



CITY OF  
**PORTLAND**  
BUREAU OF  
**TRANSPORTATION**

EXHIBIT A



183458

Sam  
Adams  
Mayor

Susan D.  
Keil  
Director

CITY ENGINEER'S REPORT TO CITY COUNCIL  
FOR A **BELOW-GRADE TUNNEL ENCROACHMENT**  
IN THE INTERSECTION OF **SW MONTGOMERY ST AND SW 10<sup>TH</sup> AVE**

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**Applicant Info:** Portland State University  
Portland, OR 97207-0751

**Representative:** Patrick Tortora, PE  
Winzler & Kelly  
15575 Sequoia Parkway Suite 140  
Portland, OR 97224  
pattortora@w-amd-k.com  
(503) 725-4968, fax (503) 725-

**Site Address:** Within the public right-of-way at the intersection of SW Montgomery St and SW 10<sup>th</sup> Ave, adjoining Park Block 240, Park Block 241 and Park Block 228.

**Legal Description:** Portland; Portland Park Block lots 6-8, Block 228  
Portland; Portland Park Block lots 1-8, Block 240  
Portland; Portland Park Block lots 1-8, Block 241

**Tax Account No.:** Park Block 228, R667724600  
Park Block 240, R667726410  
Park Block 241, R667726590

**State ID No.:** Park Block 228, 1S1E04AD 9100  
Park Block 240, 1S1E04AD 8900  
Park Block 241, 1S1E04AD 8700

**Quarter Section:** 3128

**Neighborhood:** Downtown Cmty Assoc., contact Jennifer Geske at  
(503) 750-9843

**Business District:** Downtown Retail Council, contact Stephen PirkI at  
(503) 274-7682

**District Coalition:** Southwest Neighborhood Inc. contact Leonard Gard at  
(503) 823-4592

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**DEFINITION OF ENCROACHMENT**

All privately owned and maintained above-grade, at-grade and below-grade encroachments in the public right-of-way are subject to Encroachment Review based on the City Policy ENCROACHMENTS IN THE PUBLIC RIGHT-OF-WAY (adopted 1982).

**REQUEST**

*Approval is requested of City Council for an Encroachment in the Public Right-of-Way for a utility access tunnel in the public right of way in the intersection of SW Montgomery St and SW 10<sup>th</sup> Ave connecting segments of the Portland State University utility tunnel system on private property. Portland State University is a Franchised Utility and the tunnels carry heating and cooling lines, fiber optics lines and electrical cables serving the campus.*

**SITE**

The project site is underneath SW Montgomery St and SW 10<sup>th</sup> Ave. The proposed tunnel connects tunnel segments, which are on private property in Portland Block 240 and Portland Block 241 and which carry utilities serving the Portland State Campus.

**ENCROACHMENT REQUEST**

The applicant requests approval for an Encroachment in the Public Right-of-Way in the intersection of SW Montgomery St and SW 10<sup>th</sup> Ave to construct and maintain a utility tunnel connecting segments of privately owned tunnels to be constructed under plans submitted to BDS under permit application 2009-138508-000-00-CO. An excerpt from the plan showing the location of the encroachment is attached as an exhibit to this report. The tunnels support electrical and telecommunications systems operated by PSU as a Franchised Utility, the relevant ordinances are 177529 and 181975. The franchise agreement is currently under revision to expand the franchise boundaries and to allow the operation of a district heating and cooling system to be constructed with Federal Stimulus Funds.

**ENCROACHMENT REVIEW PROCESS**

The City Engineer manages Encroachment Reviews. Notification for the Review was sent to utility providers on August 6, 2009. The City Engineer considered all comments received in preparing this report and recommendation to City Council.

**Agency Review:** A "Notice of an Encroachment Review Request" was sent August 6, 2009. BES advised that a manhole location was in conflict with the tunnel and relocated PGE facilities; however, that issue has been resolved and the PGE facility will relocate as part of Public Works Permit 2009-142752-000-00-WE / EP9190.

**Utility Review:** A "Notice of an Encroachment Review Request" was sent to potentially impacted utilities. No concerns were expressed by those notified.

### **ENCROACHMENT REVIEW APPROVAL CRITERIA**

The structure is a below-grade encroachment located in a portion of the City covered by City-Wide District Policies (Section VII. C.) and is not considered to be an underground walkway or underground mall. Pursuant to "Encroachments in the Public Right-of-Way" (1982), such encroachments may be permitted if the Applicant demonstrates to the City's satisfaction that the encroachment meets the policies of Chapter One, Sections III and VII, and the Standards of Chapter VIII of the Encroachments Policy.

#### *Section III, GENERAL POLICIES*

- A. *The public right-of-way is an important resource and the utility of the right-of-way shall not be impaired. The City shall discourage private ownership or use in the public right-of-way.*
  - 1. *The public right-of-way provides for the movement of pedestrians and vehicles, for open space, landscaping, light, air, and vistas. As an important public resource, the public right-of-way should not be easily given up for private ownership or use.*
  - 2. *The street-level sidewalks are the primary pedestrian circulation system and encroachments should not be permitted which adversely affect this system.*

**Findings:** A utility access tunnel underground in the public right-of-way will not interfere with movement of pedestrians and vehicles, or open space, landscaping, light, air, and vistas as provided by the rights-of-way. The proposed tunnel can effect the placement of utilities in the right-of-way and has been required to be located so as to accommodate all identified current and future utility needs. The tunnel will not be open for public use.

The street level sidewalks will remain uncompromised and with no impacts from the proposed tunnel, as the primary pedestrian circulation system. This policy is met.

- B. *As a public resource, encroachments shall only be permitted as a part of the project fulfilling a significant public goal of the comprehensive plan, the downtown plan, or other adopted plans or policies. Encroachments must be in conformance with the City objectives for promoting the "Portland Character" as defined by the rivers, parks, vistas, buildings of architectural significance, and other important visual images, as defined by the Comprehensive Plan, Downtown Plan, development regulations, and design guidelines, or their neighborhood or area plans or guidelines.*

**Findings:** The project site is beneath an intersection which has considerable pedestrian and vehicular traffic associated with the PSU Campus and surrounding high density residential development. Construction of the tunnel and relocation of utilities in the tunnel will allow maintenance and inspection without the necessity to excavate in the public right of way and without providing access through hatchways or manholes in the public right of way. Therefore, the utilities will be removed from the visual context of the intersection. This policy is met.

- C. *In order to receive City approval for encroachments, an applicant must demonstrate a public benefit, which cannot be achieved without the encroachment.*

**Findings:** Construction of a utility access tunnel provides access for inspection and maintenance without the necessity to trench or excavate in the public right of way. No surface access to the tunnel is proposed in the public right of way. Pedestrian safety will be enhanced and street maintenance costs will be reduced. This policy is met.

- D. *Final approval of encroachments in the public right-of-way rests with the City Council. The management of encroachments is currently assigned to and should remain with the City Engineer.*

**Findings:** The applicant has worked with the City Engineer to meet all of the applicable City codes and requirements for an underground tunnel in the right-of-way. The construction of the underground tunnel will be built to requirements acceptable to support the roadway structure above. This policy is met.

## Section VII, CITY-WIDE POLICIES

### A. General Policies

1. *The intent of any permitted encroachment located in the City, and not in the Downtown, Pedestrian Districts, and the Downtown Retail Core,*

*shall be to preserve and reinforce the stability of the City's neighborhoods, industrial areas and institutional uses, in order to ensure the City's economic vitality and livability, and provide for the public safety. Improvements not substantially consistent with the intent of these goals should be accommodated outside the public right-of-way so as to not adversely impact the sidewalk as the primary pedestrian system.*

**Findings:** The sidewalks in this area will be unaffected by the encroachment and will remain as the primary pedestrian system. This policy is met.

2. *In the City-wide district, the City engineer's review of encroachments will require the advice of the following citizen's review committees to ensure that a proposed encroachment meets the goals of the Comprehensive Plan and other adopted City policies and Area Plans, as well as Chapter One, Sections III and VII and the standards in VIII of this policy.*
  - a. *Design Committee shall review all Type II and Type III sky structures and building projections*
  - b. *The Planning Commission shall review all building projections.*
  - c. *The Historical Landmarks Commission shall review encroachments in historic districts, conservation districts, and historic landmarks.*

**Findings:** The encroachment is for installation of utilities by a Franchised Utility and does not provide public access or walkways. Therefore design review is not required. The encroachment does not require any building projections; therefore, a Planning Commission review is not required. The encroachment is not in a Historic District and does not extend to Historic Landmarks; therefore, Historic Landmarks Commission review is not required. This policy is met

C. Policies for Below-Grade Encroachments

1. *Below-grade encroachments can only be permitted if the applicant demonstrates to the City's satisfaction that the encroachments meet the policies in Chapter One, Sections III and VII and standards in VIII of this policy.*

Section VIII, STANDARDS FOR ENCROACHMENT

A. Standards for Skystructures

**Findings:** No sky structures are proposed. These standards do not apply.

B. Standards for Skywalk Networks and Skystructures in the Downtown retail Core

**Findings:** No skywalk networks or sky structures are proposed. These standards do not apply.

C. Standards for Below-Grade Structures

*The following standards shall apply to the review of below-grade structures:*

1. *Underground structures shall have a minimum of 8 feet of headway.*

**Findings:** A 9' interior height for the tunnels is proposed; therefore, this standard is met.

2. *Public access points to underground walkways should be clearly designated on street or ground level.*

**Findings:** The utility access tunnels are not a public walkway; therefore, this standard does not apply.

3. *Underground walkways shall be kept clear of furniture or other forms of obstructions that may impede pedestrian flow.*

**Findings:** The utility access tunnels do are not a public walkway; therefore, this standard does not apply.

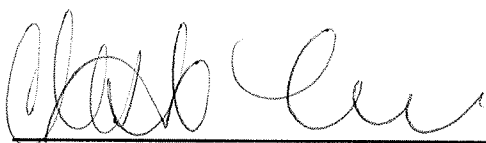
## CONCLUSION

The construction of the utility access tunnel in the right-of-way of SW Montgomery and SW 10<sup>th</sup> Ave will, upon completion, have no visual impact on the public right of way. Lack of access in the public right of way will allow for uninterrupted pedestrian walkways and vehicle paving areas. The ability to perform inspections and maintenance on the installed utility systems without excavating in the street area will reduce the necessity for closure of the street and sidewalk providing enhanced usability and reduced maintenance costs.

For all of these reasons, the proposed tunnel is generally consistent with and will meet the approval criteria and policies as outlined in the City's "Encroachments in the Public Right-of-Way" based on the following conditions:

- 1/ The property owner shall enter into a lease agreement with the City for use of space in the public right-of-way.
- 2/ The tunnel shall be constructed in substantial compliance with preliminary plans that have been submitted by the applicant and reviewed by the City.
- 3/ The applicant shall construct the tunnel to accommodate the structural demands of the public roadway built above the facility in a manner acceptable to the City of Portland Bureau of Transportation.
- 4/ Maintenance of the tunnel shall be the sole responsibility of the permittee. Failure to maintain the tunnel shall void the encroachment approval and shall require the permittee to restore the right-of-way to the satisfaction of the City Engineer.
- 5/ Failure to maintain a franchise agreement with the City of Portland shall be construed as an abandonment of the tunnel and the permittee shall be required to restore the public right-of-way to the satisfaction of the City Engineer.
- 6/ This encroachment approval is specific to construction of the connecting utility tunnels on private property and is voided if the connecting utility tunnels are not constructed.

The City Engineer finds that the proposed tunnel between Park Blocks 240 and 241 meets the applicable approval criteria, and recommends approval of the utility tunnel.



Christine Leon, P.E.  
PBOT Development Services  
Division Manager

1/6/10

Date



Kurt Krueger, P.E.  
Building Plan and Development Review  
Manager

01/04/10

Date

**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- 1 Tunnel plan
- 2 Tunnel sections