

CB117155
#6

ORDINANCE

1 AN ORDINANCE relating to a pedestrian tunnel under and along the easterly side of Broadway
2 at East Cherry Street, amending Ordinance 115021, as amended by Ordinances 121493
3 and 121855, to update the insurance and bond requirements, and amend the annual fee;
4 renewing the term of the permit to the Swedish Health Services; providing for acceptance
of the permit and conditions; and ratifying and confirming certain prior acts.

5 WHEREAS, by Resolution 28094, the City Council granted conceptual approval of a pedestrian
6 tunnel to 600 Broadway Medical Center; and

7 WHEREAS, by Ordinance 115021, the City of Seattle granted the Broadway Medical Center
8 Limited Partnership permission to construct, operate, and maintain a pedestrian tunnel
9 along the easterly side of Broadway at East Cherry Street, for a ten-year term, renewable
for two successive ten-year terms; and

10 WHEREAS, Ordinance 115021 was amended by Ordinances 121493 and 121855 and by
11 Resolution 29206; and

12 WHEREAS, by Ordinance 121493, the permission authorized by Ordinance 115021 was
13 transferred to the Swedish Health Services, renewed for a ten-year term, and was due for
renewal on May 11, 2010; and

14 WHEREAS, the Swedish Health Services has submitted an application to the Seattle Department
15 of Transportation ("SDOT") Director to continue maintaining and operating the
16 pedestrian tunnel; and

17 WHEREAS, the Swedish Health Services has satisfied all terms of the original authorizing
18 ordinance and the SDOT Director recommends that the term permit be renewed subject to
the terms identified in this ordinance; NOW, THEREFORE,

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

20 Section 1. The permission granted to Swedish Health Services by Ordinance 115021 and
21 amended by Ordinances 121493 and 121855 to maintain and operate a pedestrian tunnel under
22 and along the easterly side of Broadway at East Cherry Street, is renewed for a ten-year period,
23 starting May 12, 2010, and ending at 11:59 p.m. on May 11, 2020, upon the terms and conditions
24 set forth in Ordinance 115021, as amended by Ordinances 121493 and 121855, and as further
25 amended by this ordinance.
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1 Section 2. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13 and 14 of Ordinance 115021, as
2 amended by Ordinances 121493 and 121855, are amended as follows:

3 1. **Permission.** Subject to the terms and conditions of this ordinance, permission (also
4 referred to in this ordinance as a permit) is ~~((hereby))~~ granted to ~~((Broadway Medical Center
5 Limited partnership its))~~ Swedish Health Services ("Permittee") and its successors and assigns
6 ~~((("Permittee")))~~, to construct, maintain, and operate a pedestrian tunnel and existing utilities
7 (tunnel) along the easterly side of Broadway at East Cherry Street, connecting the 600
8 Broadway Building with the existing Northwest Kidney Center tunnel that is located across
9 Broadway, approximately forty feet north of East Cherry Street.

11 2. **Term.** The permission ~~((herein))~~ granted to the Permittee~~(,)~~ and its successors and
12 assigns, shall be for a term of ten years, commencing upon the effective date of this ordinance
13 and terminating at 11:59 p.m. on the last day of the tenth year~~((; provided, however, that upon))~~.
14 Upon written application of the Permittee at least 30 days before expiration of the term, the
15 Director of the Seattle Department of Transportation ("Director") may renew the permit for two
16 successive ten-year terms~~((, provided further that the))~~ subject to the right of the City of Seattle
17 ("City") to require the removal of the tunnel as provided for in Section 3 or 4, or revise by
18 ordinance any of the conditions of this ordinance. The total term of the permission as originally
19 granted and ~~((thus extended))~~ renewed shall not exceed ~~((thirty))~~ 30 years~~((, subject to the right~~
20 of the City to revise the fee provided for in Section 13 hereof, and by ordinance to then revise
21 any of the terms and conditions contained herein)). If a new term permit ordinance is to be
22 requested, the permittee shall submit a written application 180 days prior to the expiration of the
23 total term. Failure to obtain additional permission through a new ordinance, or to remove the
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1 tunnel prior to expiration of the term, is a violation of Chapter 15.90 of the Seattle Municipal
2 Code (SMC).

3 **3A. Removal for public use or for cause.** The ~~((permit))~~ permission granted ~~((hereby))~~
4 is subject to ~~((the primary and secondary))~~ use of the street right-of-way by the City and the
5 public for travel ~~((and utilities)),~~ utility purposes, and other street uses. The City ~~((of Seattle~~
6 ~~("City")))~~ expressly reserves the right to require the Permittee to remove the tunnel, or any part
7 thereof or installation thereon, at Permittee's sole cost and expense in the event that:

8
9 (a) the City Council determines by ordinance that the space occupied by the tunnel
10 is necessary for any ~~((primary or secondary))~~ public use or benefit or that the tunnel
11 interferes with any ~~((primary or secondary))~~ public use or benefit; or

12 (b) ~~((The Board of Public Works or a successor bond or official of the City~~
13 ~~("Board")))~~ the Director determines that any term or condition of this ordinance has been
14 violated and the violation has not been corrected by the Permittee by the compliance date
15 after a written request by the City to correct the violation.

16
17 A City Council determination that the space is ~~((necessary for a primary or secondary))~~ needed
18 for or interferes with a public use or benefit shall be conclusive and final without any right of the
19 Permittee to resort to the courts to adjudicate the matter.

20
21 **3B. Protection of utilities.** The permission granted is subject to the Permittee bearing the
22 expense of any protection, support or relocation of existing utilities deemed necessary by the
23 owners of the utilities; and the Permittee being responsible for any subsequent damage to the
24 utilities due to the construction, repair, reconstruction, maintenance, or operation of the tunnel.

25
26 4. **Removal requirements.** ~~((In the event that the permit))~~ If the permission granted is
27 not renewed ~~((, or the permission hereby granted extends to its termination in thirty years,))~~ at the



1 expiration of a term, or if the permission is extended to its termination date in 30 years and an
2 application for a new permit is not granted, or if acceptance of this ordinance is not timely
3 received as required by this ordinance; or if the City orders removal of the tunnel pursuant to the
4 terms of this ordinance, then within 90 days after ((such)) the expiration((;)) or termination,
5 ((order of removal, or)) prior to the date stated in an Order to Remove((, as the case may be,));
6 the Permittee shall, at its own expense, remove the tunnel and ((shall place)) replace all portions
7 of the street right-of-way that may have been disturbed for any part of the ((structure,)) tunnel in
8 as good condition for public use as they were prior to construction((;)) of the tunnel and((;)) in at
9 least as good condition in all respects as the abutting portions ((thereof)) of the right-of-way as
10 required by the applicable SDOT standards for right-of-way restoration. ((Whereupon, the
11 Board)) The Director shall then issue a certificate discharging the Permittee, or its successor or
12 assign, from ((responsibilities)) responsibility under this ordinance ((for occurrences after the
13 date of such discharge)).

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16 **5. Repair, reconstruction, or relocation.** The Permittee shall not reconstruct, relocate,
17 ((readjust)) or repair the tunnel except under the supervision((;)) of the Director and in strict
18 accordance with plans and specifications((;)) approved by the ((Board before any work is
19 commenced)) Director. The ((Board in its judgment)) Director may, in the Director's judgment,
20 order ((such reconstruction, relocation, readjustment or repair of)) the tunnel be reconstructed or
21 repaired at the Permittee's own cost and expense because of: the deterioration or unsafe condition
22 of the tunnel((, grade separations,)); or the installation, construction, reconstruction,
23 maintenance, operation, or repair of any ((and all)) municipally-owned public utilities((;)); or for
24 any other cause ((related to the public health, safety, or welfare)).



1 6. **Failure to correct unsafe condition.** After notice to the Permittee and failure of the
2 Permittee to correct an unsafe conditions within the time stated in the notice, the ((Board))
3 Director may order the tunnel be closed or removed at the Permittee's expense if the ((Board))
4 Director deems that it has become unsafe or creates a risk of injury to the public. If there is an
5 immediate threat to the health or safety of the public, a notice to correct is not required.

6 7. **Continuing obligation to remove and restore.** Notwithstanding termination or
7 expiration of the permission granted, or closure or removal of the tunnel, the Permittee shall
8 remain bound by its obligation under this ordinance until:
9

- 10 (a) the tunnel and all its equipment and property are removed from the street((;)) right-of-
11 way;
12 (b) the area is cleared and restored in a manner and to a condition satisfactory to the
13 ((Board,)) Director; and
14 (c) the ((Board)) Director certifies that the Permittee has discharged its obligations
15 ((herein; Provided, that upon)) under this ordinance.
16

17 Upon prior notice to the Permittee and entry of written findings that ((such)) it is in the public
18 interest, the ((Board)) Director may, in ((its)) the Director's sole discretion, ((excuse Permittee,))
19 conditionally or absolutely((;)) excuse the Permittee from compliance with all or any of the
20 Permittee's obligations to remove the tunnel and its property and to restore any disturbed areas
21 ((disturbed)).
22

23 8. **Release, hold harmless, indemnification, and duty to defend.** The tunnel shall
24 remain the exclusive responsibility of the Permittee and the Permittee agrees to maintain the
25 tunnel in good and safe condition for use by the public. The Permittee, by ((its acceptance))
26 accepting the terms of this ordinance ((and the permission hereby granted, does release)),
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1 releases the City from any and all claims resulting from damage or loss to ~~((its own))~~ the
2 Permittee's property; and ~~((does covenant and agree))~~ agrees for itself, its successors and
3 assigns~~((, with The City of Seattle))~~; to at all times protect and save harmless ~~((The))~~ the City
4 ~~((of Seattle))~~ from all claims, actions, suits, liability, loss, costs, expense, or damages of every
5 kind and description, ~~((f))~~ excepting only ~~((such))~~ damages that may result from the sole
6 negligence of the City~~((, which))~~; that may accrue to~~((,))~~ or be suffered by~~((,))~~ any person ~~((or~~
7 ~~persons,))~~ or property including without limitation, damage or injury to the Permittee, its
8 officers, agents, employees, contractors, invitees, tenants and tenants' invitees, licensees or
9 ~~((their))~~ its successors and assigns~~((,))~~; by reason of the maintenance, operation, or use of ~~((said))~~
10 the tunnel ~~((or the occupation or use of a City street, alley))~~, or any portion thereof~~((,))~~; or by
11 reason of anything that has been done~~((,))~~ or may at any time be done~~((,))~~ by the Permittee, its
12 successors or assigns~~((,))~~ by reason of this ordinance~~((,))~~; or by reason of the Permittee, its
13 successors or assigns~~((,))~~ failing or refusing to strictly comply with ~~((each and))~~ every provision
14 of this ordinance~~((, and if))~~.

17 If any ~~((such))~~ suit, action, or claim ~~((shall be))~~ of the nature described above is filed,
18 instituted, or begun against the City~~((,))~~; the Permittee, its successors or assigns, shall~~((,))~~ upon
19 notice ~~((thereof))~~ from the City~~((,))~~; defend the ~~((same))~~ City at its or their sole cost and
20 expense~~((,))~~; and ~~((in case))~~ if a judgment ~~((shall be))~~ is rendered against the City in any suit or
21 action, the Permittee, its successors or assigns, shall fully satisfy ~~((said))~~ the judgment within 90
22 days after ~~((such))~~ the action or suit ~~((shall have))~~ has been finally determined, if determined
23 adversely to the City. If it is determined by a court of competent jurisdiction that Revised Code
24 of Washington (RCW) 4.24.115 applies to this ordinance, then in the event claims or damages
25 are caused by or result from the concurrent negligence of:
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1 (a) the City, its agents, contractors, or employees; and,

2 (b) the Permittee, its agents, contractors, employees, or successors or assigns;

3 this indemnity provision shall be valid and enforceable only to the extent of the negligence of the
4 Permittee or the Permittee's agents, contractors, employees, or successors or assigns.

5 **9A. Insurance.** For as long as the Permittee; its successors and assigns, shall exercise any
6 ~~((permissions))~~ permission granted by this ordinance and until the tunnel is entirely removed
7 from its location as described in Section 1 or until discharged by order of the Director as
8 provided in Section 4 of this ordinance, ~~((it shall))~~ the Permittee shall obtain and maintain in full
9 force and effect, at its own expense ~~((deliver to the Director for filing with the City Clerk,))~~,
10 insurance that protects the City from claims and risks of loss from perils that can be insured
11 against under commercial general ~~((comprehensive policies of public))~~ liability (CGL)
12 insurance~~((, which))~~ policies ~~((must be approved by the City Attorney as to form and coverage~~
13 ~~and which policies must fully protect the City from any and all claims and risks))~~ in conjunction
14 with:
15

16 (a) construction, reconstruction, operation, maintenance, use, or existence of the tunnel
17 and ~~((of))~~ any ~~((and all))~~ portions of the tunnel~~((;))~~ permitted by this ordinance;

18 (b) the Permittee's activity upon or the use or occupation of the ~~((areas))~~ area described
19 in Section 1 of this ordinance~~((;))~~; and

20 (c) ~~((any and all))~~ claims and risks in connection with any activity performed by the
21 Permittee by virtue of the permission granted by this ordinance.

22 ~~((Each such policy or policies must specifically name the City of Seattle as an additional insured~~
23 ~~party thereunder and provide the following minimum coverages and minimum limits:~~



1 ~~Minimum Coverage: General comprehensive liability for any injury, death, damage, and/or loss~~
2 ~~of any sort sustained by any person, organization, or corporation (including any liability of the~~
3 ~~City for such to Permittee, its officers, agents and/or employees and any liability of Permittee for~~
4 ~~such to the City of Seattle, its officers, agents and/or employees) in connection with~~

5 (a) ~~operation, maintenance, use or existence of the tunnel and any and all portions of the~~
6 ~~tunnel permitted by this ordinance;~~

7 (b) ~~any activity upon or use or occupancy of the area described in Section 1 of this~~
8 ~~ordinance; and~~

9 (c) ~~for any activity performed by Permittee by virtue of the permission granted pursuant~~
10 ~~to this ordinance:))~~

11
12 Minimum insurance requirements are CGL insurance based on the Insurance Services Office
13 (ISO) form CG 00 01 or equivalent. The City requires insurance coverage to be placed with an
14 insurer admitted and licensed to conduct business in Washington State or with a surplus lines
15 carrier pursuant to RCW Chapter 48.15, except that if it is infeasible to obtain coverage with the
16 required insurer, the City may approve an alternative insurer.

17
18 ((Minimum Limits: (Primary and excess) not less than those otherwise carried by the
19 Permittee and in any event not less than One Million Dollars (\$1,000,000) per occurrence and
20 annual aggregate.
21

22 Each such policy or endorsement thereto must contain the following provisions:

23 "The City of Seattle is named as an additional insured for all coverage provided by this
24 policy of insurance and shall be fully and completely protected by this policy for all risks and for
25 any and every injury, death, damage and loss of any sort sustained by any person, organization or
26 corporation (including any liability of the City for such to Permittee Swedish Health Services, its
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1 ~~successors and assigns, any of its employees and/or agents and any liability of Permittee to the~~
2 ~~City of Seattle, its officers, agents and employees) in connection with~~

3 ~~(a) operation, maintenance, use or existence of the tunnel and any appurtenances~~
4 ~~thereto, permitted by the City of Seattle ordinance granting Swedish Health~~
5 ~~Services permission to operate and maintain a tunnel~~

6 ~~(b) activities of Swedish Health Services its successors and assigns, upon use or~~
7 ~~occupation of the areas described in Section 1 of the authorizing ordinance, as~~
8 ~~well as~~

9 ~~(c) any activity performed by Swedish Health Services, its successors and assigns by~~
10 ~~virtue of the permission granted by the aforesaid ordinance.”~~

11 ~~“The coverage provided by this policy to the City of Seattle or any other named insured~~
12 ~~shall not be terminated, reduced or otherwise changed in any respect without providing at least~~
13 ~~thirty (30) days prior written notice to the City of Seattle, Attention: Director of~~
14 ~~Transportation.”))~~

15 Minimum limits of liability shall be \$2,000,000 each occurrence combined single limit
16 bodily injury and property damage, with \$4,000,000 annual aggregate. Coverage shall name the
17 “City of Seattle, its elected and appointed officers, officials, employees and agents” as additional
18 insureds for primary and non-contributory limits of liability subject to a Separation of Insureds
19 clause.

20 Permittee shall provide to the City, or cause to be provided, certification of insurance
21 coverage consisting of the CGL declarations page, schedule of forms and endorsements, and
22 blanket or additional insured policy provision per the ISO CG 20 12 or equivalent. The insurance



1 coverage certification shall be delivered or sent to the Director or to the Department of
2 Transportation at an address as the Director may specify in writing from time to time.

3 Should the Permittee be self-insured, a letter of certification from the Corporate Risk
4 Manager or appropriate Finance Officer may be submitted in lieu of the insurance coverage
5 certification required by this ordinance, if approved in writing by the City Risk Manager. The
6 letter of certification must provide all information required by the City Risk Manager and
7 document, to the satisfaction of the City Risk Manager, that self-insurance equivalent to the
8 insurance requirements of this ordinance is in force. After a self-insurance certification is
9 approved, the City may from time to time subsequently require updated or additional
10 information. The approved self-insured Permittee must provide 30-days notice of any
11 cancellation or material adverse financial condition of its self-insurance program. The City may
12 at any time revoke approval of self-insurance and require the Permittee to obtain and maintain
13 insurance as specified in this ordinance.

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16 **9B. Adjustment of insurance and bond requirements.** The Director, in consultation
17 with the City Risk Manager, may adjust minimum ~~((levels of))~~ liability insurance levels and
18 surety bond requirements during the term of this permission. ~~((The))~~ If the Director and City
19 Risk Manager determine that an adjustment is necessary to fully protect the interests of the City,
20 the Director shall notify the Permittee of the new requirements in writing. Upon receipt, the
21 Permittee shall, within 60 days, provide proof of the ~~((required levels of))~~ adjusted insurance and
22 surety bond levels to the Director ~~((within 60 days)).~~

23
24 **10. Contractor insurance.** ~~((The Broadway Medical Center Limited Partnership))~~ The
25 Permittee shall contractually require that any and all of its contractors performing
26 ~~((construction))~~ work on ~~((the))~~ any premises as contemplated by this permit~~((s))~~ name the "City
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1 of Seattle, its elected and appointed officers, officials, employees and agents” as ~~((an))~~ additional
2 ~~((insured on all policies of public liability insurance, and shall include in all pertinent))~~ insureds
3 for primary and non-contributory limits of liability on all CGL, Automobile and Pollution
4 liability insurance and/or self-insurance. The Permittee shall also include in all contract
5 documents with its contractors a third-party beneficiary provision extending construction
6 indemnities and warranties granted to ((Broadway Medical Center Limited Partnership))
7 Permittee to the City ((as well)).

8
9 11. ~~((Bond:))~~ **Performance bond.** Within 60 days after the effective date of this
10 ordinance the Permittee shall deliver to the Director ~~((of Engineering))~~ for filing with the City
11 Clerk a ~~((good and))~~ sufficient bond executed by a surety company authorized and qualified to
12 do business in the State of Washington that is: in the ((sum)) amount of ((Twenty Thousand
13 Dollars (\$20,000) executed by a surety company authorized and qualified to do business in the
14 State of Washington)) \$105,000 , and conditioned with a requirement that the Permittee ((will))
15 shall comply with each and every provision of this ordinance and with ((each and)) every order
16 ((of)) the ((Board pursuant thereto; provided, that if the Mayor of the City in his judgment shall
17 deem any bond or bonds filed to be insufficient and demand a new or additional bond, the
18 Permittee shall furnish a new or additional bond in such amount as the Mayor may specify to be
19 necessary to fully protect the City. Said)) Director issues under this ordinance. The Permittee
20 shall ensure that the bond ((shall remain)) remains in effect until ((such time as)) the tunnel is
21 entirely removed from ((its)) the location as described in Section 1, or until the Permittee is
22 discharged by ((order of the Board of Public Works)) a Director’s order as provided in Section 4
23 ((of this ordinance)). An irrevocable letter of credit approved by the City Risk Manager may be
24 substituted for the bond.



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2 **13A. Inspection fees.** ~~((That the))~~ The Permittee, its successors and assigns ~~((;))~~ shall, as
3 provided by SMC Chapter 15.76, pay ~~((to))~~ the City ~~((such))~~ the amounts ~~((as may be justly~~
4 chargeable)) charged by ~~((said))~~ the City as costs ~~((of inspection of said))~~ to inspect the tunnel
5 during construction, reconstruction, repair, annual structural inspections, and at other times
6 deemed necessary to ensure the safety of ~~((said))~~ the tunnel ~~((, as provided by Municipal Code~~
7 Section 15.76)).
8

9 **13B. Inspection reports.** The Permittee, its successors and assigns shall submit to the
10 Director, or to the Department of Transportation at an address as the Director may specify in
11 writing from time to time, an inspection report that:

- 12 (a) describes the physical dimensions and condition of all load bearing elements,
13 (b) describes any damages or possible repairs to any element of the tunnel,
14 (c) prioritizes all repairs and establishes a timeframe for making repairs, and
15 (d) is stamped by a professional structural engineer licensed in the State of
16 Washington.

17
18 The report shall be submitted within 60 days after the effective date of this ordinance;
19 subsequent reports shall be submitted every two years, within 30 days prior to the anniversary
20 date of the effective date of this ordinance; or in the event of a natural disaster or other event that
21 may have damaged the tunnel, the report shall be submitted by the date established by the
22 Director.

23
24 **13C. Annual fee.** Beginning on May 12, 2010, the Permittee shall promptly pay to the
25 City ~~((in advance))~~ upon statements or invoices ~~((rendered))~~ issued by the Director, an annual fee
26 ((of \$4,109.00 for the period beginning May 12, 2000, and ending May 11, 2005 for the
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1 ~~privileges granted and exercised hereunder as established by Ordinance 121493. At the end of~~
2 ~~this period, adjustments)) of \$4,362 or as adjusted annually thereafter, for the privileges granted~~
3 ~~by this ordinance.~~

4 Adjustments to the annual fee ((amount)) shall be made in accordance with a term permit
5 fee schedule adopted by the City Council ((by ordinance)) and may be ((adjusted)) made every
6 year. In the absence of ((such)) a schedule, the Director may only increase or decrease the
7 previous year's fee ((amount annually)) to reflect any inflationary changes so as to charge ((said))
8 the fee in constant dollar terms. This adjustment will be calculated by adjusting the previous
9 year's fee ((amount)) by the percentage change between the two most recent year-end values
10 available ((of)) from the Consumer Price Index for the Seattle-Tacoma-Bremerton Area, All
11 Urban Consumers, All Products, Not Seasonally Adjusted. All payments shall be made to the
12 City Finance Director for credit to the Transportation Operating Fund.

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15 14. ~~((Non-Discrimination: The Permittee shall not discriminate against any employee or~~
16 ~~applicant for employment in connection with the design, architectural or structural engineering~~
17 ~~work or the repair, or maintenance of the tunnel permitted pursuant to this ordinance, on the~~
18 ~~basis of race, religion, creed, color, sex, marital status, sexual orientation, political ideology,~~
19 ~~ancestry, age, national origin, or the presence of any sensory, mental or physical handicap unless~~
20 ~~based upon bona fide occupational qualification. The foregoing commitment shall be~~
21 ~~implemented as follows:~~

- 22
23 (a) ~~The Permittee will take affirmative action to ensure that applicants are employed and~~
24 ~~that employees are treated during employment without regard to their race, religion,~~
25 ~~creed, color, age, national origin or the presence of any sensory, mental or physical~~
26 ~~handicap. Such action shall include, but not be limited to, the following:~~



1 ~~employment, upgrading, demotion or transfer, recruitment or recruitment advertising,~~
2 ~~layoff or termination, rates of pay or other forms of compensation and selection for~~
3 ~~training, including apprenticeship.~~

4 ~~(b) The Permittee shall post in conspicuous places available to such employees and~~
5 ~~applicants for such employment, notices setting forth the provisions of this non-~~
6 ~~discrimination clause.~~

7
8 ~~(c) The Permittee shall furnish to the Director of Human Rights or a successor official~~
9 ~~(the "Director"), upon his or her request and on such forms as may be provided, a~~
10 ~~report of the affirmative action taken in implementing this provision and will permit~~
11 ~~reasonable access to his records for the purposes of determining compliance with this~~
12 ~~section. If, upon investigation the Director finds probable cause to believe that the~~
13 ~~Permittee has failed to comply with any of the terms of this section, the Permittee and~~
14 ~~the Board will be so notified in writing. The Board shall give the Permittee at least 10~~
15 ~~days' notice and a hearing thereon. If the Board finds that there has been a violation~~
16 ~~of the Section, the Board may suspend the permission conferred pending full~~
17 ~~compliance with the terms of this Section.~~

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20 ~~Failure to comply with any of the terms of this provision shall be a material violation of~~
21 ~~this ordinance.~~

22 ~~The foregoing paragraphs shall be inserted in any subcontracts for work~~
23 ~~undertaken pursuant to this ordinance in connection with the design, architectural or structural~~
24 ~~engineering work or the repair, or maintenance of the tunnel permitted hereunder, unless the~~
25 ~~Director authorizes the use of another equality of employment opportunity provision.))~~
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1 **Non-discrimination.** The Permittee shall comply with the City's laws prohibiting
2 discrimination in employment and contracting including Seattle's Fair Employment Practices
3 Ordinance, Chapter 14.04 and Fair Contracting Practices code, Chapter 14.10.

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6 **Section 3. Acceptance of terms and conditions.** The Permittee shall deliver to the
7 Director its written signed acceptance of the terms of this ordinance within 60 days after the
8 effective date of this ordinance. The Director shall file the written acceptance with the City
9 Clerk. If no such acceptance is received within that 60-day period, the privileges conferred by
10 this ordinance shall be deemed declined or abandoned and the permission granted deemed lapsed
11 and forfeited.

12
13 **Section 4. Successors and assigns.** The rights conferred to the Permittee and the
14 obligations and conditions imposed on the Permittee through this ordinance are also conferred
15 and imposed on the Permittee's successors and assigns. All references in this ordinance to the
16 "Permittee" shall also be deemed to refer to the successors and assigns of the Permittee.
17 References in this ordinance to "Permittee and its successors and assigns" or "Permittee or its
18 successors and assigns" are included as reminders and do not limit the scope of "Permittee" used
19 alone.
20

21
22 **Section 5. Ratify and confirm.** Any act taken by the City or the Permittee pursuant to the
23 authority and in compliance with the conditions of this ordinance but prior to the effective date
24 of the ordinance is ratified and confirmed.
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1 Section 6. This ordinance shall take effect and be in force 30 days from and after its
2 approval by the Mayor, but if not approved and returned by the Mayor within ten days after
3 presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

4 Passed by the City Council the ____ day of _____, 2011, and signed by
5 me in open session in authentication of its passage this
6 ____ day of _____, 2011.

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9 _____
10 President _____ of the City Council

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12 Approved by me this ____ day of _____, 2011.

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14 _____
15 Michael McGinn, Mayor

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18 Filed by me this ____ day of _____, 2011.

19
20 _____
21 City Clerk

22
23 (Seal)



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle Department of Transportation	Angela Steel/684-5967	Rebecca Guerra/684-5339

Legislation Title:

AN ORDINANCE relating to a pedestrian tunnel under and along the easterly side of Broadway at East Cherry Street, amending Ordinance 115021, as amended by Ordinances 121493 and 121855, to update the insurance and bond requirements, and amend the annual fee; renewing the term of the permit to the Swedish Health Services; providing for acceptance of the permit and conditions; and ratifying and confirming certain prior acts.

Summary of the Legislation:

This legislation amends Ordinance 115021, as amended by Ordinance 121493 and 121855, for the Swedish Health Services to continue maintaining and operating the existing pedestrian tunnel located under and along the easterly side of Broadway at East Cherry Street. An area map is attached for reference.

The permit is renewed for a ten-year term starting on May 12, 2010. The legislation updates the insurance and surety bond provisions as recommended by the City Risk Manager, specifies the conditions under which authorization is granted, and provides for acceptance of the permit and conditions.

The ordinance requires Swedish Health Services to pay the City an annual fee of \$4,362 starting from the last paid annual fee invoice, May 12, 2010, 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 Annual Fee Appraisal Summary is attached to this fiscal note for reference.

Background:

By Ordinance 115021, the City granted permission to the Broadway Medical Center Limited Partnership to construct, maintain, and operate a pedestrian tunnel located under and along the easterly side of Broadway at East Cherry Street, for a ten-year term, renewable for two successive ten-year terms.

By Ordinance 121493, the permission authorized by Ordinance 115021 was transferred to the Swedish Health Services, renewed for a ten-year term, and was due for renewal on May 11, 2010.



Ordinance 115021 was amended by Resolution 29206 and Ordinances 121493 and 121855.

Please check one of the following:

This legislation does not have any financial implications.
(Stop here and delete the remainder of this document prior to saving and printing.)

This legislation has financial implications. (Please complete all relevant sections that follow.)

Appropriations: N/A

Anticipated Revenue/Reimbursement: Resulting from this Legislation:

This table should reflect revenues/reimbursements that are a direct result of this legislation. In the event that the issues/projects associated with this ordinance/resolution have revenues or reimbursements that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below the table.

Fund Name and Number	Department	Revenue Source	2011 Revenue	2012 Revenue
Transportation Operating Fund 10310	Seattle Department of Transportation	Annual Fee --	2010 Fee = \$4,362 2011 Fee = \$4,364	TBD
TOTAL			\$8,726	TBD

Revenue/Reimbursement Notes: N/A

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

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 \$4,362. As previously stated, the City of Seattle has the option to adjust the fee amount on an annual basis. The tunnel, as originally permitted under Ordinance 115021, would no longer be permitted.

Does this legislation affect any departments besides the originating department?

None.



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

None.

Is the legislation subject to public hearing requirements?

No.

Other Issues: (Include long-term implications of the legislation.)

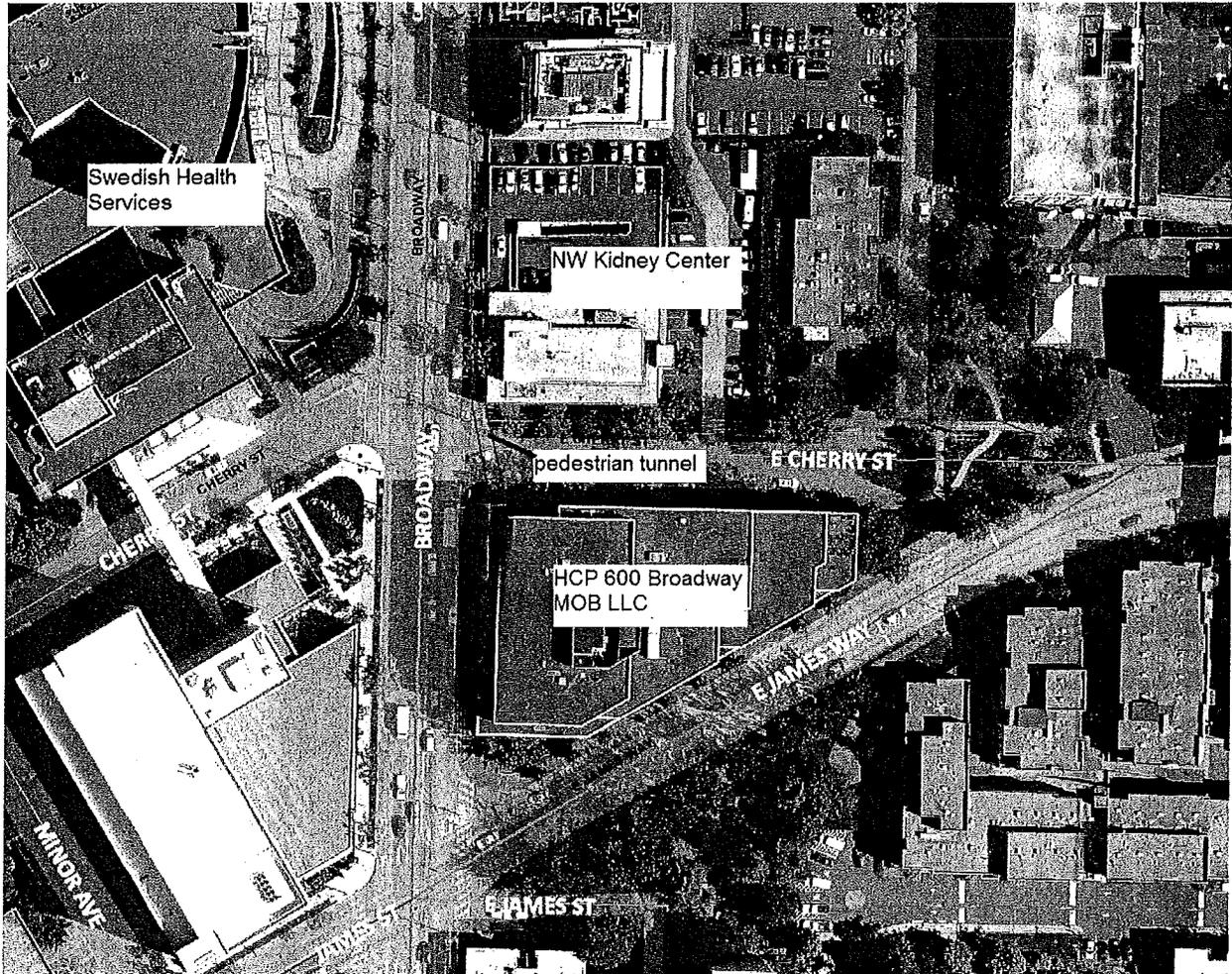
N/A

List attachments to the fiscal note below:

- Attachment A – Swedish Broadway Tunnel Area Map
- Attachment B - Annual Fee Assessment Summary



Attachment A – Swedish Broadway Tunnel 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 - Annual Fee Assessment Summary

STREET USE ANNUAL FEE ASSESSMENT

Date: 2/1/11

<p>Summary: Land Value: \$155/SF First Year Permit Fee: \$4,362</p>
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I. Property Description:

Existing subsurface pedestrian tunnel under and along the easterly side of Broadway, at East Cherry Street. The tunnel connects the properties of 600 Broadway and 700 Broadway (NW Kidney Center). Adjacent tax parcels are listed below. The tunnel is **1,407 square feet**.

Applicant:

Swedish Health Services

Abutting Parcels, Property Size, Assessed Value:

1. Parcel 2197600250; 32,731 square feet

Tax year 2010 Appraised Land Value \$5,073,300
Assessed at \$155/SF

2. Parcel 1978201435; 22,983 SF

Tax year 2010 Appraised Land Value \$3,562,300
Assessed at \$155/SF

Average 2010 tax assessed land value: \$155/SF

II. Annual Fee Assessment:

The 2010 permit fee is calculated as follows: $(\$155/\text{SF}) \times (1407 \text{ SF}) \times (25\%) \times (8\%) =$
\$4,362, where 25% is the degree of alienation for a pedestrian tunnel and 8% is estimated annual rate of return.

Fee methodology authorized under Ordinance 123485.





City of Seattle
Office of the Mayor

April 12, 2011

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill that will grant to Swedish Health Services a ten-year renewal permit for an existing pedestrian tunnel under and along the easterly side of Broadway at East Cherry Street, as authorized by Ordinance 115021.

Use of the existing tunnel, which was authorized by Ordinance 115021 and amended by Ordinances 121493 and 121855, provides an underground connection for pedestrians between the 600 Broadway Building and the Northwest Kidney Center tunnel that crosses under Broadway. In addition to granting a new permit, the proposed Council Bill updates the insurance and bond requirements, updates the annual fee, and specifies the conditions under which authorization is granted.

Thank you for your consideration of this legislation. Should you have questions, please contact Angela Steel at (206) 684-5967.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

