

Ordinance No. 124460

Council Bill No. 118059

AN ORDINANCE granting ProLogis, L.P. permission to maintain and operate an existing truck loading access area in Colorado Avenue South, north of Diagonal Avenue South, abutting 4200 East Marginal Way South; for a ten-year term, renewable for two successive ten-year terms; specifying the conditions under which this permit is granted; and providing for the acceptance of the permit and conditions.

Related Legislation File: _____

Date Introduced and Referred: <u>3/31/14</u>	To: (committee): <u>Transportation</u>
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: <u>4/28/14</u>	Date Presented to Mayor: <u>4/29/14</u>
Date Signed by Mayor: <u>5/2/14</u>	Date Returned to City Clerk: <u>5/5/14</u>
Published by Title Only <u>X</u>	Date Vetoed by Mayor:
Published in Full Text	
Date Veto Published:	Date Passed Over Veto:
Date Veto Sustained:	Date Returned Without Signature:

The City of Seattle – Legislative Department

Council Bill/Ordinance sponsored by: Tim Rasmusen

Committee Action:

Date	Recommendation	Vote
<u>4-22-14</u>	<u>PASS</u>	<u>TRMJS & 3-0</u>

This file is complete and ready for presentation to Full Council. _____

Full Council Action:

Date	Decision	Vote
<u>4/28/14</u>	<u>Passed</u>	<u>8-0 (excused: Rasmussen)</u>

Law Department

CITY OF SEATTLE
ORDINANCE 124460

COUNCIL BILL 118059

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3
4 AN ORDINANCE granting ProLogis, L.P. permission to maintain and operate an existing truck
5 loading access area in Colorado Avenue South, north of Diagonal Avenue South, abutting
6 4200 East Marginal Way South; for a ten-year term, renewable for two successive ten-
7 year terms; specifying the conditions under which this permit is granted; and providing
8 for the acceptance of the permit and conditions.

9
10 WHEREAS, ProLogis, L.P. has applied for permission to maintain and operate an existing truck
11 loading access area in Colorado Avenue South, north of Diagonal Avenue South, abutting
12 4200 East Marginal Way South; and

13
14 WHEREAS, ProLogis, L.P. operates a distribution facility that supports customers transporting
15 freight from the Port of Seattle and the truck loading access area accommodates large
16 trucks and trailers that use the eastern truck court; and

17
18 WHEREAS, the Colorado Avenue South was constructed around 1986 as part of the
19 redevelopment of the ProLogis, L.P. property at 4200 East Marginal Way South, and was
20 specifically designed to accommodate the operations of the distribution facility including
21 the ways that trucks maneuver, back-in, and access the loading bays; and

22
23 WHEREAS, by Resolution 31480, the City granted conceptual approval for the maintenance and
24 operation of the existing truck loading access area; and

25
26 WHEREAS, the adoption of this ordinance is the culmination of the approval process for the
27 existing truck loading access area to legally occupy a portion of the public right-of-way
28 or other public place, NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

29
30 Section 1. **Permission.** Subject to the terms and conditions of this ordinance, the City of
31 Seattle ("City") grants permission (also referred to in this ordinance as a permit) to ProLogis,
32 L.P., and its successors and assigns as approved by the Director of the Seattle Department of
33 Transportation ("Director") according to Section 13 of this ordinance (the party named above
34 and each such approved successor and assign is referred to as "Permittee"), to maintain and



1 operate an existing truck loading access area in Colorado Avenue South, north of Diagonal
2 Avenue South, abutting 4200 East Marginal Way South, adjacent in whole or in part to the
3 property legally described as:

4 That portion of Government Lot 2, Section 18, Township 24 North, Range
5 4 East, Willamette Meridian, King County, Washington;

6 TOGETHER WITH a portion of Blocks 354, 355, and 356, Seattle
7 Tidelands, as on file with the Department of Natural Resources, Olympia,
8 Washington, said plat situated in a portion of the Southeast quarter of said Section
9 18;

10 TOGETHER WITH portions of vacated South Dakota Street, vacated
11 Diagonal Avenue South, vacated South Oregon Street and vacated Colorado
12 Avenue South, as attached by operation of law, described as follows:

13 BEGINNING at the intersection of the Northerly right of way margin of
14 said Diagonal Avenue South as condemned by the District Court of the United
15 States of America, Federal Cause No. 524, and as filed under Auditor's File No.
16 3279267, Records of said County with the Northerly extension of the Easterly
17 right of way margin of Ohio Avenue South, as shown on the Industrial Addition
18 to the City of Seattle, as filed in Volume 22 of Plats, page 82, Records of said
19 County;

20 THENCE South 56°08'04" West along said Northerly margin 326.17 feet
21 to the Northerly right of way margin of Diagonal Avenue South as established by
22 City of Seattle Ordinance No. 113208;

23 THENCE north 61°22'19" West along said Northerly margin 27.71 feet to
24 the Easterly right of way margin of East Marginal Way South, being 130 feet in
25 width;

26 THENCE North 01°07'19" East along said Easterly margin, also being the
27 Westerly line of said Blocks 354 and 355, 1147.25 feet to the intersection of said
28 Easterly margin with the centerline of South Nevada Street extended Easterly;

29 THENCE North 01°10'15" East along said Easterly margin, also being the
30 Westerly line of said Block 355, 257.75 feet to the Easterly right of way margin
31 of East Marginal Way South as conveyed to the State of Washington by Deed
32 filed under Auditor's File No. 4832912;

33 THENCE North 05°49'09" East along said Easterly margin 253.21 feet to
34 the South right of way margin of South Dakota Street, also being the North line of
35 Lot 1 said Block 355 and to a point to be known hereinafter as Point 'A';

36 THENCE South 88°49'45" East along said South margin and said North
37 line, 139.50 feet to the East line of the West 160 feet of said Lot 1 and to the
38 Southwest corner of a triangular parcel of land as condemned by said Federal
39 Court Cause No. 524;

40 THENCE North 01°10'15" East along the Northerly extension off said
41 East line and the West line of said parcel 76.39 feet to a point parallel with and 15
42 feet Southwesterly from, measured at right angles to the centerline of the most



1 Westerly yard tracks of the Oregon-Washington Railroad and Navigation
2 Company as existing February, 1943, and to a non-radial intersection with an arc
3 of a curve concave to the Northeast from which its center bears North 58°36'05"
4 East, 563.73 feet distant;

5 THENCE Southeasterly along the arc of said curve and Southwesterly line
6 through a central angle of 08°23'33", a distance of 82.57 feet to the U.S.
7 Government Meander Line;

8 THENCE South 14°47'23" East along said Meander Line 7.37 feet;

9 THENCE South 16°52'14" East along said Meander Line 7.94 feet to the
10 most Northerly corner of parcel of land as granted by Unrecorded Warranty Deed
11 from the Union Pacific Railroad Company to the United States of America, dated
12 February 5, 1943 and to said Southwesterly line;

13 THENCE South 39°55'03" East along said Southwesterly line 167.93 feet
14 to the beginning of a curve concave to the Southwest having a radius of 397.27
15 feet;

16 THENCE Southeasterly along the arc of said curve and Southwesterly line
17 through a central angle of 08°12'24", a distance of 56.90 feet to a point of
18 tangency;

19 THENCE South 31°42'39" East along said Southwesterly line 237.42 feet
20 to the beginning of a curve concave to the Southwest having a radius of 1036.23
21 feet;

22 THENCE Southeasterly along the arc of said curve and Southwesterly line
23 through a central angle of 08°09'42", a distance of 147.61 feet to a point of
24 tangency;

25 THENCE South 23°32'57" East along said Southwesterly line 12.10 feet
26 to a line parallel with and 25.00 feet East of the Northerly extension of the West
27 right of way margin of said Colorado Avenue South, being 100 feet in width;

28 THENCE South 01°08'13" West along said parallel line 266.17 feet to
said Meander Line;

THENCE South 87°20'46" West along said Meander Line 10.02 feet to
the West right of way margin of said Colorado Avenue South as established by
said Federal Cause No. 524;

THENCE South 01°08'13" West along said margin 9.92 feet to the
Westerly right of way margin of said Colorado Avenue South as established by
City of Seattle Ordinance No. 113208, and a non-radial intersection with an arc of
a curve concave to the East from which its center bears South 38°23'03" East,
55.00 feet distant;

THENCE Southerly along the arc of said curve and margin through a
central angle of 100°57'28", a distance of 96.91 feet to the Westerly right of way
margin of said Colorado Avenue South as established by said Federal Cause No.
524;

THENCE South 01°08'13" West along said margin 617.03 feet to a fence
as existing May, 2004;

THENCE North 86°01'48" West along said fence 16.89 feet;

THENCE North 89°26'21" West along said fence 88.92 feet;



1 THENCE South 73°07'43" West along said fence 86.43 feet;
2 THENCE South 42°08'32" West along said fence and its Southwesterly
3 extension 111.86 feet to said Ohio Avenue South Northerly right of way margin
4 extension;
5 THENCE North 01°07'35" East along said extension 123.04 feet to the
6 POINT OF BEGINNING;
7 TOGETHER WITH:
8 COMMENCING at the aforesaid Point 'A';
9 THENCE North 07°08'29" East along said Easterly right of way margin of
10 East Marginal Way South 100.55 feet to the north right of way margin of said
11 South Dakota Street, also being the South line of said Block 356, and the POINT
12 OF BEGINNING;
13 THENCE North 03°42'43" East along said Easterly margin 230.16 feet to
14 the North line of Lot 3 of said Block 356;
15 THENCE South 88°39'08" East along said North line 12.89 feet to a point
16 54.20 feet Easterly of the Northwest corner of said Lot 3, as measured along said
17 North line;
18 THENCE South 15°47'18 East, 240.34 feet to said North margin;
19 THENCE North 88°49'45" West along said margin, also being the South
20 line of said Block 356, 93.20 feet to the POINT OF BEGINNING.

21 Section 2. **Term.** The permission granted to Permittee is for a term of ten years starting
22 on the effective date of this ordinance and ending at 11:59 p.m. on the last day of the tenth year.
23 Upon written application made by the Permittee at least 180 days before expiration of the term,
24 the Director or the City Council may renew the permit twice, each time for a successive ten-year
25 term, subject to the right of the City to require the discontinuation of the truck loading access
26 area or to revise by ordinance any of the terms and conditions of the permission granted by this
27 ordinance. The total term of the permission, including renewals, shall not exceed 30 years. The
28 Permittee shall submit any application for a new permission no later than 180 days prior to the
expiration of the then-existing term.

 Section 3. **Protection of utilities.** The permission granted is subject to the Permittee
bearing the expense of any protection, support, or relocation of existing utilities deemed
necessary by the owners of the utilities, and the Permittee being responsible for any damage to



1 the utilities due to the maintenance and operation of the truck loading access area and for any
2 consequential damages that may result from any damage to utilities or interruption in service
3 caused by any of the foregoing.

4 Section 4. **Removal for public use or for cause.** The permission granted is subject to use
5 of the street right-of-way or other public place (collectively, public place) by the City and the
6 public for travel, utility purposes, and other public uses or benefits. The City expressly reserves
7 the right to deny renewal, or terminate the permission at any time prior to expiration of the initial
8 term or any renewal term, and require the Permittee to discontinue the use of the truck loading
9 access area, or any part thereof or installation on the public place, at the Permittee's sole cost and
10 expense in the event that:
11

12 (a) The City Council determines by ordinance that the space occupied by the truck
13 loading access area is necessary for any public use or benefit or that the truck loading access area
14 interferes with any public use or benefit; or
15

16 (b) The Director determines the truck loading access area has been abandoned; or

17 (c) The Director determines any term or condition of this ordinance has been
18 violated, and the violation has not been corrected by the Permittee by the compliance date after a
19 written request by the City to correct the violation (unless a notice to correct is not required due
20 to an immediate threat to the health or safety of the public).
21

22 A City Council determination that the space is needed for, or the truck loading access area
23 interferes with, a public use or benefit is conclusive and final without any right of the Permittee
24 to resort to the courts to adjudicate the matter.
25

26 Section 5. **Permittee's obligation to remove and restore.** If the permission granted is
27 terminated by the City, then by the date stated in an ordinance or order requiring discontinuation
28



1 of the truck loading access area, the Permittee shall, at its own expense, discontinue use of the
2 truck loading access area and all of the Permittee's equipment and property from the public place
3 and replace and restore all portions of the public place that may have been disturbed for any part
4 of the truck loading access area in as good condition for public use as existed prior to
5 constructing the truck loading access area and in at least as good condition in all respects as the
6 abutting portions of the public place as required by SDOT right-of-way restoration standards.

7
8 Failure to discontinue use of the truck loading access area as required by this section is a
9 violation of Chapter 15.90 of the Seattle Municipal Code (SMC) or successor provision;
10 however, applicability of Chapter 15.90 does not eliminate any remedies available to the City
11 under this ordinance or any other authority. If the Permittee does not timely fulfill its obligations
12 under this section, the City may in its sole discretion restore the public place at the Permittee's
13 expense, and collect such expense in any manner provided by law.

14
15 Upon the Permittee's completion of restoration in accordance with this section, or upon
16 the City's completion of restoration and the Permittee's payment to the City for the City's
17 restoration costs, the Director shall then issue a certification that the Permittee has fulfilled its
18 restoration obligations under this ordinance. Upon prior notice to the Permittee and entry of
19 written findings that it is in the public interest, the Director may, in the Director's sole discretion,
20 conditionally or absolutely excuse the Permittee from compliance with all or any of the
21 Permittee's obligations under this section.

22
23 Section 6. **Repair or reconstruction.** The truck loading access area shall remain the
24 exclusive responsibility of the Permittee and the Permittee shall maintain the truck loading
25 access area in good and safe condition for the protection of the public. The Permittee shall not
26 repair or construct anything in the truck loading access area except in strict accordance with
27



1 plans and specifications approved by the Director. The Director may, in the Director's judgment,
2 order the truck loading access area repaired at the Permittee's cost and expense because of: the
3 deterioration or unsafe condition of the truck loading access area; the installation, construction,
4 reconstruction, maintenance, operation, or repair of any municipally-owned public utilities; or
5 for any other cause.

6
7 **Section 7. Failure to correct unsafe condition.** After written notice to the Permittee and
8 failure of the Permittee to correct an unsafe condition within the time stated in the notice, the
9 Director may order the truck loading access area be closed at the Permittee's expense if the
10 Director deems that the truck loading access area has become unsafe or creates a risk of injury to
11 the public. If there is an immediate threat to the health or safety of the public, a notice to correct
12 is not required.

13
14 **Section 8. Continuing obligations.** Notwithstanding termination or expiration of the
15 permission granted, or closure of the truck loading access area, the Permittee shall remain bound
16 by all of its obligations under this ordinance until the Director has issued a certification that the
17 Permittee has fulfilled its restoration obligations under Section 5 of this ordinance.
18 Notwithstanding the issuance of that certification, the Permittee shall continue to be bound by
19 the obligations in Section 9 of this ordinance and shall remain liable for any unpaid fees assessed
20 under Section 15 of this ordinance.

21
22 **Section 9. Release, hold harmless, indemnification, and duty to defend.** The
23 Permittee, by accepting the terms of this ordinance, releases the City, its officials, officers,
24 employees, and agents from any and all claims, actions, suits, liability, loss, costs, expense,
25 attorneys' fees, or damages of every kind and description arising out of or by reason of the truck
26



1 loading access area or this ordinance, including but not limited to claims resulting from injury,
2 damage, or loss to the Permittee or the Permittee's property.

3 The Permittee agrees to at all times defend, indemnify, and hold harmless the City, its
4 officials, officers, employees, and agents from and against all claims, actions, suits, liability,
5 loss, costs, expense, attorneys' fees, or damages of every kind and description, excepting only
6 damages that may result from the sole negligence of the City, that may accrue to, be asserted by,
7 or be suffered by any person or property including, without limitation, damage, death or injury to
8 members of the public or to the Permittee's officers, agents, employees, contractors, invitees,
9 tenants, tenants' invitees, licensees, or successors and assigns, arising out of or by reason of:
10

11 (a) The existence, condition, modification, maintenance, operation, or use of the truck
12 loading access area or any portion thereof, or the use, occupation, or restoration of the public
13 place or any portion thereof by the Permittee or any other person or entity;
14

15 (b) Anything that has been done or may at any time be done by the Permittee by reason of
16 this ordinance; or

17 (c) The Permittee failing or refusing to strictly comply with every provision of this
18 ordinance; or arising out of or by reason of the truck loading access area or this ordinance in any
19 other way.
20

21 If any suit, action, or claim of the nature described above is filed, instituted, or begun
22 against the City, the Permittee shall upon notice from the City defend the City, with counsel
23 acceptable to the City, at the sole cost and expense of the Permittee, and if a judgment is
24 rendered against the City in any suit or action, the Permittee shall fully satisfy the judgment
25 within 90 days after the action or suit has been finally determined, if determined adversely to the
26 City. If it is determined by a court of competent jurisdiction that Revised Code of Washington
27



1 (RCW) 4.24.115 applies to this ordinance, then in the event claims or damages are caused by or
2 result from the concurrent negligence of the City, its agents, contractors, or employees, and the
3 Permittee, its agents, contractors, or employees, this indemnity provision shall be valid and
4 enforceable only to the extent of the negligence of the Permittee or the Permittee's agents,
5 contractors, or employees.

6 Section 10. **Insurance.** For as long as the Permittee exercises any permission granted by
7 this ordinance and until the Director has issued a certification that the Permittee has fulfilled its
8 restoration obligations under Section 5 of this ordinance, the Permittee shall obtain and maintain
9 in full force and effect, at its own expense, insurance and/or self-insurance that protects the
10 Permittee and the City from claims and risks of loss from perils that can be insured against under
11 commercial general liability (CGL) insurance policies in conjunction with:
12

13 (a) Modification, operation, maintenance, use, or existence, of the truck loading
14 access area or any portion thereof, as well as restoration of any disturbed areas of the public
15 place in connection with restoration of the truck loading access area;
16

17 (b) The Permittee's activity upon or the use or occupation of the public place
18 described in Section 1 of this ordinance; and
19

20 (c) Claims and risks in connection with activities performed by the Permittee by
21 virtue of the permission granted by this ordinance.

22 Minimum insurance requirements are CGL insurance written on an occurrence form at least as
23 broad as the Insurance Services Office (ISO) CG 00 01. The City requires insurance coverage to
24 be placed with an insurer admitted and licensed to conduct business in Washington State or with
25 a surplus lines carrier pursuant to RCW Chapter 48.15. If coverage is placed with any other
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1 insurer or is partially or wholly self-insured, such insurer(s) or self-insurance is subject to
2 approval by the City's Risk Manager.

3 Minimum limits of liability shall be \$2,000,000 per Occurrence; \$4,000,000 General
4 Aggregate; \$2,000,000 Products/Completed Operations Aggregate, including Premises
5 Operations; Personal/Advertising Injury; Contractual Liability. Coverage shall include the "City
6 of Seattle, its officers, officials, employees and agents" as additional insureds for primary and
7 non-contributory limits of liability subject to a Separation of Insureds clause.
8

9 Within 60 days after the effective date of this ordinance, the Permittee shall provide to
10 the City, or cause to be provided, certification of insurance coverage including an actual copy of
11 the blanket or designated additional insured policy provision per the ISO CG 20 12 endorsement
12 or equivalent. The insurance coverage certification shall be delivered or sent to the Director or to
13 the Department of Transportation (SDOT) at an address as the Director may specify in writing
14 from time to time. The Permittee shall provide a certified complete copy of the insurance policy
15 to the City promptly upon request.
16

17 If the Permittee is self-insured, a letter of certification from the Corporate Risk Manager
18 may be submitted in lieu of the insurance coverage certification required by this ordinance, if
19 approved in writing by the City's Risk Manager. The letter of certification must provide all
20 information required by the City's Risk Manager and document, to the satisfaction of the City's
21 Risk Manager, that self-insurance equivalent to the insurance requirements of this ordinance is in
22 force. After a self-insurance certification is approved, the City may from time to time
23 subsequently require updated or additional information. The approved self-insured Permittee
24 must provide 30 days' prior notice of any cancellation or material adverse financial condition of
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1 its self-insurance program. The City may at any time revoke approval of self-insurance and
2 require the Permittee to obtain and maintain insurance as specified in this ordinance.

3 In the event that the Permittee assigns or transfers the permission granted by this
4 ordinance, the Permittee shall maintain in effect the insurance required under this section until
5 the Director has approved the assignment or transfer pursuant to Section 13 of this ordinance.

6
7 **Section 11. Contractor insurance.** The Permittee shall contractually require that any
8 and all of its contractors performing work on any premises contemplated by this permit name the
9 “City of Seattle, its officers, officials, employees and agents” as additional insureds for primary
10 and non-contributory limits of liability on all CGL, Automobile and Pollution liability insurance
11 and/or self-insurance. The Permittee shall also include in all contract documents with its
12 contractors a third-party beneficiary provision extending to the City construction indemnities and
13 warranties granted to the Permittee.
14

15 **Section 12. Adjustment of insurance requirements.** The Director may adjust minimum
16 liability insurance levels requirements during the term of this permission. If the Director
17 determines that an adjustment is necessary to fully protect the interests of the City, the Director
18 shall notify the Permittee of the new requirements in writing. The Permittee shall, within 60 days
19 of the date of the notice, provide proof of the adjusted insurance levels to the Director.
20

21 **Section 13. Consent for and conditions of assignment or transfer.** The permission
22 granted by this ordinance shall not be assignable or transferable by operation of law; nor shall the
23 Permittee transfer, assign, mortgage, pledge or encumber the same without the Director’s
24 consent, which the Director shall not unreasonably refuse. The Director may approve assignment
25 or transfer of the permission granted by this ordinance to a successor entity only if the successor
26 or assignee has accepted in writing all of the terms and conditions of the permission granted by
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28



1 this ordinance; has provided, at the time of the acceptance, the certification of insurance
2 coverage required under this ordinance; and has paid any fees due under Section 15 of this
3 ordinance. Upon the Director's approval of an assignment or transfer, the rights and obligations
4 conferred on the Permittee by this ordinance shall be conferred on the successors and assigns.
5 Any person or entity seeking approval for an assignment or transfer of the permission granted by
6 this ordinance shall provide the Director with a description of the current and anticipated use of
7 the truck loading access area.
8

9 Section 14. **Inspection fees.** The Permittee shall, as provided by SMC Chapter 15.76 or
10 successor provision, pay the City the amounts charged by the City to inspect the truck loading
11 access area during times deemed necessary by the City. An inspection or approval of the truck
12 loading access area by the City shall not be construed as a representation, warranty, or assurance to
13 the Permittee or any other person as to the safety, soundness, or condition of the truck loading
14 access area. Any failure by the City to require correction of any defect or condition shall not in any
15 way limit the responsibility or liability of the Permittee.
16

17 Section 15. **Annual fee.** Beginning on the effective date of this ordinance, and annually
18 thereafter, the Permittee shall promptly pay to the City, upon statements or invoices issued by the
19 Director, an annual fee of \$36,364.61, or as adjusted annually thereafter, for the privileges
20 granted by this ordinance.
21

22 Adjustments to the annual fee shall be made in accordance with a term permit fee
23 schedule adopted by the City Council and may be made every year. In the absence of a schedule,
24 the Director may only increase or decrease the previous year's fee to reflect any inflationary
25 changes so as to charge the fee in constant dollar terms. This adjustment will be calculated by
26 adjusting the previous year's fee by the percentage change between the two most recent year-end
27



1 values available for the Consumer Price Index for the Seattle-Tacoma-Bremerton Area, All
2 Urban Consumers, All Products, Not Seasonally Adjusted. All payments shall be made to the
3 City Finance Director for credit to the Transportation Operating Fund.

4 **Section 16. Compliance with other laws.** Permittee shall maintain and operate the truck
5 loading access area in compliance with all applicable federal, state, County and City laws and
6 regulations. Without limitation, in all matters pertaining to the truck loading access area, the
7 Permittee shall comply with the City's laws prohibiting discrimination in employment and
8 contracting including Seattle's Fair Employment Practices Ordinance, Chapter 14.04, and Fair
9 Contracting Practices code, Chapter 14.10 (or successor provisions).

10
11 **Section 17. Acceptance of terms and conditions.** The Permittee shall deliver to the
12 Director its written signed acceptance of the terms of this ordinance within 60 days after the
13 effective date of this ordinance. The Director shall file the written acceptance with the City
14 Clerk. If no such acceptance is received within that 60-day period, the privileges conferred by
15 this ordinance shall be deemed declined or abandoned and the permission granted deemed lapsed
16 and forfeited and the Permittee shall, at its own expense, restore the truck loading access area
17 and all of the Permittee's equipment and property and restore all portions of the public place as
18 provided in Section 5 of this ordinance.

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21 **Section 18. Obligations run with the Property.**

22 The obligations and conditions imposed on the Permittee by and through this ordinance
23 are covenants that run with the land and bind subsequent owners of the property adjacent to the
24 truck loading access are and legally described in Section 1 of this ordinance (the "Property"),
25 regardless of whether the Director has approved assignment or transfer of the permission granted
26 by this Permission to such subsequent owners. At the request of the Director, Permittee shall
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1 provide to the Director a current title report showing the identity of all owners of the Property
2 and all encumbrances on the Property. The Permittee shall, within 60 days of the effective date
3 of this ordinance, and prior to conveying any interest in the Property, deliver to the Director upon
4 a form to be supplied by the Director, a covenant agreement imposing the obligations and
5 conditions set forth in this ordinance, signed and acknowledged by the Permittee and any other
6 owners of the Property and recorded with the King County Recorder's Office. The Director shall
7 file the recorded covenant agreement with the City Clerk. The covenant agreement shall
8 reference this ordinance by its ordinance number. At the request of the Director, Permittee shall
9 cause encumbrances on the Property to be subordinated to the covenant agreement.
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11 Section 19. **Section titles.** Section titles are for convenient reference only and do not
12 modify or limit the text of a section.
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Section 20. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 20th day of April, 2014, and signed by me in open session in authentication of its passage this 20th day of April, 2014.



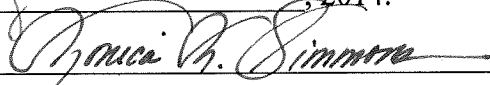
President _____ of the City Council

Approved by me this 7th day of May, 2014.



Edward B. Murray, Mayor

Filed by me this 5th day of May, 2014.



Monica Martinez Simmons, City Clerk

(Seal)



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle Department of Transportation	Angela Steel/684-5967	Christie Parker/684-5211

Legislation Title: AN ORDINANCE granting ProLogis, L.P. permission to maintain and operate an existing truck loading access area in Colorado Avenue South, north of Diagonal Avenue South, abutting 4200 East Marginal Way South; for a ten-year term, renewable for two successive ten-year terms; specifying the conditions under which this permit is granted; and providing for the acceptance of the permit and conditions.

Summary of the Legislation:

This legislation grants ProLogis, L.P. permission to maintain and operate an existing truck loading access area in Colorado Avenue South, north of Diagonal Avenue, abutting 4200 East Marginal Way South. The purpose of the truck loading access area is to maintain access for trucks and trailers to the ProLogis, L.P. eastern truck court. An area map is attached for reference.

This permit is for a ten-year term, renewable for two successive ten-year terms. The legislation has an insurance provision as recommended by the City's Risk Manager, specifies the conditions under which authorization is granted, and provides for acceptance of the permit and conditions.

The ordinance requires ProLogis, L.P. to pay the City an annual fee of \$36,364.61 commencing on the effective date of this ordinance, and annually thereafter. Adjustments to the annual fee may be made every year and if so made shall be calculated in accordance with a term permit fee schedule adopted by the City Council by Ordinance 123485. An Street Use Annual Fee Assessment is attached for reference.

Background:

ProLogis, L.P. operates a distribution facility at 4200 East Marginal Way that supports customers transporting freight from the Port of Seattle.

In 1986, this portion of Colorado Avenue South was reconstructed as a requirement of the redevelopment of the property that ProLogis, L.P. currently owns and operates. This portion of Colorado Avenue South was specifically designed to accommodate the operations of this facility, including the way that trucks maneuver, back-in, and access the loading bays on east side of the building. Colorado Avenue South currently operates the way in which it should to accommodate the facility.



By Resolution 31480, the City granted conceptual approval for the existing truck loading access area.

Please check one of the following:

This legislation does not have any financial implications.

This legislation has financial implications.

Appropriations:

N/A

Anticipated Revenue/Reimbursement Resulting from this Legislation:

Fund Name and Number	Department	Revenue Source	2014 Revenue
Transportation Operating Fund 10310	Seattle Department of Transportation	Annual Fee	\$36,364.61
TOTAL			\$36,364.61

Revenue/Reimbursement Notes:

None

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

N/A

Do positions sunset in the future?

No

Spending/Cash Flow:

N/A

Other Implications:

a) **Does the legislation have indirect financial implications, or long-term implications?**
No.

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

If the legislation is not enacted by the City Council, the City of Seattle will not receive the annual fee of \$36,364.61. As previously stated, the City of Seattle has the option to adjust the fee amount on an annual basis.



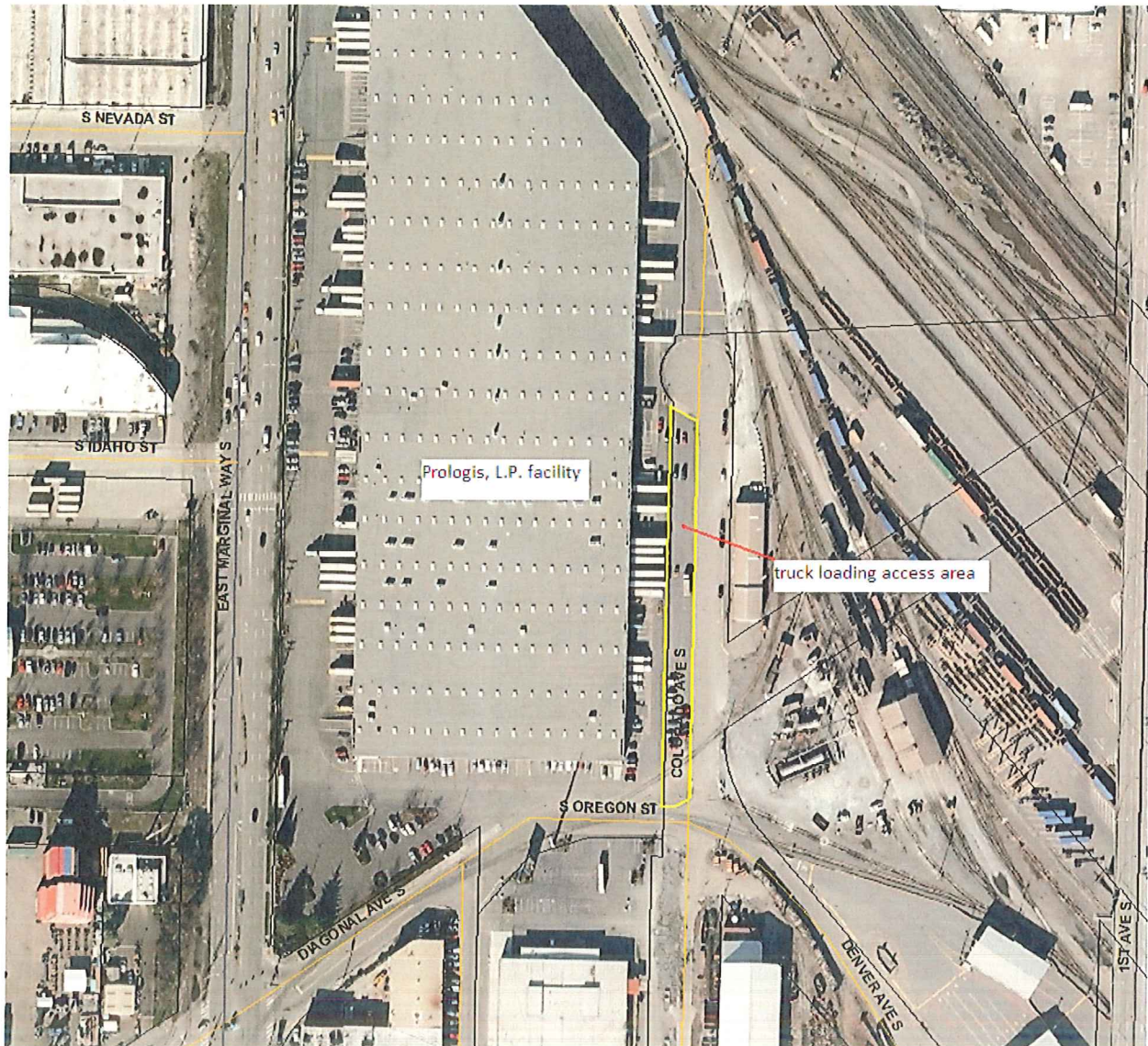
- c) **Does this legislation affect any departments besides the originating department?**
No.
- d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?**
ProLogis, L.P. could continue to operate their existing truck loading access area without a term permit ordinance. ProLogis, L.P may be subject to the risk of having to remove this use from the public place upon shorter notice than the term permit ordinance would require.
- e) **Is a public hearing required for this legislation?**
No.
- 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?**
Yes, the abutting ProLogis, L.P. property at 4200 East Marginal Way South.
- h) **Other Issues:**
N/A

List attachments to the fiscal note below:

- Attachment A – ProLogis, L.P. Truck Loading Access Area Map
Attachment B – Street Use Annual Fee Assessment
Attachment C – Depiction of the Truck Loading Access Area



Attachment A – ProLogis, L.P. Truck Loading Access Area Map



Map is for informational purposes only and is not intended to modify or supplement the legal description(s) in the Ordinance.



Attachment B – Street Use Annual Fee Assessment

STREET USE ANNUAL FEE ASSESSMENT

Date: 2/11/14

<p><u>Summary:</u> Land Value: \$31.00/SF 2014 Permit Fee: \$36,364.61</p>

I. Property Description:

ProLogis, L.P. has proposed to maintain and operate an existing truck loading access area in Colorado Avenue South, north of Diagonal Avenue South. The truck loading access area is **18,329 square feet.**

Applicant:

ProLogis, L.P.

Abutting Parcel, Property Size, Assessed Value:

Parcel 7666207536, Square Feet 783,522

Tax year 2014 Appraised Land Value \$24,289,100

Average 2014 tax assessed land value: \$31.00/SF

II. Annual Fee Assessment:

The 2014 permit fee is calculated as follows:

$(\$31/\text{SF}) \times (18,329 \text{ SF}) \times (80\%) \times (8\%) = \$36,364.61$ where 80% is the degree of alienation for at-grade structures/restricted access and 8% is the annual rate of return.

Fee methodology authorized under Ordinance 123485.



Attachment C – Depiction of the Truck Loading Access Area



Looking north along Colorado Avenue South



City of Seattle
Edward B. Murray
Mayor

March 18, 2014

Honorable Tim Burgess
President
Seattle City Council
City Hall, 2nd Floor

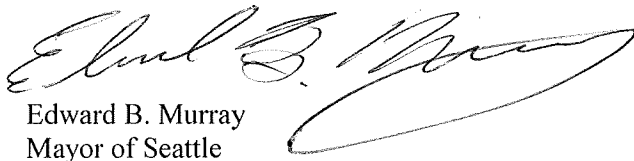
Dear Council President Burgess:

I am pleased to transmit the attached proposed Council Bill that will grant ProLogis, L.P. permission to maintain and operate an existing truck loading access area in Colorado Avenue South, north of Diagonal Avenue South, abutting 4200 East Marginal Way South.

ProLogis, L.P. operates a distribution facility that supports customers transporting freight from the Port of Seattle. The purpose of the ProLogis, L.P. truck loading access area is to accommodate large trucks and trailers that use the ProLogis, L.P. eastern truck court. In 1986, this portion of Colorado Avenue South was reconstructed as part of the redevelopment of the site to accommodate the operations of the facility, specifically the way that trucks maneuver, back-in, and access the east side of the building. Colorado Avenue South currently operates the way in which it should to accommodate the facility.

Thank you for your consideration of this Council Bill. Should you have any questions, please contact Angela Steel at 684-5967.

Sincerely,


Edward B. Murray
Mayor of Seattle

cc: Honorable Members of the Seattle City Council



STATE OF WASHINGTON -- KING COUNTY

--SS.

311120
CITY OF SEATTLE, CLERKS OFFICE

No. 124457,458,459,460,461

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

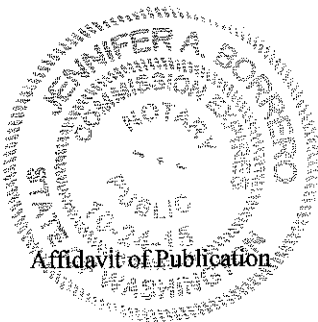
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:TITLE ONLY ORDINANCES


was published on

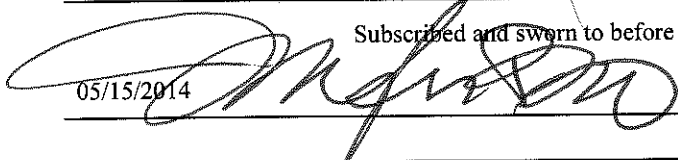
05/15/14

The amount of the fee charged for the foregoing publication is the sum of \$112.13 which amount has been paid in full.



Affidavit of Publication



Subscribed and sworn to before me on
05/15/2014 

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle Title Only Ordinances

The full text of the following legislation, passed by the City Council on April 28, 2014, and published below by title only, will be mailed upon request, or can be accessed at <http://clerk.seattle.gov>. For information on upcoming meetings of the Seattle City Council, please visit <http://www.seattle.gov/council/calendar>.

Contact: Office of the City Clerk at (206) 684-8344.

ORDINANCE NO. 124457

AN ORDINANCE relating to the regulation of wall signs, amending Sections 23.55.030, 23.55.034, 23.55.036, 23.84A.036 and 23.90.018 of the Seattle Municipal Code; enacting and amending standards for on-premises wall signs in commercial, Seattle Mixed, industrial and downtown zones; clarifying the definition of wall signs and on-premises signs; directing revenue from sign code violations to the Operations Division of the Department of Planning and Development; and establishing increased penalties for certain violations of sign provisions in the Seattle Municipal Code.

ORDINANCE NO. 124458

AN ORDINANCE amending the Seattle Comprehensive Plan to incorporate changes proposed as part of the 2013-2014 Comprehensive Plan annual amendment process.

ORDINANCE NO. 124459

AN ORDINANCE relating to the City Light Department; accepting statutory warranty deeds to the Failla, Kuo, and Morgan Wall properties in Snohomish County, Washington, and the Cunningham, Hylback,

Kuno, Poeschel, and Stein properties in Skagit County, Washington, and the Burk property in King County, Washington, for salmonid habitat protection purposes; ratifying the grants of Deeds of Right to the State of Washington on the Dow, Hylback, Kuno, Kuo, Miller, Morgan/Wall, and Poeschel properties for salmon recovery and conservation purposes; placing said lands under the jurisdiction of the City Light Department; and ratifying and confirming certain prior acts.

ORDINANCE NO. 124460

AN ORDINANCE granting ProLogis, L.P. permission to maintain and operate an existing truck loading access area in Colorado Avenue South, north of Diagonal Avenue South, abutting 4200 East Marginal Way South; for a ten-year term, renewable for two successive ten-year terms; specifying the conditions under which this permit is granted; and providing for the acceptance of the permit and conditions.

ORDINANCE NO. 124461

AN ORDINANCE relating to a pedestrian skybridge over and across Post Avenue, south of Seneca Street; amending Ordinance 117590, as amended by Ordinance 121855; updating the insurance and bond requirements; amending the annual fee and other terms and conditions of the permit; renewing the term of the permit to the Colonial Grand Pacific Building Owners; providing for the acceptance of the permit and conditions; and ratifying and confirming certain prior acts.

Date of publication in the Seattle Daily Journal of Commerce, May 15, 2014.

5/15(311120)