

ORDINANCE No. 184565

*Authorize the execution of a Lease Agreement with Portland State University to use and maintain a utility tunnel under City controlled right-of-way at the intersection of SW Montgomery St and SW 10th Ave (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. Portland State University (PSU) requested approval for an encroachment in the public right-of-way at the intersection of SW Montgomery Street and SW 10th Avenue to construct, use, and maintain a utility tunnel connecting segments of privately owned tunnels constructed under Permit No. 2009-138508-CO.
2. The tunnels support electrical and telecommunications systems to serve the campus and are operated by PSU as a Franchised Utility.
3. Ordinance No. 183458 passed by City Council January 13, 2010, approved the granting of a permit to PSU to construct the tunnel. Condition b7 of the Ordinance required PSU enter into a lease agreement with the City for use of the space under the public right-of-way.
4. Pursuant to ORS 271.430, the City is authorized to lease space above or below a public street or highway.
5. The proposed lease area will not be needed for public purposes for the term of the lease; will not interfere with any public utility use of the street area; and will give the best return to the City for the use of the area.

NOW, THEREFORE, the Council directs:

- a. That the Mayor and the Auditor are authorized to enter into a Subsurface Lease Agreement with the State of Oregon, acting by and through the State Board of Higher Education on behalf of Portland State University, substantially in accordance with the Lease Agreement attached as Exhibit A to this ordinance and by reference, made a part hereof.
- b. The Auditor shall return one executed original Lease Agreement to
Dee Wendler, Associate Vice President for Finance & Controller
Portland State University
PO Box 751 MCD FADM, Portland OR 97207-0751

- c. Upon full execution of the Lease Agreement by PSU, the Mayor and the City Auditor, the Bureau of Transportation, Right-of-Way Acquisition Section will obtain a legal description for the leased area and record a Memorandum of Lease in the Deed of Records of Multnomah County.

Section 2. The Council declares that an emergency exists because the structure is built and a delay will result in the loss of rights and responsibilities of the Lessee; therefore this Ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council, **MAY 04 2011**

Mayor Sam Adams
Prepared by: Dee A. Walker:slg
Date Prepared: April 11, 2011
RW # 7133

LaVonne Griffin-Valade
Auditor of the City of Portland
By *Emily Matasar*
Deputy

Agenda No.
ORDINANCE NO. 184565
 Title

✓ *Authorize the execution of a Lease Agreement with Portland State University to use and maintain a utility tunnel under City controlled right-of-way at the intersection of SW Montgomery St and SW 10th Ave (Ordinance)

<p style="text-align: center;">INTRODUCED BY Commissioner/Auditor: MAYOR SAM ADAMS <i>K. Williams on behalf of Mayor Adams</i> COMMISSIONER APPROVAL</p>	<p>CLERK USE: DATE FILED <u>APR 29 2011</u></p>
<p>Mayor—Finance and Administration - Adams</p>	<p style="text-align: right;">LaVonne Griffin-Valade Auditor of the City of Portland</p>
<p>Position 1/Utilities - Fritz</p>	<p>By: <u><i>[Signature]</i></u> Deputy</p>
<p>Position 2/Works - Fish</p>	<p>ACTION TAKEN:</p>
<p>Position 3/Affairs - Saltzman</p>	
<p>Position 4/Safety - Leonard</p>	
<p style="text-align: center;">BUREAU APPROVAL</p>	
<p>Bureau: Bureau of Transportation Group Manager: Greg Jones Development & Capital Program</p>	
<p>Other: <i>[Signature]</i></p>	
<p>Prepared by Dee A. Walker:slg Date Prepared: April 11, 2011 <i>Dee A. Walker</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 May 4, 2011</p>	
<p>✓ City Attorney Approval</p>	

AGENDA
<p>TIME CERTAIN <input type="checkbox"/> 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"/> Total amount of time needed: 5 minutes (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	✓	
4. Leonard	4. Leonard	✓	
Adams	Adams	✓	