

Ordinance No. 124746

Council Bill No. 118354

AN ORDINANCE granting Columbia Center Property LLC permission to continue to maintain and operate a pedestrian tunnel under and across 5th Avenue, south of Columbia Street, and under and across Columbia Street, east of 5th Avenue, 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; and ratifying and confirming certain prior acts.

Related Legislation File: _____

Date Introduced and Referred:	To: (committee):
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action:	Date Presented to Mayor:
Date Signed by Mayor:	Date Returned to City Clerk:
Published by Title Only _____ Published in Full Text _____	Date Vetoed by Mayor:
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: _____

Committee Action:

Date	Recommendation	Vote
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

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

Full Council Action:

Date	Decision	Vote
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____



SEATTLE CITY COUNCIL

Legislative Summary

CB 118354

Record No.: CB 118354

Type: Ordinance (Ord)
124746

Status: Attested by City
Clerk

Version: 1

In Control: City Clerk

File Created: 02/19/2015

Final Action: 04/06/2015

Title: AN ORDINANCE granting Columbia Center Property LLC permission to continue to maintain and operate a pedestrian tunnel under and across 5th Avenue, south of Columbia Street, and under and across Columbia Street, east of 5th Avenue, 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; and ratifying and confirming certain prior acts.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: Rasmussen

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments:

Drafter: cheryl.swab@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published:

☐ Yes

☐ No

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Clerk	03/10/2015	sent for review	Council President's Office			
	Action Text: The Council Bill (CB) was sent for review to the Council President's Office Notes:						
1	Council President's Office	03/11/2015	sent for review	Transportation Committee			
	Action Text: The Council Bill (CB) was sent for review to the Transportation Committee Notes:						
1	Full Council	03/23/2015	referred	Transportation Committee			
	Action Text: The Council Bill (CB) was referred to the Transportation Committee Notes:						
1	Transportation Committee	03/24/2015	pass				Pass

Action Text: The Committee recommends that Full Council pass the Council Bill (CB).

Notes:

In Favor: 3 Chair Rasmussen, Vice Chair O'Brien, Member Godden

Opposed: 0

1 Full Council 03/30/2015 passed

Pass

Action Text: The Council Bill (CB) was passed by the following vote and the President signed the Bill:

Notes:

In Favor: 9 Councilmember Bagshaw, Council President Burgess, Councilmember Clark, Councilmember Godden, Councilmember Harrell, Councilmember Licata, Councilmember O'Brien, Councilmember Rasmussen, Councilmember Sawant

Opposed: 0

1 City Clerk 04/01/2015 submitted for Mayor's signature Mayor

Action Text: The Council Bill (CB) was submitted for Mayor's signature. to the Mayor

Notes:

1 Mayor 04/06/2015 Signed

Action Text: The Council Bill (CB) was Signed.

Notes:

1 Mayor 04/06/2015 returned to Clerk City Clerk

Action Text: The Council Bill (CB) was returned to Clerk. to the City Clerk

Notes:

1 City Clerk 04/06/2015 attested by City Clerk

Action Text: The Council Bill (CB) was attested by City Clerk.

Notes:

CITY OF SEATTLE
ORDINANCE 124746
COUNCIL BILL 118354

AN ORDINANCE granting Columbia Center Property LLC permission to continue to maintain and operate a pedestrian tunnel under and across 5th Avenue, south of Columbia Street, and under and across Columbia Street, east of 5th Avenue, 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; and ratifying and confirming certain prior acts.

WHEREAS, Columbia Center Property LLC has applied for permission to continue maintaining and operating a pedestrian tunnel at 5th Avenue and Columbia Street, including electrical, phone and data utilities; and

WHEREAS, the pedestrian tunnel provides a connection between Columbia Center, the Seattle Municipal Tower, and the Bank of America building; and

WHEREAS, the pedestrian tunnel was originally approved by Ordinance 111826 and was reauthorized by Resolution 28080 and Resolution 29171; and that permission expired on September 7, 2014; and

WHEREAS Columbia Center Property LLC has satisfied all terms of the original authorizing ordinance and the Director recommends that the permit be renewed subject to the terms identified in this ordinance, NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. **Permission.** Subject to the terms and conditions of this ordinance, the City of Seattle ("City") grants permission (also referred to in this ordinance as a permit) to Columbia Center Property LLC, and its successors and assigns as approved by the Director of the Seattle

1 Department of Transportation (Director) according to Section 14 of this ordinance (the party
2 named above and each such approved successor and assign is referred to as "Permittee"), to
3 continue maintaining and operating a pedestrian tunnel and existing private utilities ("tunnel")
4 under and across 5th Avenue, south of Columbia Street, and under and across Columbia Street,
5 east of 5th Avenue adjacent in whole or in part to the property legally described as:

6 Block 28, C.D. Boren's Addition to the City of Seattle, as recorded in the plats of King
7 County, including the vacated alley lying within said Block 28, less the westerly 9 feet
8 condemned for the widening of 4th Avenue by King County Superior Court No. 50320.
9 Property includes parcels A & B Seattle Short Plat No. 80-146, recording number 8104080612.

10 Section 2. **Term.** The permission granted to Permittee is for a term of ten years starting
11 on September 8, 2014 and ending at 11:59 p.m. on September 7, 2024. Upon written application
12 made by the Permittee at least 180 days before expiration of the term, the Director or the City
13 Council may renew the permit twice, each time for a successive ten-year term, subject to the
14 right of the City to require the removal of the tunnel or to revise by ordinance any of the terms
15 and conditions of the permission granted by this ordinance. The total term of the permission,
16 including renewals, shall not exceed 30 years. The Permittee shall submit any application for a
17 new permission no later than 180 days prior to the expiration of the then-existing term.

18 Section 3. **Protection of utilities.** The permission granted is subject to the Permittee
19 bearing the expense of any protection, support, or relocation of existing utilities deemed
20 necessary by the owners of the utilities, and the Permittee being responsible for any damage to
21 the utilities due to the construction, repair, reconstruction, maintenance, operation, or removal of

1 the tunnel and for any consequential damages that may result from any damage to utilities or
2 interruption in service caused by any of the foregoing.

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

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

12 (b) the Director determines that use of the tunnel has been abandoned; or

13 (c) 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 (unless a notice to correct is not
16 required due to an immediate threat to the health or safety of the public).

17 A City Council determination that the space is needed for, or the tunnel interferes with, a public
18 use or benefit is conclusive and final without any right of the Permittee to resort to the courts to
19 adjudicate the matter.

20 Section 5. **Permittee's obligation to remove and restore.** If the permission granted is
21 not renewed at the expiration of a term, or if the permission expires without an application for a
22 new permission being granted, or if the City terminates the permission, then within 90 days after
23 the expiration or termination of the permission, or prior to any earlier date stated in an ordinance

1 or order requiring removal of the tunnel, the Permittee shall, at its own expense, remove the
2 tunnel and all of the Permittee's equipment and property from the public place and replace and
3 restore all portions of the public place that may have been disturbed for any part of the tunnel in
4 as good condition for public use as existed prior to construction of the tunnel and in at least as
5 good condition in all respects as the abutting portions of the public place as required by Seattle
6 Department of Transportation (SDOT) right-of-way restoration standards.

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

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

20 Section 6. **Repair or reconstruction.** The tunnel shall remain the exclusive
21 responsibility of the Permittee and the Permittee shall maintain the tunnel in good and safe
22 condition for the protection of the public. The Permittee shall not reconstruct or repair the tunnel
23 except in strict accordance with plans and specifications approved by the Director. The Director

1 may, in the Director's judgment, order the tunnel reconstructed or repaired at the Permittee's cost
2 and expense because of: the deterioration or unsafe condition of the tunnel; the installation,
3 construction, reconstruction, maintenance, operation, or repair of any municipally-owned public
4 utilities; or any other cause.

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

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

17 **Section 9. Release, hold harmless, indemnification, and duty to defend.** The
18 Permittee, by accepting the terms of this ordinance, releases the City, its officials, officers,
19 employees, and agents from any and all claims, actions, suits, liability, loss, costs, expense,
20 attorneys' fees, or damages of every kind and description arising out of or by reason of the tunnel
21 or this ordinance, including but not limited to claims resulting from injury, damage, or loss to the
22 Permittee or the Permittee's property.

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

8 (a) the existence, condition, construction, reconstruction, modification, maintenance,
9 operation, use, or removal of the tunnel or any portion thereof, or the use, occupation, or
10 restoration of the public place or any portion thereof by the Permittee or any other person or
11 entity;

12 (b) anything that has been done or may at any time be done by the Permittee by reason of
13 this ordinance; or

14 (c) the Permittee failing or refusing to strictly comply with every provision of this
15 ordinance; or arising out of or by reason of the tunnel or this ordinance in any other way.

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

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

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

10 (a) Construction, reconstruction, modification, operation, maintenance, use,
11 existence, or removal of the tunnel or any portion thereof, as well as restoration of any disturbed
12 areas of the public place in connection with removal of the tunnel;

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

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

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

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

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

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

1 If the Permittee assigns or transfers the permission granted by this ordinance, the
2 Permittee shall maintain in effect the insurance required under this section until the Director has
3 approved the assignment or transfer pursuant to Section 14 of this ordinance.

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

11 Section 12. **Performance bond.** Within 60 days after the effective date of this ordinance,
12 the Permittee shall deliver to the Director for filing with the City Clerk a sufficient bond
13 executed by a surety company authorized and qualified to do business in the State of Washington
14 that is: in the amount of \$200,000, and conditioned with a requirement that the Permittee shall
15 comply with every provision of this ordinance and with every order the Director issues under this
16 ordinance. The Permittee shall ensure that the bond remains in effect until the Director has issued
17 a certification that the Permittee has fulfilled its removal and restoration obligations under
18 Section 5 of this ordinance. An irrevocable letter of credit approved by the Director in
19 consultation with the City Attorney's Office may be substituted for the bond. In the event that
20 the Permittee assigns or transfers the permission granted by this ordinance, the Permittee shall
21 maintain in effect the bond or letter of credit required under this section until the Director has
22 approved the assignment or transfer pursuant to Section 14 of this ordinance.

1 **Section 13. Adjustment of insurance and bond requirements.** The Director may adjust
2 minimum liability insurance levels and surety bond requirements during the term of this
3 permission. If the Director determines that an adjustment is necessary to fully protect the
4 interests of the City, the Director shall notify the Permittee of the new requirements in writing.
5 The Permittee shall, within 60 days of the date of the notice, provide proof of the adjusted
6 insurance and surety bond levels to the Director.

7 **Section 14. Consent for and conditions of assignment or transfer.** The permission
8 granted by this ordinance shall not be assignable or transferable by operation of law; nor shall the
9 Permittee transfer, assign, mortgage, pledge or encumber the same without the Director's
10 consent, which the Director shall not unreasonably refuse. The Director may approve assignment
11 or transfer of the permission granted by this ordinance to a successor entity only if the successor
12 or assignee has accepted in writing all of the terms and conditions of the permission granted by
13 this ordinance; has provided, at the time of the acceptance, the bond and certification of
14 insurance coverage required under this ordinance; and has paid any fees due under Section 17 of
15 this ordinance. Upon the Director's approval of an assignment or transfer, the rights and
16 obligations conferred on the Permittee by this ordinance shall be conferred on the successors and
17 assigns. Any person or entity seeking approval for an assignment or transfer of the permission
18 granted by this ordinance shall provide the Director with a description of the current and
19 anticipated use of the tunnel.

20 **Section 15. Inspection fees.** The Permittee shall, as provided by SMC Chapter 15.76 or
21 successor provision, pay the City the amounts charged by the City to inspect the tunnel during
22 reconstruction, repair, annual safety inspections, and at other times deemed necessary by the
23 City. An inspection or approval of the tunnel by the City shall not be construed as a representation,

1 warranty, or assurance to the Permittee or any other person as to the safety, soundness, or condition
2 of the tunnel. Any failure by the City to require correction of any defect or condition shall not in
3 any way limit the responsibility or liability of the Permittee.

4 Section 16. **Inspection reports.** The Permittee shall submit to the Director, or to SDOT
5 at an address specified by the Director, an inspection report that:

- 6 (a) describes the physical dimensions and condition of all load-bearing elements;
- 7 (b) describes any damages or possible repairs to any element of the tunnel;
- 8 (c) prioritizes all repairs and establishes a timeframe for making repairs; and
- 9 (d) is stamped by a professional structural engineer licensed in the State of
10 Washington.

11 A report meeting the foregoing requirements shall be submitted within 60 days after the effective
12 date of this ordinance; subsequent reports shall be submitted every two years, within 30 days
13 prior to the anniversary date of the last inspection report; provided that, in the event of a natural
14 disaster or other event that may have damaged the tunnel, the Director may require that
15 additional reports be submitted by a date established by the Director. The Permittee has the duty
16 of inspecting and maintaining the tunnel. The responsibility to submit structural inspection
17 reports periodically or as required by the Director does not waive or alter any of the Permittee's
18 other obligations under this ordinance. The receipt of any reports by the Director shall not create
19 any duties on the part of the Director. Any failure by the Director to require a report, or to
20 require action after receipt of any report, shall not waive or limit the obligations of the Permittee.

21 Section 17. **Annual fee.** Beginning on September 8, 2014, and annually thereafter, the
22 Permittee shall promptly pay to the City, upon statements or invoices issued by the Director, an

1 annual fee of \$23,744, or as adjusted annually thereafter, for the privileges granted by this
2 ordinance.

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

11 **Section 18. Compliance with other laws.** Permittee shall maintain and operate the tunnel
12 in compliance with all applicable federal, state, County and City laws and regulations. Without
13 limitation, in all matters pertaining to the tunnel, the Permittee shall comply with the City's laws
14 prohibiting discrimination in employment and contracting including Seattle's Fair Employment
15 Practices Ordinance, Chapter 14.04, and Fair Contracting Practices code, Chapter 14.10 (or
16 successor provisions).

17 **Section 19. Acceptance of terms and conditions.** The Permittee shall deliver to the
18 Director its written signed acceptance of the terms of this ordinance within 60 days after the
19 effective date of this ordinance. The Director shall file the written acceptance with the City
20 Clerk. If no such acceptance is received within that 60-day period, the privileges conferred by
21 this ordinance shall be deemed declined or abandoned and the permission granted deemed lapsed
22 and forfeited and the Permittee shall, at its own expense, remove the tunnel and all of the

1 Permittee's equipment and property and replace and restore all portions of the public place as
2 provided in Section 5 of this ordinance.

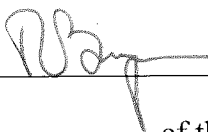
3 Section 20. **Obligations run with the Property.** The obligations and conditions
4 imposed on the Permittee by and through this ordinance are covenants that run with the land and
5 bind subsequent owners of the property adjacent to the tunnel and legally described in Section 1
6 of this ordinance (the Property), regardless of whether the Director has approved assignment or
7 transfer of the permission granted herein to such subsequent owner(s). At the request of the
8 Director, Permittee shall provide to the Director a current title report showing the identity of all
9 owner(s) of the Property and all encumbrances on the Property. The Permittee shall, within 60
10 days of the effective date of this ordinance, and prior to conveying any interest in the Property,
11 deliver to the Director upon a form to be supplied by the Director, a covenant agreement
12 imposing the obligations and conditions set forth in this ordinance, signed and acknowledged by
13 the Permittee and any other owner(s) of the Property and recorded with the King County
14 Recorder's Office. The Director shall file the recorded covenant agreement with the City Clerk.
15 The covenant agreement shall reference this ordinance by its ordinance number. At the request of
16 the Director, Permittee shall cause encumbrances on the Property to be subordinated to the
17 covenant agreement.

18 Section 21. **Section titles.** Section titles are for convenient reference only and do not
19 modify or limit the text of a section.

20 Section 22. **Ratify and confirm.** Any act taken by the City or the Permittee pursuant to
21 the authority and in compliance with the conditions of this ordinance but prior to the effective
22 date of the ordinance is ratified and confirmed.

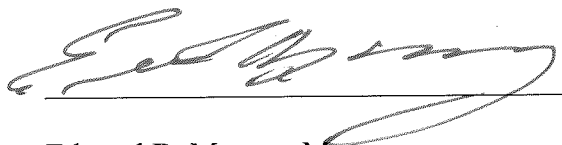
Section 23. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 30th day of March, 2015, and signed by me in open session in authentication of its passage this 30th day of March, 2015.



President _____ of the City Council

Approved by me this 6th day of April, 2015.



Edward B. Murray, Mayor

Filed by me this 6th day of April, 2015.



Monica Martinez Simmons, City Clerk

(Seal)

BILL SUMMARY & FISCAL NOTE

Department:	Contact Person/Phone:	Executive Contact/Phone:
Seattle Department of Transportation	Amy Gray/386-4638	Doug Palmer/684-5266

1. BILL SUMMARY

Legislation Title:

AN ORDINANCE granting Columbia Center Property LLC permission to continue to maintain and operate a pedestrian tunnel under and across 5th Avenue, south of Columbia Street, and under and across Columbia Street, east of 5th Avenue, 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; and ratifying and confirming certain prior acts.

Summary and background of the Legislation:

This legislation will allow Columbia Center Property LLC to continue maintaining and operating the pedestrian tunnel under and across 5th Ave, south of Columbia Street, and under and across Columbia Street, east of 5th Avenue. An area map is attached for reference.

The pedestrian tunnel permit is for a term of ten years commencing from the expiration of the last term permit on September 7, 2014. The legislation specifies the conditions under which authorization is granted and provides for acceptance of the permit and conditions.

Columbia Center Property LLC is to pay the City of Seattle an annual fee of \$23,744 commencing from the last paid annual invoice, September 7, 2014, and annually thereafter. Adjustments in 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 City Council by Ordinance 123485. An Annual Fee Assessment Summary is attached for reference.

By Ordinance 111826, the City granted permission to Columbia Center Property LLC to construct, maintain, and operate a pedestrian tunnel under and across 5th Avenue, south of Columbia Street, and under and across Columbia Street, east of 5th Avenue, for a ten-year term, renewable for two successive ten-year terms.

The permission granted by Ordinance 111826 was renewed for two successive ten-year terms and the permission ended on September 7, 2014.

2. CAPITAL IMPROVEMENT PROGRAM

 This legislation creates, funds, or amends a CIP Project.

Amy Gray
 SDOT Columbia Center Tunnel SUM
 February 19, 2015
 Version #1

Project Name: Project I.D.: Project Location: Start Date: End Date: Total Cost:

--	--	--	--	--	--

3. SUMMARY OF FINANCIAL IMPLICATIONS

Please check one:

☒ **This legislation has direct financial implications.**

☐ **This legislation does not have direct financial implications.**

Budget program(s) affected:				
Estimated \$ Appropriation change:	General Fund \$		Other \$	
	2015	2016	2015	2016
Estimated \$ Revenue change:	Revenue to General Fund		Revenue to Other Funds	
	2015	2016	2015	2016
			\$49,184*	TBD
Positions affected:	No. of Positions		Total FTE Change	
	2015	2016	2015	2016
Other departments affected:				

* this reflects the 2014 annual fee of \$23,744 and the 2015 fee of \$25,440

3.a. Appropriations

☐ **This legislation adds, changes, or deletes appropriations.**

Fund Name and number	Dept	Budget Control Level Name/##	2015 Appropriation Change	2016 Estimated Appropriation Change
TOTAL				

Appropriations Notes:

3.b. Revenues/Reimbursements

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

Anticipated Revenue/Reimbursement Resulting from this Legislation:

Amy Gray
 SDOT Columbia Center Tunnel SUM
 February 19, 2015
 Version #1

Fund Name and Number	Dept	Revenue Source	2015 Revenue	2016 Estimated Revenue
Transportation Operating Fund	Seattle Department of Transportation	Annual Fee	2014 fee - \$23,744 2015 fee - \$25,440	TBD
TOTAL			\$49,184	

Revenue/Reimbursement Notes: The 2014 fee is \$23,744 and is based on 2014 King County assessed land values. The 2015 fee is \$25,440 and is based on 2015 King County assessed land values. The 2016 fee will be based on 2016 King County assessed land values

3.c. Positions

_____ This legislation adds, changes, or deletes positions.

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

Position # for Existing Positions	Position Title & Department*	Fund Name & #	Program & BCL	PT/FT	2015 Positions	2015 FTE	Does it sunset? (If yes, explain below in Position Notes)
TOTAL							

Position Notes:

4. OTHER IMPLICATIONS

- a) **Does the legislation have indirect or long-term financial impacts to the City of Seattle that are not reflected in the above?**
No.
- b) **Is there financial cost or other impacts of not implementing the legislation?**
If the legislation is not enacted by the City Council, the City of Seattle will not receive the 2014 annual fee of \$23,744 and the 2015 fee of \$25,440. 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) **Is a public hearing required for this legislation?**

No.

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

No.

- f) Does this legislation affect a piece of property?**

Yes, the Columbia Center at 701 5th Avenue, as legally described in Section 1 of the Council Bill.

- g) Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities?**

There are no perceived implications for the principles of the Race and Social Justice Initiative. This legislation does not impact vulnerable or historically disadvantaged communities.

- h) If this legislation includes a new initiative or a major programmatic expansion: What are the long-term and measurable goals of the program? Please describe how this legislation would help achieve the program's desired goals.**

N/A

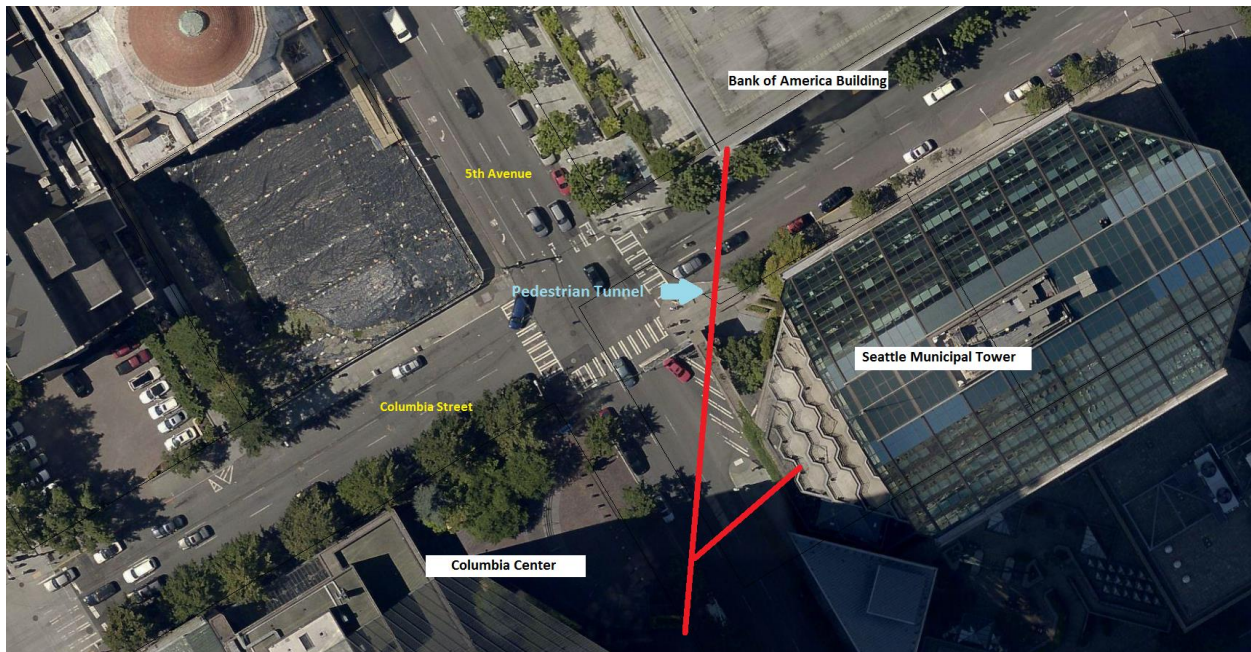
- i) Other Issues: N/A**

List attachments below:

Attachment A - Columbia Center Property LLC Tunnel Area Map
Attachment B - Annual Fee Assessment Summary

Amy Gray
SDOT Columbia Center Tunnel SUM ATT A
February 19, 2015
Version #1

Attachment A – Columbia Center Property LLC 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: 2/19/15

<u>Summary:</u> Land Value: \$700/SF 2014 Permit Fee: \$23,744
--

I. Property Description:

Existing pedestrian tunnel under and across 5th Avenue and Columbia Street. The tunnel provides a pedestrian connection between the Seattle Municipal Tower, the Bank of America Building, and Columbia Center. The tunnel area is **1,696 square feet**.

Applicant:

Columbia Center Property LLC

Abutting Parcels, Property Size, Assessed Value:

1. Parcel 0942000640; Lot size: 59,266 square feet
Tax year 2014 Appraised Land Value \$41,486,200
2. Parcel 0942000470; Lot size: 61,440 square feet
Tax year 2014 Appraised Land Value \$43,008,000
Average 2014 Tax Assessed Land Value: \$700/SF

II. Annual Fee Assessment:

The 2014 permit fee is calculated as follows:

$(\$700/\text{SF}) \times (1,696 \text{ SF}) \times (25\%) \times (8\%) = \boxed{\$23,744}$ where 25% is the degree of alienation for an underground pedestrian tunnel and 8% is the annual rate of return.

Fee methodology authorized under Ordinance 123485, as amended by Ordinances 123585, 123907, and 124532.

STATE OF WASHINGTON -- KING COUNTY

--SS.

323201

No. 124744,745,746,747,

CITY OF SEATTLE, CLERKS OFFICE

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

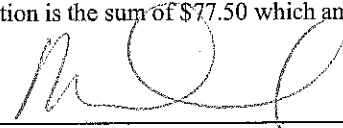
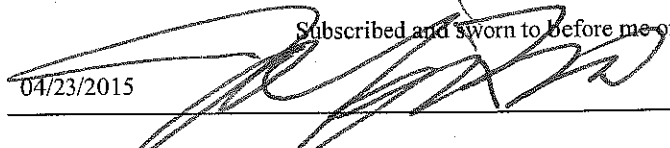
was published on

04/23/15

The amount of the fee charged for the foregoing publication is the sum of \$77.50 which amount has been paid in full.



Affidavit of Publication


Subscribed and sworn to before me on
04/23/2015

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 March 30, 2015, 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. 124744

AN ORDINANCE relating to the City Light Department; accepting various easements for overhead and underground electrical rights in King County, Washington; placing said easements under the jurisdiction of the City Light Department; and ratifying and confirming certain prior acts.

ORDINANCE NO. 124745

AN ORDINANCE relating to contracting indebtedness; amending Ordinance 124125 to increase the authorized amount of inter-fund loans for the Alaskan Way Seawall Replacement Project; and ratifying and confirming certain prior acts.

ORDINANCE NO. 124746

AN ORDINANCE granting Columbia Center Property LLC permission to continue to maintain and operate a pedestrian tunnel under and across 5th Avenue, south of Columbia Street, and under and across Columbia Street, east of 5th Avenue, 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; and ratifying and confirming certain prior acts.

ORDINANCE NO. 124747

AN ORDINANCE relating to land use and zoning; amending Sections 23.42.054, 23.54.015, 23.76.004, 23.76.008, 23.76.032, and 23.84A.038 of the Seattle Municipal Code; and adding new Section 23.42.056; to permit transitional encampments for homeless individuals as an interim use on City-owned or private property.

Date of publication in the Seattle Daily Journal of Commerce, April 23, 2015.

4/23(323201)