

Ordinance No. 123540

Council Bill No. 117098

AN ORDINANCE granting The Boeing Company permission to maintain and operate two pedestrian tunnels under and across 16th Avenue South, 565 feet south of East Marginal Way South, and under and across East Marginal Way South, 510 feet east of 16th Avenue South, for a ten-year term, renewable for two successive ten-year terms; specifying the conditions under which this permit is granted; providing for the acceptance of the permit and conditions; and ratifying and confirming certain prior acts.

Related Legislation File: _____

Date Introduced and Referred: 1.24.11	To: (committee): Transportation
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: Feb. 14, 2011	Date Presented to Mayor: Feb. 15, 2011
Date Signed by Mayor: 2.18.11	Date Returned to City Clerk: 2.18.11
Published by Title Only <input checked="" type="checkbox"/>	Date Vetoed by Mayor:
Published in Full Text <input type="checkbox"/>	Date Passed Over Veto:
Date Veto Published:	Date Returned Without Signature:

Law Department

The City of Seattle – Legislative Department

Council Bill/Ordinance sponsored by: *Tom Rosmus*

Committee Action:

Date	Recommendation	Vote
2-8-11	PASS	TR JG- 2-0

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

Full Council Action:

Date	Decision	Vote
Feb 14, 2011	PASSED	8-0 (excused: Clark)

ORDINANCE 123540

AN ORDINANCE granting The Boeing Company permission to maintain and operate two pedestrian tunnels under and across 16th Avenue South, 565 feet south of East Marginal Way South, and under and across East Marginal Way South, 510 feet east of 16th Avenue South, for a ten-year term, renewable for two successive ten-year terms; specifying the conditions under which this permit is granted; providing for the acceptance of the permit and conditions; and ratifying and confirming certain prior acts.

WHEREAS, by Ordinance 84493, the City of Seattle (City) granted permission to the Boeing Airplane Company to construct, maintain, and operate two pedestrian tunnels under and across East Marginal Way South and 16th Avenue South; and

WHEREAS, the permission authorized by Ordinance 84493 expired after 25 years; and

WHEREAS, by Ordinance 109661, the City granted permission to The Boeing Company for the ongoing maintenance and operation of the two pedestrian tunnels; and

WHEREAS, the conditions of Ordinance 109661 were amended by Ordinances 120504 and 121855 and Resolution 28345; and

WHEREAS, the permission authorized by Ordinance 109661 was renewed for two successive 10-year terms by Resolution 28345 and Ordinance 120504 and is due to expire on November 10, 2010; and

WHEREAS, The Boeing Company has submitted an application to the Seattle Department of Transportation (SDOT) Director to continue maintaining and operating the two pedestrian tunnels; and

WHEREAS, The Boeing Company has satisfied all terms and conditions of the original authorizing ordinance, the SDOT Director (Director) recommends that the term permit be approved subject to the terms and conditions of 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, permission (also referred to in this ordinance as a permit) is granted to The Boeing Company (Permittee) and



1 its successors and assigns, to maintain, and operate two pedestrian tunnels and existing private
2 utilities (tunnels) under and across 16th Avenue South, 565 feet south of East Marginal Way
3 South, and under and across East Marginal Way South, 510 feet east of 16th Avenue South.

4 Section 2. **Term.** The permission granted to the Permittee and its successors and assigns
5 shall be for a term of ten years starting November 11, 2010, and ending at 11:59 p.m. on
6 November 10, 2020. Upon written application of the Permittee at least 180 days before
7 expiration of the term, the Director of the Seattle Department of Transportation (Director) may
8 renew the permit for two successive ten-year terms subject to the right of The City of Seattle
9 (City) to terminate the permit as provided for in Section 4, require removal as provided for in
10 Section 5, or revise by ordinance any of the conditions of this ordinance. The total term of the
11 permission as originally granted and renewed shall not exceed 30 years. Failure to obtain
12 additional permission through a new ordinance, or to remove the tunnels prior to expiration of
13 the term, is a violation of Chapter 15.90 of the Seattle Municipal Code (SMC).

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

20 Section 4. **Removal for public use or for cause.** The permission granted is subject to
21 use of the right-of-way by the City and the public for travel, utility purposes, and other street
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1 uses. The City expressly reserves the right to require the Permittee to remove the tunnels, or any
2 part thereof or installation thereon, at the Permittee's sole cost and expense in the event that:

3 (a) the City Council determines by ordinance that the space occupied by the tunnels is
4 necessary for any public use or benefit or that the tunnels interfere with any public use or
5 benefit; or

6 (b) the Director determines that any term or condition of this ordinance has been
7 violated and the violation has not been corrected by the Permittee by the compliance date
8 after written request by the City.
9

10 A City Council determination that the space is needed for or interferes with a public use or
11 benefit shall be conclusive and final without any right of the Permittee to resort to the courts to
12 adjudicate the matter.
13

14 Section 5. **Removal requirements.** If the permission granted is not renewed at the
15 expiration of a term, or if the permission is extended to its termination date in 30 years and an
16 application for a new permit is not granted, or if acceptance of this ordinance is not timely
17 received as required by this ordinance, or if the City orders removal of the tunnels pursuant to the
18 terms of this ordinance, then within 90 days after the expiration or termination, or prior to the
19 date stated in an Order to Remove, the Permittee shall, at its own expense, remove the tunnels
20 and replace all portions of the right-of-way that may have been disturbed for any part of the
21 tunnels in as good condition for public use as they were prior to construction of the tunnels and
22 in at least as good condition in all respects as the abutting portions of the right-of-way as required
23 by the applicable SDOT standards for right-of-way restoration. The Director shall then issue a
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1 certificate discharging the Permittee, or its successor or assign, from responsibility under this
2 ordinance for occurrences after the discharge date.

3 Section 6. **Repair, reconstruction, readjustment or relocation.** The Permittee shall not
4 reconstruct or repair the tunnels except under the supervision of the Director and in strict
5 accordance with plans, specifications, and permits approved by the Director. The Director may,
6 in the Director's judgment, order the tunnels reconstructed or repaired at the Permittee's own
7 cost and expense because of: the deterioration or unsafe condition of the tunnels or the
8 installation, construction, reconstruction, maintenance, operation or repair of any municipally-
9 owned public utilities, or for any other cause.
10

11 Section 7. **Failure to correct unsafe condition.** After notice to the Permittee and failure
12 of the Permittee to correct an unsafe conditions within the time stated in the notice, the Director
13 may order the tunnels be closed or removed at the Permittee's expense if the Director deems that
14 it has become unsafe or creates a risk of injury to the public. If there is an immediate threat to
15 the health or safety of the public, a notice to correct is not required.
16

17 Section 8. **Continuing obligation to remove and restore.** Notwithstanding termination
18 or expiration of the permission granted, or closure or removal of the tunnels, the Permittee shall
19 remain bound by its obligation under this ordinance until:
20

21 (a) the tunnels and all its equipment and property are removed from the right-of-way;

22 (b) the area is cleared and restored in a manner and to a condition satisfactory to the

23 Director; and
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1 (c) the Director certifies that the Permittee has discharged its obligations under this
2 ordinance.

3 Upon prior notice to the Permittee and entry of written findings that it is in the public interest, the
4 Director may, in the Director's sole discretion, conditionally or absolutely excuse the Permittee
5 from compliance with all or any of the Permittee's obligations to remove the tunnels and its
6 property and to restore any disturbed areas.
7

8 Section 9. **Release, hold harmless, indemnification, and duty to defend.** The tunnels
9 shall remain the exclusive responsibility of the Permittee, and the Permittee agrees to maintain
10 the tunnels in good and safe condition for use by the public. The Permittee, by acceptance of the
11 terms of this ordinance and the permission granted, releases the City from any and all claims
12 resulting from damage or loss to the Permittee's property and covenants and agrees for itself, its
13 successors and assigns, with the City, to at all times protect and save harmless the City from all
14 claims, actions, suits, liability, loss, costs, expense or damages of every kind and description,
15 excepting only damages that may result from the sole negligence of the City, that may accrue to,
16 or be suffered by, any person or persons and/or property or properties, including without
17 limitation, damage or injury to the Permittee, its officers, agents, employees, contractors,
18 invitees, tenants and tenants' invitees, licensees or its successors and assigns, by reason of the
19 construction, maintenance, operation or use of the tunnels, or any portion thereof, or by reason of
20 anything that has been done or may at any time be done by the Permittee, its successors or
21 assigns by reason of this ordinance or by reason of the Permittee, its successors or assigns failing
22 or refusing to strictly comply with each and every provision of this ordinance.
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1 If any suit, action or claim of the nature described above is filed, instituted or begun
2 against the City, the Permittee, its successors or assigns shall, upon notice thereof from the City,
3 defend the same at its or their sole cost and expense, and in case judgment shall be rendered
4 against the City in any suit or action, the Permittee, its successors or assigns shall fully satisfy
5 said judgment within 90 days after such action or suit shall have been finally determined, if
6 determined adversely to the City. If it is determined by a court of competent jurisdiction that
7 Revised Code of Washington (RCW) 4.24.115 applies to this ordinance, then in the event claims
8 or damages are caused by or result from the concurrent negligence of:

9
10 (a) the City, its agents, contractors or employees; and,

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

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

14
15 Section 10. **Insurance.** For as long as the Permittee, its successors and assigns, shall
16 exercise any permission granted by this ordinance and until the tunnels are entirely removed from
17 their location as described in Section 1 or until discharged by order of the Director as provided in
18 Section 5, the Permittee shall obtain and maintain in full force and effect, at its own expense,
19 insurance that protects the City from claims and risks of loss from perils that can be insured
20 against under commercial general liability (CGL) insurance policies in conjunction with:

21
22 (a) construction, reconstruction, operation, maintenance, use or existence of the tunnels
23 permitted by this ordinance and of any and all portions of the tunnels;



- 1 (b) the Permittee's activity upon, or the use or occupation of the area described in Section
2 1 of this ordinance; and
3 (c) claims and risks in connection with any activity performed by the Permittee by virtue
4 of the permission granted by this ordinance.

5 Minimum insurance requirements are CGL insurance based on the Insurance Services Office
6 (ISO) form CG 00 01 or equivalent. The City requires insurance coverage to be placed with an
7 insurer admitted and licensed to conduct business in Washington State or with a surplus lines
8 carrier pursuant to RCW Chapter 48.15, except that if it is infeasible to obtain coverage with the
9 required insurer, the City may approve an alternative insurer.
10

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

17 Permittee shall provide to the City, or cause to be provided, certification of insurance
18 coverage consisting of the CGL declarations page, schedule of forms and endorsements, and
19 blanket or additional insured policy provision per the ISO CG 20 12 or equivalent. The insurance
20 coverage certification shall be delivered or sent to the Director or to the Department of
21 Transportation and address as the Director may specify, from time to time, in writing.
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23 Should the Permittee be self-insured, a letter of certification from the Corporate Risk
24 Manager or appropriate Finance Officer may be submitted in lieu of the insurance coverage
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1 certification required by this ordinance, if approved in writing by the City Risk Manager. The
2 letter of certification must provide all information required by the City Risk Manager and
3 document, to the satisfaction of the City Risk Manager, that self-insurance equivalent to the
4 insurance requirements of this ordinance is in force. After a self-insurance certification is
5 approved, the City may subsequently from time to time require updated or additional
6 information. The approved self-insured Permittee must provide 30 days notice of any
7 cancellation or material adverse financial condition of its self-insurance program. The City may
8 at any time revoke approval of self-insurance and require the Permittee to obtain and maintain
9 insurance as specified in this ordinance.
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12 **Section 11. Contractor insurance.** The Permittee shall contractually require that any
13 and all of its contractors performing work on any premises contemplated by this permit name the
14 “City of Seattle, its elected and appointed officers, officials, employees and agents” as additional
15 insureds for primary and non-contributory limits of liability on all CGL, Automobile and
16 Pollution liability insurance and/or self-insurance. The Permittee shall also include in all contract
17 documents with its contractors a third-party beneficiary provision extending construction
18 indemnities and warranties granted to Permittee to the City as well.
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20 **Section 12. Performance bond.** Within 60 days after the effective date of this ordinance
21 the Permittee shall deliver to the Director for filing with the City Clerk a sufficient bond in the
22 sum of \$510,000 executed by a surety company authorized and qualified to do business in the
23 State of Washington, conditioned that the Permittee will comply with each and every provision
24 of this ordinance and with each and every order of the Director issued under this ordinance. The
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1 Permittee shall ensure that the bond shall remain in effect until the tunnels are entirely removed
2 from their location as described in Section 1, or until the Permittee is discharged by order of the
3 Director as provided in Section 5. An irrevocable letter of credit approved by the City Risk
4 Manager may be substituted for the bond.

5 Section 13. **Adjustment of insurance and bond requirements.** The Director, in
6 consultation with the City Risk Manager, may adjust minimum levels of liability insurance and
7 surety bond requirements during the term of this permission. If the Director and City Risk
8 Manager determine that an adjustment is necessary to fully protect the interests of the City, the
9 Director shall notify the Permittee of the new requirements in writing. Upon receipt, the
10 Permittee shall, within 60 days, provide proof of the adjusted insurance and surety bond levels to
11 the Director.

12 Section 14. **Consent for and conditions of assignment or transfer.** The rights,
13 privileges and authority granted shall not be assignable or transferable by operation of law; nor
14 shall the Permittee, its successors or assigns transfer, assign, mortgage, pledge or encumber the
15 same without the Director's consent, which the Director shall not unreasonably refuse. The
16 Director may approve assignment and/or transfer of the permit to a successor entity in the case of
17 a change of name and/or ownership if the successor or assignee has demonstrated its acceptance
18 of all of the terms of the permission provided by this ordinance.

19 Section 15. **Inspection fees.** The Permittee, its successors and assigns shall, as provided
20 by SMC Chapter 15.76, pay to the City the amounts charged by the City as costs to inspect the
21



1 tunnels during construction, reconstruction, repair, annual structural inspections, and at other
2 times deemed necessary to ensure the safety of the tunnels.

3 Section 16. **Inspection reports.** The Permittee, its successors and assigns shall submit to
4 the Director, or to the Department of Transportation at an address as the Director may specify in
5 writing from time to time, an inspection report that:

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

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13 The report shall be submitted within 60 days after the effective date of this ordinance; subsequent
14 reports shall be submitted biennially, within 30 days prior to the anniversary date of the effective
15 date of this ordinance; or in the event of a natural disaster or other event that may have damaged
16 the tunnels, the report shall be submitted by the date established by the Director.

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18 Section 17. **Annual fee.** Permittee shall promptly pay to the City, upon statements or
19 invoices issued by the Director, an annual fee for the privileges granted by this ordinance in the
20 amount of \$1,547, beginning on November 11, 2010, and adjusted annually thereafter.

21 Adjustments to the annual fee shall be made in accordance with a term permit fee schedule
22 adopted by the City Council and may be made every year. In the absence of a schedule, the
23 Director may only increase or decrease the previous year's fee to reflect any inflationary changes
24 so as to charge the fee in constant dollar terms. This adjustment will be calculated by adjusting
25



1 the previous year's fee by the percentage change between the two most recent year-end values
2 available of the Consumer Price Index for the Seattle-Tacoma-Bremerton Area, All Urban
3 Consumers, All Products, Not Seasonally Adjusted. All payments shall be made to the City
4 Finance Director for credit to the Transportation Operating Fund.

5
6 Section 18. **Non-discrimination.** The Permittee shall comply with the City's laws
7 prohibiting discrimination in employment and contracting, including Seattle's Fair Employment
8 Practices Ordinance, Chapter 14.04 and Fair Contracting Practices code, Chapter 14.10.

9 Section 19. **Acceptance of terms and conditions.** The Permittee shall deliver to the
10 Director its written signed acceptance of the terms of this ordinance within 60 days after the
11 effective date of this ordinance. The Director shall file the written acceptance with the City
12 Clerk. If no such acceptance is received within that 60-day period, the privileges conferred by
13 this ordinance shall be deemed declined or abandoned and the permission granted deemed lapsed
14 and forfeited.
15

16 Section 20. **Successors and assigns.** The rights conferred to the Permittee and the
17 obligations and conditions imposed on the Permittee through this ordinance are also conferred
18 and imposed on the Permittee's successors and assigns. All references in this ordinance to the
19 "Permittee" shall be deemed to refer also to the successors and assigns of the Permittee.
20
21 References in this ordinance to "Permittee and its successors and assigns" or "Permittee or its
22 successors and assigns" are included as reminders and do not limit the scope of "Permittee" used
23 alone.
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1 Section 21. **Ratify and confirm.** Any act taken by the City or the Permittee pursuant to
2 the authority and in compliance with the conditions of this ordinance, but prior to the effective
3 date, is hereby ratified and confirmed.

4 Section 22. This ordinance shall take effect and be in force 30 days from and after its
5 approval by the Mayor, but if not approved and returned by the Mayor within ten days after
6 presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

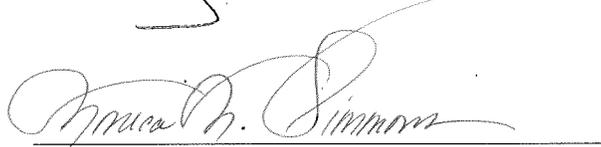
7 Passed by the City Council the 14th day of February, 2011, and
8 signed by me in open session in authentication of its passage this
9 14th day of February, 2011.

10
11
12 
13 _____
14 President _____ of the City Council

15 Approved by me this 18th day of February, 2011.

16
17 
18 _____
19 Michael McGinn, Mayor

20 Filed by me this 18th day of February, 2011.

21
22 
23 _____
24 City Clerk

25 (Seal)



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle Department of Transportation	Angela Steel/684-5967	Stephen Barham/733-9084

Legislation Title:

AN ORDINANCE granting The Boeing Company permission to maintain and operate two pedestrian tunnels under and across 16th Avenue South, 565 feet south of East Marginal Way South, and under and across East Marginal Way South, 510 feet east of 16th Avenue South, for a ten-year term, renewable for two successive ten-year terms; specifying the conditions under which this permit is granted; providing for the acceptance of the permit and conditions; and ratifying and confirming certain prior acts.

Summary of the Legislation:

This legislation will allow The Boeing Company to continue maintaining and operating the existing tunnels located under and across 16th Avenue South, 565 feet south of East Marginal Way South, and under and across East Marginal Way South, 510 feet east of 16th Avenue South. An area map is attached for reference.

This tunnel permit is for a term of ten years commencing from the expiration of the last term permit on November 10, 2010. The legislation specifies the conditions under which authorization is granted and provides for acceptance of the permit and conditions.

The Boeing Company is to pay the City of Seattle an annual fee of \$1,547 commencing from the last paid annual fee invoice, November 11, 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 for reference.

Background:

By Ordinance 84493, the City granted permission to the Boeing Airplane Company to construct, maintain, and operate two pedestrian tunnels under and across East Marginal Way South and 16th Avenue South. The permission authorized by Ordinance 84493 expired after 25 years. By Ordinance 109661, the City granted permission to The Boeing Company for the ongoing maintenance and operation of the pedestrian tunnels for a ten-year term, renewable for two successive ten-year terms.

The conditions of Ordinance 109661 were amended by Ordinance 120504 and 121855 and Resolution 28345. The permission authorized by Ordinance 109661 was renewed for two



successive ten-year terms by Resolution 28345 and Ordinance 120504 and expired on November 10, 2010.

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 –	\$1,547 (2010 fee) + \$1,515 (2011 fee)	TBD
TOTAL			\$3,062	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

Spending/Cash Flow Notes: 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 base of \$1,547 for at least ten years. The City of Seattle has the option to adjust the fee amount on an annual basis. The tunnels, as originally permitted under Ordinance 109661, will no longer be permitted.

Does this legislation affect any departments besides the originating department?

None.



Angela Steel
SDOT, Boeing Tunnel FISC
January 12, 2010
Version #3

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.)

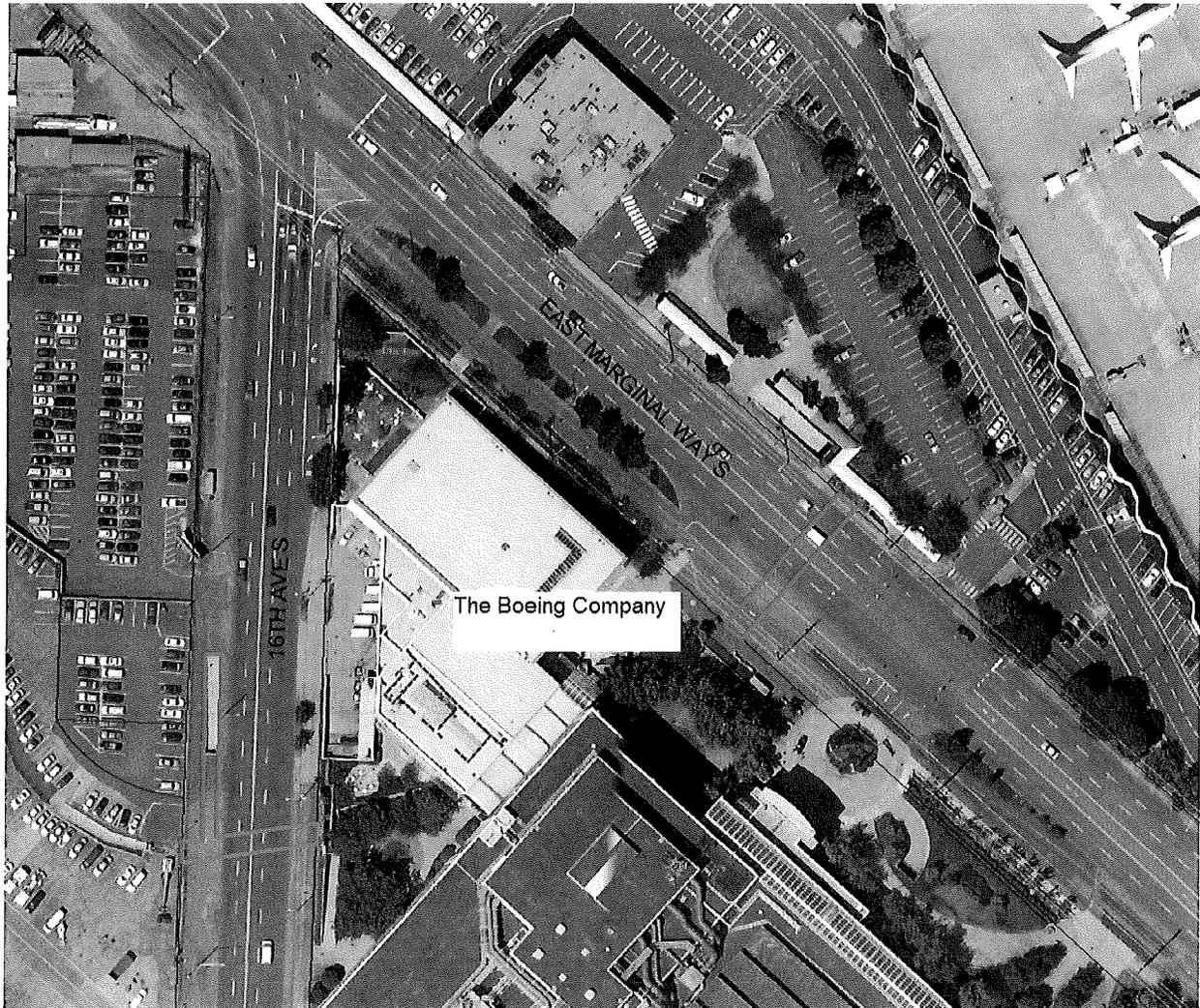
N/A

List attachments to the fiscal note below:

Attachment A – Boeing Company Tunnel Area Map
Attachment B - Annual Fee Assessment Summary



Attachment A – Boeing Company 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: 12/16/10

<p><u>Summary:</u> Land Value: \$14.46/SF First Year Permit Fee: \$1547</p>
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I. Property Description:

Two existing subsurface pedestrian tunnels: One runs under 16th Ave S. between the Boeing employee parking lot and Plant 2 property. The other runs under E Marginal Way S. between the parking lot for the Flight Center at Boeing Field (King County International Airport) and the Plant 2 Property. Adjacent tax parcels are listed below. 16th Ave S tunnel is **3,140 square feet**; E. Marginal Wy S tunnel is **2,210 square feet**.

Applicant:

The Boeing Company

Abutting Parcels, Property Size, Assessed Value:

1. Parcel 2824049009; 349,350 square feet

Tax year 2010 Appraised Land Value \$2,669,600
Assessed at \$7.64/SF

2. Parcel 2924049098; 4,133 SF

Tax year 2010 Appraised Land Value \$78,500
Assessed at \$18.99/SF

3. Parcel 2924049056; 9,811 SF

Tax year 2010 Appraised Land Value \$186,400
Assessed at \$19/SF

4. Parcel 0022000005; 1,631,180 SF

Tax year 2010 Appraised Land Value \$12,465,400
Assessed at \$7.64/SF

5. Parcel 2824049007; 24,602,500 SF

Tax year 2010 Appraised Land Value \$467,448,400
Assessed at \$19/SF

Average 2010 tax assessed land value: \$14.46/SF



II. Annual Fee Assessment:

The 2010 permit fee is calculated as follows: $(\$14.46/\text{SF}) \times (5,350 \text{ SF}) \times (25\%) \times (8\%) =$
\$1,547, 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

January 18, 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 The Boeing Company a new ten-year permit for two existing pedestrian tunnels under and across the 16th Avenue South, south of East Marginal Way South, and under and across East Marginal Way South, east of 16th Avenue South, renewable for two additional ten-year terms.

Use of the existing tunnels, which were authorized by Ordinance 109661, provides an underground connection between The Boeing Company facilities. In addition to granting a new permit, the proposed Council Bill updates the insurance and bond requirements, amends 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,

A handwritten signature in black ink, appearing to read "Michael McGinn".

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

Michael McGinn, Mayor
Office of the Mayor
600 Fourth Avenue, 7th Floor
PO Box 94749
Seattle, WA 98124-4749

Tel (206) 684-4000
Fax (206) 684-5360
TDD (206) 615-0476
mike.mcgin@seattle.gov



STATE OF WASHINGTON – KING COUNTY

--SS.

267714
CITY OF SEATTLE, CLERKS OFFICE

No. TITLE ONLY

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.

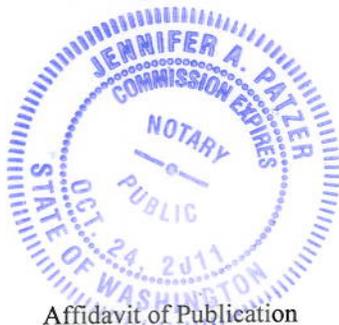
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:123536,538-123541

was published on

02/28/11

The amount of the fee charged for the foregoing publication is the sum of \$ 81.90, which amount has been paid in full.



[Handwritten signature]

Subscribed and sworn to before me on

02/28/11

[Handwritten signature]
Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on February 14, 2011, and published here by title only, will be mailed upon request, or can be accessed at <http://clerk.seattle.gov>. For further information, contact the Seattle City Clerk at 684-8344.

ORDINANCE NO. 123536

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 188 of the Official Land Use Map to rezone property located at 9125 Yukon Avenue South from Single Family 5000 (SF 5000) to Lowrise 1 (L1). (Petition by Tony Case, C.F. 310852, DPD Project 3006392)

ORDINANCE NO. 123538

AN ORDINANCE relating to the Holly Park redevelopment project; authorizing the Director of Seattle Public Utilities to execute a Public Infrastructure Agreement with the Seattle Housing Authority for the recovery of the remaining unreimbursed cost of Seattle Public Utility contributions of Public Infrastructure to the New Holly Redevelopment Project; and accordingly amending Seattle Municipal Code Sections 21.04.060, 21.04.280, 21.04.430, and 21.28.040.

ORDINANCE NO. 123539

AN ORDINANCE granting LHCS Hotel Holdings (2002), L.L.C. permission to maintain and operate a pedestrian tunnel under and across Seneca Street, between 4th and 5th Avenues, for a ten-year term, renewable for two successive ten-year terms; specifying the conditions under which this permit is granted; providing for the acceptance of the permit and conditions; and ratifying and confirming certain prior acts.

ORDINANCE NO. 123540

AN ORDINANCE granting The Boeing Company permission to maintain and operate two pedestrian tunnels under and across 16th Avenue South, 565 feet south of East Marginal Way South, and under and across East Marginal Way South, 510 feet east of 16th Avenue South, for a ten-year term, renewable for two successive ten-year terms; specifying the conditions under which this permit is granted; providing for the acceptance of the permit and conditions; and ratifying and confirming certain prior acts.

ORDINANCE NO. 123541

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

Publication ordered by the City Clerk
Date of publication in the Seattle Daily Journal of Commerce, February 28, 2011.
2/28(267714)

The Boeing Company
P.O. Box 3707
Seattle, WA 98124-2207

69619

FILED
CITY OF SEATTLE
11 MAY 16 AM 9:58
CITY CLERK

As of May 6, 2011

Ms. Angela Steel
P.O. Box 34996
Seattle, WA 98124

Re: Acceptance of City of Seattle Ordinance 123540
Pedestrian Tunnels beneath 16th Avenue S. and E. Marginal Way S.

Dear Ms. Steel:

By this letter, The Boeing Company accepts the terms and conditions set out in City of Seattle Ordinance 123540. Ordinance 123540 grants permission to The Boeing Company to use the pedestrian tunnels referred to in the ordinance for a term of ten years starting November 11, 2010, and ending November 10, 2020.

For your information, please update your notice addresses as follows:

Notices: The Boeing Company
c/o CB Richard Ellis
Attn: Lease Administration
5100 Poplar Avenue, Suite 1000
Memphis, TN 38137

With a Copy To: The Boeing Company
Puget Sound Law Department
P.O. Box 3707, M/C 11-XT
Seattle, WA 98124-2207
Attn: Gerry Bresslour

Invoices for Permit Fees: The Boeing Company
c/o CB Richard Ellis
Attn: Lease Administration
5100 Poplar Avenue, Suite 1000
Memphis, TN 38137

Should you have any questions, please contact Sharon Johnson at (206) 251-3347.

Sincerely,

THE BOEING COMPANY



Machelle R. Steele
Authorized Signatory

