

ORDINANCE No. 183442 As Amended

*Authorize an Air-Rights Lease Agreement with 409 Project LLC to construct, use and maintain a mixed-use building over the sidewalk portion of SW 13th Street (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. Skylab Architecture has requested approval for an Encroachment Permit to a construct a mixed use building, currently designed as 9 stories projecting over the sidewalk portion of SW 13th Street located at 1300-1308 W Burnside Street, also referenced as 1N1E33DD tax lot 600.
2. The City is authorized by ORS 271.430, to lease the space above a public street or highway. The use of the air space will not interfere with public or utility use of the sidewalk; will not be needed for other public purposes during the term of the lease; and will give the best return to the City for use of the lease area.
3. The City Engineer has reviewed the proposed encroachment into the public right-of-way and, subject to the applicant complying with certain conditions, has determined the use to be consistent with approval criteria and policies as outlined in the City Policy "Encroachments in the Public Right-of-Way", adopted in 1982.
4. Ordinance No. 183359 passed City Council on December 2, 2009 authorizing the encroachment. Pursuant to Section 1, Condition b(3) of said Ordinance, a formal lease must be entered into to provide for the encroachment in the public right-of-way. 409 Project LLC is the owner of record for the property referenced in Section 1.1 of this Ordinance.

NOW, THEREFORE, the Council directs:

- a. That the Mayor-In-Charge and the Auditor are hereby authorized to enter into the Lease Agreement (RWA File # 7091) with 409 Project LLC for the lease of air-rights substantially the same as Exhibit A attached hereto.
- b. The Auditor shall return one executed original Lease Agreement to:
409 Project LLC
c/o Skylab Architecture
Attn: Jeff Kovel
1221 SW Alder St.
Portland, OR 97205

And return one executed original to Right-of-Way Acquisition Section, Bureau of Transportation (mailbox 106/800).

- c. The Bureau of Transportation, Right-of-Way Acquisition Section is hereby authorized to record a Memorandum of Lease in the Deed of Records, Multnomah County, once the lease is fully executed.

Section 2. The Council declares that an emergency exists because to do otherwise would unnecessarily delay construction resulting in increased construction costs to 409 Project LLC and delayed rents to the City; therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council, JAN 06 2010

Mayor Sam Adams
Prepared by: Dee A. Walker:slg
Date Prepared: December 7, 2009
RW# 7091

LaVonne Griffin-Valade

Auditor of the City of Portland

By



Deputy

Agenda No. **183442** As Amended
ORDINANCE NO.
 Title

* Authorize the execution of an Air-Rights Lease Agreement with 409 Project LLC to construct, use, and maintain a mixed-use building over the sidewalk portion of SW ~~Stark~~ **13th** Street (Ordinance)

<p>INTRODUCED BY Commissioner/Auditor: MAYOR SAM ADAMS</p> <p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Adams <i>[Signature]</i></p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Leonard</p> <p>BUREAU APPROVAL</p> <p>Bureau: Bureau of Transportation Group Manager: Greg Jones Development & Capital Program</p> <p>Other: <i>[Signature]</i> <i>San Dave McElhenny</i></p> <p>Financial Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input type="checkbox"/></p> <p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Council Meeting Date January 6, 2010</p> <p>City Attorney Approval <i>[Signature]</i></p>	<p>CLERK USE: DATE FILED DEC 31 2009</p> <p style="text-align: right;">LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p> <p>ACTION TAKEN:</p>
---	--

AGENDA
<p>TIME CERTAIN <input type="checkbox"/></p> <p>Start time: _____</p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>
<p>CONSENT <input type="checkbox"/></p>
<p>REGULAR <input checked="" type="checkbox"/></p> <p>Total amount of time needed: 10 minutes (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	1. Fritz <input checked="" type="checkbox"/>	
2. Fish	2. Fish <input checked="" type="checkbox"/>	
3. Saltzman	3. Saltzman <input checked="" type="checkbox"/>	
4. Leonard	4. Leonard <input checked="" type="checkbox"/>	
Adams	Adams <input checked="" type="checkbox"/>	