

#32

Brennon Staley / Ketil Freeman
DPD LCLIP Implementation Part 2 ORD
September 11, 2013
Version #5

CITY OF SEATTLE
ORDINANCE _____
COUNCIL BILL 117834

AN ORDINANCE creating a Local Infrastructure Project Area and amending Sections 23.48.011, 23.49.011, and 23.58A.044 of the Seattle Municipal Code to implement a Landscape Conservation and Local Infrastructure Program.

WHEREAS, in 2009, the City Council approved Resolution 31147 expressing support for entering into a new interlocal agreement with King County to establish a rural transfer of development rights program, and identifying South Lake Union as a potential receiving area for using additional development rights; and

WHEREAS, in 2011, the State enacted legislation allowing the creation of Landscape Conservation and Local Infrastructure Programs (also known as LCLIP) providing for financing for infrastructure in neighborhoods designated to be receiving areas for regional development rights; and

WHEREAS, in 2013, the City Council approved Ordinance 124172 rezoning portions of the South Lake Union Urban Center and adopting development standards for the South Lake Union Urban Center and certain zones in the Downtown Urban Center that would be implemented if a Landscape Conservation and Local Infrastructure Program were formed; 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 Local Infrastructure Project Area; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The City establishes, as authorized by RCW 38.108, a Local Infrastructure Project Area for Downtown and South Lake Union as shown on Map A for 23.58A.044.

Section 2. The proposed public improvements to be financed in the Local Infrastructure Project Area for Downtown and South Lake Union are those listed in the Landscape Conservation and Local Infrastructure Program Infrastructure Funding Plan for South Lake Union and Downtown.

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1 Section 3. The use of local property tax allocation revenues from the Local Infrastructure
2 Project Area will commence on January 1, 2015.

3 Section 4. King County will be the participating taxing district for the Local
4 Infrastructure Project Area.

5 Section 5. Section 23.48.011 of the Seattle Municipal Code, last amended by Ordinance
6 124172, is amended as follows:

7 **23.48.011 Extra floor area in Seattle Mixed Zones**

8 A. General

9 1. Developments containing extra floor area obtained under Sections 23.48.009
10 or 23.48.010 shall provide public amenities according to the standards of this Section 23.48.011
11 and Chapter 23.58A. If the development is not located within ~~((an adopted))~~ the Local
12 Infrastructure Project Area for Downtown and South Lake Union as shown in Map A for
13 23.58A.044, extra floor area shall be achieved through the requirements of subsection
14 23.48.011.B. If the development is located within ~~((an adopted))~~ the Local Infrastructure Project
15 Area for Downtown and South Lake Union as shown in Map A for 23.58A.044, extra floor area
16 shall be achieved through the requirements of subsection 23.48.011.C.

17 2. Definitions in Section 23.58A.004 apply in this Section 23.48.011 unless
18 otherwise specified.

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20 B. Calculation outside of an adopted Local Infrastructure Project Area

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22 3. If a development is outside of an adopted Local Infrastructure Project Area at
23 the time a Master Use Permit decision is issued for the development, and the development is
24 inside of an adopted Local Infrastructure Project Area before the first building permit after
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excavation and shoring is ready to issue for the development, then the applicant may elect to achieve extra floor area through acquiring regional development credits pursuant to Section 23.58A.044 for the portion of extra floor area specified in subsection 23.48.011.B.1.b or 23.48.011.B.2.b, as applicable, in lieu of the open space transferable development potential or Landmark transferable development potential specified in subsection 23.48.011.B.1.b, or the open space transferable development rights or Landmark transferable development rights specified in 23.48.011.B.2.b.

Section 6. Section 23.49.011 of the Seattle Municipal Code, last amended by Ordinance 124172, is amended as follows:

23.49.011 Floor area ratio

A. General standards

1. The base and maximum floor area ratio (FAR) for each zone is provided in Table A for 23.49.011.

Table A for 23.49.011 Base and Maximum Floor Area Ratios (FARs)		
Zone Designation	Base FAR	Maximum FAR
Downtown Office Core 1 (DOC1)	6	20
Downtown Office Core 2 (DOC2)	5	14
Downtown Retail Core (DRC)	3	5
Downtown Mixed Commercial (DMC)	4 in DMC 65 4.5 in DMC 85 5 in DMC 125, DMC 160, DMC 240/290-400, and DMC 340/290-400	4 in DMC 65 4.5 in DMC 85 7 in DMC 125, DMC 160, and DMC 240/290-400 10 in DMC 340/290-400

**Table A for 23.49.011
 Base and Maximum Floor Area Ratios (FARs)**

Zone Designation	Base FAR	Maximum FAR
	3 in DMC 85/65-150	5 in DMC 85/65- 150
Downtown Mixed Residential/Residential (DMR/R)	1 in DMR/R 85/65 1 in DMR/R 125/65 1 in DMR/R 240/65	1 in DMR/R 85/65 2 in DMR/R 125/65 2 in DMR/R 240/65
Downtown Mixed Residential/Commercial (DMR/C)	1 in DMR/C 85/65 1 in DMR/C 125/65 2 in DMR/C 240/125 2.5 in DMR/C 65/65-85 2.5 in DMR/C 65/65-150	4 in DMR/C 85/65 4 in DMR/C 125/65 5 in DMR/C 240/125 4 in DMR/C 65/65-85 4 in DMR/C 65/65-150
Pioneer Square Mixed (PSM)	N.A.	N.A.
International District Mixed (IDM)	3, except as stated below* 6 for hotels** in IDM 75-85 and IDM 75/85-150	3, except as stated below* 6 for hotels** in IDM 75-85 and IDM 75/85-150 6 in IDM 150/85-150
International District Residential (IDR)	1	2 if 50 percent or more of the total gross floor area on the lot is in residential use
International District Residential/Commercial (IDR/C)	3, except hotels 6 for hotels**	3, except hotels 6 for hotels**
Downtown Harborfront 1 (DH1)	N.A.	N.A.
Downtown Harborfront 2 (DH2)	2.5	Development standards regulate maximum FAR
Pike Market Mixed (PMM)	7	7

Footnotes to Table A for 23.49.011: N.A. = Not Applicable.

* In the IDM 150/85-150 zone, hotel uses are subject to the base FAR of 3 FAR.

** Hotel use may be combined with up to 3 FAR of other chargeable floor area, up to a total of 6 FAR.

2. Chargeable floor area shall not exceed the applicable base FAR except as expressly authorized pursuant to this Chapter 23.49.

1 a. In DOC1, DOC2, and DMC zones that are located outside of South
2 Downtown, if chargeable floor area above the base FAR is allowed on a lot for development that
3 includes a new structure and the project is located within ~~((an adopted))~~ the Local Infrastructure
4 Project Area for Downtown and South Lake Union as shown on Map A for 23.58A.044, the first
5 increment of chargeable floor area above the base FAR, shown for each zone in Table B for
6 23.49.011, shall be gained by acquiring regional development credits pursuant to Section
7 23.58A.044.

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9 Section 7. Section 23.58A.044 of the Seattle Municipal Code, enacted by Ordinance
10 124172, is amended as follows

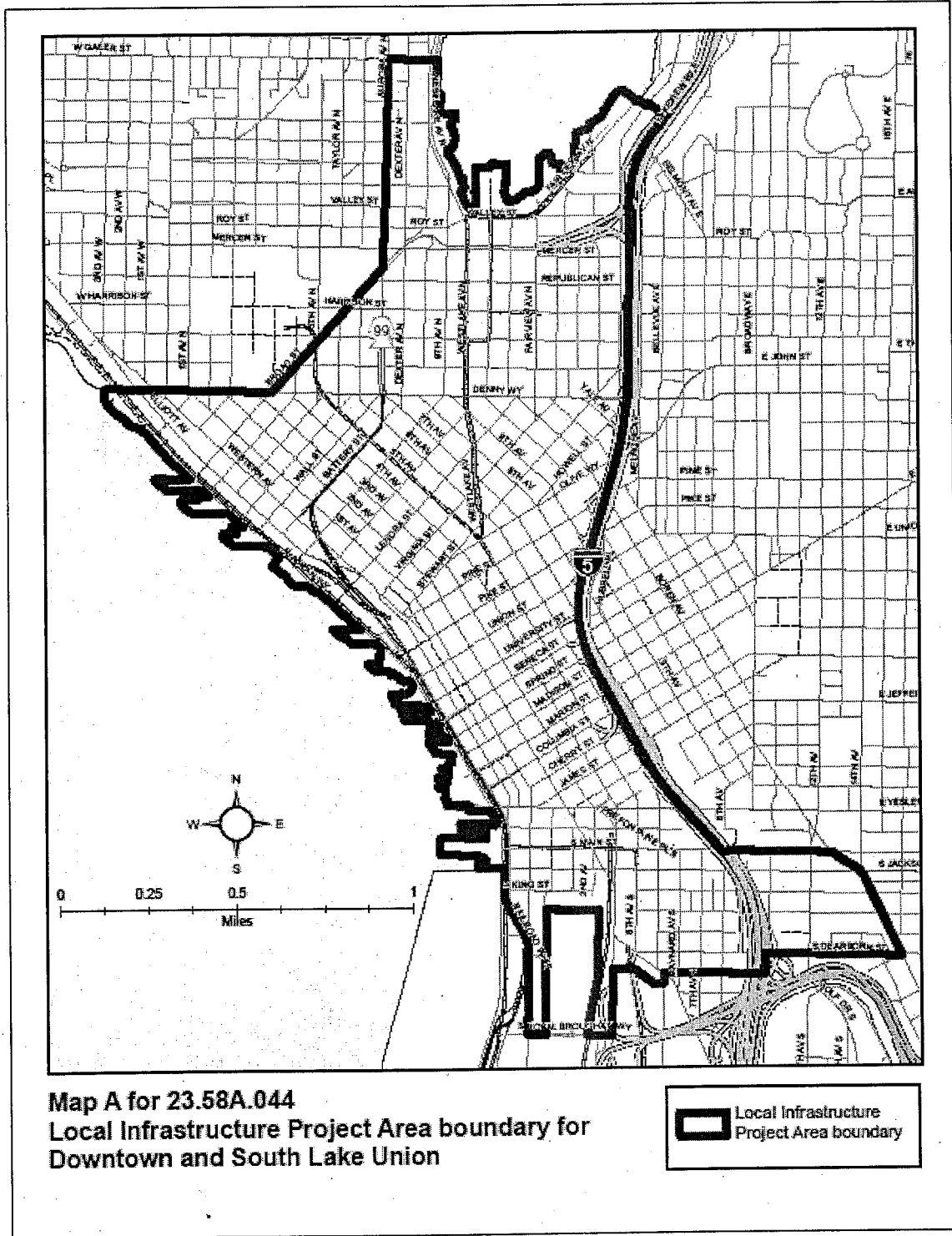
11 **23.58A.044 Regional Development Credits Program**

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13 I. The Local Infrastructure Project Area for Downtown and South Lake Union is as
14 shown on Map A for 23.58A.044.

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18 **Map A for 23.58A.044**
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Local Infrastructure Project Area boundary for Downtown and South Lake Union



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1 Section 8. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the ____ day of _____, 2013, and
5 signed by me in open session in authentication of its passage this
6 ____ day of _____, 2013.

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8 _____
9 President _____ of the City Council

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11 Approved by me this ____ day of _____, 2013.

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13 _____
14 Michael McGinn, Mayor

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16 Filed by me this ____ day of _____, 2013.

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18 _____
19 Monica Martinez Simmons, City Clerk

20 (Seal)

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FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Planning and Development	Brennon Staley, 206-684-4625	Melissa Lawrie, 206-684-5805

Legislation Title:

This fiscal note covers three pieces of legislation which are being forwarded as one package including:

1. An ordinance authorizing the Mayor to execute an interlocal agreement with King County agreeing to terms for the Landscape Conservation and Local Infrastructure (LCLIP) program;
2. An ordinance accepting an allocation of regional TDR credits to be obtained through the Regional TDR Program and adopting an infrastructure funding plan to be financed by the LCLIP program; and
3. An ordinance adopting the Local Infrastructure Project Area (LIPA) that allows the LCLIP program to commence.

The legislation titles are as follows, in the order shown above:

AN ORDINANCE related to establishing a Local Infrastructure Project Area for Downtown and South Lake Union; authorizing the Mayor to execute an interlocal agreement with King County.

AN ORDINANCE accepting an allocation of transferrable development rights and adopting an infrastructure funding plan to support the creation of a Landscape Conservation and Local Infrastructure Program.

AN ORDINANCE creating a Local Infrastructure Project Area and amending Sections 23.48.011, 23.49.011, and 23.58A.044 of the Seattle Municipal Code to implement a Landscape Conservation and Local Infrastructure Program.

Summary of the Legislation:

This legislation would authorize the Mayor to execute an interlocal agreement with King County and implement various actions required under RCW 39.108 to implement a Landscape Conservation and Local Infrastructure Conservation (LCLIP) program. Together, these actions would commence the Regional Transfer of Development Right (TDR) and infrastructure funding programs proposed as part of the South Lake Union rezone legislation.

Potential fiscal impacts of the proposed LCLIP program were analyzed as part of the fiscal note



for the South Lake Union rezone, but are also included in this implementation legislation for completeness. The fiscal note provided for the South Lake Union Rezone indicated that the City might be required to set aside a portion of City property tax revenue in proportion to the amount of King County property tax; however, discussions since the South Lake Union Rezone Director's Report was produced have revealed that this is not necessary.

Together, the three pieces of legislation would:

- Accept an allocation of 800 regional TDR credits by the Puget Sound Regional Council that may be used in the LIPA;
- Adopt proposed changes to incentive zoning programs in South Lake Union and Downtown to require that a portion of incentive zoning be achieved through acquisition of regional TDR credits;
- Adopt an infrastructure funding plan to be financed by the LCLIP program;
- Specify the taxing districts that would be impacted by the infrastructure funding program and the date funding would commence;
- Create the LIPA; and
- Create the infrastructure funding program that would allow the City to generate revenue for local infrastructure projects included in the infrastructure funding plan.

Background:

In 2008, the City Council passed resolution 31104 expressing its intent that additional height and floor area allowed through future rezones should only be allowed when a project provides public benefits through incentive zoning. Incentive zoning allows property owners to achieve an outright-permitted base height and floor area ratio (FAR) and to gain extra height or a higher FAR if they contribute public amenities in proportion to the amount of extra floor area gained. In some cases, there are also certain minimum requirements that must be met to use the incentive zoning program.

In 2011, the state legislature passed a bill that allows cities to create LCLIP programs in order to receive funding for infrastructure investments from future property tax revenues in areas that are designated to receive regional TDR. This program allows the City to capture a portion of the increased property tax resulting from the increased assessed value of new construction and use the tax revenue to fund local infrastructure projects. To access these funds, cities are required to create a market for regional TDR credits in order to protect farm and forest land through incentive zoning or other mechanisms. The overall purpose of the LCLIP program is to preserve farm and forest land by transferring development capacity from rural areas to cities, and generate funds for local infrastructure projects in the communities where the additional development capacity is located.

After the LCLIP legislation was passed by the state, the City began analyzing the potential benefits of implementing this program. To assist in the effort, DPD retained Heartland

Consulting, BERK Consulting, and Forterra to create a fiscal model to understand how the program could be applied in multiple areas of the city. Based on model results and ongoing discussions, DPD developed a proposal for implementing LCLIP in South Lake Union and Downtown.

In 2013, the City Council passed a rezone for South Lake Union based on planning that had been on-going since 2008. The proposal includes LCLIP as part of the new incentive zoning program proposed to carry out the height and density recommendations. For more details on the proposed South Lake Union incentive zoning program, see the Director's Report on Zoning Changes to the South Lake Union Urban Center at:

www.seattle.gov/dpd/cityplanning/completeprojectslist/southlakeunion/. In addition, the South Lake Union rezone proposal modifies the existing incentive zoning program for Downtown that was last updated in 2006 to include Downtown in the LCLIP program.

The state law enabling the LCLIP Program, RCW 39.108, identifies procedural requirements that must be met in order to enact the program. To meet these procedural requirements and allow the Council to assess the proposed incentive zoning program as part of the South Lake Union rezone legislation, DPD proposed specific standards for using regional TDR credits through incentive zoning as part of the rezone legislation that was adopted by Council as Ordinance 124172.

These standards would not, however, become effective until a LIPA is adopted and the LCLIP program was started. In the interim, the South Lake Union incentive zoning requirement could be met through acquiring landmark or open space TDR credits and the Downtown incentive zoning program would continue in its current form.

Please check one of the following:

This legislation does not have any financial implications.

This legislation has financial implications.

Appropriations:

Fund Name and Number	Department	Budget Control Level*	2013 Appropriation	2014 Anticipated Appropriation
TOTAL				

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

Appropriations Notes:

This legislation will not result in any new appropriations.



Anticipated Revenue/Reimbursement Resulting from this Legislation:

Fund Name and Number	Department	Revenue Source	2013 Revenue	2014 Revenue
	SDOT & Parks	LCLIP		
TOTAL				

Revenue/Reimbursement Notes:

This legislation will establish a LCLIP program which will result in a portion of future County property tax revenues from new construction on the value of new development occurring within the LIPA being directed to fund local infrastructure projects. This revenue would be equal to 17.44% of the total property tax value on new development where construction was initiated after the LIPA was formed and would occur for a minimum of 10 years and a maximum of 25 years dependent on whether the City is able to meet a certain threshold for acquisition of regional development rights through incentive zoning. It is estimated that the LCLIP program will generate \$27.5M (about \$15.7M given a discount rate of 3% for the reduced value of having money in the future) from County property tax over a period of 25 years. It is not anticipated that it will generate any revenue until 2015.

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

Position Title and Department	Position # for Existing	Fund Name	PT/FT	2013 Positions	2013 FTE	2014 Positions*	2014 FTE*
TOTAL							

None.

Position Notes: None.

Do positions sunset in the future?

No.

Spending/Cash Flow:

Fund Name & #	Department	Budget Control Level*	2013 Expenditures	2014 Anticipated Expenditures
TOTAL				

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

Spending/Cash Flow Notes:



This legislation adopts an infrastructure funding plan to be financed by the LCLIP program. A summary of projects that are expected to be funded through this program are included below. While the City could consider bonding against future revenue to fund projects on this list, there are currently no plans to spend money on these projects until the revenue is generated. It is not anticipated that it will generate any new spending until at least 2015.

Summary of Project List

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, Terry) • Bike, Pedestrian, and Transit Improvements 	<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 	

Other Implications:

a) Does the legislation have indirect financial implications, or long-term implications?

The state legislation allowing LCLIP requires cities to track and report on certain measures including the amount of TDR obtained, the amount of development using TDR, and known impacts to the area such as new businesses locating in the area. Additional indirect costs to implement this requirement include recording of items during permitting, permit queries, and creation of summary documents. This work would be accommodated within existing budget authority and staffing levels.

b) What is the financial cost of not implementing the legislation?

None.

c) Does this legislation affect any departments besides the originating department?

The tracking of infrastructure funding generated through this program will require additional work on the part of accounting and the Central Budget Office. SDOT and Parks will be responsible for using funds on infrastructure projects.



d) What are the possible alternatives to the legislation that could achieve the same or similar objectives?

DPD analyzed the option of using a traditional incentive zoning program as is currently in place for Downtown. This option did not sufficiently achieve the goals of the community and did not result in the added benefit of farm and forest land protection.

e) Is a public hearing required for this legislation?

Yes. The City Council will hold hearings as part of their consideration of the legislation.

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

No.

g) Does this legislation affect a piece of property?

No

h) Other Issues: None.

List attachments to the fiscal note below: None.



City of Seattle
Office of the Mayor

July 2, 2013

Honorable Sally J. Clark
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Clark:

I am pleased to transmit the attached proposed Council Bills that would establish a Landscape Conservation and Local Infrastructure Program (LCLIP) for South Lake Union and Downtown and authorize the execution of an interlocal agreement with King County regarding LCLIP. This program would provide new funding for infrastructure to support the growth of these local neighborhoods while also preserving regional farms and forests.

In May 2013, Council passed legislation that would provide additional height and floor area in parts of South Lake Union contingent on the provision of public benefits as part of new development. That legislation included specific standards for obtaining regional Transferable Development Rights (TDR) credits through incentive zoning both for South Lake Union and Downtown, which would not become effective until implementation legislation was passed. The attached proposal represents the necessary implementation legislation and would make effective both the regional TDR program and the connected infrastructure funding. The legislation also contains a project list directing how infrastructure funding would be spent as is required by state law.

The proposed LCLIP program would help to protect over 25,000 acres of working farms and forests while generating an estimated \$28 million in new infrastructure investments to support growth in the area. Thank you for your consideration of this legislation. This program represents an important step in ensuring that new development will help create more livable neighborhoods while also supporting the economic and environmental health of the region. Should you have questions, please contact Brennon Staley at 684-4625.

Sincerely,

Daryl Smith
Deputy Mayor

Michael McGinn
Mayor of Seattle

for Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

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