funds will enable the grant fund to cover unfunded operators who either served a child on state or local subsidy within the last 12 months or operated in a priority geographical area as defined by the City RSJI Equity Index.
- \$100,000 in the Office of Sustainability and Environment (OSE) to close out the existing Emergency Grocery Voucher program.
- \$2.12 million in the Human Services Department (HSD) for support to community food banks, ensuring existing food bank contracts will be funded through the end of 2021.
- \$1.14 million in OSE to continue the School Produce Bags program.
- \$1.32 million in the Office of Immigrant and Refugee Affairs (OIRA) for COVID-19 vaccine outreach to underserved communities to promote more equitable vaccination rates. (There is a related item below for the Department of Neighborhoods for this purpose.)
- \$183,000 in the Department of Neighborhoods (DON) for COVID-19 vaccine outreach to underserved communities to promote more equitable vaccination rates. (There is a related item above for the Office of Immigrant and Refugee Affairs for this purpose.)

- \$1.66 million in HSD to continue providing meals to people in shelters.
- \$3.73 million in HSD to continue providing meals for people in permanent supportive housing and shelter hotel programs.
- \$2.5 million in the Seattle Department of Transportation (SDOT) to extend funding for the Clean City Initiative through 2021 by continuing the investment to clean up litter and garbage across the city. (The Clean City Initiative pulls together and expands efforts from Seattle Public Utilities (SPU), Seattle Parks and Recreation (SPR), Office of Economic Development, and SDOT to address the backlog in maintenance.)
- \$2.9 million in SPR to extend funding for the Clean City Initiative through 2021 by continuing the investment to clean up litter and garbage across the city. (There are related items above for SDOT and below for SPU.)
- \$290,320 in the City Budget Office to support three sunsetting positions to manage federal funding source implementation, including problem identification, solution development, internal and external liaising, budgeting, reporting, and tracking.
- \$234,213 in FAS for three temporary positions to support internal project management and accounting staffing related to tracking, correcting, documenting, and reporting City expenditures for FEMA and other federal funds.
- \$274,255 in the Office of Emergency Management for three temporary positions to assist with coordination of recovery efforts related to the COVID-19 pandemic.
- \$100,000 in SPU to extend funding for the Clean City Initiative through 2021 by continuing the investment to clean up litter and garbage across the city. (There are related items above for SDOT and SPR.)
- \$320,000 in SPU to extend funding for the Clean City Initiative through 2021 by continuing the investment in graffiti abatement, expanded access for needle disposal, and expanded litter abatement routes. (There are related items above for SDOT and SPR.)

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? ___ Yes X No

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? X Yes ___ No

Appropriation change (\$):	General Fund \$		Other \$	
	2021	2022	2021	2022
	\$17,244,175		\$234,213	
Estimated revenue change (\$):	Revenue to General Fund		Revenue to Other Funds	
	2021	2022	2021	2022
Positions affected:	No. of Positions		Total FTE Change	
	2021	2022	2021	2022
	3		3.0	

Does the legislation have other financial impacts to the City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?

Strategic use of Coronavirus Relief Funds will allow Seattle to rebound and recover from the COVID-19 pandemic and resulting economic downturn. This is likely to result in higher City tax revenues than if these funds are not accepted and appropriated.

Is there financial cost or other impacts of *not* implementing the legislation?

No.

3.a. Appropriations

X This legislation adds, changes, or deletes appropriations.

Fund Name and number	Dept	Budget Control Level Name/#*	2021 Appropriation Change	2022 Estimated Appropriation Change
General Fund (00100)	DEEL	Early Learning (BO-EE-IL100)	\$600,000	
General Fund (00100)	OSE	Office of Sustainability and Environment (BO-SE-X1000)	\$100,000	
General Fund (00100)	HSD	Supporting Affordability and Livability (BO-HS-H1000)	\$2,120,000	
General Fund (00100)	OSE	Office of Sustainability and Environment (BO-SE-X1000)	\$1,141,600	
General Fund (00100)	OIRA	Office of Immigrant and Refugee Affairs (BO-IA-X1N00)	\$1,317,000	
General Fund (00100)	DON	Community Building (BO-DN-I3300)	\$183,000	
General Fund (00100)	HSD	Supporting Affordability and Livability (BO-HS-H1000)	\$1,663,200	
General Fund (00100)	HSD	Supporting Affordability and Livability (BO-HS-H1000)	\$3,734,800	

General Fund (00100)	SDOT	Maintenance Operations (BO-TR-17005)	\$2,500,000	
General Fund (00100)	SPR	Parks and Facilities Maintenance and Repairs (BO-PR-10000)	\$2,900,000	
General Fund (00100)	CBO	City Budget Office (BO-CB-CZ000)	\$290,320	
Finance and Administrative Services Fund (50300)	FAS	Facilities Services (BO-FA-FACILITY)	\$234,213	
General Fund (00100)	OEM	Office of Emergency Management (BO-EP-10000)	\$274,255	
General Fund (00100)	SPU	Utility Service and Operations (BO-SU-N200B)	\$100,000	
General Fund (00100)	SPU	Utility Service and Operations (BO-SU-N200B)	\$320,000	
TOTAL			\$17,478,388	

*See budget book to obtain the appropriate Budget Control Level for your department.

Is this change one-time or ongoing?

One-time.

3.b. Revenues/Reimbursements

 This legislation adds, changes, or deletes revenues or reimbursements.

3.c. Positions

 X This legislation adds, changes, or deletes positions.

Total Regular Positions Created, Modified, or Abrogated through this Legislation, Including FTE Impact:

Position # for Existing Positions	Position Title & Department*	Fund Name & #	Program & BCL	PT/FT	2021 Positions	2021 FTE	Does it sunset? (If yes, explain below in Position Notes)
	Strategic Advisor 2, Exempt (CBO)	General Fund (00100)	City Budget Office (BO-	FT	3	3.0	Yes

			CB- CZ000)				
TOTAL					3	3.0	

* List each position separately

This table should only reflect the actual number of positions created by this legislation. In the event that positions have been, or will be, created as a result of previous or future legislation or budget actions, please provide details in the Notes section below.

Position Notes: The intent is that these positions will sunset at the end of 2024.

4. OTHER IMPLICATIONS

a. Does this legislation affect any departments besides the originating department?

This budget bill will impact several City departments. Those departments are listed in the appropriations sections above.

b. Is a public hearing required for this legislation?

No.

c. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

No.

d. Does this legislation affect a piece of property?

No.

e. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?

The impacts of the COVID-19 pandemic and measures taken to combat it disproportionately impact vulnerable communities, including people experiencing homelessness and people with low incomes. This bill aids the City’s ability to mitigate the negative impacts on those communities as well as the community at large.

f. Climate Change Implications

1. Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?

No.

2. Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle’s resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.

No.

- g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s).**

N/A

List attachments/exhibits below:



Federal COVID Response Funding

Aly Pennucci, Policy and Budget Manager, Council Central Staff
Julie Dingley, Fiscal and Policy Manager, City Budget Office

FINANCE AND HOUSING COMMITTEE | APRIL 20, 2021

Presentation Overview

- **Updated Committee Schedule**
- **Process overview**
- **Council Bill 120041 (name / CRF bill)**
- **Next Steps**

Updated Committee Schedule

Date	Time	Committee Topics for Discussion
Tues, April 20	9:30 a.m.	<ul style="list-style-type: none"> Community Panel Extending Funding for COVID Response Efforts in 2021 (CB 120041) (V)
Tues, May 4*	5:30 p.m.	<ul style="list-style-type: none"> Public Hearing
Wed, May 5*	2:00 p.m.	<ul style="list-style-type: none"> Extending Funding for COVID Response Efforts in 2021 (CB 120041) (V) 2021 ARPA Coronavirus Local Fiscal Recovery (CLFR) Funds – Potential spending proposals prior to introducing legislation
Tues, May 18	9:30 a.m.	<ul style="list-style-type: none"> CLFR Funds – Potential spending proposals prior to introducing legislation
Wed, June 2*	2:00 p.m.	<ul style="list-style-type: none"> CLFR Bill – Identify potential amendments.
Tues, June 15	9:30 a.m.	<ul style="list-style-type: none"> CLFR Bill (V)

*Special Meeting | (V) Potential Vote

Process Update – Multiple Appropriation Bills

1. Council Bill 120041

- \$18 million of unallocated 2020 Coronavirus Relief Funds (CRF)

2. American Rescue Plan Act's (ARPA) Coronavirus Local Fiscal Recovery (CLFR) Fund

- Tranche 1 of CLFR funds (estimate ~\$119 million)

3. ARPA Targeted Aid

- \$12.2 million from ARPA HOME Investment Partnerships Program
- Other targeted aid TBD

Process

- **Pass Council Bill 120041:** \$18 million of unallocated 2020 Coronavirus Relief Funds
- **Develop starting point for American Rescue Plan Act (ARPA) CLFR Funds;** this includes:
 - Receiving and digesting final guidance from US Dept. of the Treasury on amount and eligible use of CLFR funds and federal guidance on other targeted aid to assemble as full a picture as possible of funding sources available from ARPA
 - Coordinating with county and state on their spending proposals to leverage shared resources to the maximum extent possible
 - Legislative and Executive staff working together to identify potential investments based on spending priorities identified by the Council ([RES 31999](#)) and the Mayor.
 - Gather input and feedback from community partners: councilmember offices outreach to stakeholders, executive listening sessions, and Council's public hearing scheduled for 5/4 at 5:30 PM
 - Reviewing potential spending proposals using a racial equity lens

CB 120041: Proposed Appropriations

Community Well-being <i>(Slides 6 & 7)</i>	\$9,359,600
Childcare stabilization grants – additional funds to provide financial assistance to the remaining providers in Tier 2 group	\$600,000
Emergency Grocery Vouchers – increase to fully fund final cohort through April 2021	\$100,000
Food bank support	\$2,120,000
Other Shelter Meals	\$1,663,200
Permanent Supportive Housing Meals	\$3,734,800
School Produce Bags	\$1,141,600
Public Health & Emergency Response <i>(Slide 8)</i>	\$7,700,000
Clean City – funds program through year-end 2021	\$5,800,000
Vaccine outreach for hard-to-reach groups	\$1,500,000
City Return to Work & Reopening <i>(Slide 9)</i>	\$800,000
Internal Project Management Staffing	\$800,000

Community Well-being (Slide 1 of 2)

- **Childcare:** \$600k for childcare stabilization grants
 - Grants prioritized for providers that served a child on state or local subsidy within the last 12 months and operated within a priority geographical area as defined by the City RSJI Equity Index
 - 74 grants to all remaining eligible Tier 2 providers in addition to 506 grants already distributed
- **Food Services:** \$100k for Emergency Grocery Voucher Program
 - Needed due to higher than anticipated redemption rates in 2021

Community Well-being (Slide 2 of 2)

- **Other Food Services: \$8.7M** to extend current service levels through 2021
 - **Food bank support – \$2.12M**
Food, staffing and operational costs, such as home delivery and other service model changes
 - **Shelter meals – \$1.6M**
Meals at 12 locations consistent with social distancing guidance
 - **Permanent Supportive Housing Meals - \$3.7M**
Meals at 28 locations to discourage congregate eating; has also improved health of residents and opportunities for service engagement
 - **School Produce Bags – \$1.14M**
Serves 7,500 income qualified SPS families per week; each week families receive a two-pound bag of produce along with prepared meals from SPS.

Public Health & Emergency Response

- **\$5.8M to extend Clean City efforts through end of 2021**
 - Continue to improve public health and safety of parks, greenspaces, streets and sidewalks and reduce community debris
 - Continues funding for SPR, SDOT, and SPU Community Clean Teams, SPU Community Litter Routes, and SPU Graffiti Rangers
- **\$1.5M Vaccine outreach for hard-to-reach groups**
 - \$1.32M to OIRA to: contract with community-based organizations for community vaccine events & outreach; and for ethnic media and in-language vaccine outreach
 - \$183k to DON for vaccine outreach to underserved communities to promote more equitable vaccination rates

City Return to Work & Reopening

~\$800k for Term-limited positions in CBO, FAS, and OEM to provide needed staffing for proper administration, management, and reporting on federal funding:

- **CBO Positions:** for budgeting, reporting, and tracking federal funding activities;
- **FAS:** Accounting staffing for tracking, correcting, documenting, and reporting City expenditures for FEMA and other federal funds; and
- **OEM:** Provide for better coordination of recovery efforts related to the COVID-19 pandemic, managing FEMA applications and responding to questions related to FEMA.

Upcoming Discussions on ARPA CLFR Funds

Develop specific proposals for new significant investments in:

- Homelessness and housing services and programs;
- Economic recovery and reopening efforts; and
- Other community support (e.g., direct financial assistance to individuals, gender-based violence response services)

Next Steps

- **Committee recommendation on CB 120041**
- **Public Hearing: May 4th, 5:30 PM on CLFR Funds**
- **Continue to develop proposal for use of CLFR Funds**
- **Introduce and consider CLFR Appropriations bill in late May through early to mid-June**



Legislation Text

File #: Inf 1789, **Version:** 1

Economic Revenue Forecast

Economic and Revenue Forecast, April 2021

April 20, 2021

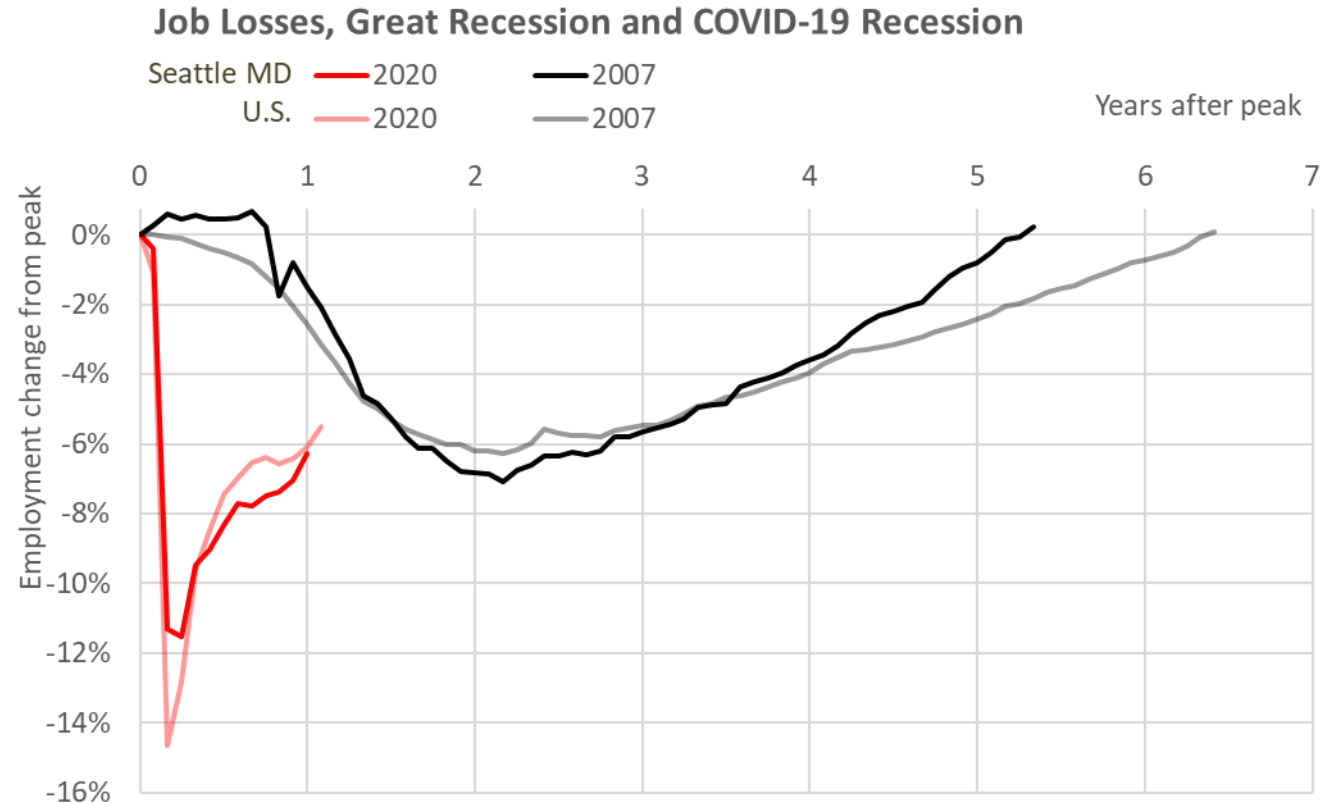


Economic Update



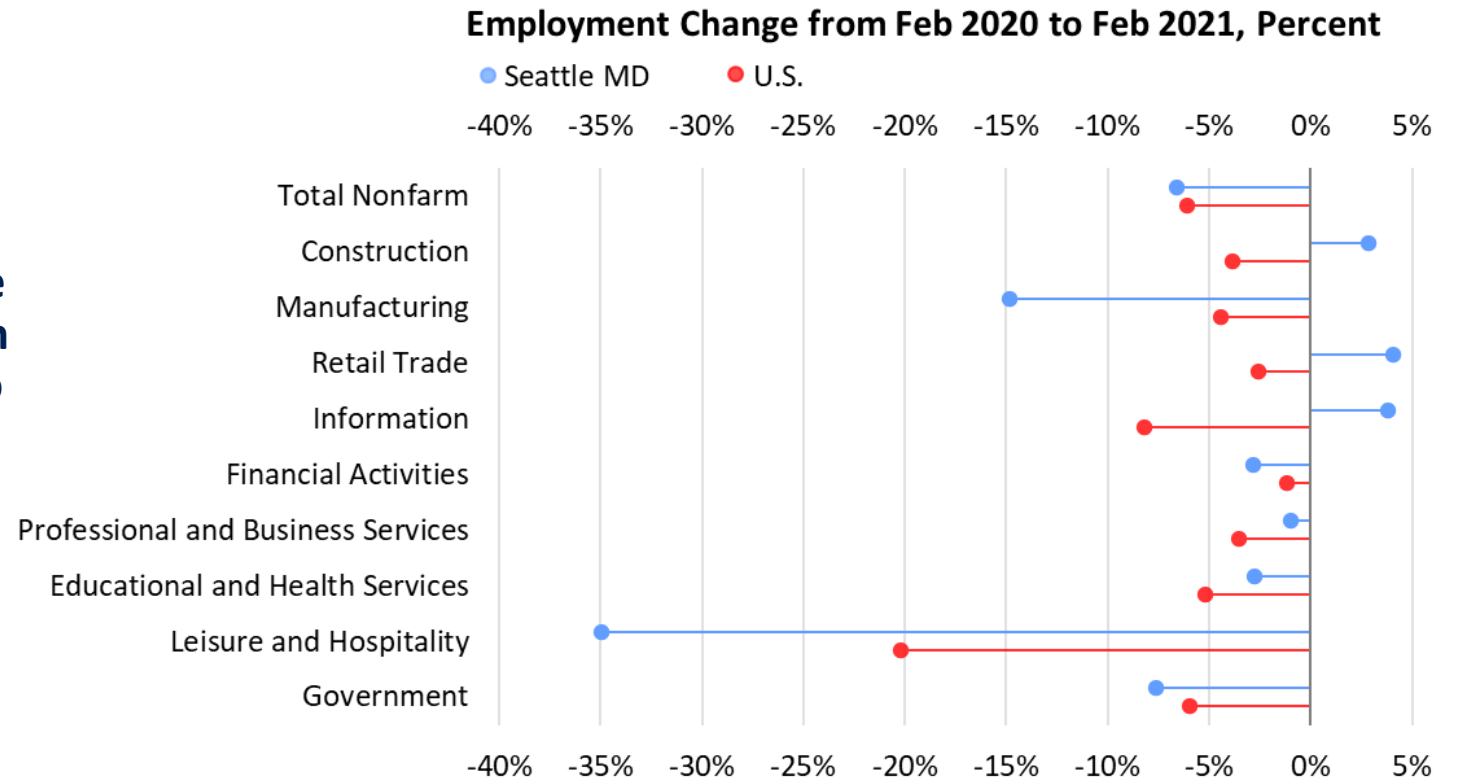
COVID recession has been severe but likely short

- Unemployment rate increased between February and April 2020 from 3.0% to a peak of 16.3% in Seattle MSA, and from 3.5% to 14.7% in the U.S.
- Employment recovery stalled in 2020 Q4
- **After essentially no job growth in 2020 Q4, the labor market recovery picked up speed in the first two months of 2021**
- Washington State Employment Security Department revised employment data in March: 2020 Q2 up, 2020 Q3 down



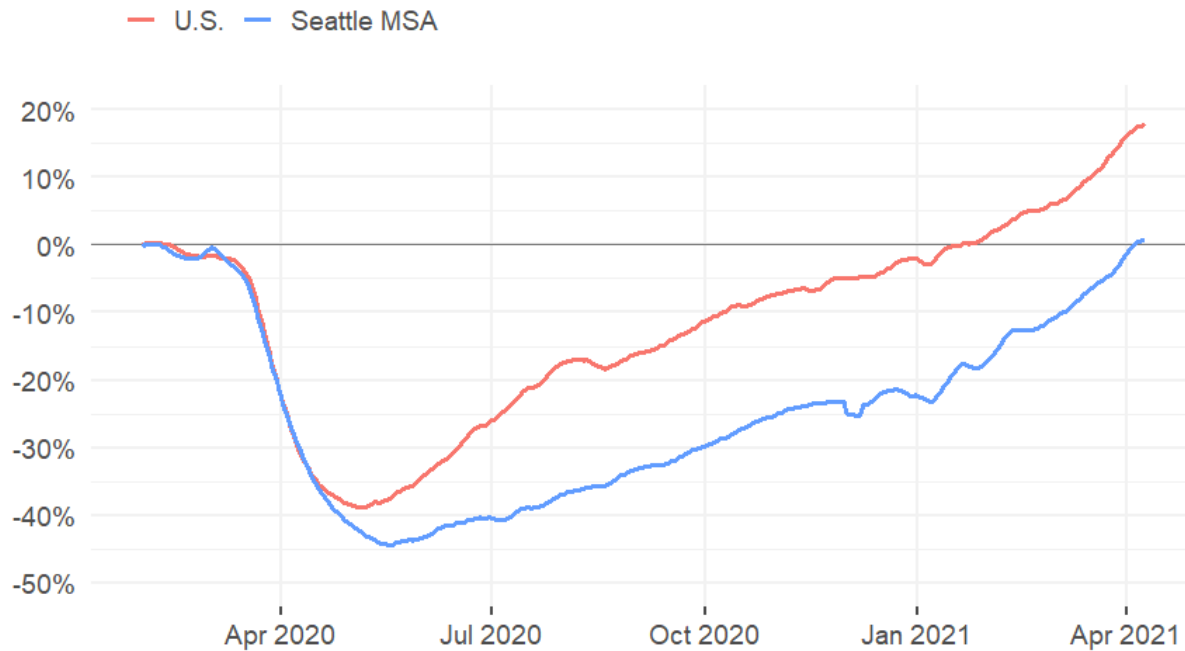
Information sector is driving labor market recovery

- Leisure and hospitality accounts for half of the jobs lost and not recovered yet
- Manufacturing and government account for an additional third
- **Technology sector and online commerce drove expansion of the local economy in past, important for current recovery too**
- Washington State Office of Financial Management (OFM) employment multiplier estimates
 - Leisure & Hospitality **1.52**
 - Aircraft and Parts Manufacturing **2.42**
 - Software Publishers, Data Processing & Internet Service Providers **4.67**



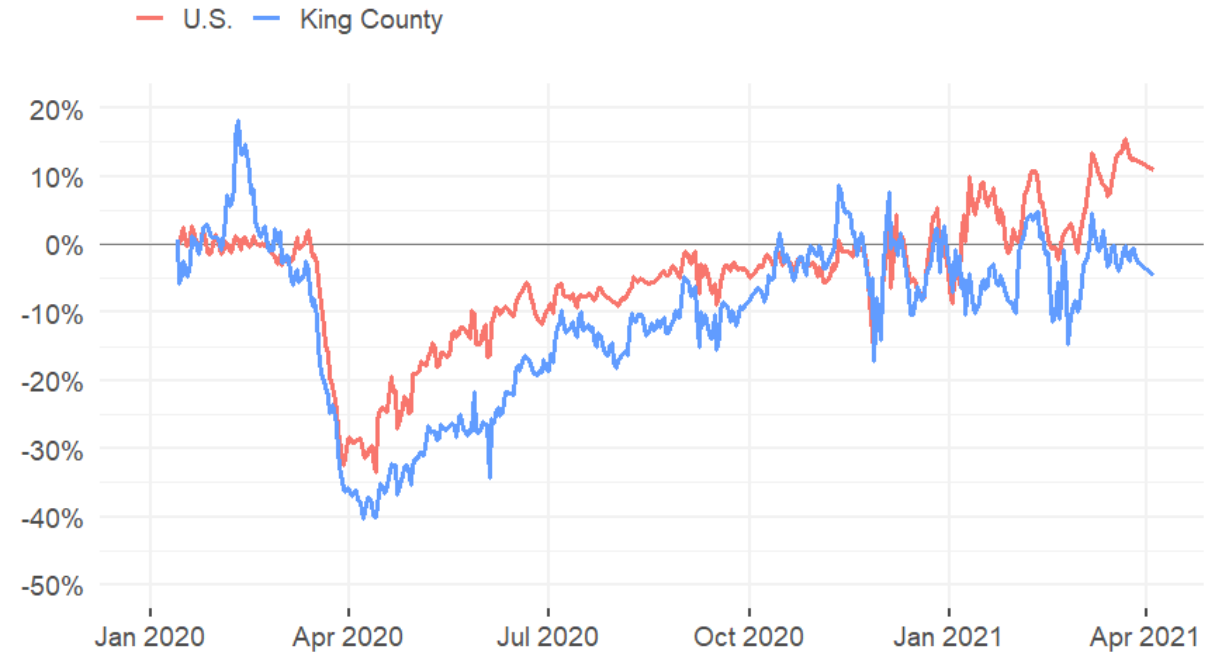
Job openings and consumer spending in Seattle are recovering slower than in the rest of U.S.

Job Postings on Indeed, Percent Change from Feb 1, 2020



Source: Federal Reserve Board of St. Louis FRED, 7-day trailing average, seasonally adjusted

Consumer Credit and Debit Card Spending, Percent Change from Jan 2020

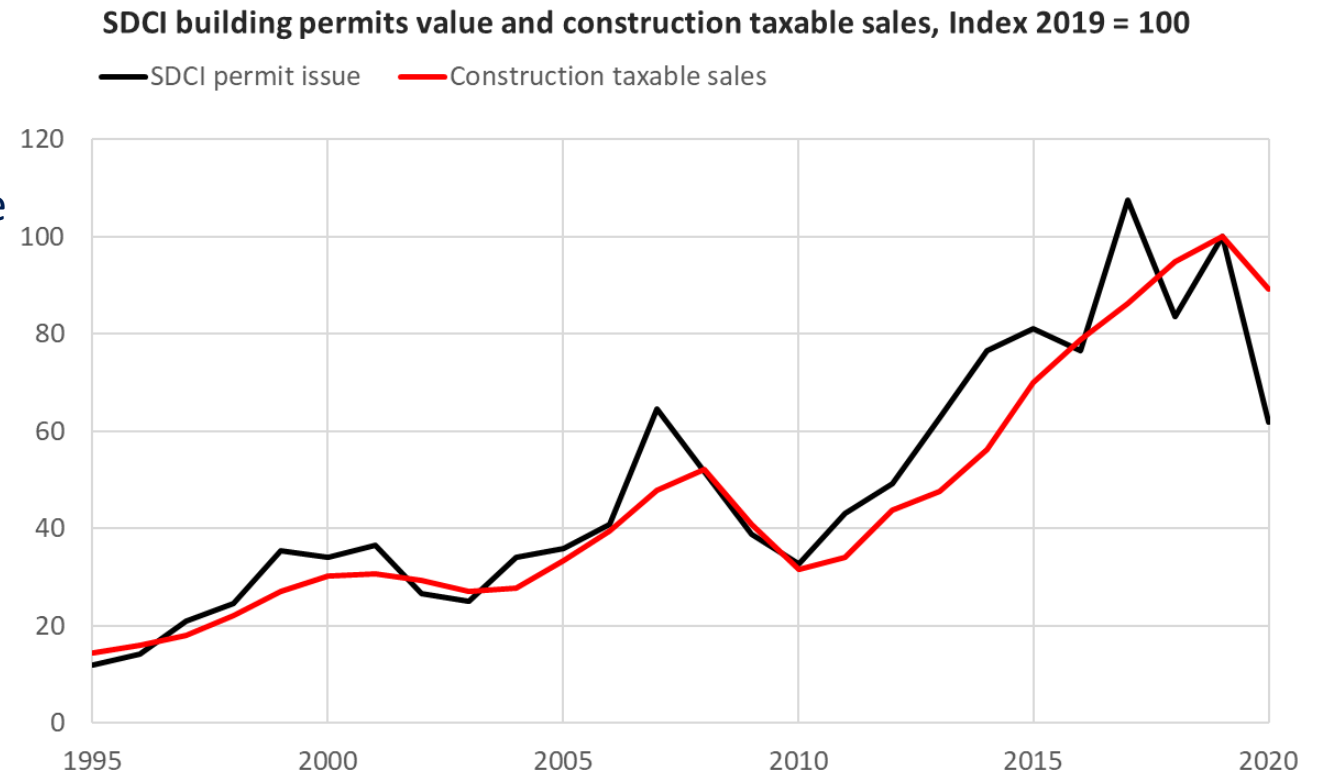


Source: Harvard University Opportunity Insights, based on data from Affinity Solutions, 7-day trailing average



Construction sector outlook very uncertain

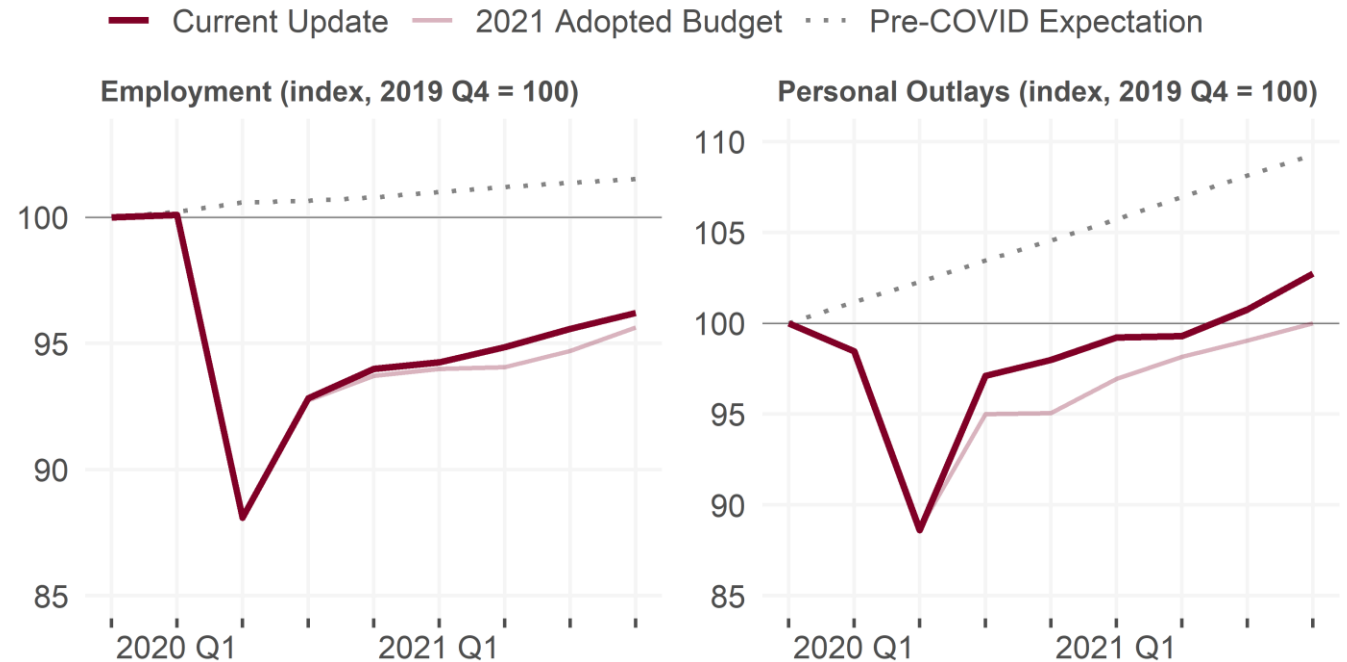
- Construction sector generated \$102.6 mil. in B&O and sales taxes in 2019, \$90.8 mil. in 2020
- In 2020 construction accounted for 27.6% of sales tax revenue and 10.2% of B&O tax revenue
- **Value of building permits issued by SDCI fell by 38.2% in 2020**
- **Commercial real estate permits, which were 56.4% of the total value of permits in 2019, fell by 51.5% and accounted for three quarters of the overall decline**
- Commercial real estate permits above \$10 mil. accounted for almost two thirds of the decline



U.S. forecast higher for employment and outlays

- Presented forecast is based on IHS Markit U.S. economic forecast pessimistic scenario from March 2021
- COVID-19 social distancing restrictions imposed in November lowered employment
- Employment forecast was revised up slightly compared to October pessimistic scenario
- Personal outlays were revised up more significantly
- Large increase expected in personal income due to ARPA fiscal stimulus, but significant part will go to increased savings

U.S. Economic Forecast

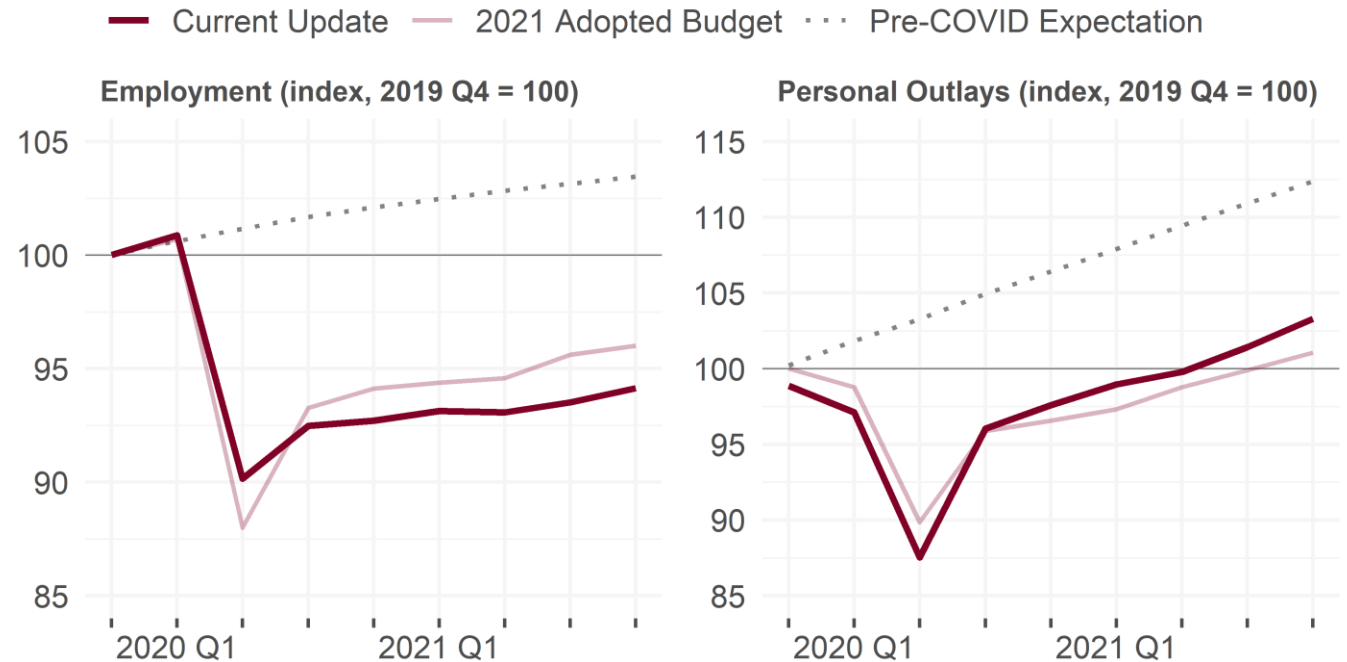


Regional Economic Forecast for Seattle Area

Regional forecast was further negatively affected by downward revisions in both regional employment and income data that took place after October forecast

- Washington State Employment Security Department March employment revision: 2020 Q2 up, but 2020 Q3 down
- 2019 income data released by BEA in November 2020 slightly lower than expected

Seattle MD Economic Forecast



Revenue Update



Longer economic outlook for Seattle positive but downside risk for revenue remains high

- Economic outlook for Seattle MD positive, recession significantly increased demand for e-commerce, telecommuting and cloud computing services
- Large share of construction and employment growth will however likely take place outside Seattle city
- In September 2020 Amazon announced plans to accommodate 25,000 employees in Bellevue in the next few years, up from 15,000 announced in February; no new development projects planned for Seattle

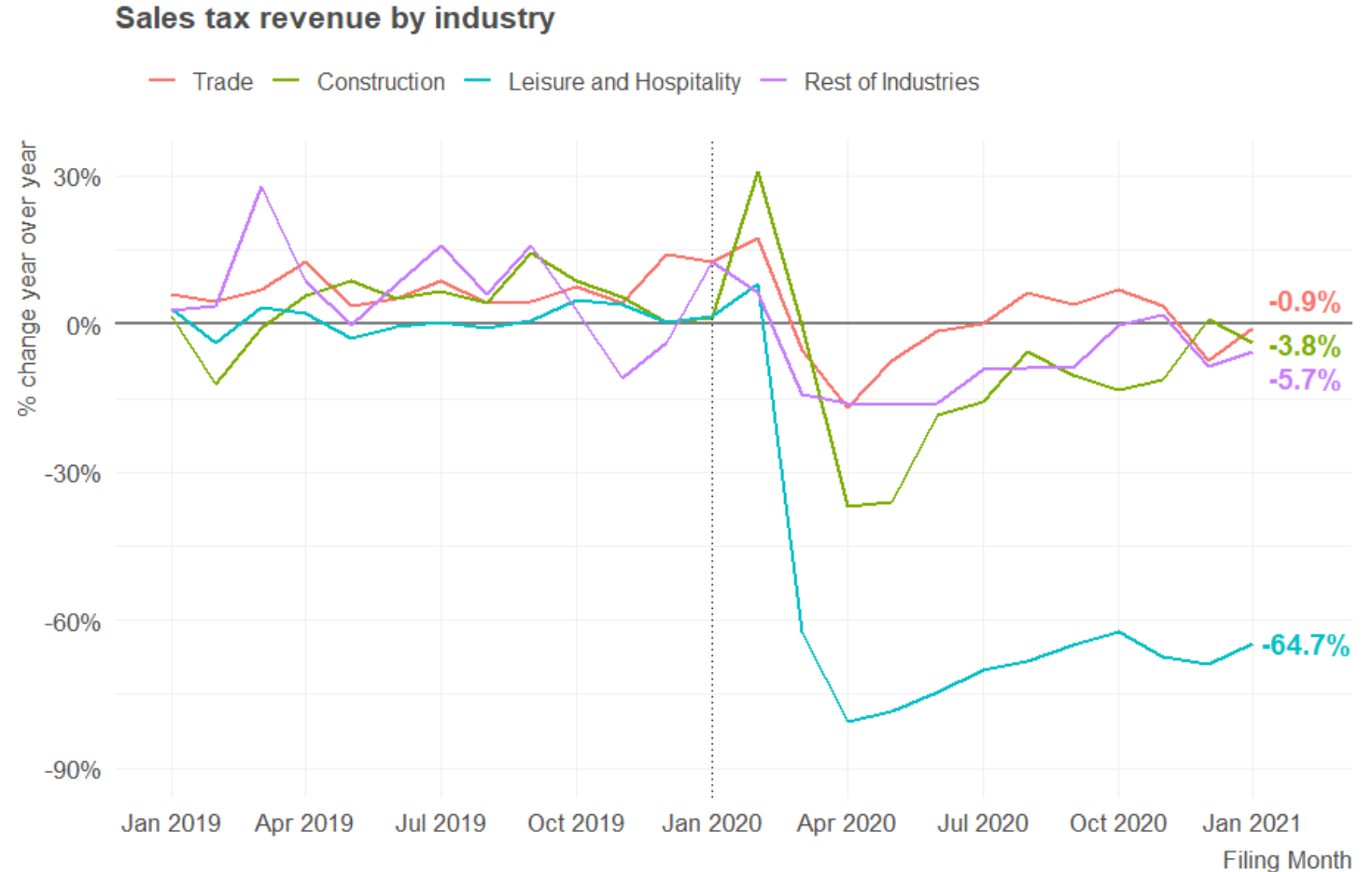
Longer economic outlook for Seattle positive but downside risk for revenue remains high (cont.)

April 2021 tax revenue forecast is based on slower-growth economic regional scenario

- National and regional employment tracked pessimistic scenario in the second half of 2020
- Similarly, actual tax revenue came in close the CBO pessimistic scenario forecast from November 2020
- Not enough data for 2021 so far showing revenue significantly above pessimistic scenario forecast
- Work from home creates high uncertainty regarding B&O and payroll tax revenue
- Increased uncertainty regarding construction sector outlook

Sales Tax revenue is slowly recovering

- March 2021 distribution somewhat higher than November 2020 forecast, but 7.2% lower than in March 2020
- Leisure and hospitality sector accounted for 67.2% of the total decline in 2020, construction for additional 20.6%
- Sales tax revenue from information services and professional and business services actually increased in 2020



Effect of work from home on Business & occupation tax is still unclear

Payments for 2020 obligation year 11.1% lower than for 2019

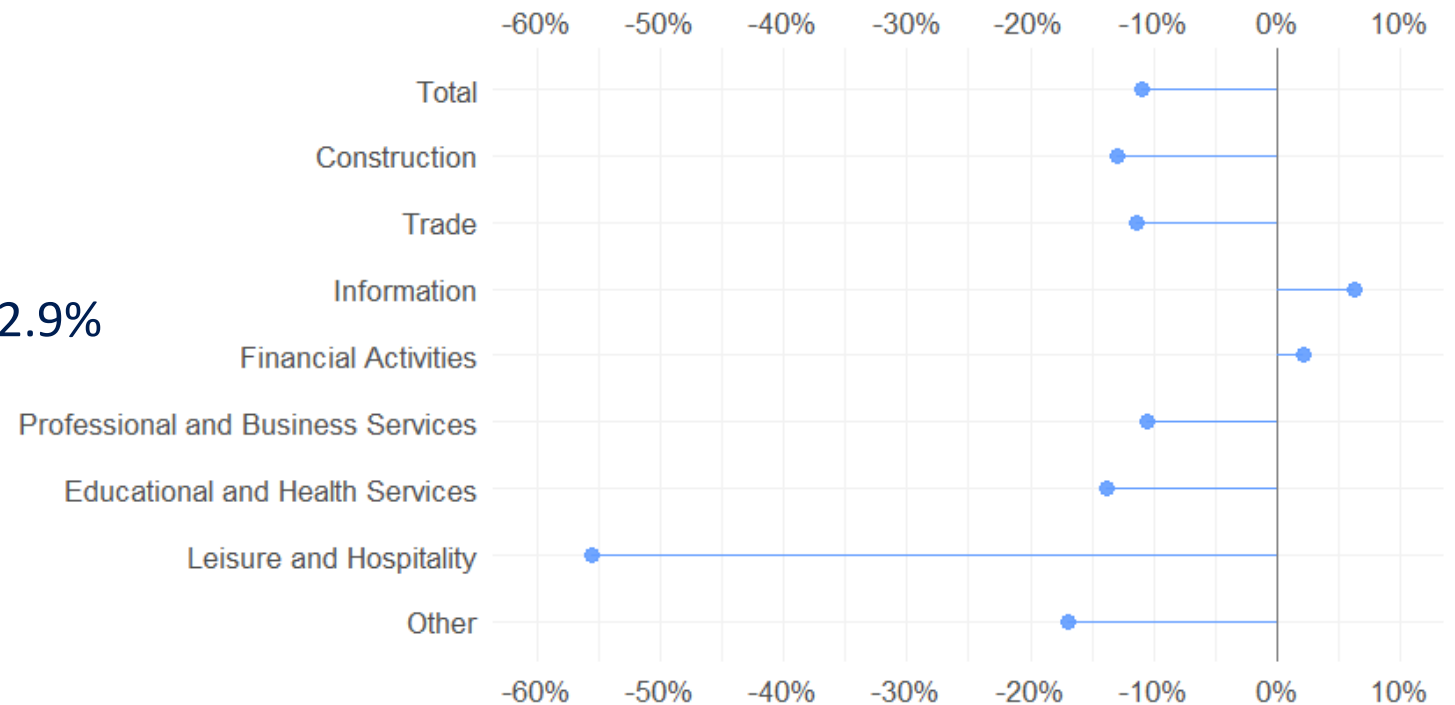
Biggest contributors to total B&O tax revenue decline in 2020

- Leisure and hospitality 26.4%
- Professional and business services 22.9%
- Trade 16.9%
- Construction 12.3%

B&O tax revenue from information services increased by 6.3%

B&O Tax Revenue by Industry

Percent Change 2020 over 2019 Obligation Period

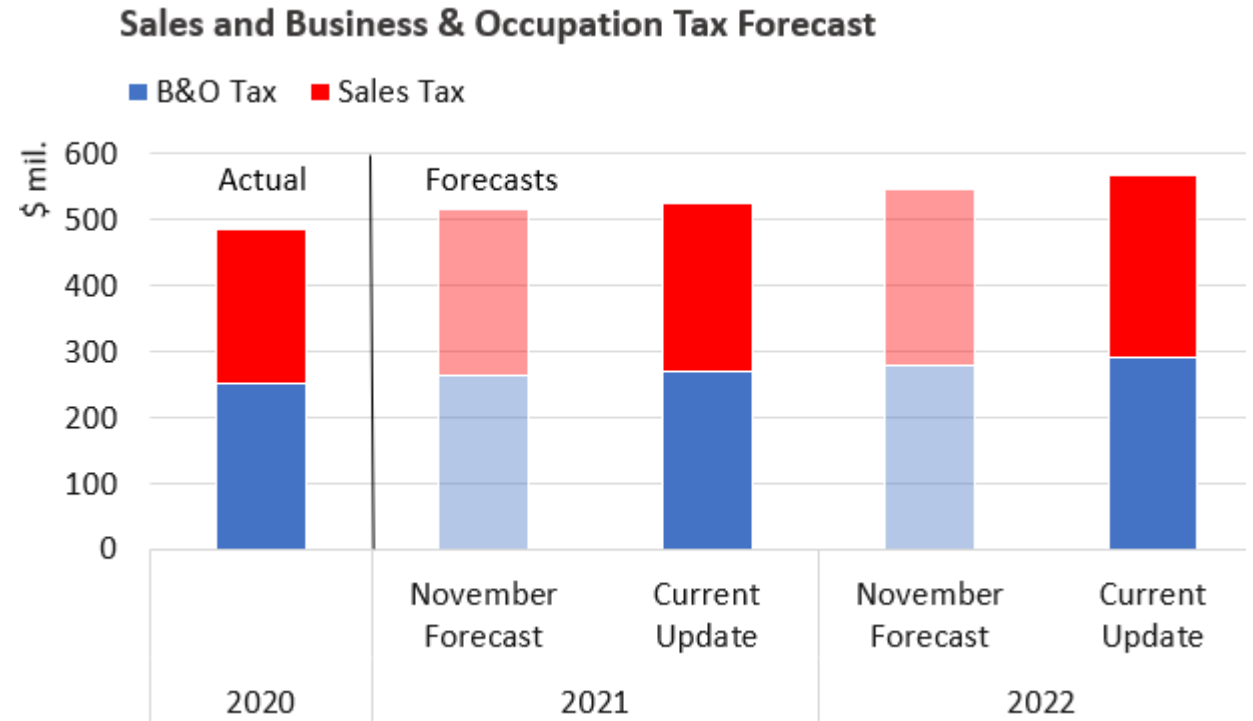


Note: Selected industries, with at least 5% share in 2019 total B&O revenue

Sales and B&O Tax revenue forecast improved

Additional revenue compared to November forecast

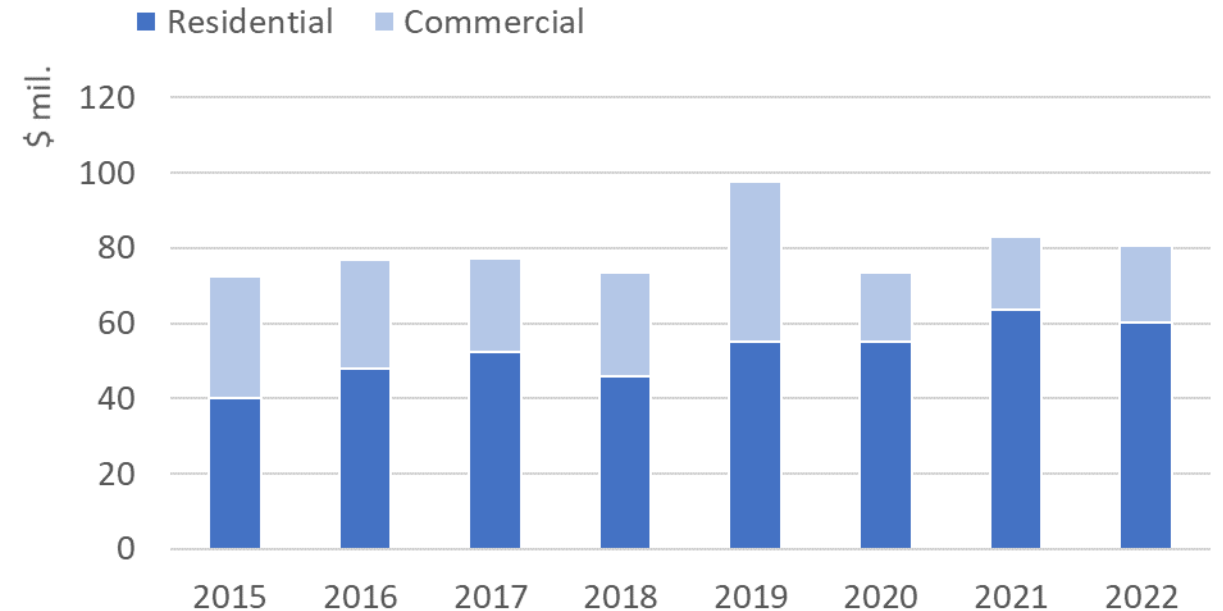
- 2021
 - Business & Occupation Tax \$5.7 million
 - Sales Tax \$4.3 million
 - Combined \$10.0 million
- 2022
 - Business & Occupation Tax \$12.7 million
 - Sales Tax \$9.8 million
 - Combined \$22.5 million



Real Estate Excise Tax

- Commercial segment fell by 56.7% in 2020 and is expected to stay low in 2021 and 2022
- Residential segment stayed about same as in 2019, as the 18.9% increase in single family sales almost completely offset the 44.8% drop in multifamily sales
- Due to generally high residential sales and few large December commercial sales, 2020 revenue ended \$14.2 mil. above November forecast
- The updated forecast adds \$17.5 mil. in additional 2021 REET revenue to \$82.5 million
- REET declines slightly to \$80.5 million in 2022

REET Revenue Forecast



Tax Revenue Forecast

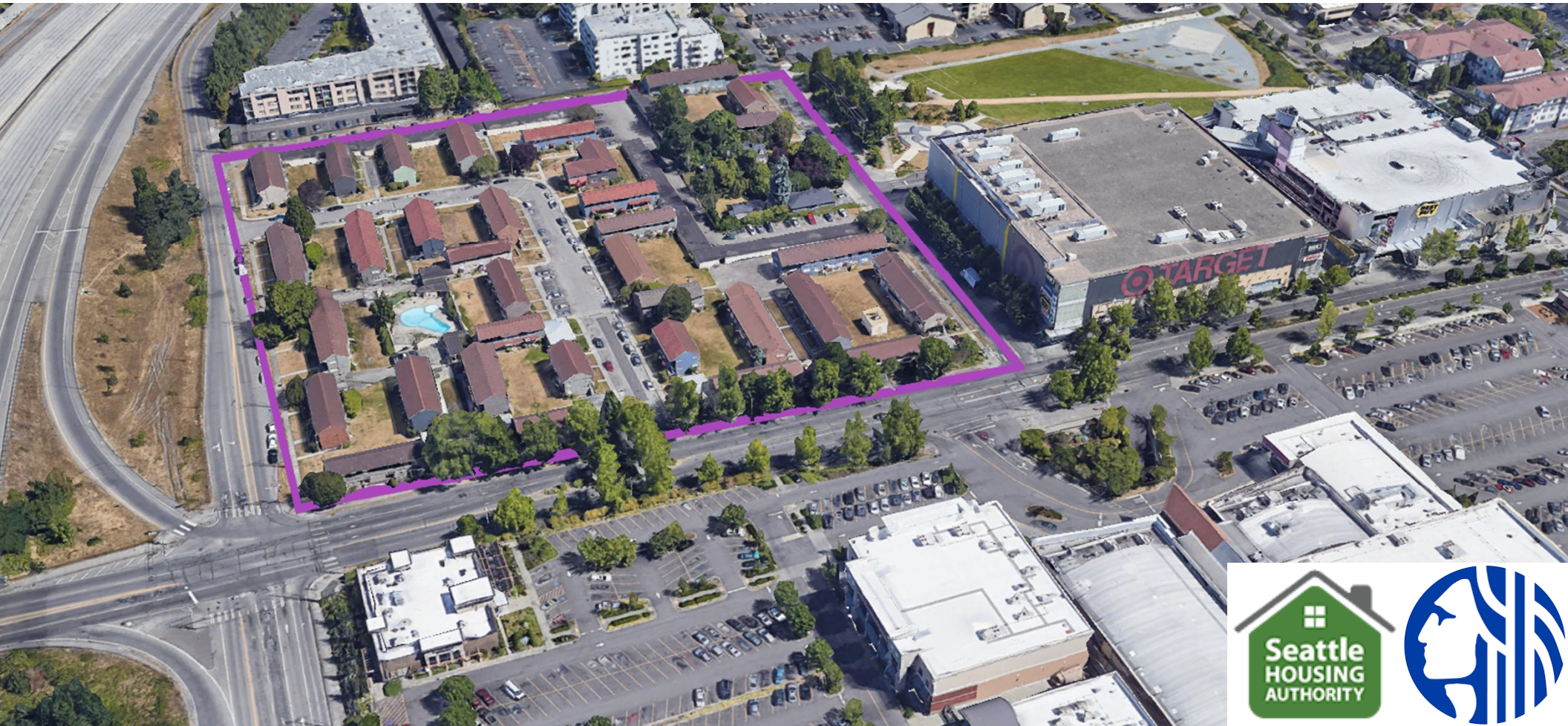
2021 Revenues (\$ thousands)	2020 Actuals	2021 Adopted	2021 April	2021 Change Over Adopted	2022 April
Property Taxes	353,787	356,740	360,499	3,759	372,329
Sales Taxes	255,124	273,950	278,647	4,696	300,955
Business & Occupation Taxes & Licenses	249,184	263,168	268,833	5,665	290,473
Utility Taxes	215,379	208,364	217,291	8,927	220,796
Payroll Tax	-	214,284	214,284	-	233,911
Court Fines/Parking	27,488	31,454	30,375	(1,079)	39,489
Licenses & Permits	31,327	32,029	33,183	1,153	37,667
Grants & Transfers	156,397	87,137	86,409	(728)	13,084
All Else	102,642	106,861	104,731	(2,130)	117,939
General Fund Total	1,391,329	1,573,988	1,594,251	20,264	1,626,644
Admission Tax	1,742	5,457	5,457	-	9,186
Short-term Rental Tax	3,763	5,775	5,775	-	9,450
Sweetened Beverage Tax	15,674	20,772	20,772	-	22,292
Mercer Megablock Sale	-	-	66,500	66,500	-
Commercial Parking Tax	19,354	29,181	29,181	-	42,404
School Zone Camera Fund	3,130	4,713	7,298	2,586	14,622
Other General Government Revenues - Total	43,663	65,898	134,983	69,086	97,953
Grand Total - General Government Resources	1,434,992	1,639,886	1,729,235	89,349	1,723,597



Legislation Text

File #: Inf 1790, **Version:** 1

Northgate Commons Acquisition and Redevelopment Partnership with the City of Seattle



Northgate Commons

Acquisition and Redevelopment Partnership with City of Seattle

211 Units built in 1951
Purchase Price: \$65 MM
Zoning: NC3-95, 8.5 acres
1,200 – 1,400 unit development capacity

Redevelopment Core Commitments

Commitments

- Preserve existing 211 affordable housing until redevelopment
- Create a connected, diverse community
- Partner w/community local and regional stakeholders to develop and implement vision
- Provide affordable housing for people across the spectrums of income and family size
- Integrate environmental stewardship and health into the community

Goals

- Substantially increase the amount of affordable housing on site
- Redevelopment to begin by 2025

Potential Redevelopment Scenario



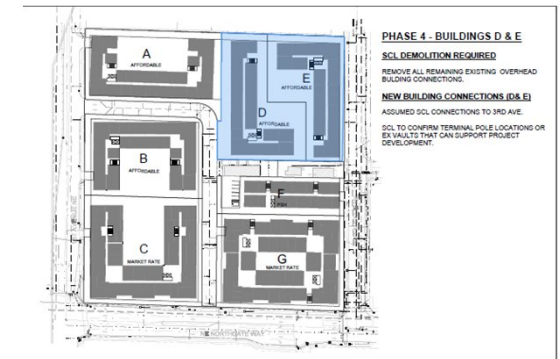
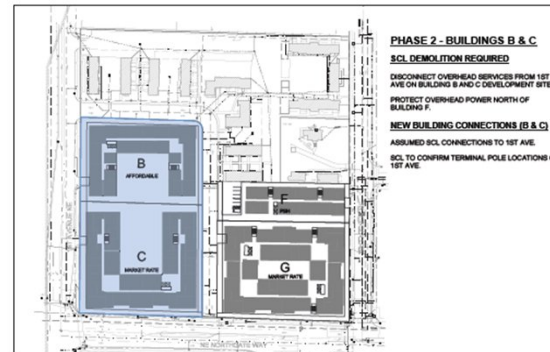
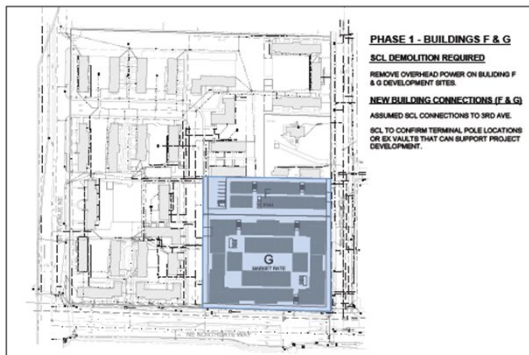
Partnership Opportunities

SHA

- Develop and implement Master Plan
- Site Development, including:
 - ✓ *Subdivision*
 - ✓ *Vehicle and pedestrian access*
 - ✓ *Storm water facilities*
- Relocate residents
- Market and sell parcels for market-rate development

OH

- Partner with SHA in planning
- City of Seattle department coordination
- Identify affordable housing funding sources
- Selection of affordable housing developers



City of Seattle Partnership Opportunities



Affordable Housing

- Led by Office of Housing, contingent on funding and resources
- Community preference policy could be implemented



Targeted Engagement

- Equitable outcomes that support BIPOC communities
- Ground floor uses and affordable housing



Permitting / processes

- Expedited and/or comprehensive permits
- Single point of contact
- Tenant relocation assistance



Ground floor uses

- Childcare and early learning
- Amenities that support families
- Space for the Arts



Site infrastructure

- Green stormwater management



Neighborhood Connections

- Open space
- Multi-use trails
- Multimodal connections

Partnership Assistance & Opportunities

Seattle Public Utilities - 2021

- Determination on storm main connection extension solution
- Total dependent on regional (vs. parcel based) On-site Stormwater Management & detention approaches

Department of Neighborhoods - from Q4 2021 and beyond

- Coordinate with SHA's community engagement efforts

Seattle City Light - Once Subdivision Plan finalized in Q3 2021

- Need confirmation that adequate power can be provided based on existing infrastructure
- Will provide any necessary infrastructure if system is inadequate

Seattle Department of Transportation – Q2/3 2021

- Confirmation that proposed traffic mitigation measures are adequate

Community Planning & Response Foundations

2017 Northgate MHA rezone

- Community support for locating more housing and jobs near Northgate transit center

Seattle 2035 Comprehensive Plan update

Cause new development to locate close to transit stops and provide good pedestrian and bicycle connections throughout the area

- Promote multifamily housing opportunities for households of all income levels
- Promote reduction of potential runoff into Thornton Creek
- Promote more person trips rather than vehicle trips

Northgate Urban Design Framework

- Housing should be available for people with a range of different incomes
- Encourage affordable housing that serves workers in the area earning below median income
- Better pedestrian connections to build a complete network that meets today's needs

Proposed Outreach

No rezone or land use legislative approvals required

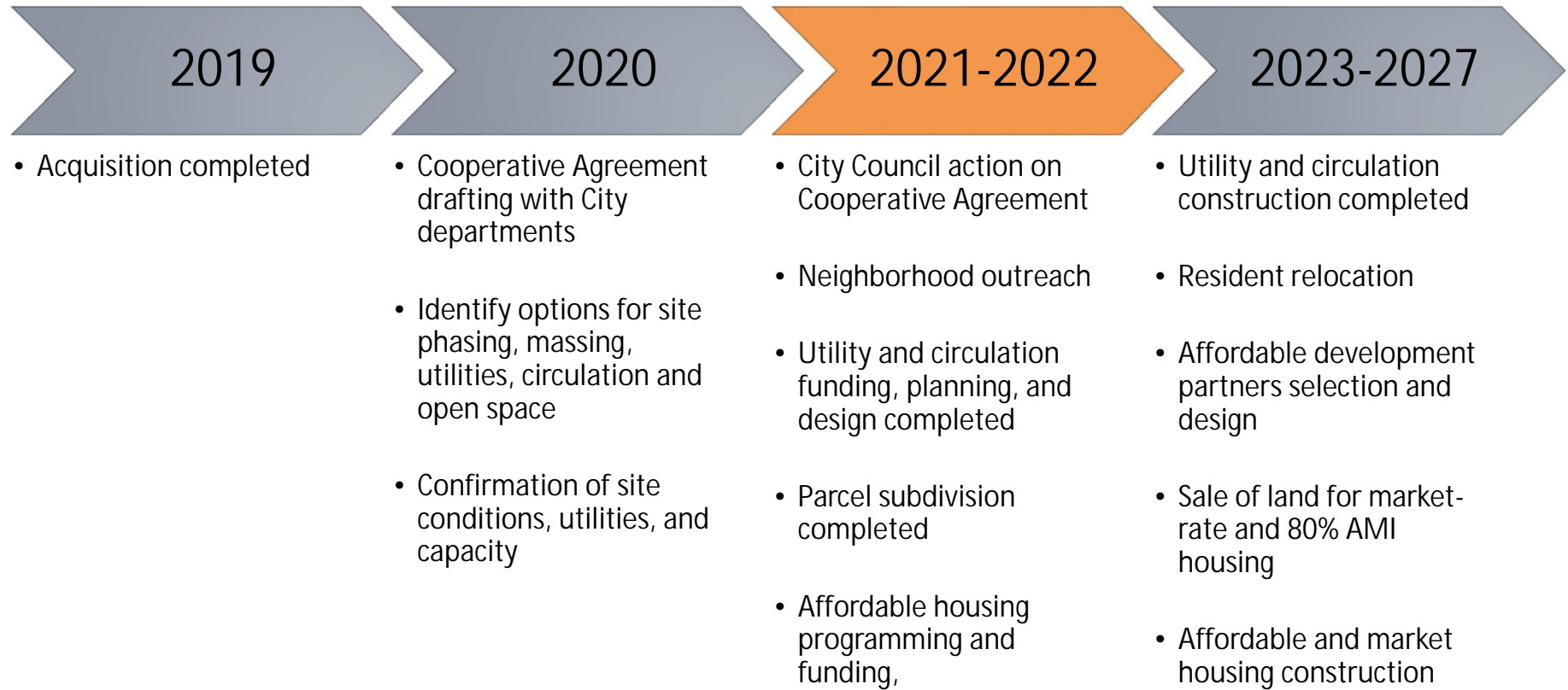
Prior to Cooperative Agreement Approval

- Contact relevant neighborhood organizations (as indicated by DON) to update on Northgate opportunity and offer to discuss project with membership
- Send translated information to
 - ✓ Neighbors within 1,000 feet
 - ✓ Station area planning contact lists from DON & OPCD
 - ✓ Include information on Northgate Commons in Councilmember Juarez's digital newsletter

Additional Outreach planned after Cooperative Agreement

- Presentations to community groups
- On-demand presentations hosted on SHA web site
- FAQ distributed to neighbors and other stakeholders

Timeline





Legislation Text

File #: Inf 1791, **Version:** 1

Transparency Requirements for Contract Workers

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE relating to independent contractors in Seattle; establishing labor standards requirements for independent contractors working in Seattle; amending Sections 3.02.125, 3.15.000, and 6.208.020 of the Seattle Municipal Code; and adding a new Chapter 14.34 to the Seattle Municipal Code.

..body

WHEREAS, independent contract work is a growing source of income for workers across the country; and

WHEREAS, in 2018, the BLS reported that 6.9 percent of workers, 10.6 million individuals, gain their primary source of income as an independent contractor; and

WHEREAS, in 2018 and 2019, Gallup and the Freelancers Union surveys reported higher rates of independent contractors, up to 36 percent of workers, 57 million individuals, by including broader categories of alternative work arrangements and including those who use independent contract work as a primary or supplemental source of income; and

WHEREAS, a 2012 Economic Modeling Specialists International, Inc. (EMSI) analysis of BLS data listed Washington State as tied for fifteenth place for states with the highest proportion of self-employment and estimated 126,623 self-employed jobs in the Seattle Metropolitan Statistical Area, noting that the number of jobs may differ from the number of workers, as one worker may fill more than one job; and

WHEREAS, a 2019 Washington State Department of Commerce study found that independent contracting is on the rise in Washington state, increasing by 15 percent from 2008 to 2016; and

WHEREAS, independent contractors have the opportunity for increased flexibility and control over their work, but they also face challenges, such as working without employee

1 protections, lack of information about the terms and conditions of their work, and
2 misclassification; and

3 WHEREAS, in Washington, all employers must provide employees with itemized pay
4 statements each time wages are paid under chapter 49.12 RCW and WAC 296-126-040;
5 and

6 WHEREAS, in Seattle, all employers must provide employees with basic information about the
7 terms and conditions of their job at time of hire and itemized pay statements each time
8 wages are paid under the Wage Theft Ordinance (Seattle Municipal Code (SMC) Chapter
9 14.20); and

10 WHEREAS, in Seattle, Transportation Network Companies (TNCs) and food delivery network
11 companies must provide gig workers with certain information about their jobs and pay,
12 but there are not comprehensive transparency requirements for all independent
13 contractors working in Seattle; and

14 WHEREAS, a lack of transparency about job information and pay can lead to confusion or
15 disagreement about the terms and conditions of work and mask deceptive payment
16 practices; and

17 WHEREAS, large delivery businesses that make extensive use of workers hired as independent
18 contractors have come under scrutiny for improperly paying delivery drivers, including
19 failure to pay drivers all tips earned from customers or using tips to subsidize promised
20 wages, and proving wage theft is difficult when hiring entities are not required to provide
21 an itemized accounting of earnings; and

22 WHEREAS, in 2017, Instacart agreed to pay \$4.6 million and make changes to how it explains
23 its fees to customers to settle a class-action lawsuit filed by shoppers and drivers over

1 allegations of improper tip pooling, failure to reimburse workers for business expenses,
2 and imposing a service fee reported to look like a tip; and

3 WHEREAS, in 2020, Door Dash agreed to pay \$2.5 million dollars in a settlement, including
4 \$1.5 million dollars paid directly to eligible delivery drivers, with the Office of Attorney
5 General of the District of Columbia over allegations that the company had misrepresented
6 what tip amounts meant for worker pay and took tips from workers to lower the
7 company's labor costs; and

8 WHEREAS, in 2019, the Los Angeles Times reported that Amazon delivery drivers suspected
9 that Amazon was using their tips to subsidize promised wages but did not have
10 breakdowns of their compensation as proof of this practice, and two drivers tested their
11 suspicions by delivering items to their homes through Amazon and by tipping themselves
12 amounts that Amazon ultimately did not include in their compensation for the deliveries;
13 and

14 WHEREAS, in February 2021, Amazon agreed to pay \$61.7 million in a settlement with the
15 Federal Trade Commission (FTC) over allegations of withholding the full amount of
16 customer tips from AmazonFlex drivers, and the FTC alleged that Amazon withheld this
17 amount from workers by using the worker's tips to subsidize the company's guaranteed
18 minimum base pay to drivers for each order. As part of the settlement agreement,
19 Amazon was prohibited from misrepresenting any driver's income or rate of pay, the
20 amount of tips paid to workers, the amount of tips paid by customers, and making
21 changes to how tips are used as compensation without first obtaining the worker's
22 express informed consent; and

1 WHEREAS, misclassification is the practice of improperly classifying employees as independent
2 contractors; and

3 WHEREAS, in 2015, the Economic Policy Institute reported that across the country about 10 to
4 20 percent of employers misclassify workers as independent contractors and that the
5 numbers were likely increasing, thereby depriving substantial numbers of workers of
6 workplace protections that are afforded to employees, undermining worker bargaining
7 power and leaving workers more vulnerable to wage theft, disadvantaging employers
8 who comply with employment rules and therefore have higher labor and administrative
9 costs, and resulting in losses of billions of dollars in tax revenue for local, state, and
10 federal governments alongside added costs of providing social services to uninsured
11 workers; and

12 WHEREAS, in 2019 the Harvard Law School Labor and Worklife Program reported that 19
13 percent of employers in the Seattle-Bellevue-Tukwila area engage in misclassification –
14 higher than the statewide misclassification average of 13 percent – and that the
15 prevalence of misclassification in Washington increased from 5 percent in 2008 to 14
16 percent in 2017, and averaged 16 percent over the past five years; and

17 WHEREAS, misclassification occurs in many growth industries such as home care, janitorial,
18 trucking, delivery, construction, personal services, hospitality and restaurants, and work
19 facilitated through online-enabled applications or platforms; and

20 WHEREAS, in 2021, the National Equity Atlas, a research partnership between PolicyLink and
21 the University of Southern California Equity Research Institute, reported that Black,
22 Latinx, and immigrant workers are overrepresented in these industries, compared to their
23 overall share of the labor force; and

1 WHEREAS, in 2020, the National Employment Law Project reported that it is increasingly clear
2 that misclassification is an issue of racial justice as many poor workers of color and
3 immigrant workers, deprived of the core rights and protections of employees, are stuck in
4 a separate and unequal economy where they are underpaid, put in harm's way on the job,
5 and left to fend for themselves; and

6 WHEREAS, in February 2019, the City Council passed Resolution 31863 to address the problem
7 of misclassifying workers as independent contractors; and

8 WHEREAS, Resolution 31863 requested the Office of Labor Standards (OLS) and the Labor
9 Standards Advisory Commission (LSAC) to work on policy, outreach and enforcement
10 proposals to address the problem of misclassification; and

11 WHEREAS, in May 2020, the LSAC issued policy recommendations that would create more
12 transparency and access to information for workers hired as independent contractors,
13 including recommendations for (1) pre-contract disclosures that would provide
14 independent contractors with basic job information and (2) payment disclosures that
15 would provide a description of the work performed and pay information; and

16 WHEREAS, the LSAC's recommendations for pre-contract disclosures and payment disclosures
17 align with provisions in the Wage Theft Ordinance requiring employers to provide
18 employees with (1) notice of employment information at time of hire and (2) itemized
19 pay information each time that wages are paid;

20 WHEREAS, requiring hiring entities to provide pre-contract disclosures and payment disclosures
21 would address information barriers faced by workers hired as independent contractors,
22 especially those who are misclassified and deprived of the right to receive this
23 information as employees; and

1 WHEREAS, The City of Seattle (City) is a leader on wage, labor, and workforce practices that
2 improve workers' lives, support economic security, and contribute to a fair, healthy, and
3 vibrant economy; and

4 WHEREAS, the City has passed seven ordinances that extend employee protections to
5 independent contractors; and

6 WHEREAS, the Domestic Workers Ordinance (SMC Chapter 14.23), Paid Sick and Safe Time
7 (PSST) for Gig Workers Ordinance (Ordinance 126091), Premium Pay for Gig Workers
8 Ordinance (Ordinance 126094), the TNC Driver Deactivation Rights Ordinance (SMC
9 Chapter 14.32), and the TNC Driver Minimum Compensation Ordinance (SMC Chapter
10 14.33) require hiring entities to provide labor standards such as minimum compensation,
11 paid leave, protection from unwarranted deactivation, and premium pay for independent
12 contractors who perform certain types of work; and

13 WHEREAS, the Seattle Fair Employment Practices Ordinance (SMC Chapter 14.04) prohibits
14 employers from discriminating against domestic workers regardless of their employment
15 status, and the Fair Contracting Practices ordinance (SMC Chapter 14.10) prohibits
16 business enterprises from engaging in discriminatory contracting practices; and

17 WHEREAS, establishing new labor standards for independent contractors, such as requirements
18 for pre-contract disclosures and payment disclosures, requires appropriate action by the
19 City Council; NOW, THEREFORE,

20 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

21 Section 1. A new Chapter 14.34 is added to the Seattle Municipal Code as follows:

22 **Chapter 14.34 INDEPENDENT CONTRACTOR PROTECTIONS**

23 **14.34.010 Short title**

1 This Chapter 14.34 shall constitute the “Independent Contractor Protections Ordinance” and may
2 be cited as such.

3 **14.34.020 Definitions**

4 For purposes of this Chapter 14.34:

5 “Adverse action” means reducing compensation, garnishing tips or gratuities, temporarily
6 or permanently denying or limiting access to work, incentives, or bonuses, offering less desirable
7 work, terminating, deactivating, threatening, penalizing, retaliating, engaging in unfair
8 immigration-related practices, filing a false report with a government agency, or otherwise
9 discriminating against any person for any reason prohibited by Section 14.34.120. “Adverse
10 action” for an independent contractor may involve any aspect of the contractor’s work, including
11 compensation, work hours, responsibilities, or other material change in the terms and conditions
12 in the ability of the independent contractor to perform services for or through the hiring entity.
13 “Adverse action” also includes any action by the hiring entity or a person acting on the hiring
14 entity’s behalf that would dissuade a reasonable person from exercising any right afforded by
15 this Chapter 14.34.

16 “Agency” means the Office of Labor Standards and any division therein.

17 “Aggrieved party” means an independent contractor or other person who suffers tangible
18 or intangible harm due to a hiring entity or other person's violation of this Chapter 14.34.

19 “Application dispatch” means technology that allows customers to directly request
20 dispatch of independent contractors for provision of services and/or allows independent
21 contractors or hiring entities to accept requests for services and payments for services via the
22 internet using mobile interfaces such as, but not limited to, smartphone and tablet applications.

23 “City” means The City of Seattle.

1 “Compensation” means the payment owed to an independent contractor by reason of
2 working for the hiring entity, including but not limited to hiring entity payments for providing
3 services, bonuses, and commissions, as well as tips and service charge distributions.

4 “Director” means the Director of the Office of Labor Standards or the Director's
5 designee.

6 “Director rules” means: (1) rules the Director or Agency may promulgate pursuant to
7 subsection 14.34.130.B or 14.34.130.C; or (2) other rules that the Director identifies, by means
8 of an Agency Q&A, previously promulgated pursuant to authority in this Title 14. Rules the
9 Director identifies by means of an Agency Q&A shall have the force and effect of law and may
10 be relied on by hiring entities, independent contractors, and other parties to determine their rights
11 and responsibilities under this Chapter 14.34.

12 “Employ” means to suffer or permit to work.

13 “Employee” means any individual employed by an employer, including but not limited to
14 full-time employees, part-time employees, and temporary workers. An employer bears the
15 burden of proof that the individual is, as a matter of economic reality, in business for oneself
16 rather than dependent upon the alleged employer.

17 “Employer” means any individual, partnership, association, corporation, business trust, or
18 any entity, person or group of persons, or a successor thereof, that employs another person and
19 includes any such entity or person acting directly or indirectly in the interest of an employer in
20 relation to an employee. More than one entity may be the “employer” if employment by one
21 employer is not completely disassociated from employment by the other employer.

22 “Hiring entity” means any individual, partnership, association, corporation, business
23 trust, or any entity, person or group of persons, or a successor thereof, that hires an independent

1 contractor to provide any service to the hiring entity or a third party. “Hiring entity” includes
2 entities offering prearranged services for compensation using an online-enabled application or
3 platform to connect third parties (e.g., customers) with independent contractors, but does not
4 include third parties purchasing such services.

5 “Hiring entity payment” means the amount owed to an independent contractor by
6 reason of working for the hiring entity, including but not limited to payment for providing
7 services, bonuses, and commissions.

8 “Independent contractor” means a person or entity composed of no more than one person,
9 regardless of corporate form or method of organizing the person’s business, that is hired by a
10 hiring entity as a self-employed person or entity to provide services in exchange for
11 compensation. “Independent contractor” includes a person or entity that is affiliated with and
12 accepts an offer of prearranged services for compensation from an online-enabled application or
13 platform.

14 “Online order” means an order placed through an online-enabled application or
15 platform, including but not limited to an application dispatch system, provided by a hiring
16 entity for services in Seattle.

17 “Primary language” means the language in which the independent contractor feels
18 most comfortable communicating.

19 “Rate of inflation” means 100 percent of the annual average growth rate of the bi-
20 monthly Seattle-Tacoma-Bellevue Area Consumer Price Index for Urban Wage Earners and
21 Clerical Workers, termed CPI-W, for the 12-month period ending in August, provided that the
22 percentage increase shall not be less than zero.

1 “Respondent” means a hiring entity or any person who is alleged or found to have
2 committed a violation of this ordinance.

3 “Successor” means any person to whom a hiring entity quitting, selling out, exchanging,
4 or disposing of a business sells or otherwise conveys in bulk and not in the ordinary course of the
5 hiring entity’s business, a major part of the property, whether real or personal, tangible or
6 intangible, of the hiring entity’s business. For purposes of this definition, “person” means an
7 individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm,
8 corporation, business trust, partnership, limited liability partnership, company, joint stock
9 company, limited liability company, association, joint venture, or any other legal or commercial
10 entity.

11 “Tips” means a verifiable sum to be presented by a customer as a gift or gratuity in
12 recognition of some service performed for the customer by the independent contractor receiving
13 the tip.

14 “Written” or “writing” means a printed or printable communication in physical or
15 electronic format, including but not limited to a communication that is transmitted through email,
16 text message, or a computer or mobile system, or that is otherwise sent and maintained
17 electronically.

18 **14.34.030 Independent contractor coverage**

19 A. For the purposes of this Chapter 14.34, covered independent contractors are limited to
20 those who perform work for a covered hiring entity, where (1) the work is performed in whole or
21 part in Seattle, and (2) the hiring entity knows or has reason to know that the work is performed
22 in whole or part in Seattle.

1 B. The determination of whether a hiring entity knows or has reason to know that work is
2 performed in whole or part in Seattle, may be demonstrated by any number of factors, including
3 but not limited to:

4 1. The hiring entity specifies the location of the work to be performed, including a
5 service area that is wholly or partially within Seattle;

6 2. The hiring entity provides a location within Seattle at which the independent
7 contractor is permitted or required to perform the work;

8 3. The independent contractor maintains a regular place of business at an address
9 in Seattle and the hiring entity is aware of this regular place of business as indicated by inclusion
10 of the independent contractor's address in Seattle in a pre-contract disclosure, written contract,
11 payment, or other means;

12 4. The independent contractor provides information to the hiring entity indicating
13 that work will be performed in whole or part in Seattle; or

14 5. The independent contractor provides services that in fact include a work-related
15 or commercial stop in Seattle.

16 C. If a pre-contract disclosure, payment disclosure, or a written contract references
17 Seattle as a location for services or the independent contractor's regular place of business, there
18 shall be a presumption rebuttable by clear and convincing evidence that the hiring entity knows
19 or has reason to know that the independent contractor's work is performed in whole or part in
20 Seattle. The lack of a reference to Seattle in the disclosures or contract does not conclusively
21 establish that a hiring entity did not know, or did not have reason to know, that work was to be
22 performed in Seattle.

1 D. Time spent by an employee in Seattle solely for the purpose of travelling through
2 Seattle from a point of origin outside Seattle to a destination outside Seattle, with no work-
3 related or commercial stops in Seattle except for refueling or the independent contractor's
4 personal meals or errands, is not covered by this Chapter 14.34.

5 C. Independent contractors who are employees under Chapter 14.20 (Wage Theft
6 Ordinance) for covered hiring entities are not covered independent contractors under this Chapter
7 14.34. Hiring entities must pay all compensation owed to such workers in accordance with their
8 obligations under Chapter 14.20.

9 **14.34.040 Hiring entity coverage**

10 A. For the purposes of this Chapter 14.34, covered hiring entities are limited to those that
11 (1) retain one or more employees and one or more independent contractors, or (2) retain five or
12 more independent contractors on a consistent basis, but do not retain any employees.

13 B. To determine whether a hiring entity retains five or more independent contractors on a
14 consistent basis, the calculation shall be based upon:

15 1. The average number per calendar week of independent contractors who worked
16 for compensation during each calendar week of the preceding calendar year for any and all
17 weeks during which at least one independent contractor worked for compensation. For hiring
18 entities that did not hire any independent contractors during the previous calendar year, the
19 number of independent contractor(s) shall be calculated based upon the average number per
20 calendar week of independent contractors who worked for compensation during the first 90
21 calendar days of the current year; and

22 2. All independent contractors who worked for compensation shall be counted,
23 including but not limited to:

- 1 a. Independent contractors who are not covered by this Chapter 14.34;
- 2 b. Independent contractors who worked inside Seattle;
- 3 c. Independent contractors who worked outside Seattle; and
- 4 d. Independent contractors who worked for the hiring entity through the
- 5 services of a temporary services or staffing agency, or similar entity.

6 C. Separate entities that form an integrated enterprise shall be considered a single hiring
7 entity under this ordinance. Separate entities will be considered an integrated enterprise and a
8 single hiring entity under this ordinance where a separate entity controls the operation of another
9 entity. The factors to consider in making this assessment include, but are not limited to:

- 10 1. Degree of interrelation between the operations of multiple entities;
- 11 2. Degree to which the entities share common management;
- 12 3. Centralized control of labor relations;
- 13 4. Degree of common ownership or financial control over the entities; and
- 14 5. Use of a common brand, trade, business, or operating name.

15 **14.34.050 Pre-contract disclosure**

16 A. Prior to an independent contractor beginning work for the hiring entity, the hiring
17 entity shall provide the independent contractor with a written pre-contract disclosure that
18 provides itemized information on the proposed terms and conditions of work, including but not
19 limited to:

- 20 1. Date;
- 21 2. Name of the independent contractor;
- 22 3. Name of the hiring entity;

1 4. Contact information for the hiring entity, including but not limited to physical
2 address, mailing address, telephone number, and/or email address as applicable;

3 5. Description of work;

4 6. Location(s) of work and/or regular place of business of independent
5 contractor or hiring entity;

6 7. Rate or rates of pay;

7 8. Estimated tips and/or service charge distributions, if part of the offered
8 compensation;

9 9. Pay basis (e.g., hour, day, week, monthly, fee per project, commission);

10 10. Tips and/or service charge distribution policy;

11 11. Typical expenses incurred in the course of work and which expenses will be
12 paid or reimbursed by the hiring entity; and

13 12. Deductions, fees, or other charges that the hiring entity may subtract from
14 payment and accompanying policies for each type of charge; and

15 13. Payment schedule.

16 B. Hiring entities shall satisfy the pre-contract disclosure requirements by providing the
17 required information in a single document, which may be in the form of a pre-contract
18 disclosure, contract offer, counteroffer, application, or other single document meeting the
19 disclosure requirements.

20 C. Hiring entities offering independent contractors prearranged services for
21 compensation using an online-enabled application or platform shall provide a pre-contract
22 disclosure at the initial time of hire and for each online order for work covered by this Chapter
23 14.34. However, pre-contract disclosures for each online order may abbreviate or omit

1 information required by subsections 14.34.050.A.4 and 14.34.050.A.10-13 if the hiring entity
2 fully provided such information in the pre-contract disclosure provided at the initial time of
3 hire and there have been no changes to such information.

4 D. Hiring entities shall provide an independent contractor with written notice of any
5 change to the information required by subsection 14.34.050.A.1-12 before the change takes
6 place, or as soon as practicable for retroactive changes to such information. Hiring entities may
7 provide piece-meal notice of such changes (i.e., notice separate from the single document
8 required in subsection 14.34.050.B). However, for changes to more than five of the items
9 required by subsection 14.34.050.A.1-12, hiring entities shall issue a revised single document.

10 E. Hiring entities shall provide the pre-contract disclosure in a format that is readily
11 accessible to the independent contractor. For independent contractors providing services for a
12 hiring entity through an online-enabled application or platform, hiring entities may provide the
13 pre-contract disclosure in an electronic format via smartphone application or online web portal.

14 F. Hiring entities shall provide the pre-contract disclosure in English and any language
15 that the hiring entity knows or has reason to know is the primary language of the independent
16 contractor. The Agency shall make model notices of the pre-contract disclosure in English,
17 Spanish, and other languages.

18 G. Hiring entities shall satisfy pre-contract disclosure requirements for independent
19 contractors working for the hiring entity as of [EFFECTIVE DATE OF CHAPTER 14.34] by
20 providing the required information by [30 DAYS AFTER EFFECTIVE DATE OF CHAPTER
21 14.34] or by the time of compensation, whichever date is sooner.

22 **14.34.060 Payment disclosure**

1 A. Each time the hiring entity compensates the independent contractor, the hiring entity
2 shall provide a written payment disclosure that provides itemized pay information, including but
3 not limited to:

- 4 1. Date;
- 5 2. Name of independent contractor;
- 6 3. Name of hiring entity;
- 7 4. Description of services covered by payment (e.g., description of project, tasks
8 completed, or hours worked);
- 9 5. Location of services covered by payment;
- 10 6. Rate or rates of pay;
- 11 7. Tips, or service charge distributions;
- 12 8. Pay basis with accounting of method(s) for determining payment earned during
13 the pay period;
- 14 9. Expenses reimbursed;
- 15 10. Gross payment;
- 16 11. Deductions, fees, or other charges; and
- 17 12. Net payment after deductions, fees, or other charges;

18 B. Hiring entities shall satisfy the pay disclosure requirements in subsection
19 14.34.060.A by providing the required information in a single document, including but not
20 limited to a payment disclosure notice, paycheck stub, or an independent contractor's invoice
21 accompanied by a single document with supplemental information as necessary.

22 C. In addition to providing a payment disclosure at the time of compensation, hiring
23 entities offering independent contractors prearranged services for compensation using an

1 online-enabled application or platform shall also provide a payment disclosure within 24 hours
2 of the independent contractor completing each online order for work covered by this Chapter
3 14.34.

4 D. Hiring entities compensating independent contractors covered by Chapter 14.33
5 (Transportation Network Company Driver Minimum Compensation Ordinance) may satisfy
6 the pay disclosure requirements in subsection 14.34.060.A by providing the required notices in
7 subsections 14.33.100.C and 14.33.100.D.

8 **14.34.100 Notice of rights**

9 A. Hiring entities shall provide each independent contractor with a written notice of
10 rights established by this Chapter 14.34.

11 1. For independent contractors working for the hiring entity as of [EFFECTIVE
12 DATE OF CHAPTER 14.34], hiring entities shall provide the notice of rights by [30 DAYS
13 AFTER EFFECTIVE DATE OF CHAPTER 14.34] or by the time of compensation, whichever
14 date is sooner.

15 2. For independent contractors hired by the hiring entity after EFFECTIVE
16 DATE OF CHAPTER 14.34, hiring entities shall provide the notice of rights prior to the
17 independent contractor beginning work for the hiring entity.

18 3. Hiring entities shall provide the notice of rights in a format that is readily
19 accessible to the independent contractor. For independent contractors providing services for a
20 hiring entity through an online-enabled application or platform, hiring entities may provide the
21 notice of rights in an electronic format via smartphone application or online web portal.

1 4. Hiring entities shall provide the notice of rights in English and any language
2 that the hiring entity knows or has reason to know is the primary language of the independent
3 contractor.

4 B. The notice of rights shall provide information on:

5 1. The right to pre-contract disclosures and payment disclosures guaranteed by
6 this Chapter 14.34;

7 2. The right to be protected from retaliation for exercising in good faith the rights
8 protected by this Chapter 14.34; and

9 3. The right to file a complaint with the Agency or bring a civil action for a
10 violation of the requirements of this Chapter 14.34, including a hiring entity's failure to provide
11 pre-contract disclosure and payment disclosures, and a hiring entity or other person's retaliation
12 against an independent contractor or other person for asserting the right to these disclosures or
13 otherwise engaging in an activity protected by this Chapter 14.34.

14 C. The Agency shall create and distribute a model notice of rights in English and other
15 languages.

16 **14.34.110 Hiring entity records**

17 A. Hiring entities shall retain records that document compliance with this Chapter 14.34
18 for each independent contractor.

19 B. Hiring entities shall retain the records required by subsection 14.34.110.A for a period
20 of three years.

21 C. If a hiring entity fails to retain adequate records required under subsection
22 14.34.110.A, there shall be a presumption, rebuttable by clear and convincing evidence, that the

1 hiring entity violated this Chapter 14.34 for the periods and for each independent contractor for
2 whom records were not retained.

3 **14.34.120 Retaliation prohibited**

4 A. No hiring entity or any other person shall interfere with, restrain, or deny the exercise
5 of, or the attempt to exercise, any right protected under this Chapter 14.34.

6 B. No hiring entity or any other person shall take any adverse action against any person
7 because the person has exercised in good faith the rights protected under this Chapter 14.34.

8 Such rights include, but are not limited to, the right to make inquiries about the rights protected
9 under this Chapter 14.34; the right to inform others about their rights under this Chapter 14.34;
10 the right to inform the person's hiring entity, the person's legal counsel, a union or similar
11 organization, or any other person about an alleged violation of this Chapter 14.34; the right to
12 file an oral or written complaint with the Agency or bring a civil action for an alleged violation
13 of this Chapter 14.34; the right to cooperate with the Agency in its investigations of this Chapter
14 14.34; the right to testify in a proceeding under or related to this Chapter 14.34; the right to
15 refuse to participate in an activity that would result in a violation of city, state or federal law; and
16 the right to oppose any policy, practice, or act that is unlawful under this Chapter 14.34.

17 C. No hiring entity or any other person shall communicate to a person exercising rights
18 protected in this Section 14.34.120, directly or indirectly, the willingness to inform a government
19 worker that the person is not lawfully in the United States, or to report, or to make an implied or
20 express assertion of a willingness to report, suspected citizenship or immigration status of an
21 independent contractor or family member of an independent contractor to a federal, state, or local
22 agency because the independent contractor has exercised a right under this Chapter 14.34.

1 D. It shall be a rebuttable presumption of retaliation if a hiring entity or any other person
2 takes an adverse action against a person within 90 days of the person's exercise of rights
3 protected in this Section 14.34.120. The hiring entity may rebut the presumption with clear and
4 convincing evidence that the adverse action was taken for a permissible purpose.

5 E. Proof of retaliation under this Section 14.34.120 shall be sufficient upon a showing
6 that a hiring entity or any other person has taken an adverse action against a person and the
7 person's exercise of rights protected in this Section 14.34.120 was a motivating factor in the
8 adverse action, unless the hiring entity can prove that the action would have been taken in the
9 absence of such protected activity.

10 F. The protections afforded under this Section 14.34.120 shall apply to any person who
11 mistakenly but in good faith alleges violations of this Chapter 14.34.

12 G. A complaint or other communication by any person triggers the protections of this
13 Section 14.34.120 regardless of whether the complaint or communication is in writing or makes
14 explicit reference to this Chapter 14.34.

15 **14.34.130 Enforcement power and duties**

16 A. The Agency shall have the power to investigate violations of this Chapter 14.34 and
17 shall have such powers and duties in the performance of these functions as are defined in this
18 Chapter 14.34 and otherwise necessary and proper in the performance of the same and provided
19 for by law.

20 B. The Agency is authorized to coordinate implementation and enforcement of this
21 Chapter 14.34 and may promulgate appropriate guidelines or rules for such purposes.

22 C. The Director is authorized to promulgate rules consistent with this Chapter 14.34 and
23 Chapter 3.02. Any guidelines or rules promulgated by the Director shall have the force and effect

1 of law and may be relied on by hiring entities, independent contractors, and other parties to
2 determine their rights and responsibilities under this Chapter 14.34.

3 **14.34.140 Violation**

4 The failure of any respondent to comply with any requirement imposed on the respondent under
5 this Chapter 14.34 is a violation.

6 **14.34.150 Investigation**

7 A. The Agency shall have the power to investigate any violations of this Chapter 14.34
8 by any respondent. The Agency may initiate an investigation pursuant to Director rules,
9 including but not limited to situations when the Director has reason to believe that a violation has
10 occurred or will occur, or when circumstances show that violations are likely to occur within a
11 class of hiring entities or businesses because the workforce contains significant numbers of
12 independent contractors who are vulnerable to violations of this Chapter 14.34 or the workforce
13 is unlikely to volunteer information regarding such violations. An investigation may also be
14 initiated through the receipt by the Agency of a report or complaint filed by an independent
15 contractor or other person.

16 B. An independent contractor or other person may report to the Agency any suspected
17 violation of this Chapter 14.34. The Agency shall encourage reporting pursuant to this Section
18 14.34.150 by taking the following measures:

19 1. The Agency shall keep confidential, to the maximum extent permitted by
20 applicable laws, the name and other identifying information of the independent contractor or
21 person reporting the violation. However, with the authorization of such person, the Agency may
22 disclose the independent contractor's or person's name and identifying information as necessary
23 to enforce this Chapter 14.34 or for other appropriate purposes.

1 2. The Agency may require the hiring entity to post or otherwise notify other
2 independent contractors working for the hiring entity that the Agency is conducting an
3 investigation. The hiring entity shall provide the notice of investigation in a form, place, and
4 manner designated by the Agency. The Agency shall create the notice of investigation in English
5 and other languages.

6 3. The Agency may certify the eligibility of eligible persons for “U” Visas under
7 the provisions of 8 U.S.C. § 1184.p and 8 U.S.C. § 1101.a.15.U. This certification is subject to
8 applicable federal law and regulations, and Director rules.

9 C. The Agency's investigation shall commence within three years of the alleged violation.
10 To the extent permitted by law, the applicable statute of limitations for civil actions is tolled
11 during any investigation under this Chapter 14.34 and any administrative enforcement
12 proceeding under this Chapter 14.34 based upon the same facts. For purposes of this Chapter
13 14.34:

14 1. The Agency's investigation begins on the earlier date of when the Agency
15 receives a complaint from a person under this Chapter 14.34, or when the Agency provides
16 notice to the respondent that an investigation has commenced under this Chapter 14.34.

17 2. The Agency's investigation ends when the Agency issues a final order
18 concluding the matter and any appeals have been exhausted; the time to file any appeal has
19 expired; or the Agency notifies the respondent in writing that the investigation has been
20 otherwise resolved.

21 D. The Agency's investigation shall be conducted in an objective and impartial manner.

22 E. The Director may apply by affidavit or declaration in the form allowed under RCW
23 9A.72.085 to the Hearing Examiner for the issuance of subpoenas requiring a hiring entity to

1 produce the records required by Section 14.34.110, or for the attendance and testimony of
2 witnesses, or for the production of documents required to be retained under Section 14.34.110, or
3 any other document relevant to the issue of whether any independent contractor or group of
4 independent contractors received the information or other benefits required by this Chapter
5 14.34, and/or to whether a hiring entity has violated any provision of this Chapter 14.34. The
6 Hearing Examiner shall conduct the review without hearing as soon as practicable and shall issue
7 subpoenas upon a showing that there is reason to believe that: a violation has occurred, a
8 complaint has been filed with the Agency, that circumstances show that violations are likely to
9 occur within a class of businesses because the workforce contains significant numbers of
10 independent contractors who are vulnerable to violations of this Chapter 14.34, the workforce is
11 unlikely to volunteer information regarding such violations, or the Agency has gathered
12 preliminary information indicating that a violation may have occurred.

13 F. A hiring entity that fails to comply with the terms of any subpoena issued under
14 subsection 14.34.150.E in an investigation by the Agency under this Chapter 14.34 before the
15 issuance of a Director's Order issued pursuant to subsection 14.34.160.C may not use such
16 records in any appeal to challenge the correctness of any determination by the Agency of
17 liability, damages owed, or penalties assessed.

18 G. In addition to other remedies, the Director may refer any subpoena issued under
19 subsection 14.34.150.E to the City Attorney to seek a court order to enforce any subpoena.

20 H. Where the Director has reason to believe that a violation has occurred, the Director
21 may order any appropriate temporary or interim relief to mitigate the violation or maintain the
22 status quo pending completion of a full investigation or hearing, including but not limited to a
23 deposit of funds or bond sufficient to satisfy a good-faith estimate of compensation, interest,

1 damages, and penalties due. A respondent may appeal any such order in accordance with Section
2 14.34.180.

3 **14.34.160 Findings of fact and determination**

4 A. Except when there is an agreed upon settlement, the Director shall issue a written
5 determination with findings of fact resulting from the investigation and statement of whether a
6 violation of this Chapter 14.34 has or has not occurred based on a preponderance of the evidence
7 before the Director.

8 B. If the Director determines that there is no violation of this Chapter 14.34, the Director
9 shall issue a “Determination of No Violation” with notice of an independent contractors or other
10 person’s right to appeal the decision, pursuant to Director rules.

11 C. If the Director determines that a violation of this Chapter 14.34 has occurred, the
12 Director shall issue a “Director's Order” that shall include a notice of violation identifying the
13 violation or violations.

14 1. The Director’s Order shall state with specificity the amounts due under this
15 Chapter 14.34 for each violation, including payment of unpaid compensation, liquidated
16 damages, civil penalties, penalties payable to aggrieved parties, fines, and interest pursuant to
17 Section 14.34.170.

18 2. The Director's Order may specify that civil penalties and fines due to the
19 Agency can be mitigated for respondent's timely payment of remedy due to an aggrieved party
20 pursuant to subsection 14.34.170.A.4.

21 3. The Director’s Order may specify that civil penalties and fines are due to the
22 aggrieved party rather than due to the Agency.

1 4. The Director's Order may direct the respondent to take such corrective action as
2 is necessary to comply with the requirements of this Chapter 14.34, including but not limited to
3 monitored compliance for a reasonable time period.

4 5. The Director's Order shall include notice of the respondent's right to appeal the
5 decision pursuant to Section 14.34.180.

6 **14.34.170 Remedies**

7 A. The payment of unpaid compensation, liquidated damages, civil penalties, penalties
8 payable to aggrieved parties, fines, and interest provided under this Chapter 14.34 is cumulative
9 and is not intended to be exclusive of any other available remedies, penalties, fines, and
10 procedures.

11 1. The amounts of all civil penalties, penalties payable to aggrieved parties, and
12 fines contained in this Section 14.34.170 shall be increased annually to reflect the rate of
13 inflation and calculated to the nearest cent on January 1 of each year thereafter. The Agency
14 shall determine the amounts and file a schedule of such amounts with the City Clerk.

15 2. If a violation is ongoing when the Agency receives a complaint or opens an
16 investigation, the Director may order payment of unpaid compensation plus interest that accrues
17 after receipt of the complaint or after the investigation opens and before the date of the Director's
18 Order.

19 3. Interest shall accrue from the date the unpaid compensation was first due at 12
20 percent annum, or the maximum rate permitted under RCW 19.52.020.

21 4. If there is a remedy due to an aggrieved party, the Director may waive part or
22 all civil penalties and fines due to the Agency based on timely payment of the full remedy due to
23 the aggrieved party.

1 a. The Director may waive the total amount of civil penalties and fines due
2 to the Agency if the Director determines that the respondent paid the full remedy due to the
3 aggrieved party within ten days of service of the Director's Order.

4 b. The Director may waive half the amount of civil penalties and fines due
5 to the Agency if the Director determines that the respondent paid the full remedy due to the
6 aggrieved party within 15 days of service of the Director's Order.

7 c. The Director shall not waive any amount of civil penalties and fines due
8 to the Agency if the Director determines that the respondent has not paid the full remedy due to
9 the aggrieved party after 15 days of service of the Director's Order.

10 5. When determining the amount of liquidated damages, civil penalties, penalties
11 payable to aggrieved parties, and fines due under this Section 14.34.170 for a settlement
12 agreement or Director's Order, including but not limited to the mitigation of civil penalties and
13 fines due to the Agency for timely payment of remedy due to an aggrieved party under
14 subsection 14.34.170.A.4, the Director may consider:

15 a. The total amount of unpaid compensation, liquidated damages,
16 penalties, fines, and interest due;

17 b. The nature and persistence of the violations;

18 c. The extent of the respondent's culpability;

19 d. The substantive or technical nature of the violations;

20 e. The size, revenue, and human resources capacity of the respondent;

21 f. The circumstances of each situation;

22 g. The amount of penalties in similar situations; and

23 h. Other factors pursuant to Director rules.

1 B. A respondent found to be in violation of this Chapter 14.34 for retaliation under
2 Section 14.34.120 shall be subject to any appropriate relief at law or equity including, but not
3 limited to reinstatement of the aggrieved party, front pay in lieu of reinstatement with full
4 payment of unpaid compensation plus interest in favor of the aggrieved party under the terms of
5 this Chapter 14.34, and liquidated damages in an additional amount of up to twice the unpaid
6 compensation. The Director also shall order the imposition of a penalty payable to the aggrieved
7 party of up to \$5,565.10.

8 C. The Director is authorized to assess fines and may specify that fines are due to the
9 aggrieved party rather than due to the Agency. The Director is authorized to assess fines as
10 follows:

Violation	Fine
Failure to provide written pre-contract disclosure under Section 14.34.050	Up to \$556.30 per aggrieved party
Failure to provide written payment disclosure under Section 14.34.060	Up to \$556.30 per aggrieved party
Failure to provide written notice of rights under Section 14.34.100	Up to \$556.30 per aggrieved party
Failure to retain hiring entity records for three years under subsections 14.34.110.A and 14.34.110.B	Up to \$556.30 per missing record
Failure to comply with prohibitions against retaliation for exercising rights protected under Section 14.34.120	Up to \$1,112.60 per aggrieved party
Failure to provide notice of investigation to independent contractors under subsection 14.34.150.B.2	Up to \$556.30 per aggrieved party
Failure to post or distribute public notice of failure to comply with final order under subsection 14.34.210.A.1	Up to \$556.30

11
12 For each independent contractor hired by the hiring entity, the maximum amount that may be
13 imposed in fines in a one-year period for each type of violation listed above is \$5,565.10. For

1 each hiring entity, if a fine for retaliation is issued, the maximum amount that may be imposed in
2 a one-year period is \$22,259.36.

3 D. A respondent who willfully hinders, prevents, impedes, or interferes with the Director
4 or Hearing Examiner in the performance of their duties under this Chapter 14.34 shall be subject
5 to a civil penalty of not less than \$1,112.60 and not more than \$5,565.10.

6 E. In addition to the unpaid compensation, penalties, fines, liquidated damages, and
7 interest, the Agency may assess against the respondent in favor of the City the reasonable costs
8 incurred in enforcing this Chapter 14.34, including but not limited to reasonable attorneys' fees.

9 F. A respondent that is the subject of a settlement agreement stipulating that a violation
10 has occurred shall count for debarment, or a final order for which all appeal rights have been
11 exhausted, shall not be permitted to bid, or have a bid considered, on any City contract until such
12 amounts due under the final order have been paid in full to the Director. If the respondent is the
13 subject of a final order two times or more within a five-year period, the hiring entity shall not be
14 allowed to bid on any City contract for two years. This subsection 14.34.170.F shall be construed
15 to provide grounds for debarment separate from, and in addition to, those contained in Chapter
16 20.70 and shall not be governed by that chapter provided that nothing in this subsection
17 14.34.170.F shall be construed to limit the application of Seattle Municipal Code Chapter 20.70.
18 The Director shall notify the Director of Finance and Administrative Services of all respondents
19 subject to debarment under this subsection 14.34.170.F.

20 **14.34.180 Appeal period and failure to respond**

21 A. An independent contractor or other person who claims an injury as a result of an
22 alleged violation of this Chapter 14.34 may appeal the Determination of No Violation, pursuant
23 to Director rules.

1 B. A respondent may appeal the Director's Order, including all remedies issued pursuant
2 to Section 14.34.170, by requesting a contested hearing before the Hearing Examiner in writing
3 within 15 days of service of the Director's Order. If a respondent fails to appeal the Director's
4 Order within 15 days of service, the Director's Order shall be final. If the last day of the appeal
5 period so computed is a Saturday, Sunday, or federal or City holiday, the appeal period shall run
6 until 5 p.m. on the next business day.

7 **14.34.190 Appeal procedure and failure to appear**

8 A. Contested hearings shall be conducted pursuant to the procedures for hearing
9 contested cases contained in Section 3.02.090 and the rules adopted by the Hearing Examiner for
10 hearing contested cases. The hearing shall be conducted de novo and the Director shall have the
11 burden of proving by a preponderance of the evidence that the violation or violations occurred.
12 Upon establishing such proof, the remedies and penalties imposed by the Director shall be
13 upheld unless it is shown that the Director abused discretion. Failure to appear for a contested
14 hearing shall result in an order being entered finding that the respondent committed the violation
15 stated in the Director's Order. For good cause shown and upon terms the Hearing Examiner
16 deems just, the Hearing Examiner may set aside an order entered upon a failure to appear.

17 B. In all contested cases, the Hearing Examiner shall enter an order affirming, modifying
18 or reversing the Director's Order, consistent with Ordinance 126068.

19 **14.34.200 Appeal from Hearing Examiner order**

20 A. The respondent may obtain judicial review of the decision of the Hearing Examiner by
21 applying for a Writ of Review in the King County Superior Court within 30 days from the date
22 of the decision in accordance with the procedure set forth in chapter 7.16 RCW, other applicable
23 law, and court rules.

1 B. The decision of the Hearing Examiner shall be final and conclusive unless review is
2 sought in compliance with this Section 14.34.200.

3 **14.34.210 Failure to comply with final order**

4 A. If a respondent fails to comply within 30 days of service of any settlement agreement
5 with the Agency, or with any final order issued by the Director or the Hearing Examiner for which
6 all appeal rights have been exhausted, the Agency may pursue, but is not limited to, the following
7 measures to secure compliance:

8 1. The Director may require the respondent to post or distribute public notice of
9 the respondent's failure to comply in a form and manner determined by the Agency.

10 2. The Director may refer the matter to a collection agency. The cost to the City
11 for the collection services will be assessed as costs, at the rate agreed to between the City and the
12 collection agency, and added to the amounts due.

13 3. The Director may refer the matter to the City Attorney for the filing of a civil
14 action in King County Superior Court, the Seattle Municipal Court, or any other court of
15 competent jurisdiction to enforce such order or to collect amounts due. In the alternative, the
16 Director may seek to enforce a Director's Order or a final order of the Hearing Examiner under
17 Section 14.34.190.

18 4. The Director may request that the City's Department of Finance and
19 Administrative Services deny, suspend, refuse to renew, or revoke any business license held or
20 requested by the hiring entity or person until such time as the hiring entity complies with the
21 remedy as defined in the settlement agreement or final order. The City's Department of Finance
22 and Administrative Services shall have the authority to deny, refuse to renew, or revoke any
23 business license in accordance with this subsection 14.34.210.A.4.

1 B. No respondent that is the subject of a final order issued under this Chapter 14.34 shall
2 quit business, sell out, exchange, convey, or otherwise dispose of the respondent's business or
3 stock of goods without first notifying the Agency and without first notifying the respondent's
4 successor of the amounts owed under the final order at least three business days before such
5 transaction. At the time the respondent quits business, or sells out, exchanges, or otherwise
6 disposes of the respondent's business or stock of goods, the full amount of the remedy, as defined
7 in a final order issued by the Director or the Hearing Examiner, shall become immediately due
8 and payable. If the amount due under the final order is not paid by respondent within ten days
9 from the date of such sale, exchange, conveyance, or disposal, the successor shall become liable
10 for the payment of the amount due, provided that the successor has actual knowledge of the order
11 and the amounts due or has prompt, reasonable, and effective means of accessing and verifying
12 the fact and amount of the order and the amounts due. The successor shall withhold from the
13 purchase price a sum sufficient to pay the amount of the full remedy. When the successor makes
14 such payment, that payment shall be deemed a payment upon the purchase price in the amount
15 paid, and if such payment is greater in amount than the purchase price the amount of the
16 difference shall become a debt due such successor from the hiring entity.

17 **14.34.220 Debt owed The City of Seattle**

18 A. All monetary amounts due under the Director's Order shall be a debt owed to the City
19 and may be collected in the same manner as any other debt in like amount, which remedy shall
20 be in addition to all other existing remedies, provided that amounts collected by the City for
21 unpaid compensation, liquidated damages, penalties payable to aggrieved parties, or front pay
22 shall be held in trust by the City for the aggrieved party and, once collected by the City, shall be
23 paid by the City to the aggrieved party.

1 B. If a respondent fails to appeal a Director's Order to the Hearing Examiner within the
2 time period set forth in subsection 14.34.180.B, the Director's Order shall be final, and the
3 Director may petition the Seattle Municipal Court, or any court of competent jurisdiction, to
4 enforce the Director's Order by entering judgment in favor of the City finding that the respondent
5 has failed to exhaust its administrative remedies and that all amounts and relief contained in the
6 order are due. The Director's Order shall constitute prima facie evidence that a violation occurred
7 and shall be admissible without further evidentiary foundation. Any certifications or declarations
8 authorized under RCW 9A.72.085 containing evidence that the respondent has failed to comply
9 with the order or any parts thereof, and is therefore in default, or that the respondent has failed to
10 appeal the Director's Order to the Hearing Examiner within the time period set forth in
11 subsection 14.34.180.B, and therefore has failed to exhaust the respondent's administrative
12 remedies, shall also be admissible without further evidentiary foundation.

13 C. If a respondent fails to obtain judicial review of an order of the Hearing Examiner
14 within the time period set forth in subsection 14.34.200.A, the order of the Hearing Examiner
15 shall be final, and the Director may petition the Seattle Municipal Court to enforce the Director's
16 Order by entering judgment in favor of the City for all amounts and relief due under the order of
17 the Hearing Examiner. The order of the Hearing Examiner shall constitute conclusive evidence
18 that the violations contained therein occurred and shall be admissible without further evidentiary
19 foundation. Any certifications or declarations authorized under RCW 9A.72.085 containing
20 evidence that the respondent has failed to comply with the order or any parts thereof, and is
21 therefore in default, or that the respondent has failed to avail itself of judicial review in
22 accordance with subsection 14.34.200.A, shall also be admissible without further evidentiary
23 foundation.

1 D. In considering matters brought under subsections 14.34.220.B and 14.34.220.C, the
2 Seattle Municipal Court may include within its judgment all terms, conditions, and remedies
3 contained in the Director's Order or the order of the Hearing Examiner, whichever is applicable,
4 that are consistent with the provisions of this Chapter 14.34.

5 **14.34.230 Private right of action**

6 A. Any person or class of persons that suffers an injury as a result of a violation of this
7 Chapter 14.34, or is the subject of prohibited retaliation under Section 14.34.120, may bring a
8 civil action in a court of competent jurisdiction against the hiring entity or other person violating
9 this Chapter 14.34 and, upon prevailing, may be awarded reasonable attorney fees and costs and
10 such legal or equitable relief as may be appropriate to remedy the violation including, without
11 limitation: the payment of any unpaid compensation plus interest due to the person and
12 liquidated damages in an additional amount of up to twice the unpaid compensation; and a
13 penalty payable to any aggrieved party of up to \$5,565.10 if the aggrieved party was subject to
14 prohibited retaliation. Interest shall accrue from the date the unpaid compensation was first due
15 at 12 percent per annum, or the maximum rate permitted under RCW 19.52.020.

16 B. For purposes of this Section 14.34.230, “person” includes any entity a member of
17 which has suffered an injury or retaliation, or any other individual or entity acting on behalf of an
18 aggrieved party that has suffered an injury or retaliation.

19 C. For purposes of determining membership within a class of persons entitled to bring an
20 action under this Section 14.34.230, two or more independent contractors are similarly situated if
21 they:

22 1. Are or were hired for the same hiring entity or hiring entities, whether
23 concurrently or otherwise, at some point during the applicable statute of limitations period,

- 1 2. Allege one or more violations that raise similar questions as to liability, and
- 2 3. Seek similar forms of relief.

3 D. For purposes of subsection 14.34.230.C, independent contractors shall not be
4 considered dissimilar solely because the independent contractors’:

- 5 1. Claims seek damages that differ in amount, or
- 6 2. Job titles or other means of classifying independent contractors differ in ways
7 that are unrelated to their claims.

8 E. An order issued by the court may include a requirement for a hiring entity to submit a
9 compliance report to the court and to the Agency.

10 **14.34.233 Waiver**

11 Any waiver by an individual of any provisions of this Chapter 14.34 shall be deemed contrary to
12 public policy and shall be void and unenforceable.

13 **14.34.235 Encouragement of more generous policies**

14 A. Nothing in this Chapter 14.34 shall be construed to discourage or prohibit a hiring
15 entity from the adoption or retention of disclosure policies more generous than the one required
16 herein.

17 B. Nothing in this Chapter 14.34 shall be construed as diminishing the obligation of the
18 hiring entity to comply with any contract, or other agreement providing more generous
19 disclosure policies to an independent contractor than required herein.

20 **14.34.240 Other legal requirements; effect on other laws**

21 A. The provisions of this Chapter 14.34 supplement, and do not diminish or replace any
22 other basis of liability or requirement established by statute or common law. The provisions of
23 this Chapter 14.34 shall not be construed to preempt, limit, or otherwise affect the applicability

1 of any other law, regulation, requirement, policy, or standard for disclosure requirements, or that
2 extends other protections to independent contractors; and nothing in this Chapter 14.34 shall be
3 interpreted or applied so as to create any power or duty in conflict with federal or state law. Nor
4 shall this Chapter 14.34 be construed to preclude any person aggrieved from seeking judicial
5 review of any final administrative decision or order made under this Chapter 14.34 affecting
6 such person. Nothing in this Section 14.34.240 shall be construed as restricting an independent
7 contractor's right to pursue any other remedies at law or equity for violation of the contractor's
8 rights.

9 B. A hiring entity's failure to comply with the provisions of this Chapter 14.34 shall not
10 render any contract between the hiring entity and an independent contractor void or voidable.

11 C. No provision of this Chapter 14.34 shall be construed as providing a determination
12 about the legal classification of any individual as an employee or independent contractor.

13 **14.34.250 Severability**

14 The provisions of this Chapter 14.34 are declared to be separate and severable. If any clause,
15 sentence, paragraph, subdivision, section, subsection, or portion of this Chapter 14.34, or the
16 application thereof to any hiring entity, independent contractor, person, or circumstance, is held
17 to be invalid, it shall not affect the validity of the remainder of this Chapter 14.34, or the validity
18 of its application to other persons or circumstances.

19 Section 2. Section 3.02.125 of the Seattle Municipal Code, last amended by Ordinance
20 126283, is amended as follows:

21 **3.02.125 Hearing Examiner filing fees**

22 A. The filing fee for a case before the City Hearing Examiner is \$85, with the following
23 exceptions:

Basis for Case	Fee in dollars
* * *	
Hazard Pay for Grocery Employees Ordinance (Ordinance 126274)	No fee
<u>Independent Contractor Protections Ordinance (Chapter 14.34)</u>	<u>No fee</u>
Land Use Code Citation (Chapter 23.91)	No fee
* * *	

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Section 3. Section 3.15.000 of the Seattle Municipal Code, last amended by Ordinance 126189, is amended as follows:

3.15.000 Office of Labor Standards created – Functions

There is created within the Executive Department an Office of Labor Standards, under the direction of the Mayor. The mission of the Office of Labor Standards is to advance labor standards through thoughtful community and business engagement, strategic enforcement and innovative policy development, with a commitment to race and social justice. The Office of Labor Standards seeks to promote greater economic opportunity and further the health, safety, and welfare of ~~((employees))~~ workers; support employers and other hiring entities in their implementation of labor standards requirements; and end barriers to workplace equity for women, communities of color, immigrants and refugees, and other vulnerable workers.

The functions of the Office of Labor Standards are as follows:

- A. Promoting labor standards through outreach, education, technical assistance, and training ~~((for employees and employers))~~;
- B. Collecting and analyzing data on labor standards enforcement;
- C. Partnering with community, businesses, and workers for stakeholder input and collaboration;
- D. Developing innovative labor standards policy;

1 E. Administering and enforcing City of Seattle ordinances relating to paid sick and safe
2 time (Chapter 14.16), use of criminal history in employment decisions (Chapter 14.17),
3 minimum wage and minimum compensation (Chapter 14.19), wage and tip compensation
4 requirements (Chapter 14.20), secure scheduling (Chapter 14.22), domestic workers (Chapter
5 14.23), hotel employees safety protections (Chapter 14.26), protecting hotel employees from
6 injury (Chapter 14.27), improving access to medical care for hotel employees (Chapter 14.28),
7 hotel employees job retention (Chapter 14.29), commuter benefits (Chapter 14.30),
8 transportation network company driver deactivation protections (Chapter 14.32), transportation
9 network company driver minimum compensation (Chapter 14.33), independent contractor
10 protections (Chapter 14.34), and other labor standards ordinances that may be enacted in the
11 future.

12 Section 4. Subsection 6.208.020.A of the Seattle Municipal Code, which section was last
13 amended by Ordinance 126274, is amended as follows:

14 **6.208.020 Denial, revocation of, or refusal to renew business license**

15 A. In addition to any other powers and authority provided under this Title 6, the Director,
16 or the Director's designee, has the power and authority to deny, revoke, or refuse to renew any
17 business license issued under the provisions of this Chapter 6.208. The Director, or the Director's
18 designee, shall notify such applicant or licensee in writing by mail of the denial, revocation of, or
19 refusal to renew the license and on what grounds such a decision was based. The Director may
20 deny, revoke, or refuse to renew any license issued under this Chapter 6.208 on one or more of
21 the following grounds:

- 22 1. The license was procured by fraud or false representation of fact.
- 23 2. The licensee has failed to comply with any provisions of this Chapter 6.208.

1 3. The licensee has failed to comply with any provisions of Chapters 5.32, 5.35,
2 5.38, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, or 5.52.

3 4. The licensee is in default in any payment of any license fee or tax under Title 5
4 or Title 6.

5 5. The property at which the business is located has been determined by a court to
6 be a chronic nuisance property as provided in Chapter 10.09.

7 6. The applicant or licensee has been convicted of theft under subsection
8 12A.08.060.A.4 within the last ten years.

9 7. The applicant or licensee is a person subject within the last ten years to a court
10 order entering final judgment for violations of chapters 49.46, 49.48, or 49.52 RCW, or 29
11 U.S.C. 206 or 29 U.S.C. 207, and the judgment was not satisfied within 30 days of the later of
12 either:

13 a. The expiration of the time for filing an appeal from the final judgment
14 order under the court rules in effect at the time of the final judgment order; or

15 b. If a timely appeal is made, the date of the final resolution of that appeal
16 and any subsequent appeals resulting in final judicial affirmation of the findings of violations of
17 chapters 49.46, 49.48, or 49.52 RCW, or 29 U.S.C. 206 or 29 U.S.C. 207.

18 8. The applicant or licensee is a person subject within the last ten years to a final
19 and binding citation and notice of assessment from the Washington Department of Labor and
20 Industries for violations of chapters 49.46, 49.48, or 49.52 RCW, and the citation amount and
21 penalties assessed therewith were not satisfied within 30 days of the date the citation became
22 final and binding.

1 9. Pursuant to subsections 14.16.100.A.4, 14.17.075.A, 14.19.100.A.4,
2 14.20.080.A.4, 14.22.115.A.4, 14.23.115.A.4, 14.26.210.A.4, 14.27.210.A.4, 14.28.210.A.4,
3 14.30.180.A.4, (~~and~~) 14.33.210.A.4, and 14.34.210.A.4, subsection 100.240.A.4 of Ordinance
4 126091, subsection 100.240.A.4 of Ordinance 126094, and subsection 100.240.A.4 of Ordinance
5 126274, the applicant or licensee has failed to comply, within 30 days of service of any
6 settlement agreement, with any final order issued by the Director of the Office of Labor
7 Standards, or any final order issued by the Hearing Examiner under Chapters 14.16, 14.17,
8 14.19, 14.20, 14.22, 14.23, 14.26, 14.27, 14.28, 14.29, 14.30, (~~and~~) 14.33, and 14.34,
9 Ordinance 126091, Ordinance 126094, and Ordinance 126274 for which all appeal rights have
10 been exhausted, and the Director of the Office of Labor Standards has requested that the Director
11 deny, refuse to renew, or revoke any business license held or requested by the applicant or
12 licensee. The denial, refusal to renew, or revocation shall remain in effect until such time as the
13 violation(s) under Chapters 14.16, 14.17, 14.19, 14.20, 14.22, 14.23, 14.26, 14.27, 14.28, 14.29,
14 14.30, (~~and~~) 14.33, and 14.34, Ordinance 126091, Ordinance 126094, and Ordinance 126274
15 are remedied.

16 10. The business is one that requires an additional license under this Title 6 and
17 the business does not hold that license.

18 11. The business has been determined under a separate enforcement process to be
19 operating in violation of law.

20 * * *

1 Section 5. Section 1 of this ordinance shall take effect and be in force on [DATE].

2 Section 6. This ordinance shall take effect and be in force 30 days after its approval by
3 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
4 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

5 Passed by the City Council the _____ day of _____, 2021,
6 and signed by me in open session in authentication of its passage this ____ day of
7 _____, 2021.

8 _____
9 President _____ of the City Council

10 Approved / returned unsigned / vetoed this _____ day of _____, 2021.

11 _____
12 Jenny A. Durkan, Mayor

13 Filed by me this _____ day of _____, 2021.

14 _____
15 Monica Martinez Simmons, City Clerk

16 (Seal)

April 16, 2021

MEMORANDUM

To: Finance and Housing Committee
From: Karina Bull, Analyst
Subject: Draft legislation for independent contractor protections

On April 20, 2021, the Finance and Housing Committee will discuss draft legislation, sponsored by Councilmember Herbold, that would provide basic protections for workers hired as independent contractors. This memo provides an overview of the legislation and identifies policy issues for the Councilmembers' consideration.

Background

In February 2019, the City Council (Council) passed [Resolution 31863](#) to address the problem of employers improperly misclassifying employees as independent contractors. The resolution requested the Office of Labor Standards (OLS) and the Labor Standards Advisory Commission (LSAC) to work on policy, outreach and enforcement proposals to address this problem.

In May 2020, the LSAC issued policy recommendations that would require hiring entities to provide all independent contractors (not just those who are at risk of being misclassified) with the information necessary to understand (1) the terms of engagement between parties, and (2) what work is covered in each payment. The LSAC described these recommendations as the first steps toward creating more transparency and access to information for all workers hired as independent contractors and noted that there was support for the recommendations from business, community, and worker advocates on the Commission. On April 6, 2021, the LSAC presented these recommendations to the Finance and Housing Committee and provided several updates, such as recommendations for establishing an income cap for covered independent contractors and unique enforcement models.

Currently, Seattle has seven laws extending employee protections to workers hired as independent contractors.¹ While the Transportation Network Company (TNC) Minimum Compensation Ordinance, Paid Sick and Safe Time for Gig Workers Ordinance, and Premium Pay for Gig Workers Ordinance require some of the information recommended by the LSAC, there are no comprehensive transparency requirements for all independent contractors working in Seattle.

¹ Seattle ordinances covering independent contractors include: (1) Fair Employment Practices Ordinance, [SMC 14.04](#) (covering domestic workers); (2) Fair Contracting Ordinance, [SMC 14.08](#); (3) Domestic Workers Ordinance, [SMC 14.23](#); (4) TNC Driver Deactivation Rights Ordinance, [SMC 14.32](#); (5) TNC Driver Minimum Compensation Ordinance, [SMC 14.33](#); (6) Paid Sick and Safe Time for Gig Workers, [Ordinance 126091](#); and (7) Premium Pay for Gig Workers, [Ordinance 126094](#).

Summary

The legislation would incorporate the LSAC's recommendations as follows:

Coverage

Consistent with LSAC's recommendation, the legislation would cover independent contractors working for two types of hiring entities: (1) hiring entities that retain both employees and independent contractors, or (2) hiring entities that retain five or more independent contractors on a consistent basis, but do not retain any employees.

Labor standards requirements

The legislation would establish new labor standards requirements for independent contractors by requiring hiring entities to provide the following written notices:

- 1. Pre-contract disclosures** – Prior to an independent contractor beginning work, a hiring entity would provide information on the proposed terms and conditions of work. Consistent with Wage Theft Ordinance requirements for employers to provide employees with notice of employment information, hiring entities would be required to provide the pre-contract disclosure in English and the independent contractor's primary language. The legislation would also require OLS to create model notices of the pre-contract disclosure in English, Spanish and other languages.
- 2. Payment disclosures** – Each time a hiring entity compensates an independent contractor, the hiring entity would provide a payment disclosure with itemized pay information.

The legislation would also require hiring entities to provide independent contractors with a notice of rights in English and the independent contractor's primary language, retain records showing compliance for three years, and comply with anti-retaliation prohibitions.

Enforcement

The Office of Labor Standards (OLS) would implement this legislation. Upon a finding of violation, OLS could require hiring entities to (1) provide the pre-contract and payment disclosures and (2) pay a fine up to \$556.30. The OLS Director would have discretion to make this fine payable directly to the aggrieved party. Aggrieved parties would have a private right of action for violations and could go to court to obtain the pre-contract and payment disclosure notices.

Issue Identification

1. Coverage of independent contractors

The legislation would cover all independent contractors. Council may want to consider adjusting coverage requirements to (a) exclude workers who work in fields already covered by policies that govern their work and/or payment, or (b) exclude workers who are less likely to experience barriers to information about their work and pay.

For example, the legislation could exclude sales representatives, attorneys, and licensed medical professionals because these professions are covered by state law, rules of professional conduct, or ethics policies that govern their work and/or payment.² New York City and Minneapolis have laws requiring written contracts and timely payment for independent contractors (referred to as “freelancers”) that exempt these workers from coverage.³

During the Finance and Housing Committee meeting on April 6, 2021, the LSAC recommended narrowing coverage to exclude workers who are highly compensated (e.g., lawyers, accountants, freelance designers) and suggested an income cap of \$75,000 per year. It is not clear how hiring entities would discern the overall annual income of independent contractors since some independent contractors may work for more than one hiring entity and/or perform work on an irregular basis for a hiring entity. Analysis of this recommendation would benefit from more information on reasons for excluding high income earners and the basis for establishing an income cap. If there are concerns about OLS’s enforcement capacity, capping worker income might not be necessary if OLS can use existing procedures for prioritizing investigations and workers have a private right of action as an alternative enforcement method. Currently, about half of Seattle’s labor standards restrict coverage to employees covered by minimum wage requirements; no labor standards have an income cap for coverage.

Options

- A. Exclude sales representatives, attorneys, and licensed medical professionals from coverage.
- B. Exclude other types of licensed professionals from coverage.
- C. Exclude certain independent contractors from coverage by imposing an income cap, such as \$75,000 per year.
- D. Make no changes to the legislation.

² Sales representative contract and payment requirements are covered by state law, [RCW 49.48.160](#). Attorneys and licensed medical professions have specific codes of ethics/rules of professional conduct that govern their practice, [Washington Courts Rules of Professional Conduct \(RPC\) 1.8](#) and [Washington Medical Commission Policies and Rules](#).

³ See the New York City Freelance Isn’t Free Act ([Local Law 140](#)) and the Minneapolis Freelance Workers Protections Ordinance ([Title 2, Chapter 40, Article VI](#)).

2. Coverage of hiring entities

The legislation would cover two types of hiring entities: (1) hiring entities that retain both employees and independent contractors and (2) hiring entities that hire five or more independent contractors on a consistent basis, but do not retain any employees.

Council may want to consider alternatives for defining hiring entity coverage. Independent contractors with limited information about a hiring entity's business structure and hiring practices could have difficulty applying these definitions. For example, an independent contractor might not know whether a small business has any employees, especially if communications are conducted online or by phone, or if the business does not have a public-facing establishment. Likewise, an independent contractor might not know whether a non-commercial entity (e.g., private party or household) retains an employee, such as a nanny, or consistently hires five or more independent contractors. Due to fears of retaliation, independent contractors could be reluctant to ask potential hiring entities the questions necessary to determine coverage. If workers are unsure about coverage, they may not assert their rights or report violations.

Also, if OLS investigates an alleged violation and cannot easily access evidence to determine the number of independent contractors consistently hired by a hiring entity, the office might need to conduct extensive research and fact gathering.

Options

- A. Cover hiring entities subject to restrictions on value of services (see below).
- B. Cover commercial hiring entities. Coverage could be determined by searching business license databases or other publicly available records.
- C. Increase the threshold number of independent contractors hired on a consistent basis. Coverage could include larger, recognizable businesses and align with threshold employee requirements in other labor standards (e.g., 20, 50, 250 or 500 independent contractors worldwide).
- D. Make no changes to the legislation.

3. Coverage of domestic workers

The two types of hiring entities covered by this legislation would likely exclude many private parties who hire domestic workers due to requirements to also hire an employee or multiple independent contractors on a consistent basis. However, many domestic workers are independent contractors and experience barriers to information about their work and pay. Council may want to consider adding a third type of hiring entity that includes those hiring a domestic worker regardless of whether they retain employees or other independent contractors.

Currently, the right to a notice of employment information and itemized pay statement only extends to domestic workers hired as employees. The Domestic Workers Ordinance requires OLS to create a model notice of rights and pay information in English, Spanish, and

other languages, but it does not require hiring entities to provide workers with this information.

On April 8, 2021, the Domestic Workers Standards Board (DWSB) issued recommendations to the Council and Mayor to amend the Domestic Workers Ordinance to require that hiring entities provide domestic workers with information about their rights and the conditions of their work. The DWSB recommended that this policy be considered in conjunction with Council's consideration of pay transparency for independent contractors.

Options

- A. Add a third category of hiring entity that includes entities hiring a domestic worker.
- B. Make no changes to the legislation.

4. Value of services

The legislation would include all work performed by independent contractors for covered hiring entities. An alternative approach could limit coverage to independent contractors providing services for a specific value, or reasonably expected to be a specific value over a certain period (e.g., calendar year). Examples of this approach could limit coverage to services where the proposed compensation is \$600 or more to align with IRS requirements for businesses to report payments to non-employees of \$600 or more; or proposed compensation of \$400 or more to align with IRS requirements for independent contractors to file an income tax return if net earnings were \$400 or more.

Imposing a threshold value of services would prevent coverage of smaller service agreements and could support OLS's enforcement because hiring entities or independent contractors would be required to keep records independent of this legislation. If imposing this restriction would prevent coverage of many domestic workers, there could be an exception covering all contracts for domestic services regardless of value.

Options

- A. Limit coverage to services where the proposed compensation is \$600 or is reasonably expected to be \$600 over a certain period (e.g., calendar year).
- B. Limit coverage to services where the proposed compensation is \$400 or is reasonably expected to be \$400 over a certain period (e.g., calendar year).
- C. Make no changes to the legislation.

5. Additional protections for gig workers

During the Finance and Housing Committee meeting on April 6, 2021, there was public comment and discussion of a labor standards campaign among gig workers hired by platform companies (i.e., workers hired as independent contractors by companies providing work through online-enabled application or platforms) to secure rights to minimum compensation, flexible work, and transparent job and pay information; and to establish a

gig workers standards board. Council may want to consider whether policies from this campaign could be included in this legislation.

Options

- A. Include expanded protections for gig workers in this legislation.
- B. Include a non-codified section that outlines a timeline for addressing minimum compensation.
- C. Make no changes to the legislation.

6. Enforcement

The legislation would include enforcement procedures and remedies typical of other labor standards. OLS would be authorized to issue administrative rules, conduct complaint-based and directed investigations of individual and company-wide claims, and impose remedies (e.g., fines payable to the City or the aggrieved party).

During the Finance and Housing Committee on April 6, 2021, the LSAC recommended consideration of unique enforcement models, such as the use of citations (akin to a speeding ticket) to permit limited investigations. The LSAC also recommended creating evidentiary presumptions for court claims, such as a rebuttable presumption in favor of the independent contractor's claim for payment if the hiring entity fails to provide a pre-contract disclosure or a rebuttable presumption of employment if a hiring entity fails to provide a pre-contract disclosure.

The legislation would likely permit OLS to develop policies and procedures for streamlining investigations without additional language. For example, OLS has used advisory letters and pre-investigation settlements as ways to quickly resolve complaints for existing labor standards. However, the legislation could establish specific methods for enforcement, such as citation process and/or court referral programs.

For the evidentiary presumptions, more research is needed to address the interplay of existing laws and court precedent with these types of remedies.

Options

- A. Specify enforcement methods, such as a citation process and/or court referral program.
- B. Specify evidentiary presumptions as remedies for court claims, pending additional research.
- C. Make no changes to the legislation; OLS could develop internal policies and procedures for enforcement.

7. Effective Date

The legislation has a blank placeholder for the effective date of the new Chapter 14.34. There is no typical amount of time between Council's passage of labor standards and implementation. Previous labor standards (except for emergency ordinances) have had lead times from three months to one year or longer. When establishing the effective date, Council may want to consider the legislation's requirements for OLS to create model notices and translations. OLS would need time to prepare for implementation and conduct outreach to workers and hiring entities.

Options

- A. Specify an effective date for Chapter 14.34 (e.g., September 1, January 1, March 1, July 1).
- B. Do not specify an effective date. Chapter 14.34 would go into effect 30 days after the Mayor signs the legislation.

Next steps

The Finance and Housing Committee is scheduled to discuss the draft legislation at its meeting on April 20, 2021. Please contact me if you have questions.

Attachment

1. Independent Contractor Protections – Policy Options

cc: Dan Eder, Interim Central Staff Director
Aly Pennucci, Supervising Analyst

Attachment 1. Independent Contractor Protections – Policy Options

Topic	Issue Identification	Options
<p>1. Coverage of independent contractors</p>	<p>The legislation would cover all independent contractors. The City Council (Council) may want to consider adjusting coverage requirements to (a) exclude workers who work in fields already covered by policies that govern their work and/or payment, or (b) exclude workers who are less likely to experience barriers to information about their work and pay.</p> <p>For example, the legislation could exclude sales representatives, attorneys, and licensed medical professionals because these professions are covered by state law, rules of professional conduct, or ethics policies that govern their work and/or payment.¹ New York City and Minneapolis have laws requiring written contracts and timely payment for independent contractors (referred to as “freelancers”) that exempt these workers from coverage.²</p> <p>During the Finance and Housing Committee meeting on April 6, 2021, the Labor Standards Advisory Commission (LSAC) recommended narrowing coverage to exclude workers who are highly compensated (<u>e.g.</u>, lawyers, accountants, freelance designers) and suggested an income cap of \$75,000 per year. It is not clear how hiring entities would discern the overall annual income of independent contractors since some independent contractors may work for more than one hiring entity and/or perform work on an irregular basis for a hiring entity. Analysis of this recommendation would benefit from more information on reasons for excluding high income earners and the basis for establishing an income cap. If there are concerns about the Office of Labor Standard’s (OLS’s) enforcement capacity, capping worker income might not be necessary if OLS can use existing procedures for prioritizing investigations and workers have a private right of action as an alternative enforcement method. Currently, about half of Seattle’s labor standards restrict coverage to employees covered by minimum wage requirements; no labor standards have an income cap for coverage.</p>	<p>A. Exclude sales representatives, attorneys, and licensed medical professionals from coverage.</p> <p>B. Exclude other types of licensed professionals from coverage.</p> <p>C. Exclude independent contractors from coverage by imposing an income cap, such as \$75,000 per year.</p> <p>D. Make no changes to the legislation.</p>

¹ Sales representative contract and payment requirements are covered by state law, [RCW 49.48.160](#). Attorneys and licensed medical professions have specific codes of ethics/rules of professional conduct that govern their practice, [Washington Courts Rules of Professional Conduct \(RPC\) 1.8](#) and [Washington Medical Commission Policies and Rules](#).

² See New York City’s Freelance Isn’t Free Act ([Local Law 140](#)) and Minneapolis’s Freelance Workers Protections Ordinance ([Title 2, Chapter 40, Article VI](#))

Attachment 1. Independent Contractor Protections – Policy Options

Topic	Issue Identification	Options
<p>2. Coverage of hiring entities</p>	<p>The legislation would cover two types of hiring entities: (1) hiring entities that retain both employees and independent contractors and (2) hiring entities that hire five or more independent contractors on a consistent basis, but do not retain any employees.</p> <p>Council may want to consider alternatives for defining hiring entity coverage. Independent contractors with limited information about a hiring entity’s business structure and hiring practices could have difficulty applying these definitions. For example, an independent contractor might not know whether a small business has any employees, especially if communications are conducted online or by phone, or if the business does not have a public-facing establishment. Likewise, an independent contractor might not know whether a non-commercial entity (<u>e.g.</u>, private party or household) retains an employee, such as a nanny, or consistently hires five or more independent contractors. Due to fears of retaliation, independent contractors could be reluctant to ask potential hiring entities the questions necessary to determine coverage. If workers are unsure about coverage, they may not assert their rights or report violations.</p> <p>Also, if OLS investigates an alleged violation and cannot easily access evidence to determine the number of independent contractors consistently hired by a hiring entity, the office might need to conduct extensive research and fact gathering.</p>	<p>A. Cover hiring entities subject to restrictions on value of services (see below).</p> <p>B. Cover commercial hiring entities. Coverage could be determined by searching business license databases or other publicly available records.</p> <p>C. Increase the threshold number of independent contractors hired on a consistent basis. Coverage could include larger, recognizable businesses and align with threshold employee requirements in other labor standards (<u>e.g.</u>, 20, 50, 250 or 500 independent contractors worldwide).</p> <p>D. Make no changes to the legislation.</p>
<p>3. Coverage of domestic workers</p>	<p>The two types of hiring entities covered by this legislation would likely exclude many private parties who hire domestic workers due to requirements to also hire an employee or multiple independent contractors on a consistent basis. However, many domestic workers are independent contractors and experience barriers to information about their work and pay. Council may want to consider adding a third type of hiring entity that includes those hiring a domestic worker regardless of whether they retain employees or other independent contractors.</p> <p>Currently, the right to a notice of employment information and itemized pay statement only extends to domestic workers hired as employees. The Domestic Workers Ordinance requires OLS to create a model notice of rights and pay information in English, Spanish, and other languages, but it does not require hiring entities to provide workers with this information.</p>	<p>A. Add a third category of hiring entity that includes entities hiring one or more domestic workers.</p> <p>B. Make no changes to the legislation.</p>

Attachment 1. Independent Contractor Protections – Policy Options

Topic	Issue Identification	Options
	<p>On April 8, 2021, the Domestic Workers Standards Board (DWSB) issued recommendations to the Council and Mayor to amend the Domestic Workers Ordinance to require that hiring entities provide domestic workers with information about their rights and the conditions of their work. The DWSB recommended that this policy be considered in conjunction with Council’s consideration of pay transparency for independent contractors.</p>	
<p>4. Value of Services</p>	<p>The legislation would include all work performed by independent contractors for covered hiring entities. An alternative approach could limit coverage to independent contractors providing services for a specific value, or reasonably expected to be a specific value over a certain period (e.g., calendar year). Examples of this approach could limit coverage to services where the proposed compensation is \$600 or more to align with IRS requirements for businesses to report payments to non-employees of \$600 or more; or proposed compensation of \$400 or more to align with IRS requirements for independent contractors to file an income tax return if net earnings were \$400 or more.</p> <p>Imposing a threshold value of services would prevent coverage of smaller service agreements and could support OLS’s enforcement because hiring entities or independent contractors would be required to keep records independent of this legislation. If imposing this restriction would prevent coverage of many domestic workers, there could be an exception covering all contracts for domestic services regardless of value.</p>	<ul style="list-style-type: none"> A. Limit coverage to services where the proposed compensation is \$600 or is reasonably expected to be \$600 over a certain period (e.g., calendar year). B. Limit coverage to services where the proposed compensation is \$400 or is reasonably expected to be \$400 over a certain period (e.g., calendar year). C. Make no changes to the legislation.
<p>5. Additional protections for gig workers</p>	<p>During the Finance and Housing Committee meeting on April 6, 2021, there was public comment and discussion of a labor standards campaign among gig workers hired by platform companies (i.e., workers hired as independent contractors by companies providing work through online-enabled application or platforms) to secure rights to minimum compensation, flexible work, and transparent job and pay information; and to establish a gig workers standards board. Council may want to consider whether policies from this campaign could be included in this legislation.</p>	<ul style="list-style-type: none"> A. Include expanded protections for gig workers in this legislation. B. Include a non-codified section that outlines a timeline for addressing minimum compensation C. Make no changes to the legislation.

Attachment 1. Independent Contractor Protections – Policy Options

Topic	Issue Identification	Options
<p>6. Enforcement</p>	<p>The legislation would include enforcement procedures and remedies typical of other labor standards. OLS would be authorized to issue administrative rules, conduct complaint-based and directed investigations of individual and company-wide claims, and impose remedies (e.g., fines payable to the City or the aggrieved party).</p> <p>During the Finance and Housing Committee on April 6, 2021, the LSAC recommended consideration of unique enforcement models, such as the use of citations (akin to a speeding ticket) to permit limited investigations. The LSAC also recommended creating evidentiary presumptions for court claims, such as a rebuttable presumption in favor of the independent contractor’s claim for payment if the hiring entity fails to provide a pre-contract disclosure or a rebuttable presumption of employment if a hiring entity fails to provide a pre-contract disclosure.</p> <p>The legislation would likely permit OLS to develop policies and procedures for streamlining investigations without additional language. For example, OLS has used advisory letters and pre-investigation settlements as ways to quickly resolve complaints for existing labor standards. However, the legislation could establish specific methods for enforcement, such as citation process and/or court referral programs.</p> <p>For the evidentiary presumptions, more research is needed to address the interplay of existing laws and court precedent with these types of remedies.</p>	<p>A. Specify enforcement methods, such as a citation process and/or court referral program.</p> <p>B. Specify evidentiary presumptions as remedies for court claims, pending additional research.</p> <p>C. Make no changes to the legislation; OLS could develop internal policies and procedures for enforcement.</p>
<p>7. Effective date</p>	<p>The legislation has a blank placeholder for the effective date of the new Chapter 14.34. There is no typical amount of time between Council’s passage of labor standards and implementation. Previous labor standards (except for emergency ordinances) have had lead times from three months to one year or longer. When establishing the effective date, Council may want to consider the legislation’s requirements for OLS to create model notices and translations. OLS would need time to prepare for implementation and conduct outreach to workers and hiring entities.</p>	<p>A. Specify an effective date for Chapter 14.34 (e.g., September 1, January 1, March 1, July 1).</p> <p>B. Do not specify an effective date. Chapter 14.34 would go into effect 30 days after the Mayor signs the legislation.</p>