



## Legislation Text

---

**File #:** 2002-0431, **Version:** 2

---

Clerk 08/29/2002

AN ORDINANCE approving a lease by the county of approximately one hundred fifty-six thousand eight hundred square feet of office space and related parking in a building at 401 Broadway in Seattle to be used by Harborview Medical Center, authorizing the county executive to execute the lease, and approving certain provisions of the plan to be used by the owner to finance construction of the 401 Broadway building.

**PREAMBLE:**

The county owns Harborview Medical Center ("HMC") as a county hospital, as authorized in chapter 36.62 RCW. In accordance with K.C.C. chapter 2.42, the HMC board of trustees (the "HMC Board") maintains control over the use of all physical facilities of HMC, and the county executive and county council, in accordance with their charter-assigned responsibilities, must approve the acceptance of any real property for HMC's use.

HMC staff, in consultation with representatives of the county's asset management division, have determined that a building proposed for development at 401 Broadway in Seattle ("401 Broadway") will best meet HMC's long-term need for additional office space in the vicinity of the HMC campus and can also serve the short-term need for overflow office space during the pending seismic retrofitting of HMC facilities. Broadway Office Properties, which is a nonprofit corporation and a qualified 501(c)(3) organization that includes among its purposes lessening the burdens of government, and Opus Northwest, LLC ("Opus") intend to develop 401 Broadway. The development plan includes a financing component that involves leasing all space in the building to the county and issuing tax-exempt bonds to pay costs of construction, as

further described herein. On September 16, 2002, the county council held an open public hearing regarding the issuance of such bonds, pursuant to notice published in *The Seattle Times* on September 2, 2002.

The county council wishes to approve the terms of a lease for approximately one hundred fifty-six thousand eight hundred square feet of office space and related parking in 401 Broadway and to authorize the executive to execute the lease and take all other action necessary to accomplish the financing plan approved herein. The county council also wishes to direct the HMC Board to budget HMC funds annually to make the rental payments due under the Lease.

**SECTION 1. Findings.** The council hereby finds that the public interest, welfare and benefit require the county to acquire by lease approximately one hundred fifty-six thousand eight hundred square feet of office space, with related parking, for use by Harborview Medical Center ("HMC"). (Unless otherwise defined in this ordinance, capitalized terms used in this ordinance have the meanings given the terms in the Lease.) The council hereby further finds that the proposal by Broadway Office Properties to develop 401 Broadway with Opus Northwest, LLC ("Opus") for the purpose of leasing such space to the county best accommodates the needs of the county and HMC.

**SECTION 2. Approval of Lease.** The council hereby approves the lease by and between Broadway Office Properties, a Washington nonprofit corporation, as lessor, and the county, as lessee, a copy of which lease is attached as Attachment A to this ordinance (the "Lease"). The executive is hereby authorized to sign the lease in substantially the form set forth in Attachment A to this ordinance, subject to such changes as may be required by the underwriter or trustee for certain lease revenue bonds to be issued by Broadway Office Properties, as described in section 5 of this ordinance, the insurer (if any) of such bonds, bond counsel for the county, or the office of the prosecuting attorney of the county. In no event shall the term of the lease exceed thirty years from the Commencement Date, nor shall Monthly Rent exceed three hundred sixty-seven thousand dollars. When fully executed, a copy of the Lease shall be filed with the clerk of the council.

**SECTION 3. Direction to the HMC Board.** The HMC board of trustees ("HMC Board") shall be responsible for all expenses arising from and control of the county's leasehold interest in 401 Broadway, in accordance with K.C.C. chapter 2.42. The HMC Board shall annually provide in its budget sufficient HMC funds to pay Monthly Rent under the Lease, any Additional Rent due under the Lease, and all costs (including costs of maintenance and operation), fees, taxes, assessments and liabilities associated with the county's leasehold interest in or HMC's use of 401 Broadway in Seattle ("401 Broadway").

**SECTION 4. Pledge of Taxation and Credit.** The county's obligation to pay rent under the Lease constitutes a limited tax general obligation of the county. The county hereby irrevocably covenants and agrees that it will include in its annual budget and levy taxes annually on all taxable property within the county, within and as a part of the tax levy permitted to the county without a vote of the electors, in amounts sufficient, together with all other money legally available and to be used therefor (including payments to the County from Harborview pursuant to section 3 of this ordinance), to pay the Monthly Rent and any Additional Rent due under the Lease as the same shall become due. The full faith, credit and resources of the county are irrevocably pledged for the annual levy and collection of such taxes and the prompt payment of such amounts.

**SECTION 5. Approval of Financing Plan.** The council hereby acknowledges the intent of Broadway Office Properties to enter into an agreement with Opus for development of 401 Broadway. For the purpose of complying with the requirements of Revenue Ruling 63-20 of the United States Department of Treasury (as compiled and supplemented by Revenue Procedure 82-26 of the United States Department of Treasury), the county hereby acknowledges and approves the plan of Broadway Office Properties to develop 401 Broadway by entering into such agreement with Opus and to finance its development of 401 Broadway by issuance of its tax-exempt lease revenue bonds in the aggregate principal amount of not to exceed \$65,000,000 (the "Bonds"). The county hereby acknowledges and approves the pledge by Broadway Office Properties of revenues it will receive from the county under the Lease to secure payment of the Bonds in accordance with an indenture of trust to be entered into by Broadway Office Properties with a trustee for the Bonds. The county agrees that

when the Bonds are retired, the county shall accept delivery of full legal and unencumbered title to 401 Broadway for no additional consideration.

The county further acknowledges that, as lessee under the Lease, it will be an "obligated person" with respect to the Bonds under Rule 15c2-12 of the Securities and Exchange Commission (the "Rule"). The county's manager of finance and business operations division (the "finance manager") or his designee is hereby authorized to "deem final" pursuant to the Rule those portions of any preliminary official statement for the Bonds that will relate to the county, the Lease and the leased premises. The finance manager is also hereby authorized to enter into an undertaking to provide continuing disclosure about the county, the Lease, and the leased premises as may be required under the Rule.

**SECTION 6. General Authorization.** The appropriate county officials, agents and representatives are hereby authorized and directed to do everything necessary and desirable to accomplish the plan of leasing office space authorized by this ordinance and to do all things necessary or desirable to permit Broadway Office Properties to issue, sell and deliver the Bonds, including but not limited to the execution and delivery of such certificates and opinions relating thereto and to the Lease as may be approved by the county's bond counsel or the office of the prosecuting attorney.

**SECTION 7. Severability.** If any one or more of the covenants or agreements provided in this ordinance to be performed on the part of the county shall be declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements of this ordinance and shall in no way affect the validity of the other provisions of this ordinance or of the Lease.

**SECTION 8. Effective Date.** This ordinance takes effect ten days after its enactment, in accordance with Article II of the county charter.

14 day notice

Publishing: Monday, September 2, 2002

Newspaper: Seattle Times

Hearing: September 16, 2002