



King County

Budget and Fiscal Management Committee

STAFF REPORT

Agenda Item:	6	Name:	Kendall Moore Patrick Hamacher
Proposed No.:	2013-0305	Date:	July 16, 2013

SUBJECT:

Proposed Ordinance 2013-0305 would authorize the Executive to enter into an interlocal agreement ("ILA") with the City of Seattle ("Seattle") establishing the terms by which Seattle will accept Transfer of Development Rights ("TDR") originating in King County and how a portion of the real property tax that supports the County's General Fund will be paid to the Seattle.

SUMMARY:

In 2011, the Washington State legislature passed, and the governor signed into law ESSB¹ 5253, which created RCW chapter 39.108, a new financing mechanism for cities to use to help pay for its public infrastructure in areas where it has accepted increased density. Those cities that qualify under the legislation (referred to as "sponsoring city" in RCW chapter 39.108) may establish areas within their boundaries (referred as "local infrastructure project areas" or LIPAs") that in exchange for developers purchasing TDRs,² the developer receives development incentives, such as increased residential density or increased commercial square footage allowed over the city's base zoning. In exchange for the cities participating in this program, they are entitled to a portion of the real property taxes collected by the county for new construction in that area the city has designated to receive the TDRs based on a formula set out in the legislation. That portion of the real property taxes must be used in the designated LIPA for public infrastructure improvements.

Over the past year, the City of Seattle has been developing a program to qualify it as a sponsoring city under RCW chapter 39.108 and, therefore, authorized to receive these real property tax revenues.

The ILA, which is the subject of the proposed ordinance, is predicated on RCW chapter 39.108, but sets out in more detail the roles and benefits Seattle and the County agree arise out of establishing the proposed LIPA. It also addresses issues not clearly covered in the state legislation.

¹ ESSB is the acronym for "Engrossed Substitute Senate Bill"

² The TDRs are to be purchased in those counties with established transfer of development right programs (limited to only King, Snohomish, and Pierce).

KEY TAKEAWAYS:

1. RCW chapter 39.108 mandates eligible counties,³ such as King County, to participate in this program. RCW 39.108.030. Therefore, King County may not choose to "opt out" from transferring a portion of the real property taxes it collects if a sponsoring city satisfies the requirements of RCW chapter 39.108.
2. The state legislation does not require the city enter into an interlocal agreement with eligible counties. Sponsoring cities can set up their LIPAs without any county concurrence to the implementing terms of the established LIPA.
3. As more fully discussed below, there are gaps or ambiguities in RCW chapter 39.108 that left unaddressed could lead to disagreements between sponsoring cities and the County as to the actual intent of the state legislation.
4. The proposed ILA provides more clarity than the state legislation regarding implementation of this regional TDR program and the roles and responsibilities City and County agree to undertake:
 - Clarifies that only the current expense portion of the real estate taxes levied by the County will be used to calculate the proportion of real property tax revenue to which Seattle will be entitled. (ILA, p. 11)
 - Clarifies that the TDRs currently held in the County's TDR Bank qualify for use in the LIPA created by the City. (ILA, p. 7)
 - Prioritizes TDRs from King County over those that might be available in Pierce or Snohomish Counties. (ILA, p. 5 and Ex. B, pp. 19-20)
 - It also sets when the County must make payments to the City. (ILA, p. 9)
 - More clearly and narrowly defines terms, including the definitions of "new construction," resulting in a better understanding of the types of tax revenues subject to diversion to Seattle. (ILA, p. 10)
 - Recognizes that there are limited receiving areas within the LIPA where TDRs may be used to increase density or commercial square footage, but that the diverted real estate taxes to which Seattle would be entitled cover the entire LIPA. (ILA, p. 5)
 - Imposes additional reporting requirements on the County. (ILA, p. 9)

³ "'Eligible county' means any county that borders Puget Sound, that has a population of six hundred thousand or more, and that has an established program for transfer of development rights." RCW 38.108.010(2)

BACKGROUND:

1. History of ESSB 5253

First introduced in the 2010 legislative session, the predecessor to ESSB 5253 died for lack of action. Reintroduced in the 2011 session, the initially proposed legislation did not require that a portion of the County real property tax levy be diverted to a sponsoring city, but rather the County's real property tax levy be increased in an amount equal to the projected increase in assessed value of property located within a LIPA. Additionally, a county, as a taxing district,⁴ was not required to make such a payment to a city if the county had not included the amount in its levy. A taxing district was excused from including any such increase if such amount would result in the taxing district exceeding its levy rate limitations.

Executive staff testified in favor of the bill, as initially introduced (and its companion - HB 1469). However, less than two weeks from their first public hearings in the Senate and House of Representatives, these bills were substantially revised. One of the major changes revised the funding of the public infrastructure, so instead of creating a new tax revenue source, the affected counties were to divert a portion of their levied real property taxes, on new construction in a sponsoring city-created LIPA, to that sponsoring city. King County representatives continued to testify before the state legislature in support of the revised bills.

2. City/County Actions under RCW chapter 39.108

In compliance with RCW chapter 39.108, Seattle and County have taken the following actions:

- King County, as well as Pierce and Snohomish Counties, provided information to the Puget Sound Regional Council ("PSRC") regarding its designated agricultural and forest land of long-term commercial significance, including TDRs held in the County's TDR bank and the corresponding number of development rights associated with these designated lands as required by RCW 39.108.040 and .060. Unlike, in the other two counties, rural-zoned lands in King County also qualify as sending sites.⁵
- As mandated by statute, PSRC in turn allocated to specified cities within these three counties each cities' share of these development rights that the cities should absorb.⁶ The PSRC determined Seattle's share of available TDRs to be 3,440.
- Over the past year, Seattle has undertaken efforts to prepare for the creation of a LIPA. In May of this year, it revised its development codes for specific

⁴ In the original legislation, ports were included as taxing district subject to increasing their levies. When amended, all references to port districts as taxing districts were excluded and real property taxes levied by ports were specifically excluded from being covered by the legislation.

⁵ RCW 39.108.050.

⁶ RCW 39.108.070 and .110.

neighborhoods to receive TDRs under this program.⁷ Recently introduced and presented to the Seattle City Council's Planning, Land Use, and Sustainability Committee are two proposed ordinances, referred to as Council Bills of "CBs" that must be adopted before Seattle will qualify as a "sponsoring city": 117833 - accepting 800 as its "sponsoring city specified portion" of the 3,440 TDRs allocated to it by the PSRC;⁸ and 117834, creating a Local Infrastructure Project Area⁹ and adopting the development plan outlining the public infrastructure to be financed with diverted real estate property taxes.¹⁰ Additionally, CB 117832, authorizing the Mayor to execute the LIPA ILA with the County, is also before the Planning, Land Use, and Sustainability Committee.

3. Funding LIPA infrastructure improvements under RCW chapter 39.108

a. Calculating real property taxes to be diverted - Under the statutes, once a sponsoring city has complied with the statutory requirements to establish a LIPA,¹¹ the city is eligible to receive a portion¹² of its county's real property tax for construction of new buildings and remodels/rehabilitations in the LIPA. The amount of the real property taxes diverted to the city, called "local property tax allocation revenue" in the statute, is determined by a statutory formula that takes the ratio of "specified portion" of TDR a city agrees to apply in LIPA divided by the number of TDRs the PSRC has allocated to that city multiplied by seventy-five percent of the "of any increase in the assessed value of real property in a [LIPA]."¹³

What is the "increase in the assessed value of real property in a [LIPA]" is then further defined by this RCW 39.108.010(11). For the purposes of this general discussion it is intended to be value of the new construction for new buildings or improvements to existing building in the entire LIPA, regardless of whether that new construction used TDRs in its development or not. As further discussed later in this staff report regarding the terms of the ILA, this definition is poorly drafted, as is the definition for real property taxes, both of which create ambiguities that the terms of the ILA are intended to clarify.

For general discussion, under the statutory scheme set forth in RCW chapter 39.108, Seattle would be entitled to 17.44% of the real property taxes levied by the County, and

⁷ Seattle Ordinance 124172 amending SMC chapters 23.48 and 23.49. It included provisions in these development regulations South Lake Union neighborhood and the neighborhoods of the Denny Triangle and the Commercial Core to be receiving areas for TDRs within the LIPA.

⁸ RCW 39.108.090.

⁹ See Ex. A to ILA, p. 18. As denoted on that exhibit, the proposed LIPA consists of neighborhoods of South Lake Union, Denny Triangle, Belltown, Commercial Core, Pioneer Square and Chinatown/International District. Pursuant to RCW 39.108.130, a LIPA must the area be contiguous tracts of land and comprise not more than 25 percent of the total assessed value of taxable property within the sponsoring city. The infrastructure improvements to be funded must be located within the LIPA. Finally, the LIPA size is no larger than necessary to absorb the number of TDRs the city agrees to accept for that LIPA. In this case, Seattle agrees to take 800 of the 3,440 allocated to it and apply them to development in limited receiving areas within the proposed LIPA.

¹⁰ RCW 39.108.140.

¹¹ RCW 39.108.080, .090. and .120.

¹² Defined at RCW 39.108.010(11).

¹³ RCW 39.108.010(11). Expressed as a mathematical formula, and using the Seattle numbers of 800 TDRs it has agreed to accept in the LIPA out of the 3,440 PSRC has allocated to the City: $(800 \div 3,440) \times 75\% = 17.44\%$.

which are not specifically exempt under the statutes, on new construction located in the LIPA.

b. Term of tax diversion - The start date for receiving the local property tax allocation revenue is the second year after the creation of the LIPA. So if the LIPA is created in 2013, the commencement date is 2015. The sponsoring city is entitled to receive these revenues for up to 10 years as long as the city, prior to the expiration of 9 and ½ years, certifies to the county treasurer that it has issued building permits requiring TDRs or has itself acquired TDRs totaling at least one quarter of its "specified portion," and referred to as "threshold 1" in the statute.¹⁴ A sponsoring city's receipt of the local property tax allocation revenue continues in three additional five-year increments with each threshold requiring the city to certify that it has issued permits or acquired itself another quarter of the TDRs specified for that LIPA. So for threshold 2, to continue to receive the local property tax allocation revenue for an additional five years (so a total of fifteen years), a city must certify fifty percent of its TDRs are pledged; for threshold 3, for an additional five years (so a total of twenty years), a city must certify seventy-five percent of its TDRs are pledged; for threshold 4 for an additional five years (so a total of twenty-five years), a city must certify one-hundred percent of its TDRs are pledged.

For example, Seattle has identified 800 as its "specified portion" to be used in the LIPA it intends to create. Under the statutory scheme, to meet the first threshold it must certify that 200 of those TDRs are pledged for new construction in the LIPA or that it will purchase them; 400 to meet the second threshold; 600 for the third threshold; and all 800 for the fourth and last threshold. Failure to so certify, results in the termination of the tax revenues diverted to the city. Additionally, the diversion of real property taxes also stops if the local property tax allocation revenues are not used or allocated for public improvements.¹⁵

ANALYSIS

1. ILA

The ILA addresses many of the deficiencies created by the legislation. It also provides additional benefits to the County not contained in the legislation. However, it imposes additional requirements on the County that are not required by the statutes.

Below is a synopsis of the key ILA terms and the attending issues. It is important to note that this proposed ILA has not yet been reviewed by Council's legal counsel. Therefore, there may be further issues to address following that review.

a. **Recitals (pp. 1-3)** - These "Whereases" generally set out the facts regarding the creation of the statutory LIPA program and this LIPA in particular. The Recitals also contain expectations regarding the tax dollars "estimated" to be generated over the twenty-five years this agreement could potentially exist.¹⁶ At page 4 of the ILA, the Recitals are as the consideration for entering into the ILA.

¹⁴ RCW 39.108.150.

¹⁵ RCW 39.108.150.

¹⁶ See last Recital bottom of page 2 and first Recital at top of page 3.

Issues: Two issues are raised by these Recitals. First, a clarification that the Recitals are not terms of the agreement but merely factual background would ensure that the Recitals are not the consideration for the Agreement; rather the terms set forth in the body of the Agreement are the consideration. Additionally, the subject Recitals could be revised to clarify that the dollar amounts contained in them are for exemplary purposes only, based on the City's growth model. According to Executive staff, the Recital at the top of page 3 is the estimated tax diversion represented present value dollars; however, the Recital does not include that qualifier. One has to look at the previous Recital and extrapolate from the reference to a present value dollar amount in it to discern that the dollar amounts in the next Recital are also present value.

This leads to the second issue, which is that there is a difference between what the City staff are identifying as the present value of the taxes to be diverted over the term of the ILA and what is contained in these Recitals. In presentations to their City Council, Seattle staff have estimated that the present value of the dollars to be diverted over twenty-five years will be \$15.6 million not the \$17 million listed in the ILA Recital on page 3. This issue needs further review to ensure that the parties agree to what the dollar amounts are, as well as what they should be.

b. Section I (p. 4) - In Item 1 at page 4 of the ILA, the County agrees that the size of the LIPA meets the conditions of RCW 39.108.050, which includes a requirement that the LIPA is no larger than necessary to absorb the specified number of TDRs.

Issue: As currently proposed by Seattle, only three - South Lake Union, Denny Triangle, and the Commercial Core of the six neighborhoods included in the LIPA¹⁷ are designated to receive the 800 TDRs. Executive staff has acknowledged that the expectation is that many of the 800 TDRs will be absorbed in the South Lake Union neighborhood.¹⁸

As explained by Executive staff, Seattle proposes an area larger than just the three receiving sites, because the larger LIPA is necessary to capture the potential local property tax allocation revenues to make up for the lost incentive payments Seattle currently receives for increased density in these neighborhoods.¹⁹ By including this TDR program as a partial replacement for some of Seattle's density incentive programs, based on the projections contained in the growth model commissioned by Seattle, and upon which the LIPA is predicated, the City expects to lose approximately \$19.5 million in incentive payments it would have otherwise received from the expected growth in

¹⁷ See footnote 10.

¹⁸ According to Executive staff's review of the Seattle growth model, 637 TDRs, or 80% of the total 800 TDRs specified as Seattle's TDR portion to be used in this LIPA, will be used in the neighborhoods of South Lake Union and the Denny Triangle; 163 TDRs, or 20 percent of the total 800 TDR total are projected to be used in the Commercial Core. The model does not breakdown the 637 figure into the individual South Lake Union or the Denny Triangle individual receiving areas.

will be providing this information based on Seattle's growth model used to develop the LIPA.

¹⁹ According to Executive staff, the City currently receives \$15/sf in incentive payments for residential development and \$22/sf for commercial development. This represents a loss of \$19.5 million in incentive payments displaced by the 800 TDRs to be used in the receiving areas, based on the City's growth model.

these neighborhoods over the first 13 years this program would be in place. Seattle expects that it is in this first 13 year period that the 800 TDRs will be used. However, in order to recapture the lost revenue from its existing incentive programs, which is a goal of the ILA,²⁰ the model supports a larger area for the full twenty-five year period. A review of the growth model reveals that the \$19.5 million lost in the first thirteen years will be offset by the \$28.5 million²¹ in real property taxes from the new construction in the LIPA diverted from the County to Seattle over the twenty-five year life of the program.

Staff continue to review this issue.

c. Section II (pp. 5-8) - In paragraph B.1, the ILA recognizes that King County, unlike Snohomish and Pierce Counties (at least currently), has the ability to offer TDRs from rural residential zoned lands, in addition to agricultural and forest zoned land. This increases the pool of TDRs available for purchase in King County.

Paragraph C.1 describes the goals the parties wish to achieve by entering into the LIPA and this ILA. For the County, it is to further protect King County farmland.²² Seattle shares this preservation of King County farmland goal as measure to foster locally grown foods. Seattle also seeks to ensure that the revenues received are "generally equivalent" to the potential revenues it would receive under its current density incentive program and to prioritize the use of TDRs that will preserve agriculture lands.

At paragraphs C.2 & 3, Seattle also agrees to prioritize TDRs generated in King County by giving more square footage credits for those TDRs over others generated in the Pierce or Snohomish Counties.

At paragraphs C.4 & 5, to implement the Seattle's desire to emphasize preservation of agricultural lands, a goal included at Section II.C.1.c., the first 200 TDRs to be used in the LIPA must be either from agriculturally-zoned lands or from TDRs (forest or rural residential zoned lands), the sales proceeds from which will be used, in turn, to purchase agricultural TDRs. After the first 200 TDRs are applied, TDRs originating in King County continue to have a greater credit value than those generated from Snohomish or Pierce Counties.

Issue: To effectuate the goal of prioritizing preservation of agricultural lands, the requirement that the first 200 TDRs must be either agriculture TDRs or TDRs, the proceeds from which must be used to purchase agriculture TDRs, gives the County's TDR Bank an advantage over TDRs in the other Counties.

This feature is not envisioned in the statutes and is a unique capability to the County because its rural-zoned and forest TDRs held in the County's TDR bank are readily available and the proceeds from their sale can be turned around by the County to

²⁰ Section II.C.1.a.

²¹ A review of the fiscal note in support of this legislation, estimates over the first 13 years, the County will divert approximately \$8,316,000 to Seattle.

²² One of the mechanisms to implement this goal is to market the rural-zoned and forest TDRs held in the County's TDR Bank. As envisioned under this agreement, a developer will buy a forest or rural-zoned TDR, and the County must use the sale proceeds to buy new agriculture TDRs. The County's TDR bank currently holds 16 agriculture TDRs, 144 rural-zoned TDRs and 1050 forest TDRs.

purchase agricultural TDRs. Because, at this juncture, Snohomish has no "banked" TDRs, any TDRs generated from this County will be private sales. It is unlikely that a forest owner will use the proceeds from his/her TDR sale to buy an agriculture TDR.²³ Therefore, this first 200 TDR requirement makes the County's banked TDRs more marketable. Executive staff report that Pierce County's TDR bank has about 60 agriculture TDRs, but as explained below, their value is limited because of the exchange ratio established in this ILA.

Exchange ratios (i.e. the additional square footage a developer gets from purchasing a TDR) favors TDRs purchased in King County throughout the period of the program and especially for the first 200 TDRs intended to protect farm land.²⁴ RCW chapter 39.108 does not give the "home County" any advantage even though it is only the home County's real property tax that will be diverted. These priorities are represented in the exchange ratios that Seattle has agreed to assign to TDRs and are found in Exhibit B to the ILA. The table below demonstrates that even though the price of a King County TDR is more expensive than those from the other Counties, the developer gets more square footage credit per dollar spent on a King County TDR than from the others generated in the other Counties. Therefore, this is a valuable consideration for the County.

²³ However, a non-profit organization interested in protecting farm land may be a candidate for buying forest TDRs in and use the proceeds to agriculture TDRs.

²⁴ See table on the next page for TDR value comparison

Exchange Ratios (Threshold 1 - first 200 TDRs)			
Type of TDR	Estimated Selling Price	Exchange Ratios (incentive sq ft per credit)	
		Commercial	Residential
King County Farm	\$ 23,670	1120	1640
King County Forest or Rural (that is reinvested into farmland)	\$ 22,700	1030	1500
Pierce Farm	\$ 8,000	290	420
Snoh Farm	\$ 18,500	670	980
Pierce/Snoh Forest (that is reinvested)	\$ 17,310	590	860
Exchange Ratios (Threshold 2 - after first 200 TDR used)			
Type of TDR	Estimated Selling Price	Exchange Ratios (incentive sq ft per credit)	
		Commercial	Residential
King County Farm	\$ 23,670	1120	1640
King County Forest or Rural (that is reinvested into farmland)	\$ 22,700	1030	1500
King County Forest & Rural	\$ 18,221	700	1020
Pierce Farm	\$ 8,000	290	420
Snoh Farm	\$ 18,500	670	980
Pierce/Snoh Forest	\$ 17,310	550	800

At paragraph C.6, Seattle reserves the right to amend the ratios set forth in C.4 & 5, but only after a consultation process with the County.

Issue: The advantages given the County by the two previous provisions could be eliminated by the City unilaterally; provided however, the goal of prioritizing TDRs from King County still must be considered.²⁵ Council may wish to pursue an amendment that would lock the ratios in for at least until the first 200 TDRs are extinguished.

At paragraph D., Seattle specifically agrees to accept TDRs from the County's Bank and to use them to satisfy the allotment of the first 200 TDRs to be used in the LIPA in exchange for the proceeds to be reinvested in the purchase of agricultural TDRs.

At paragraph E., Seattle agrees that the diverted tax revenues will be used for public improvements in the LIPA. In this paragraph it also agrees that it will not create any other LIPA or increase the number of TDRs above 800 without consulting with the County and only pursuant to an interlocal agreement.

²⁵ Section II.C.6.b.

d. Section III (pp. 8-10) - Among the program administrative responsibilities the County assumes is reporting, not required under the statutes. At paragraph A.6, the County agrees to provide, if requested by Seattle and on a retrospective basis, information of how it calculated local property tax allocation revenue paid to the City.

At paragraph A.7, the parties agree that the County will pay Seattle on a biennial basis, at the discretion of the County. RCW chapter 39.108 provides no direction as to when a county was to make payment, so this provision provides that missing direction.²⁶ The County also agrees, "to the extent practical," to breakdown those dollar amounts diverted to the City into three categories: (1) from construction improvements to existing buildings and entire new buildings,²⁷ (2) from increases in assessed values for both of these forms of new construction in the initial year they are added to the tax rolls; and (3) from the increased in assessed value construction of entire new buildings for the years after the initial year.

Issue: Currently the County is unable to perform the reporting described in paragraph A.7. The County does not capture information in these categories and, therefore, does not have the computer capability to produce this information. Conceptually, since tracking this information has not been done before, there are two ways to capture it: modification of County's property based system (computer program) or manually. Until the County can determine if a modification to its computer programming is practical, manual reporting is the only option. Additionally, until the LIPA program goes into effect, the manhour burden this reporting could require is unknown. Therefore, what may seem impractical to the County, on a cost basis, may not be so viewed by Seattle. At the very least, these reports, if required, would almost certainly be an administrative burden on King County. Councilmembers may wish to modify this section to reflect at least a sharing of the costs by Seattle for the production of this information.

Paragraph B details the role of the County's TDR Bank and contains the promise that for the first 200 TDRs to be utilized in the LIPA, the County will use the proceeds from the sale of forest TDRs to purchase agricultural TDRs.

e. Section IV (pp. 10-14) - At paragraph A, subparts 1 and 2, the ILA defines the types of "new construction" that will be included in the real property valuation, and for which real property taxes will be diverted to the City under this agreement. These definitions provide more clarity and are more restrictive than those found at RCW 39.108.010(11). The ILA provides:

- "new construction" is limited to "entire new buildings;" and
- "improvements" is limited to "additions or remodels that add new square footage to [existing] buildings in the LIPA."

By agreeing to these terms, any increases in assessed value from converting the use of a building, or rehabilitating a building will not be included in the valuation calculations.

²⁶ This provision also recognizes that the distribution may be changed to daily (which is how the County currently transfers taxes collected for the City) if the parties can agree on how to fund the computer programming necessary to allow for this.

²⁷ These are more specifically defined in Section IV.

At paragraph B, the parties agree that only the County's current expense levy will be used to calculate the County's real property taxes.

Issue: This is a significant clarification because there are other levies that, while the County has designated them for only one purpose, would arguably not be exempt from the real property tax calculation under the statute.²⁸ As a result, a sponsoring city could argue those single purpose levies should be included in the calculation, thereby increasing the total amount of levy revenues subject to apportionment.

For example, without the ILA, the Emergency Medical Services ("EMS"), while a levy for a specified purpose, could still be considered a "real property tax" under the definition in the statute. Therefore the amount levied (\$92 million in 2013) would be subject to the apportionment required by RCW chapter 39.108, even though the County could not use funds from that levy to contribute to the local property tax allocation revenue. As a result, the County would have to take more out of the General Fund to cover the amount allocated to the EMS levy.

Therefore, the paragraph B is an important clarification and improvement on the legislation.

Paragraph C., provides for alternatives of when the local property tax allocation revenue would begin to flow, thus differing from the statute. Under the statute, local property tax allocation revenue begins to flow to the sponsoring city at the beginning of second year after the creation of the LIPA. Under the ILA it would be the second calendar year after creation of the LIPA, except if there has been no new construction generating local property tax allocation revenue, then it would be the year that such revenue exists. So for example, assuming the LIPA is created in 2013, if there were no new construction activity in the Seattle LIPA in the years 2013 through 2014, the start date would be 2016. Neither party expects this exception to occur in this instance as new construction is already burgeoning in South Lake Union.

At paragraph D, the ILA diverges from the certification requirements contained at RCW 39.108.150 that are to be met for the program to continue after the first ten years. As discussed earlier (see pages 4 and 5 of this staff report), under the statute, in order for the program to continue after the first ten years, for each of the three five-year extensions, a city must certify that it has issued building permits that require the use of TDRS or that the city has purchased TDRs totaling in the aggregate certain percentages of the allocated TDRs for that LIPA. This certification is to be received by the county at least six months before the program would terminate absent the certification.²⁹

- To extend the program to year 15, a city must certify by the 9 and ½ year mark that fifty percent of the TDRs have been used. If applied to this LIPA, Seattle would have to certify that 400 TDRs have been used.

²⁸ RCW 39.108.010(13)

²⁹ This is measure from the anniversary date of the first distribution of local property tax allocation revenue by a county to a sponsor city.

- To extend the program to year 20, a city must certify by the 14 and ½ year mark that seventy-five percent of the TDRs have been used. If applied to this LIPA, Seattle would have to certify that 600 TDRs have been used.
- To extend the program to year 25, a city must certify by the 19 and ½ year mark that one-hundred percent of the TDRs have been used. If applied to this LIPA, Seattle would have to certify that 800 TDRs have been used.

The ILA provides Seattle with more flexibility. Seattle can either meet the requirements set forth in RCW 39.108.150 or meet the following certification requirements:

- To extend the program to year 15, Seattle must certify, by the 8 and ½ year mark, that 280 TDRs have been used and request that the County to hold the balance of 120 TDRs available in its Bank for use to satisfy the 400 TDR requirement.
- To extend the program to year 20, Seattle must certify by the 13 and ½ year mark that 450 TDRs have been used and request that the County to hold the balance of 150 TDRs available in its Bank for use to satisfy the 600 TDR requirement.
- To extend the program to year 25, Seattle must certify by the 18 and ½ year mark that 640 TDRs have been used and request that the County to hold the balance of 160 TDRs available in its Bank for use to satisfy the 800 TDR requirement. Additionally, Seattle promises to maintain this TDR program until all the 800 TDRs have been used, even if that results in extending the program beyond year 25.

This paragraph D also provides that at any point, once termination occurs, the County will continue to distribute local property tax allocation revenue to the City, up to three years, from delinquent subsequently recovered.

f. Section V (p. 14) - At paragraph A., the ILA specifies that its duration runs until all the 800 TDRs have been permitted into developments and the local property tax allocation revenue dispersed, unless terminated pursuant to the next provision, paragraph B. According to the ILA, after 180 days notice, either party may terminate the agreement if: (1) the courts hold Seattle's TDR zoning regulations invalid; or (2) a party has materially breached the agreement and has failed to cure after notice of the breach.

Issue: This "unless terminated" exception in paragraph A may be too limited. The County's obligation to distribute local property tax allocation revenue ceases if Seattle fails to certify under Section IV. D. Staff are reviewing with legal counsel whether the termination provisions needs to take this into account since conceivably, the County would have to continue to collect and distribute local property tax allocation revenue during the 180 day notice period for termination.

2. Fiscal Impact

Quantifying the fiscal impacts of the proposal ILA and state law is actually somewhat complicated by the various restrictions placed on the use of tax money and tax shifts.

There are a number of County funds affected by this transaction:

- a. The County General Fund: the County General fund will pay \$25-\$30 million to the City of Seattle over the 25 year period. This is using the best forecasting data as of today. The actual amounts of the payments will be calculated each year during the assessment of real property. The more development and the higher the value in the LIPA area, the higher the payments to the City.
- b. The TDR Fund/Program: the County TDR program will experience an influx of cash through the sale of at least 200 development credits. These funds will then be used to purchase additional development rights.
- c. The County Road Fund: The County Road Fund will ultimately be adversely affected by this deal. However, this adverse impact will be quite minimal. The adverse impact comes from the voluntary devaluation of properties in the rural area through the sale of development rights. This means that the taxable value of the unincorporated area decreases and generates less funding for the County Road Fund. In the short term, the Road Fund is at its statutory maximum of \$2.25 per \$1,000 AV, so the impact would only become a true impact upon capacity once again being available in the fund.

In this deal, present value analysis is very important. Present value analysis weights financial transactions based upon the time value of money. Conceptually, all this means is that a dollar you have today is worth more than a dollar being promised to you in the future. In this case, the County General Fund, and all other property tax based funds will be receiving a boost the sooner the development occurs. This becomes part of the new tax base and is in place in perpetuity. The City will be receiving relatively modest payments initially and will receive its payments over the 25 year period and then the portion of the base at the end of year 25 will be kept permanently by the General Fund.

	Years				Total
	10	15	20	25	
KC General Fund	\$19,000,000	\$26,500,000	\$38,500,000	\$51,000,000	\$135,000,000
Transfer to Seattle	\$4,000,000	\$5,600,000	\$8,200,000	\$10,800,000	\$28,600,000

The table above estimates the distribution of taxes from new construction in the LIPA. The General Fund would expect to collect about \$164 million from new construction in the LIPA over the next 25 years. With this deal in place, and 17.44% of these estimated taxes being diverted to the Seattle, the General Fund likely will retain about \$135 million. It should be pointed out that this is new revenue. So the payments to the City will not reduce existing General Fund revenues, they will only slow the growth in the General Fund. However, as members are aware, the growth in the property tax from new construction is the only major source of revenue growth in the General Fund.

The largest financial takeaway from approving the ILA is that the impact the development in this area will have on the County's General Fund is quite dramatic. The areas covered by the LIPA include some of the most valuable property in King County. The more growth that occurs there, the better the General Fund will be, because the property values are so high. In fact, the Chief Economist looked at this area and found the following property values of buildings in the area.

Condo Value Data

Project Name:	Year Built	# of Units 1400 - 1800 SF	Average of Living Area	(2012) Average of Appraised Total
ENSO CONDOMINIUM	2009	7	1,639	\$925,000
ESCALA CONDOMINIUM	2010	83	1,607	\$700,108
FIFTEEN TWENTY-ONE SECOND AVENUE	2008	72	1,701	\$1,173,486
GALLERY BELLTOWN	2008	10	1,471	\$514,300
OLIVE 8	2009	41	1,561	\$768,341
Grand Total		213	1,625	\$871,925

The value of these units being built and taxed in Seattle far exceeds the value of the property in the rural area where the development rights originated. Because of the booming growth in the area of the LIPA, the sooner a TDR is used for development in this area, the sooner a substantive growth in the General Fund will occur.

Where the conversation gets somewhat confusing is when considering whether the new construction value and increases in the LIPA are a result of the program being contemplated in this ILA or whether they likely would occur anyway. It appears fairly clear that the increased new construction values and the building boom that has already begun will likely not be affected either positively or negatively by this program. There are a couple of reasons for this conclusion:

- Several new residential buildings and the new Amazon.com headquarters buildings all began before this program will commence. This building boom in South Lake Union started several years ago and therefore was not contingent on the creation of this TDR program.
- This program is substituting one density incentive program for ones Seattle already has. What is really occurring is that Seattle is participating in this program in lieu of incentive programs including payments from developers to Seattle to allow for the additional growth.

It is difficult to conclude that any new construction would not be built if this program did not exist. However, what is more definitive is that the County would not have such a viable market populated with reliable buyers for TDRs generated in this County without this program.

3. Open Issues

- Clarification of Recitals
- Review of recovery of lost in lieu of fees
- Condition those reporting requirements that the County currently does not have the capability to perform on agreement of how to pay for such reporting.
- Locking in the exchange ratios for a limited period of time or until the first 200 TDRs are used.
- Review if the termination provisions for consistency with certification provisions.

INVITED

Darren Greve, King County TDR Manager
Lauren Smith, Executive Office

ATTACHMENTS

1. Proposed Ordinance 2013-0305
2. Transmittal Letter, dated March 20, 2013
3. Fiscal Note

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KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

July 15, 2013

Ordinance

Proposed No. 2013-0305.1

Sponsors Hague

1 AN ORDINANCE authorizing the King County executive
2 to enter into an interlocal agreement with the city of Seattle
3 to implement a regional program to transfer development
4 rights from rural and resource lands in King County into
5 the city of Seattle.

6 STATEMENT OF FACTS:

- 7 1. The Washington state Growth Management Act, chapter 36.70A RCW,
8 establishes a policy of directing growth and development into urban areas,
9 - protecting rural and resource land, and encouraging the use of innovative
10 tools like transfer of development rights to accomplish these outcomes.
- 11 2. The Growth Management Act encourages the conservation of
12 productive agricultural and forest lands and the retention of open space to
13 conserve fish and wildlife habitat and enhance recreational opportunities.
- 14 3. King County adopted a transfer of development rights program in 2001
15 to permanently preserve rural and resource lands by transferring rural
16 development potential into existing incorporated and unincorporated urban
17 areas; since 2001, the King County transfer of development rights
18 program has protected one hundred forty-one thousand seven hundred

19 sixty-five acres of rural and resource lands in unincorporated King
20 County.

21 4. King County has worked with the city of Seattle to develop a means by
22 which King County transfers of development rights may be used to
23 increase density within the city to achieve conservation of rural farm and
24 forest lands in the unincorporated areas.

25 5. The City of Seattle, by City Council Ordinance 124172, amended
26 Seattle Municipal Code chapter 23.58 to allow the South Lake Union,
27 Denny/Broad, and Commercial Core areas of its downtown to be receiving
28 areas for King County transfers of development rights, subject to an
29 adopted interlocal agreement with King County.

30 6. The King County transfer of development rights bank currently holds
31 one thousand two hundred six transferrable development rights, purchased
32 from private rural farm and forest landowners, which would be eligible for
33 sale to applicants seeking to take advantage of zoning incentives
34 established by City Council Ordinance 124172. K.C.C. 21A.37.140
35 requires an interlocal agreement with receiving site cities prior to sale and
36 transfer of transfer of development rights credits from the transfer of
37 development rights bank.

38 7. The 2011 Washington state Legislature affirmed the value of regional
39 transfers of development rights by adopting Engrossed Substitute Senate
40 Bill 5253, the Landscape Conservation and Local Infrastructure Program,
41 codified as chapter 39.108 RCW.

42 8. Chapter 39.108 RCW creates a mechanism for the cities and counties
43 to partner on regional transfer of development rights efforts and urban
44 infrastructure investments to support urban growth simultaneous with rural
45 and resource land conservation.

46 9. Chapter 39.108 RCW allows cities to accept development rights from
47 county rural and resource lands to increase development capacity inside
48 incorporated urban areas in exchange for cities receiving a portion of
49 county property tax revenue generated from new construction in a
50 designated Local Infrastructure Project Area ("LIPA"). Cities are required
51 to invest these funds in infrastructure projects and public improvements
52 that support the increased development growth in the LIPA.

53 10. Simultaneous with this ordinance, the Seattle City Council will take
54 action on legislation that designates a LIPA and adopts the attached
55 interlocal agreement.

56 11. Seattle city developer purchases of rural transfers of development
57 rights for increased urban density are expected to generate approximately
58 \$18,000,000 for land conservation and will protect roughly twenty-five
59 thousand acres of rural farm and forest lands.

60 12. Development growth in the city's LIPA is expected to reach
61 40,400,000 new square feet over the next twenty-five years. This new
62 construction will generate an estimated \$98,800,000, present value, in
63 future King County general fund property tax revenue. In exchange for
64 the city accepting eight hundred rural development rights, the county

65 would transfer to the city 17.44 percent, which is \$17,300,000, of the new
66 general fund property tax revenue for up to twenty-five years; the county
67 will retain the remaining 82.5 percent, which is \$81,500,000, of the new
68 tax revenue. After twenty-five years the revenue transfer to the city would
69 stop, and the county would begin to capture the full one hundred percent
70 of its portion of property tax revenue. The city must use all of the
71 revenues it receives from the county to invest in public improvements and
72 infrastructure projects to support the additional urban development.

73 13. King County and the cities are authorized to enter into an interlocal
74 agreement under chapter 39.34 RCW, the Interlocal Cooperation Act.

75 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

76 SECTION 1. The executive is hereby authorized to enter into an interlocal
77 agreement with the city of Seattle, containing language substantially similar to that
78 provided in Attachment A to this ordinance, to implement chapter 39.108 RCW and,

79

80 thereby, establish a regional program to transfer development rights from lands in King

81 County's designated rural and resource areas into the city of Seattle.

82

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Larry Gossett, Chair

ATTEST:

Anne Noris, Clerk of the Council

APPROVED this ____ day of _____, _____.

Dow Constantine, County Executive

Attachments: A. Interlocal Agreement

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**INTERLOCAL AGREEMENT FOR
REGIONAL TRANSFER OF DEVELOPMENT RIGHTS AND TAX
INCREMENT FINANCING OF INFRASTRUCTURE BY AND
BETWEEN
THE CITY OF SEATTLE AND KING COUNTY**

RECITALS

WHEREAS, the Washington State Growth Management Act ("GMA"), RCW 36.70A, establishes a policy of directing development density into urban areas and discouraging high-density development of rural land; and

WHEREAS, the GMA encourages the conservation of productive forest and agricultural lands and the retention of open space to conserve fish and wildlife habitat and enhance recreational opportunities; and

WHEREAS, the GMA requires counties adopt county-wide planning policies in cooperation with cities; and

WHEREAS, by Interlocal Agreement, King County ("County") and the City of Seattle ("City") adopted and ratified the Countywide Planning Policies for the County; and

WHEREAS, the Countywide Planning Policies direct jurisdictions in the County to implement programs and regulations to protect and maintain the existing character of rural, farm and forest lands, and to direct growth to cities and urban centers; and

WHEREAS, the County's rural and resource areas are recognized by both the City and County as containing important county-wide public benefits such as agricultural production, forestry, wildlife habitat, scenic resources and recreational opportunities; and

WHEREAS, the County has in King County Code 21A.37 adopted a Transfer of Development Rights ("TDR") program that authorizes incorporated areas to receive development rights transferred from rural and resource unincorporated areas; and

WHEREAS, the Parties agree that a goal of this Agreement is to prioritize the use of Regional TDR Credits that originate in King County because the County will be transferring certain regular property tax revenues from its current expense levy to the City; and

WHEREAS, the Seattle Comprehensive Plan Urban Village Element has a goal of implementing regional growth management strategies, such as regional transferable

development rights programs, to help preserve rural, agriculture, and resource lands; and reduce sprawl; and

WHEREAS, the City Council passed Resolution 31147 stating its support of a new TDR interlocal agreement between the City and County that is focused on rural farms in the County; and

WHEREAS, the City and County share an interest in creating an effective, cooperative TDR system to achieve: the City's goals for South Lake Union and Downtown, the County's goals in the King County Comprehensive Plan, and goals inherent to the County-wide Planning Policies and the GMA; and

WHEREAS, the 2011 Washington State Legislature affirmed the value of regional TDR by adopting ESSB 5253, the Landscape Conservation and Local Infrastructure Program ("LCLIP"), codified as RCW 39.108; and

WHEREAS, RCW 39.108 creates a mechanism for cities and counties to partner on regional TDR efforts and urban infrastructure investments to support urban growth simultaneous with rural and resource land conservation in the King, Snohomish, and Pierce county region; and

WHEREAS, the County's dedication of certain regular property tax revenues to public improvements in partnership with the City's substantial investments in South Lake Union and Downtown, including proposed investments in transportation and open space, will help to foster livable and vibrant neighborhoods, simultaneous with rural and resource land conservation in the County; and

WHEREAS, under RCW 39.108, the Puget Sound Regional Council determined the City's Receiving City Allocated Share is 3,440 Regional TDR Credits; and

WHEREAS, this Agreement reflects the intent of the City and the County to implement a regional TDR program, in accordance with RCW chapter 39.108 where the City will permit development that utilizes approximately 23 percent of its Receiving City Allocated Share, or 800 Regional TDR Credits, which represents the City's Sponsoring City Specified Portion; and

WHEREAS, given the strength of the real estate market in the City's Downtown and South Lake Union neighborhoods, the City and County intend that the first 25 percent of the City's Sponsoring City Specified Portion of Regional TDR Credits will be utilized for development soon after the City's creation of the Local Infrastructure Project Area ("LIPA"); and

WHEREAS, the City and County estimate that development growth in the City's LIPA will result in 40 million square feet of new construction over the next 25 years and that this development will result in \$98 million in additional King County current expense levy tax revenue over this period, as measured in present value; and

WHEREAS, in exchange for the City accepting 800 Regional TDR Credits for increased development capacity, it is estimated that the County will transfer to the City \$17 million of its additional current expense levy tax revenue generated in the LIPA over a 25 year period to help the City pay for public improvements in the LIPA, and King County would retain \$81 million of the additional current expense levy tax revenue generated in the LIPA, and would begin to capture the full 100 percent of its portion of property tax revenue after the 25 year period; and

WHEREAS, the City has adopted Ordinance 124172 amending Seattle Municipal Code Chapter 23.48 to establish regional TDR density incentive provisions within the South Lake Union area that allows development projects to increase residential and commercial development capacity beyond an established base with the purchase of regional TDR credits based upon specified exchange ratios once a LIPA is formed; and

WHEREAS, The City has adopted Ordinance 124172 amending Seattle Municipal Code Chapter 23.49 to establish Regional TDR incentive provisions within the Commercial Core and Denny Triangle neighborhoods that allows development projects to increase commercial development capacity beyond an established base with the purchase of Regional TDR Credits based upon specified exchange ratios once a LIPA is formed; and

WHEREAS, the City has provided notice to the King County Assessor, King County Treasurer, and King County Executive more than 180 days prior to the public hearing as required under RCW chapter 39.108; and

WHEREAS, the acquisition priority of the King County TDR Bank, using proceeds from the sale of specified Regional TDR credits, is intended to protect farmland in King County which is a mainstay of locally grown food that supplies the City's farmer's markets, restaurants, and retailers; and

WHEREAS, the City consulted with King County and the Washington Department of Transportation in developing the plan for developing public infrastructure within a City-designated LIPA; and

WHEREAS, the County and the City are authorized under RCW 39.34 to enter into an interlocal governmental cooperation agreement to accomplish these shared goals.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing recitals, this Interlocal Agreement, for Regional Transfer of Development Rights and Tax Increment Financing of Infrastructure between the City of Seattle and King County ("Agreement"), is entered into between the County, a political subdivision of the State of Washington; and the City, a municipal corporation of the State of Washington; collectively as the "Parties."

The purpose of this Agreement is to transfer development rights from unincorporated rural and resource sending areas in the County ("Regional TDR Credits") into the South Lake Union and Downtown areas in the City, and to establish a LIPA to invest in infrastructure and amenities in the receiving area by applying the provisions of RCW 39.108.

All Exhibits attached to this Agreement are incorporated into this Agreement as if fully set forth within the Agreement.

I. TERMS AND DEFINITIONS

All capitalized terms are as defined in RCW chapter 39.108 unless specifically defined in this Agreement.

1. The City's LIPA shall be consistent with **Exhibit A** of this Agreement. Given all the conditions included in this Agreement, the County agrees that the LIPA depicted in **Exhibit A** satisfies the conditions of RCW 39.108.130(5).
2. For the purposes of this Agreement, Regional TDR Credit is a Transferable Development Right as defined in RCW chapter 39.108.
3. The City's Receiving City Allocated Share is 3,440 Regional TDR Credits.
4. The City's Sponsoring City Specified Portion is 800 Regional TDR Credits.
5. The City's Sponsoring City Ratio is 23.26 percent (the Sponsoring City Specified Portion divided by the Receiving City Allocated Share).
6. The Property Tax Allocation Revenue Value is the Sponsoring City Ratio of 23.26 percent multiplied by 75 percent of increases in assessed value as described in Section IV of this Agreement.
7. "Local Property Tax Threshold Levels 1, 2, 3, and 4" are as defined in Section IV of this Agreement.

II. RESPONSIBILITIES AND POWERS OF THE CITY OF SEATTLE

A. Regional TDR Receiving Area/Local Infrastructure Project Area

The City designates the South Lake Union, Commercial Core, and Denny Triangle neighborhoods to be regional TDR receiving areas where 800 Regional TDR Credits, the City's Sponsoring City Specified Portion, can be used for increased development capacity. These designated regional TDR receiving areas shall also be within the City's LIPA, as depicted in **Exhibit A**, for purposes of complying with RCW 39.108.120 and .130.

B. Regional TDR Credit Sending Site Areas

In order to satisfy the requirements of RCW 39.108.030 through .050, properties from which Regional TDR Credits may be used in the LIPA shall be:

1. Agricultural-, forest-, and rural-zoned lands within King County in accordance with the County's TDR program (K.C.C. 21A.37); and
2. Agricultural- and forest-zoned land in Pierce and Snohomish Counties in accordance with each respective county's TDR program, except that rural-zoned lands in Pierce and Snohomish Counties may be allowed in the future if the requirements of RCW 39.108.050 are met. The City may look to the Puget Sound Regional Council's Land Use and Technical Advisory Committee to ascertain whether the requirements of RCW 39.108.050 have been satisfied.

C. Regional TDR Credit Use and Exchange Ratios

1. The goals for Regional TDR Credit use are to:
 - a. Ensure the number and types of Regional TDR Credits acquired and used in the LIPA results in a level of Local Property Tax Allocation Revenue to the City from the County that is generally equivalent to the revenue potential the City foregoes from accepting Regional TDR Credits in lieu of fees and other public benefits from other existing density incentives;
 - b. Prioritize Regional TDR Credits that originate from within King County in order to support local natural resources, preserve open spaces, and further growth management efforts for all King County residents, and in recognition of the fact that King County will be transferring Property Tax Allocation Revenue to the City.
 - c. Prioritize Regional TDR Credits from agriculturally-zoned lands and Regional TDR Credits from which the proceeds from sale will directly be used to acquire development rights to agricultural land in order to preserve

the local food system and support the availability of fresh and healthy produce.

The City has applied all three goals in establishing priorities in the Regional TDR Credit exchange ratios attached in **Exhibit B**. These ratios have been codified in Seattle Municipal Code Chapter 23.58A. The greater amount of square footage allowed per Regional TDR Credit reflects the average cost per credit and the higher priority the City attributes to certain lands to be protected. During the duration of this Agreement, the City shall use the Regional TDR Credit exchange ratios as provided for in Exhibit B, except that the City may amend the TDR Credit exchange ratios as described in Section II.D.6 of this Agreement.

2. The City shall develop a regional TDR program with the capacity to permit development that uses, over a 20 year period, 800 Regional TDR Credits within the LIPA and that is consistent with the regional TDR credit exchange ratios depicted in **Exhibit B** and as codified in Seattle Municipal Code Chapter 23.58A, or as the ratios may be hereafter amended according to Section II.C.6.
3. The initial application and use of Regional TDR Credits in the LIPA shall adhere to the regional TDR credit exchange ratios as depicted in **Exhibit B**, and as codified in Seattle Municipal Code Chapter 23.58A.
4. As depicted in Tables 1 and 2 in **Exhibit B**, the first 200 Regional TDR Credits permitted into development in the LIPA shall be limited to:
 - a. Regional TDR Credits from designated agriculturally-zoned lands; or
 - b. Regional TDR Credits from designated forest-zoned lands, or rural-zoned land in King County, where the entire proceeds from the sale of the Regional TDR Credits are thereafter used exclusively to acquire additional development rights from agriculturally-zoned lands.
5. As depicted in Table 3 and 4 in Exhibit B, the Parties agree that after the first 200 Regional TDR Credits are permitted into development in the LIPA and extinguished, Regional TDR Credits from designated forest and rural-zoned lands may be used in the LIPA without the requirement to acquire additional development rights from agriculturally-zoned lands as provided in Section II.C.4.b.
6. The City may amend the Regional TDR Credit exchange ratios only after the following formal consultation process has been completed:
 - a. At least 90 days prior to the mayor or City council submitting legislation proposing changes to the Regional TDR Credit exchange ratios

established in this Agreement and in Seattle Municipal Code Chapter 23.58A, the City will inform the County of its proposed changes.

- b. Proposed changes to the Regional TDR Credit exchange ratios shall support and further the goals provided in Section II.C.1.
- c. The City and County shall, as necessary, provide each other with information related to: (1) the number and type of each Regional TDR Credit that has been permitted into the LIPA, (2) the specific locations of the sending sites that sold Regional TDR Credits for projects in the LIPA, (3) the prices paid for each type of Regional TDR Credit used within the LIPA, and (4) the amount of Property Tax Allocation Revenue Value the County transferred to the City.
- d. The City and County shall meet as necessary to discuss information outlined in Section II.C.6.c and the proposed changes to the exchange ratios, and endeavor to seek agreement on proposed amended Regional TDR Credit exchange ratios prior to the City Council adopting changes to the exchange ratios in Seattle Municipal Code Chapter 23.58A. The County shall timely provide written comments on the proposed changes to the mayor and City council for consideration as part of their deliberations.

D. King County TDR Bank

The City recognizes that the County TDR Bank will play an important role in facilitating the Regional TDR Credit market used in the LIPA by: (1) buying Regional TDR Credits from willing landowners, (2) holding the Regional TDR Credits in reserve as described in Section III.B.2, (3) selling Regional TDR Credits when willing buyers in the LIPA are available, and (4) reinvesting the proceeds of Regional TDR Credit sales into protection of agriculturally-zoned land. Therefore, the City agrees that TDRs purchased from the County's TDR Bank will qualify for use in the LIPA as Regional TDR Credits, provided that the Credits meet the requirements of Section II.C.

E. Administrative Process

- 1. Prior to issuing final building permits for projects using Regional TDR Credits to gain bonus floor area, the City shall require applicants to produce documentation issued by a participating county demonstrating ownership of the Regional TDR Credits.
- 2. Prior to issuing a final certificate of occupancy for projects using Regional TDR Credits to gain bonus floor area, the City shall require applicants to produce documentation issued by a participating county demonstrating extinguishment of the transferred Regional TDR credits.

3. The City shall, to the extent practical, track the total number, type, and prices paid for Regional TDR Credits extinguished in the LIPA and shall report to the County within 30 days after the end of each calendar year the number, type, and prices paid for Regional TDR Credits that have been approved by the City for transfer into the LIPA, and shall identify the specific projects involved. In addition, the City shall cooperate with the County in providing the information required for the annual report as described in Section VI.
4. The City shall use the Property Tax Allocation Revenue Value it receives from King County for eligible Public Improvements in the LIPA.
5. The City has, in consultation with the County and the Washington State Department of Transportation, developed a plan that identifies the public improvements within the LIPA to be financed using Property Tax Allocation Revenue Value, and the Plan is attached as **Exhibit C** to this Agreement.
6. The City agrees that it will only create other LIPAs or increase the Specified Portion after consultation with the County and only according to terms provided for in an interlocal agreement.

III. RESPONSIBILITIES AND POWERS OF KING COUNTY

A. Program Administration

The County has adopted King County Code chapter 21A.37 to facilitate the purchase and sale of Regional TDR Credits from within the County. The County's obligations under this Agreement shall include:

1. Facilitate and promote the qualification and certification of sending site properties located in the County according to King County Code 21A.37 and RCW 39.108.
2. Implement the procedures to facilitate the sale of Regional TDR Credits from the King County TDR Bank and private sending site landowners for sale and transfer into the City LIPA.
3. Record a perpetual conservation easement on sending properties as part of the process for transferring development rights into the LIPA consistent with King County Code 21A.37.
4. Coordinate with the City regarding any future adjustments to the Regional TDR Credit exchange ratios as depicted in **Exhibit B** of this agreement and codified in Seattle Municipal Code Chapter 23.58A, as hereafter amended.
5. Provide the City with official recorded Regional TDR Credit ownership and

extinguishment documentation to ensure that Regional TDR Credits used are eligible under RCW 39.108, and are taken out of circulation when used in a project in the LIPA.

6. The King County Department of Assessments will calculate the Property Tax Allocation Revenue Base Value and annually calculate the Property Tax Allocation Revenue Value in the LIPA consistent with Section IV.A. If requested by the City, the County shall provide available documentation demonstrating how the Local Property Tax Allocation Revenue was calculated during the last calculation process.
7. King County Finance and Business Operations will distribute to the City the City's portion of the Local Property Tax Allocation Revenue, consistent with Section IV.B, at least twice a year on dates determined at the discretion of the County, except that the parties may agree to change to daily distribution if they agree to a method for sharing the cost of necessary IT programming changes. To the extent practical, at the same time as distribution, the County will report to the City the amount of Local Property Tax Allocation Revenue resulting separately from new construction under section IV.A.1.a and from other improvements under section IV.A.1.b, as well as increases in assessed value in the initial year under section IV.A.2 and increases in the assessed value of new construction consisting of an entire building in the LIPA occurring in the years following the initial year under section IV.A.3.

B. Operation of the King County TDR Bank

1. The County's TDR bank shall hold 200 Regional TDR Credits that meet the requirements of Section II.C.4.b in reserve ("Reserve Credits") for potential sale into the LIPA to ensure that Local Property Tax Threshold Level 1, as defined in Section IV.C, is satisfied.
2. The County's TDR bank will agree to hold additional Regional TDR Credits in reserve to ensure Local Property Tax Threshold Levels 2, 3, and 4 are met if the conditions in Section IV.D are met.
3. If the Reserve Credits are not sold by the time the City's Specified Portion is fulfilled or the City terminates the program, whichever occurs last, the City's hold on the additional reserve Regional TDR Credits is terminated
4. The County shall use the entire proceeds it receives from the sale of Regional TDR Credits from Forest-zoned lands or Rural-zoned lands that are sold from its TDR bank into the LIPA as part of the first 200 Regional TDR Credits referenced in Section II.C.4 to acquire development rights from agriculturally-zoned sending sites within the County. After the first 200 Regional TDR Credits are utilized for development in the LIPA, the County will not be required to continue this practice unless it specifically sells Regional TDR

Credits to a developer in order to allow them to achieve a better exchange ratio with the requirement that the entire proceeds from the sale shall be used to purchase new agricultural credits. If the County sells Regional TDR Credits for this purpose, the County will provide a letter stating that the entire proceeds from the sale shall be used to purchase new agricultural credits.

5. Nothing in this Agreement shall be construed to require the County to deviate from the valuation, purchase, and sale process and procedures required in K.C.C. 21A.37.130 for sales of TDR credits from the King County TDR bank.

C. Program Evaluation

The County shall, jointly with the City, publish every other year a report as described in Section VI.

D. Administrative Process

The County shall notify the City within 30 days after the end of each calendar year the number of Regional TDR Credits eligible to be used in the LIPA that it has qualified and certified in the County for such use and the source and use of any funds placed in a segregated account subject to the restriction that the funds in the account were derived from the sale of Regional TDR Credits from forest-zoned and Rural-zoned properties, which funds shall only be used for purchasing new Regional TDR Credits from agriculturally-zoned lands.

IV. MUTUAL RESPONSIBILITIES OF THE CITY AND COUNTY

A. Property Tax Allocation Revenue Value

1. Property Tax Allocation Revenue Value is equal to an amount of the Sponsoring City Ratio of 23.26 percent multiplied by 75 percent of increases in the assessed value of real property in the LIPA resulting from:
 - a. The placement of new construction of entire buildings on the assessment roll when the new construction is initiated after the LIPA is created; and
 - b. The placement on the assessment roll of improvements limited to additions or remodels that add new square footage to buildings in the LIPA when the improvements are initiated after the LIPA is created.
2. Property Tax Allocation Revenue Value includes increases in the assessed value resulting from factors described in Section IV.A.1.a and .b in the initial year and in subsequent years, unless the property becomes exempt

from property taxation. Property Tax Allocation Revenue Value does not include any additional increase in the assessed value that occurs after the initial year, except as provided in Section IV.A.3 below. For purposes of this subsection “initial year” means the year during which the new construction and improvements described in Section IV.A.1.a and .b are initially placed on the assessment roll.

3. Property Tax Allocation Revenue Value includes an amount equal to the Sponsoring City Ratio of 23.26 percent multiplied by 75 percent of any increase in the assessed value of new construction consisting of an entire building in the LIPA occurring in the years following the initial year, unless the building becomes exempt from property taxation. For purposes of this subsection “initial year” means the year during which the new construction described in Section IV.A.1.a is initially placed on the assessment roll.
4. New construction in the LIPA shall be considered an entire building when the new construction is: (i) detached from existing buildings located on the same site, (ii) attached to, but structurally self-reliant from, existing buildings located on the same site, or (iii) attached to, but located horizontally adjacent to, existing buildings located on the same site.
5. New construction of entire buildings in the LIPA and additions or remodels that add new square footage to buildings in the LIPA shall be considered “initiated” once the City’s Department of Planning and Development (DPD) has issued all building permits (i.e. including full architectural and full structural building permit).

B. Calculating Local Property Tax Allocation Revenue

1. King County is the only participating taxing district subject to this agreement.
2. The Local Property Tax Allocation Revenue shall be calculated using only the County’s current expense portion of the County’s Regular Property Taxes. The County’s current expense portion means the amount of property taxes levied annually that may be used for any county purpose and that has no legal restrictions on the use of the tax revenues.

C. Commencing of Local Property Tax Allocation Revenue

The City and County agree that the Local Property Tax Allocation Revenue from the County to the City shall commence on the later of either:

1. The beginning of the second calendar year following the creation of the LIPA (for example, if the LIPA is created in 2013, the beginning of the

second calendar year would be January 1, 2015) except that if there is no Property Tax Allocation Revenue Value at this time, commencement shall occur once Property Tax Allocation Revenue Value exists and is transferred to the City, as required by RCW 39.108.150; or

2. The date that “Local Property Tax Threshold Level 1” is satisfied. Local Property Tax Threshold Level 1 shall be satisfied once the City implements exchange ratios consistent with **Exhibit B**, creates the LIPA as depicted in **Exhibit A**, and this Agreement is adopted by both Parties which shall trigger the County’s obligation to hold in reserve and sell for transfer into the LIPA 200 Regional TDR Credits as described in Section III.B.2, which represents 25 percent of the City’s Sponsoring City Specified Portion.

D. Termination of Local Property Tax Allocation Revenue

1. The Local Property Tax Allocation Revenue from the County to the City, once commenced, shall terminate on the earlier of the following:
 - a. The date when Local Property Tax Allocation Revenues are no longer used or obligated for Public Improvements identified in the Local Infrastructure Project Area Public Improvement Plan as depicted in **Exhibit C** or as amended by the City in consultation with the County.
 - b. Ten (10) years after the first transfer of Local Property Tax Allocation Revenue from the County to the City if only Local Property Tax Threshold Level 1 is satisfied, as described in Section IV.A.1.b above.
 - c. Fifteen (15) years after the first transfer of Local Property Tax Allocation Revenue from the County to the City if only Local Property Tax Threshold Levels 1 and 2 are satisfied. Local Property Tax Threshold Level 2 shall be met if the City has within 114 months following the date the Local Property Tax Allocation Revenue commences: (1) issued building permits for development within the LIPA that on aggregate uses at least 400 Regional TDR Credits; or (2) notified the County, no earlier than 102 months after the date the Local Property Tax Allocation Revenue commences, that it has issued building permits for development within the LIPA that on aggregate use at least 280 Regional TDR Credits, and requested in writing that the County hold in reserve a sufficient number of additional reserve Regional TDR Credits, as described in Section III.B.3, to ensure that the 400 Regional TDR Credits required of Local Property Tax Threshold Level 2 is satisfied.

- d. Twenty (20) years after the first transfer of Local Property Tax Allocation Revenue from the County to the City if only Local Property Tax Threshold Levels 1, 2, and 3 are satisfied. Local Property Tax Threshold Level 3 shall be satisfied if the City has, within 174 months following the date the Local Property Tax Allocation Revenue commences: (1) issued building permits for development within the LIPA that on aggregate uses at least 600 Regional TDR Credits; or (2) notified the County, no earlier than 162 months after the date the Local Property Tax Allocation Revenue commences, that it has issued building permits for development within the LIPA that, on an aggregate basis, uses at least 450 Regional TDR Credits, and requested in writing that the County hold in reserve a sufficient number of additional reserve Regional TDR Credits, as described in Section III.B.3, to ensure that the 600 Regional TDR Credits required of Local Property Tax Threshold Level 3 is satisfied.
 - e. Twenty-five (25) years after the first transfer of Local Property Tax Allocation Revenue from the County to the City if Local Property Tax Threshold Level 1, 2, 3, and 4 are satisfied. Local Property Tax Threshold Level 4 shall be considered to be satisfied if the City has, within 234 months following the date the Local Property Tax Allocation Revenue commences: (1) issued building permits for development within the LIPA that on aggregate uses 800 Regional TDR Credits; or (2) notified the County, no earlier than 222 months after the date the Local Property Tax Allocation Revenue commences, that it has issued building permits for development within the LIPA that uses, on an aggregate basis, at least 640 Regional TDR Credits, and requested in writing that the County hold in reserve a sufficient number of additional reserve Regional TDR Credits to ensure that the 800 Regional TDR Credits required of Local Property Tax Threshold Level 4 is satisfied. If the City requests that the County hold sufficient additional reserve Regional TDR Credits to ensure that Local Property Tax Threshold Level 4 is satisfied, the City shall maintain its regional TDR density incentive zoning provisions in the LIPA until the City has permitted development that uses 800 Regional TDR Credits, even if it is necessary to continue the regional TDR density incentive zoning provisions in the LIPA beyond the 25-year threshold defined in RCW 39.108.
2. Once the termination date occurs, the County shall distribute property taxes in the LIPA in the manner required by state law and as if the LIPA had not been created, except the County will continue to collect and distribute to the City Local Property Tax Allocation Revenue based on

delinquent taxes due and owing prior to the termination date until all these amounts have been collected and disbursed or a period of 3 years has elapsed.

V. DURATION

A. Duration

This Agreement shall become effective on the date it has been executed by both Parties and shall continue until such time as 800 Regional TDR Credits have been permitted into development projects in the City's LIPA and Local Property Tax Allocation Revenue Value has been distributed, unless earlier terminated as provided in Section V.B.

B. Termination

Either Party may terminate this Agreement upon 180 days' written notice to the other if: (1) the City's development regulations allowing the use of TDR credits, or the provisions of the County's development regulations allowing transfer of development rights to cities, are held invalid by any court of competent jurisdiction in a final order that is no longer subject to appeal; or (2) the other Party materially defaults in performing its obligations under this Agreement and does not commence to cure the default within 30 days after receiving written notice of the default and does not diligently proceed to fully cure the default.

Any termination of this Agreement shall affect the use of Regional TDR Credits previously certified by the County for use in receiving area only to the extent the affected Regional TDR Credits are subject to the City's development regulations in force at the time notice of termination is given from one party to the other. Any termination of this Agreement shall neither affect the City's or County's rights or duties with respect to the infrastructure funding previously provided by the County under the Agreement, nor the City's right to receive County funds for which the City shall have satisfied all conditions to disbursement prior to termination.

C. Extension or Expansion

This Agreement may only be modified by a mutual written agreement between the Parties, subject to approval through the respective Party's legislative process.

VI. EVALUATION AND MONITORING

A. Records

The records and documents with respect to all matters covered by this Agreement shall be subject to inspection, review, or audit by the City or County as requested by each jurisdiction during the applicable records retention period required by law.

B. Reporting

1. Annual reporting

The City shall, to the extent practical, provide to the County on an annual basis information regarding: the number, type, and price of Regional TDR Credits used in the LIPA; amount of bonus residential and commercial floor area achieved through use of Regional TDR Credits; the applicant name and project address using Regional TDR Credits in the LIPA; public improvement projects funded through the program; and business known to have located within the local infrastructure project area as a result of the public improvements.

2. Quantitative and Qualitative performance Measure Reporting

Upon request from the County, the City agrees to provide any information within the custody and control of the City that is necessary to satisfy the reporting requirements provided for in RCW 39.108.110.

VII. INDEMNIFICATION

A. County Negligence

The County shall indemnify and hold harmless the City and its officers, agents and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any negligent action or omission of the County, its officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the City, the County shall defend, with counsel acceptable to the City, the same at its sole cost and expense, provided that the City retains the right to participate in said suit if any principle of governmental or public law is involved, and if final judgment be rendered against the City and its officers, agents, and employees, or any of them, or jointly against the City and County and their respective officers, agents, and employees, or any of them, the County shall satisfy the same.

B. City Negligence

The City shall indemnify and hold harmless the County and its officers, agents

and employees or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any negligent action or omission of the City, its officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the County, the City shall defend, with counsel acceptable to the County, the same at its sole cost and expense, provided that the County retains the right to participate in said suit if any principle of governmental or public law is involved; and if final judgment be rendered against the County and its officers, agents, employees, or any of them, or jointly against the City and County and their respective officers, agents, and employees or any of them, the City shall satisfy the same.

C. Concurrent Negligence

The City and the County acknowledge and agree that if claims, actions, suits, liability, loss, costs, expenses and damages are caused by or result from the concurrent negligence of the City, its agents, employees, or officers and the County, its agents, employees, or officers, this section shall be valid and enforceable only to the extent of the negligence of each party, its agents, employees or officers.

VIII GENERAL TERMS

A. Administration

This Agreement shall be administered for the City by the Director of Planning and Development or designee, and for the County if related to tax issues by the Director of the Finance and Business Operations Division of the King County Department of Executive Services, and if related to TDR issues, the Director of the Water and Lands Resources Division of the King County Department of Natural Resources and Parks, or their designees.

B. Severability

If any provision of this Agreement shall be held invalid, the remainder of the Agreement shall not be affected.

C. No Waiver

Waiver of any breach of any provision of this Agreement shall not be deemed to be a waiver of any prior or subsequent breach, and shall not be construed to be a modification of this Agreement.

D. No Third Party Beneficiary

This Agreement is made and entered into for the sole protection and benefit of the Parties. No other person or entity shall have any right of action or interest in this Agreement based upon any provision in the Agreement.

E. Entire Agreement

This Agreement is the complete expression of the terms contained in this Agreement and any oral representation or understanding not incorporated into this Agreement is excluded. Any modifications to this Agreement shall be in writing and signed by both parties.

In witness whereof, the Parties executed this Agreement as of the ____ day of _____, 2013.

KING COUNTY

Approved as to Form:

By: _____
Dow Constantine, King County Executive

By: _____
Tim Barnes,
Senior Deputy Prosecuting Attorney

According to Ordinance _____

THE CITY SEATTLE

Approved as to Form:

By: _____
Michael McGinn, Mayor

By: _____
Patrick Downs,
Assistant City Attorney

According to City Council adoption of Ordinance _____

EXHIBIT A

Regional TDR Receiving Area / Local Infrastructure Project Area (LIPA)

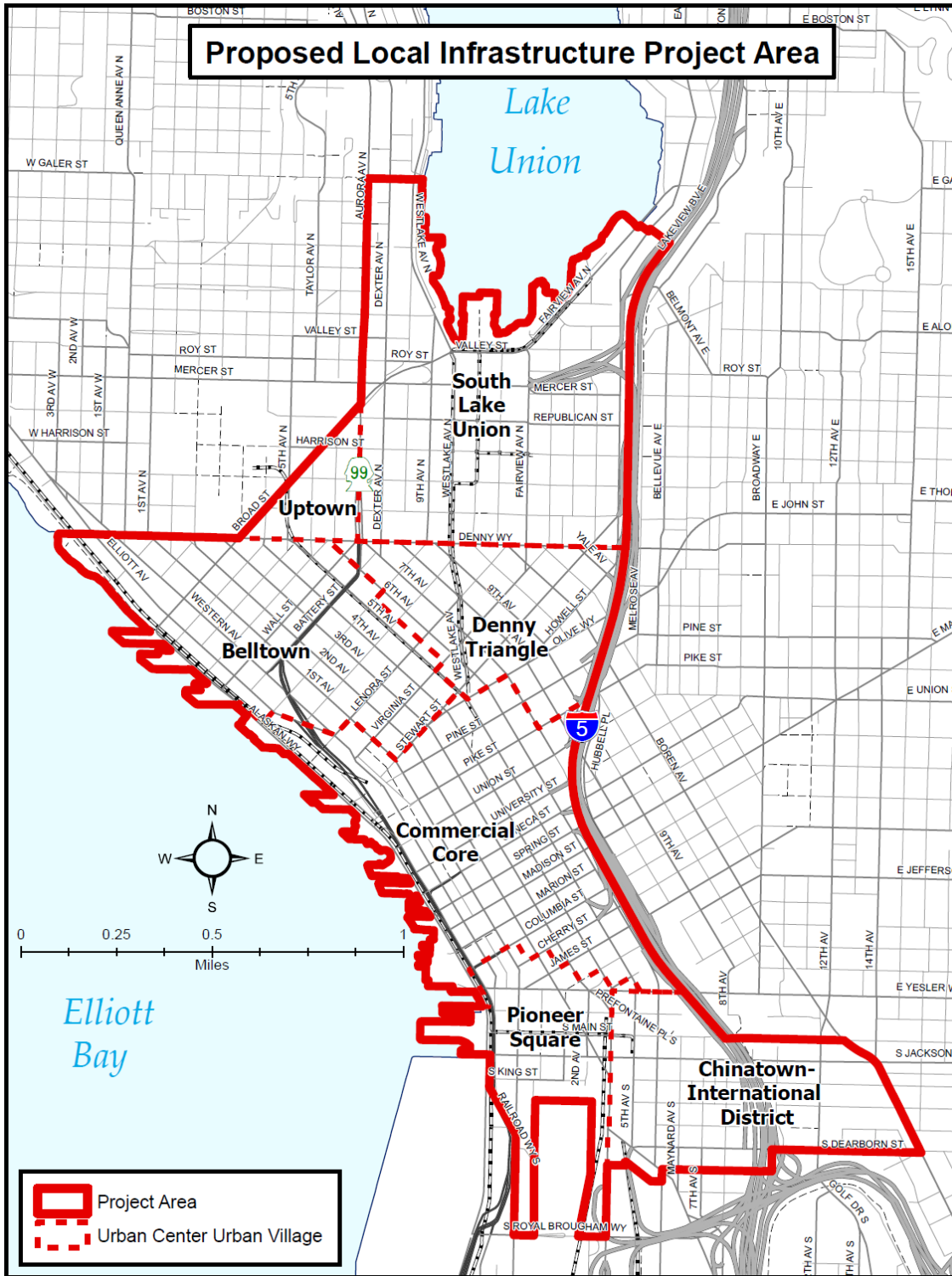


EXHIBIT B

Regional Transferable Development Right (TDR) Credit Exchange Ratios

Table 1: Residential Regional TDR Credit Exchange Ratios For The First 200 Regional TDR Credits		
County of Origin	Type of Credit	Square Feet per Credit
King	Agricultural credit	1,640
	Forest or Rural credit, provided the entire proceeds from the sale shall be used to purchase new agricultural credits	1,500
Pierce	Agricultural credit	420
	Forest credit, provided the entire proceeds from the sale shall be used to purchase new agricultural credits	860
Snohomish	Agricultural credit	980
	Forest credit, provided the entire proceeds from the sale shall be used to purchase new agricultural credits	860

Table 2: Nonresidential Regional TDR Credit Exchange Ratios For The First 200 Regional TDR Credits		
County of Origin	Type of Credit	Square Feet per credit
King	Agricultural credit	1,120
	Forest or Rural credit, provided the entire proceeds from the sale shall be used to purchase new agricultural credits	1,030
Pierce	Agricultural credit	290
	Forest credit, provided the entire proceeds from the sale shall be used to purchase new agricultural credits	590
Snohomish	Agricultural credit	670
	Forest credit, provided the entire proceeds from the sale shall be used to purchase new agricultural credits	590

Table 3: Residential Regional TDR Credit Exchange Ratios After The First 200 Regional TDR Credits Have Been Extinguished		
County of Origin	Type of Credit	Square Feet per credit
King	Agricultural credit	1,640
	Forest or Rural credit, provided the entire proceeds from the sale shall be used to purchase new agricultural credits	1,500
	Forest or Rural credit	1,020
Pierce	Agricultural credit	420
	Forest credit	800
Snohomish	Agricultural credit	980
	Forest credit	800

Table 4: Nonresidential Regional TDR Credit Exchange Ratios After The First 200 Regional TDR Credits Have Been Extinguished		
County of Origin	Type of Credit	Square Feet per credit
King	Agricultural credit	1,120
	Forest or Rural credit, provided the entire proceeds from the sale shall be used to purchase new agricultural credits	1,030
	Forest or Rural credit	700
Pierce	Agricultural credit	290
	Forest credit	550
Snohomish	Agricultural credit	670
	Forest credit	550

EXHIBIT C

Landscape Conservation and Local Infrastructure Program Infrastructure Funding Plan For South Lake Union and Downtown

June 13, 2013

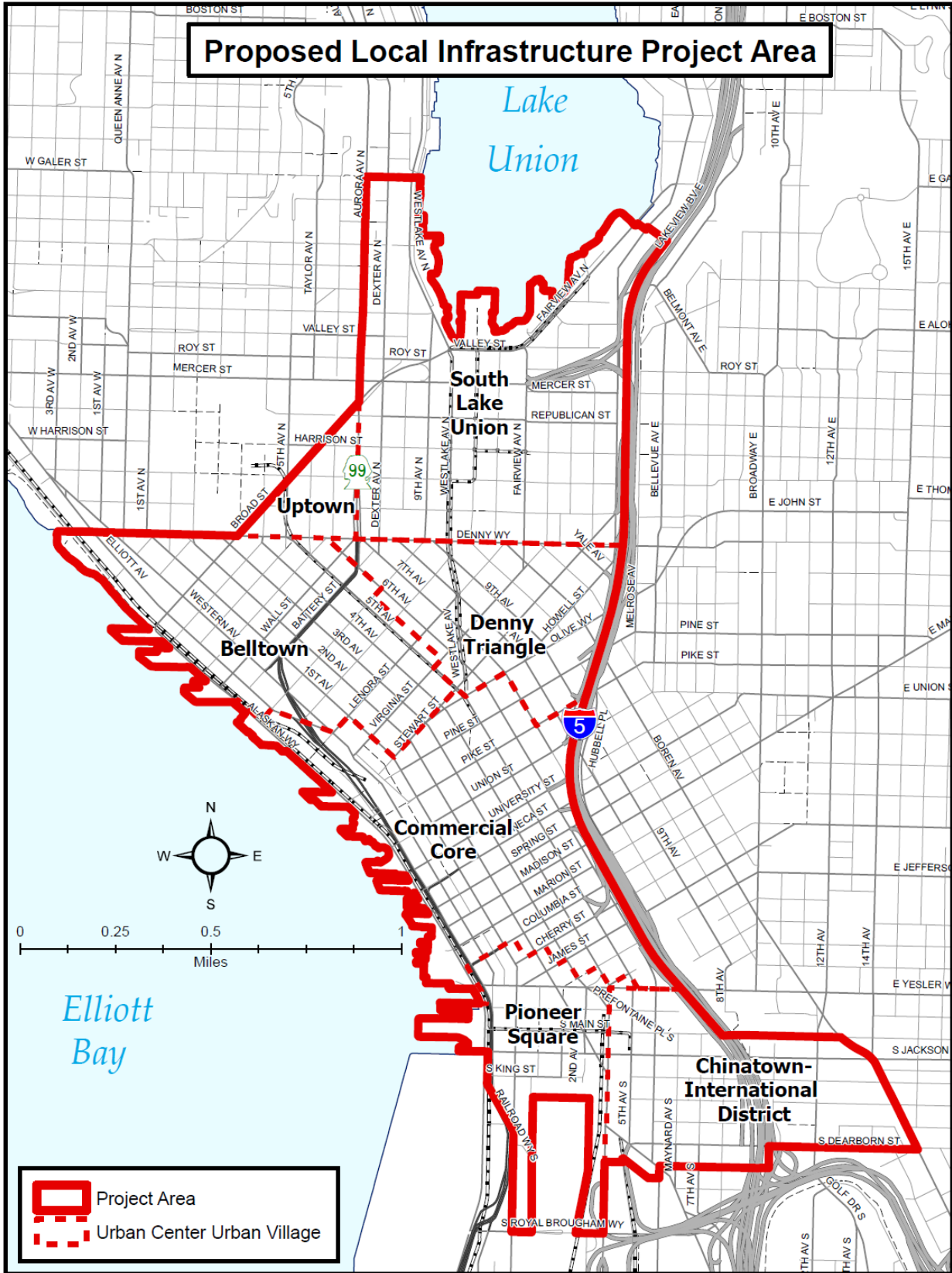
This plan outlines potential infrastructure investments that could be implemented through funding generated by the Landscape Conservation and Local Infrastructure Program (LCLIP) that is being proposed by the City of Seattle in cooperation with King County. While specific funding decisions will be made by the City based on the amount of funding available, project timing, opportunities to leverage outside funds, opportunities to leverage developer improvements, and other factors, this plan outlines the scope of potential items that could be funded through this program. Funding of any items not included in this plan through the LCLIP program would require modification of the plan by legislative action. All dollar amounts are in 2012 dollars.

Background

The City of Seattle, in cooperation with King County, is proposing to implement the LCLIP program in the neighborhoods of South Lake Union and Downtown. The LCLIP program allows cities to receive a portion of future county property tax revenue for local infrastructure investments if they implement a program to obtain regional Transferrable Development Rights (TDR). The City is proposing to meet the requirements for capturing TDRs through the incentive zoning program in South Lake Union and Downtown. The overall purpose of the Infrastructure Funding and Regional TDR Programs is to preserve farm and forest land by transferring development capacity from these lands to cities, and generate funds for local infrastructure projects in the communities where the additional development capacity is located.

The Regional TDR program would be implemented by requiring developers to earn extra floor area and height in part by purchasing and extinguishing development rights (also known as TDR credits) from regional farms and forests.

In exchange for implementing a Regional TDR Program through the City's incentive zoning program, the City would be entitled to receive 17.44% of property tax revenue from new development occurring in the Local Infrastructure Project Area (LIPA) for up to 25 years according to the standards of RCW 39.108. The boundary area of the proposed LIPA is shown below.



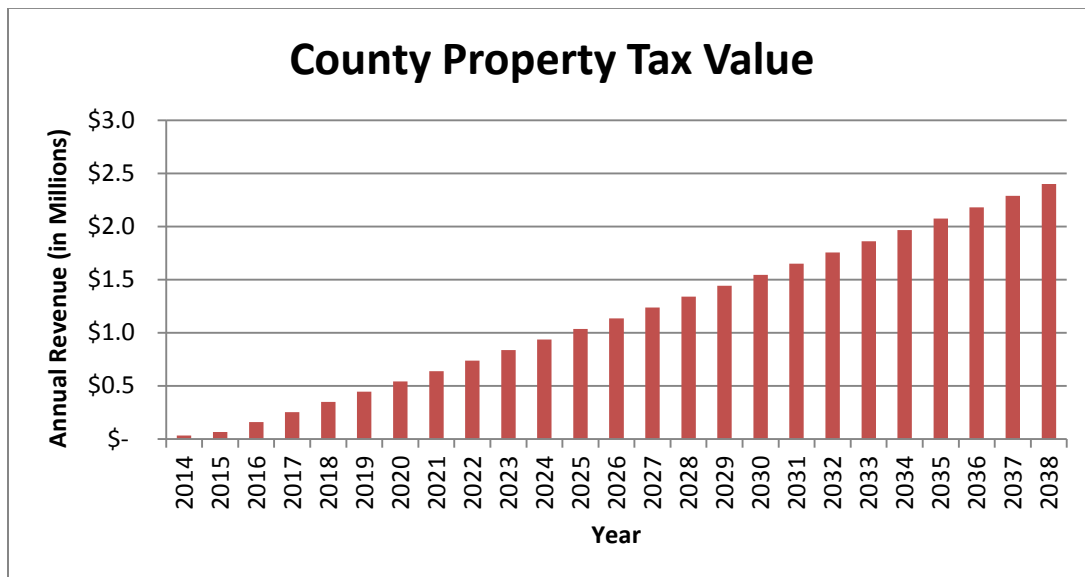
This funding would be contingent on meeting certain thresholds over time. The initial length of the program would be 10 years. The program would be extended to:

- 15 years if 400 credits are obtained within 9.5 years;
- 20 years if 600 credits are obtained within 14.5 years; or
- 25 years if 800 credits are obtained within 19.5 years.

King County would agree to consider each threshold met if, prior to each deadline, at least 70%-80% of the TDR credits necessary to meet the local property tax threshold had been obtained (the exact percentage varies by threshold) and the City requested in writing, that the threshold be considered met. If the option to extend to 25 years is used prior to obtaining 800 credits, the City would be required to continue the TDR program until 800 credits were obtained even if it required the TDR program to extend beyond 25 years.

Anticipated Revenue

It is anticipated that this program will result in \$27.5M in revenue from King County property taxes over 25 years. If an annual discount rate of 3% is used to account for the reduced value of having money in the future, these funds would be equivalent to \$15.7M in 2012 dollars. Below is an estimate of expected revenue by year.



Funding Strategy

Revenue generated from the LCLIP program will be spent on streetscape, recreational, and open space investments as described below and detailed in the “specific investments” section.

These funds would be split between projects in South Lake Union and Downtown based on the proportion of regional TDR generated in each area. It is estimated that this split will result in about 60% of the funds or \$16.5M (\$9.4M in 2012 dollars) being allocated to South Lake Union projects and 40% of the funds or \$11.0M (\$6.3M in 2012 dollars) to Downtown projects.

Decisions about which projects to implement and when they will be implemented will be made by the City based on the amount of funding available, project timing, opportunities to leverage outside funds, opportunities to leverage developer improvements, and other factors. In order to streamline this process, the City is proposing to stage the projects such that the first 10 years of revenue would go toward streetscape and transportation projects managed by the Department of Transportation, the second 10 years of revenue would go to park projects managed by the Department of Parks and Recreation, and the last 5 years again would go to streetscape projects managed by the Department of Transportation.

A chart summarizing the proposed staging and projects (with priority projects in **bold**) is shown below:

Revenue Years	Agency	Estimated Total Revenue (2012 Dollars)	Proposed Projects by Area	
			South Lake Union	Downtown
0-10 years	SDOT	\$2.9M	<ul style="list-style-type: none"> • Green Streets (Thomas & 8th) • Bike, Pedestrian, and Transit Improvements (Harrison & Denny) 	<ul style="list-style-type: none"> • 3rd Avenue Improvements (Capital Projects & Programs)
11-20 years	Parks	\$7.8M	<ul style="list-style-type: none"> • Community Center • Park Improvements and Acquisitions 	
21-25 years	SDOT	\$5.0M	<ul style="list-style-type: none"> • Transportation Improvements – specific improvements to be determined later 	

In general, the City plans to spend money as it is received; however, opportunities to use bonding to implement projects prior to the receipt of funds will be considered on a project-by-project basis.

Specific Investments

The specific investments that are proposed to be funded in part through LCLIP are outlined on the following pages. It is anticipated that funds generated through LCLIP will be combined with funds from other sources to accomplish these projects.

South Lake Union Streetscape Investment

Thomas Street Green Street (from Dexter Ave to Fairview Ave)

Proposed Improvements	Cost Estimate
Implement “green street” improvements to support Thomas Street’s role as an important new east / west green street and public realm connection, linking the Cascade neighborhood through South Lake Union to the Seattle Center. The current proposal includes a two-way, two-lane configuration with on-street parking. Curb bulbs will be added where appropriate and the north sidewalk will be expanded to provide a green promenade. Pedestrian-scale lighting and streetscape improvements will be made throughout.	\$1,500,000

8th Avenue NE Green Street (from Mercer Street to John Street)

Proposed Improvements	Cost Estimate
Create a pedestrian-oriented street from Mercer to John with an enhanced green street environment that could serve as a <i>woonerf</i> . The project will likely include widened sidewalks, new trees and plantings, new pedestrian lighting, and streetscape improvements.	\$2,500,000

Harrison Street Improvements (from Dexter Avenue to Fairview Avenue)

Proposed Improvements	Cost Estimate
Rebuild or repair pavement between Dexter and Eastlake to allow potential transit use and provide a three-lane roadway section as necessary; repair, replace or enhance sidewalks and install curb bulbs as needed; improve planting areas, tree canopy and parking as possible; provide pedestrian lighting and streetscape improvements. Harrison will become the primary street for traveling east / west through South Lake Union between Mercer Street and Denny Street.	\$5,500,000

Denny Way Improvements (from Broad Street to Stewart Street)

Proposed Improvements	Cost Estimate
Make spot improvements consistent with Denny Way Streetscape Concept Plan; improve pedestrian crossing conditions, enhance signalized intersections, replace sidewalk in poor condition, improve planting strips and provide street trees where needed; Improve roadway delineation in locations where two streets intersect Denny at a diagonal.	\$2,500,000

Downtown Streetscape Investments

Third Avenue Corridor Improvements

Proposed Improvements	Cost Estimate
<p>This project makes multimodal improvements in the Third Avenue downtown corridor, a major travel corridor for pedestrians and transit vehicles. The project enhances the walking, biking and transit environment and improves safety for all travel modes. Improvements may include repair or enhancement of streets, improving sidewalks, upgrading or installing curb ramps, remarking crosswalks, and installing pedestrian countdown signals. It may also include pedestrian-scale lighting, bicycle facilities at select locations, high-capacity solar trash receptacles and wayfinding information. Transit will be made more attractive and convenient with improvements such as real-time transit information, transit maps and schedule information, improved weather protection, ticket vending machines or ORCA card readers.</p>	\$40 to 70 million

Open Space Investments

The priority investment for this portion of the plan is a North Downtown Community Center if the Department of Parks and Recreation finds at a future date that such an investment is justified given services areas, funding needs, and other issues.

North Downtown Community Center

Proposed Improvements	Cost Estimate
Develop a full-service community center. No specific plans exist for this project; however, a 20,000 square-foot, full service center, is the typical size for new centers. These centers can include a gym, multi-purpose rooms, and a kitchen, among other spaces. The cost estimate does not include land.	\$10,000,000

Enterprise Car Rental Lot Park Development

Proposed Improvements	Cost Estimate
Pay for a portion of the construction of a park that is proposed for the current Enterprise lot at Lenora and Westlake. This work could include landscaping, paving, lighting, seating, signage, and related park improvements.	\$3,000,000

Bell Street Green Street Enhancement

Proposed Improvements	Cost Estimate
Extends the Bell Street Green Street from 5 th Avenue to 6 th Avenue. This work would provide for enhancement of landscaping, hardscape, and related park features. The estimate is based on the current Bell Street costs of \$800,000 per block, plus an allocation for the enhancement work for the existing sections.	\$1,300,000

Hing Hay Extension Park Development

Proposed Improvements	Cost Estimate
This project, which is west of the existing Hing Hay Park, will pay for a portion of demolition of the existing structure, site pavement and the construction of the new park. The improvements could include landscaping, paving, lighting, seating, signage, and related park improvements. There may also be renovation elements to the existing Park to ensure the two parts of the park are unified.	\$2,500,000

Central Waterfront Pier Redevelopment

Proposed Improvements	Cost Estimate
Make improvements to one of Parks' piers (58 or 62/63), potentially including pier reconstruction and/or stabilization, landscaping, lighting, seating, signage, and related park improvements. The cost estimate was based on Parks' 2013-2018 Asset Management Plan that was derived from a prior study for Pier 58 redevelopment.	\$3,000,000

June 27, 2013

The Honorable Larry Gossett
Chair, King County Council
Room 1200
C O U R T H O U S E

Dear Councilmember Gossett:

This letter transmits an ordinance authorizing the Executive to enter into an interlocal agreement (ILA) with the City of Seattle that will permanently preserve 25,000 acres of farm and forest lands in King County, while steering development into urban centers and increasing urban livability through public improvements.

Growth in the Puget Sound region is putting development pressure on rural farms and forests. Transfer of development rights (TDR) is an innovative, market-based tool that can protect these lands and the benefits they provide to our communities. A strong agricultural industry is good for public health, and our environment. Working forestlands are critical to healthy watersheds, and provide important timber jobs. Together, these resource industries make up significant elements of the rural economy.

The ILA would be the first of its kind under the State's recently adopted Landscape Conservation and Local Infrastructure Program (LCLIP), which creates a mechanism for cities and counties to partner on regional TDR efforts and urban infrastructure investments. It will facilitate the transfer of development rights from farm and forest properties into the City's South Lake Union and Downtown neighborhoods. Under this framework, the County, the City, and private developers will work together to put development where it makes the most sense – in urban centers – and will have the financial tools necessary to support infrastructure investments.

Under LCLIP, passed by the 2011 Washington State Legislature, cities and counties partner to promote growth management and land conservation through the use of TDR linked to a form of tax increment financing. Cities agree to accept development rights in designated receiving areas in exchange for the ability to receive a portion of the County's share of new property tax revenues generated from future construction in those areas. Cities are required to invest the County revenues into public improvements and urban infrastructure that directly support the additional density. The amount of County property tax revenue a city receives,

and the number of years it receives it, is determined by the number of development rights a city commits to accept.

Through the attached ILA, the City of Seattle would agree to accept 800 rural development rights in South Lake Union and Downtown – two of the City’s designated urban centers. Developers would then purchase development rights in order to maximize the development potential of projects in these neighborhoods. These developer purchases are projected to generate up to \$18 million for land conservation, and will protect roughly 25,000 acres of farm and forest lands.

Development growth in South Lake Union and Downtown is expected to reach 40.4 million new square feet over the next 25 years. This new construction will generate an estimated \$98 million (present value) in future King County general fund property tax revenue. In exchange for the City accepting 800 rural development rights, the County would transfer to the City 17.44 percent (\$17.3m) of this new general fund property tax revenue; the County would retain the remaining 82.5 percent (\$81.5m). After 25 years the revenue transfer to the City would stop, and the County would begin to capture the full 100 percent of its portion of property tax revenue. The City must use all of the revenues it receives from the County to invest in public improvements and infrastructure projects to support the additional urban development.

The Seattle City Council passed legislation in April 2013 that created additional development potential in South Lake Union and Downtown. These zoning amendments added TDR to the existing methods by which developers can increase the density of projects in those neighborhoods, such as affordable housing. Preservation of active farmlands that contribute to the local food supply, such as farmers markets, local food retailers and restaurants, is a policy priority of the City and therefore a focus of the ILA.

This ILA furthers the King County Strategic Plan by promoting stewardship of rural landscapes with incentive programs to achieve permanent conservation; as such it has multiple benefits for King County. It creates a designated TDR receiving area with strong future developer demand inside two designated urban centers; it will protect a significant amount of farmland; and it strengthens the County’s commitment to growth management by linking rural land protection with investments in urban infrastructure.

In addition, the agreement will yield environmental benefits by reducing transportation-related green house gas (GHG) emissions. An independent study by the Sightline Institute estimates that the 800 rural development rights that would be transferred into the City through this agreement will reduce transportation-related GHG emissions by 216,000 metric tons over a 25 year period.

Thank you for your consideration of this ordinance. This important legislation will strengthen growth management and protect important open space for all residents of King County.

The Honorable Larry Gossett

June 27, 2013

Page 3

If you have any questions, please feel free to contact Bob Burns, Deputy Director of the Department of Natural Resources and Parks, at 206-263-6296.

Sincerely,

Dow Constantine
King County Executive

Enclosures

cc: King County Councilmembers

ATTN: Michael Woywod, Chief of Staff

Anne Noris, Clerk of the Council

Carrie S. Cihak, Chief Advisor, Policy and Strategic Initiatives, King County
Executive Office

Dwight Dively, Director, Office of Performance, Strategy, and Budget

Christie True, Director, Department of Natural Resources and Parks (DNRP)

Bob Burns, Deputy Director, DNRP

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FISCAL NOTE

Ordinance/Motion No. 2013-XXXX
Title: Interlocal Agreement with the City of Seattle for Transfer of Development Rights (TDR)
Affected Agency and/or Agencies: Water and Land Resources Division, Department of Natural Resources and Parks
Note Prepared By: Darren Greve, WLRD, DNRP
Note Reviewed By: Aaron Rubardt, Office of Performance, Strategy, and Budget (PSB)

Impact of the above legislation on the fiscal affairs of King County is estimated to be:

Revenue:

Fund/Agency	Fund Code	Revenue Source	2013	2014	2015	2016 ⁶
General Fund ^{1,5}	10	Property Taxes			183,972	369,225
KC TDR Bank ² / DNRP	3691	TDR Sales		874,436	896,297	929,978
	TOTAL		0	874,436	1,080,269	1,299,203

Expenditures:

Fund/Agency	Fund Code	Appropriation Unit	2013	2014	2015	2016 ⁶
General Fund ^{3,5}	10	Tax Diversion			32,195	64,614
KC TDR Bank ⁴ / DNRP	3691	WLR TDR Bank		874,436	655,827	672,223
	TOTAL			874,436	688,022	736,837

Expenditures by Category

	2013	2014	2015	2016 ⁶
Transfer of GF property tax increment to City of Seattle for infrastructure investments in LIPA			32,195	64,614
TDR Bank use of revenue to purchase development rights for farm & forest land protection		874,436	655,827	672,223
TOTAL		874,436	688,022	736,837

Notes:

- Revenues represent King County's total General Fund property tax revenue from new construction, located within the Local Infrastructure Project Area (LIPA) in Seattle, that occurs after date of City's adoption of the LIPA in 2013. After 25 years King County would stop revenue transfers to the city and capture 100% of its property tax share. *It is estimated that the LIPA will generate over \$163 million in new general fund property taxes over the life of the program; this represents net present value of \$98.8 million, assuming a 3% discount rate over 25 years.*
- Revenues to the King County TDR Bank represent proceeds from sale of TDRs, that are currently held by the TDR Bank, to developers within the City's LIPA for increased development capacity; revenues represent KC TDR Bank capturing approximately 50% of annual TDR sales to in-city developers for all 800 TDRs that can be sold into the LIPA.
- Expenditures represent 17.44% of KC's share of the General Fund property tax revenue from new construction that is transferred for 25 years to the City of Seattle for City infrastructure investments in the LIPA to support additional density/development. Department of Assessments will calculate the tax increment in the LIPA in a designated levy code and provide that information to King County Treasury who will distribute the dollars to the city semi-annually. The funds will go directly to the city of Seattle for public improvements in the LIPA, which will not require an appropriation. *It is estimated that the General Fund will forego \$28.5M in property taxes over the life of the program, which represents approximate 0.11% of General Fund expenditures over the same period. This represents a net present value of \$17.3M, assuming a 3% discount rate over the 25 year period.*
- Expenditures from the KC TDR Bank represent the Bank revolving revenue it receives from the sale of TDRs in order to purchase development rights for farm and forest land protection; figures represent KC TDR Bank spending between 75% and 100% of the proceeds it received the previous year, and spending full amount received by 2031.
- Property tax estimates were generated by independent consultants hired by the City of Seattle. The actual property tax collections will vary. *PSB has reviewed the model and has developed an additional model that estimates the incremental property taxes diverted to the city of Seattle to be between \$15.5M and \$51.2M. The independent consultants estimate of \$28.6M is within these bounds.* The actual transfer will be calculated by the Department of Assessments and is influenced by new construction levels in Downtown Seattle, overall countywide assessed value, and the General Fund property tax levy rate.
- This legislation enters into an agreement that extends to 2039. Detailed cash flow figures are below for the outyears.

Year	New GF Revenue	Retained GF	Foregone GF	TDR Revenue	TDR Expenditures
2017	\$ 900,505	\$ 742,916	\$ 157,588	\$ 953,228	\$ 697,484
2018	\$ 1,435,869	\$ 1,184,592	\$ 251,277	\$ 977,058	\$ 714,921
2019	\$ 1,974,935	\$ 1,629,321	\$ 345,614	\$ 1,001,485	\$ 732,794
2020	\$ 2,517,724	\$ 2,077,122	\$ 440,602	\$ 1,026,522	\$ 751,114
2021	\$ 3,064,254	\$ 2,528,010	\$ 536,245	\$ 1,052,185	\$ 769,891
2022	\$ 3,614,547	\$ 2,982,002	\$ 632,546	\$ 1,078,490	\$ 789,139
2023	\$ 4,168,623	\$ 3,439,114	\$ 729,509	\$ 1,105,452	\$ 808,867
2024	\$ 4,726,501	\$ 3,899,364	\$ 827,138	\$ 1,133,088	\$ 829,089
2025	\$ 5,288,203	\$ 4,362,768	\$ 925,436	\$ 1,161,415	\$ 849,816
2026	\$ 5,853,749	\$ 4,829,343	\$ 1,024,406	\$ 592,451	\$ 871,061
2027	\$ 6,423,159	\$ 5,299,106	\$ 1,124,053		\$ 444,338
2028	\$ 6,996,454	\$ 5,772,074	\$ 1,224,379		\$ 500,000
2029	\$ 7,573,655	\$ 6,248,265	\$ 1,325,390		\$ 500,000
2030	\$ 8,154,782	\$ 6,727,695	\$ 1,427,087		\$ 500,000
2031	\$ 8,739,858	\$ 7,210,383	\$ 1,529,475		\$ 500,000
2032	\$ 9,328,902	\$ 7,696,344	\$ 1,632,558		
2033	\$ 9,921,936	\$ 8,185,598	\$ 1,736,339		
2034	\$ 10,518,982	\$ 8,678,160	\$ 1,840,822		
2035	\$ 11,120,060	\$ 9,174,049	\$ 1,946,010		
2036	\$ 11,725,192	\$ 9,673,283	\$ 2,051,909		
2037	\$ 12,334,400	\$ 10,175,880	\$ 2,158,520		
2038	\$ 12,947,705	\$ 10,681,857	\$ 2,265,848		
2039	\$ 13,565,129	\$ 11,191,231	\$ 2,373,898		
<i>totals</i>	<i>\$ 162,895,124</i>	<i>\$ 134,388,477</i>	<i>\$ 28,506,647</i>	<i>\$ 10,081,373</i>	<i>\$ 10,258,513</i>