



Legislation Details (With Text)

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On agenda: 7/17/2017
Final Action: 7/21/2017 **Ord. No.** Ord 125349

Title: AN ORDINANCE relating to a pedestrian skybridge over and across Seneca Street, west of Terry Avenue; amending Ordinance 117105, updating the insurance and bond requirements; amending the annual fee and other terms and conditions of the permit; renewing the term of the permit to Virginia Mason Medical Center; providing for acceptance of the permit and conditions; and ratifying and confirming certain prior acts.

Sponsors: Mike O'Brien

Indexes:

Attachments: 1. Summary and Fiscal Note, 2. Summary Att A - Virginia Mason Skybridge Area Map, 3. Summary Att B - Virginia Mason Skybridge Photo, 4. Summary Att C - Virginia Mason Skybridge Fee Assessment, 5. Presentation (7/7/17), 6. Signed Ordinance 125349, 7. Affidavit of Publication

Date	Ver.	Action By	Action	Result
7/21/2017	1	City Clerk	attested by City Clerk	
7/21/2017	1	Mayor	returned	
7/21/2017	1	Mayor	Signed	
7/19/2017	1	City Clerk	submitted for Mayor's signature	
7/17/2017	1	City Council	passed	Pass
7/7/2017	1	Sustainability and Transportation Committee	pass	Pass
6/5/2017	1	City Council	referred	
5/15/2017	1	Council President's Office	sent for review	
5/9/2017	1	City Clerk	sent for review	
5/9/2017	1	Mayor	Mayor's leg transmitted to Council	

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to a pedestrian skybridge over and across Seneca Street, west of Terry Avenue; amending Ordinance 117105, updating the insurance and bond requirements; amending the annual fee and other terms and conditions of the permit; renewing the term of the permit to Virginia Mason Medical Center; providing for acceptance of the permit and conditions; and ratifying and confirming certain prior acts.

WHEREAS, by Ordinance 117105, The City of Seattle granted Virginia Mason Medical Center permission to

operate and maintain an existing pedestrian skybridge over and across Seneca Street, west of Terry Avenue, for a ten-year term, renewable for two successive ten-year terms; and

WHEREAS, the permission authorized by Ordinance 117105 was due for renewal on May 4, 2015; and

WHEREAS, Virginia Mason Medical Center submitted an application to the Director of Transportation to renew the permission granted by Ordinance 117105 for a second ten-year term; and

WHEREAS, Virginia Mason Medical Center satisfied all the terms of the original authorizing ordinance and the Director of Transportation recommends that the term permit be renewed for ten years subject to the term identified in this ordinance; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The permission granted to Virginia Mason Medical Center by Ordinance 117105, to maintain and operate a pedestrian skybridge over and across Seneca Street, west of Terry Avenue, is renewed for a ten-year term starting on May 5, 2015, and ending at 11:59 p.m. on May 4, 2025, upon the terms and conditions set forth in Ordinance 117105, as further amended by this ordinance.

Section 2. Ordinance 117105 is amended as follows:

Section 1. **Permission.** Subject to the terms and conditions of this ordinance, The City of Seattle (“City”) grants permission ((is hereby granted)) (also referred to in this ordinance as a permit) to Virginia Mason Medical Center, and its successors and assigns as approved by the Director of the Seattle Department of Transportation (“Director”) according to Section 12 of this ordinance (the party named above and each such approved successor and assign is referred to as “Permittee”), to maintain ((;)) and operate a pedestrian skybridge over and across Seneca Street, west of Terry Avenue, adjacent in whole or in part to the property legally described as:

Lots 1-8, Block 110, parcel # 197800280 (KC Assessor description: “DENNY’S A. A. BROADWAY ADD ENTIRE BLOCK”)

((connecting the Main Hospital with the North Pavilion)) for the purpose of providing a pedestrian connection between the main hospital buildings and the Lindeman Pavilion. ((Said pedestrian skybridge

is ~~ten (10) feet wide, approximately eighteen (18) feet above the maximum grade of the street, and located approximately fifty (50) feet west of the centerline of Terry Avenue.~~)

Section 2. **Term.** The permission ~~((herein))~~ granted to ~~((the))~~ Permittee ~~((, its successors and assigns shall be))~~ is for a renewal term of ~~ten ((10))~~ years ~~((, commencing))~~ starting on May 4, ~~((1995))~~ 2015, and ~~((terminating))~~ ending at 11:59 p.m. on ~~((the last day of the tenth year;))~~ May 4, 2025. ~~((provided, however, that upon))~~ Upon written application ~~((of))~~ made by the Permittee at least ~~((thirty (30)))~~ 180 days before the final expiration of the term, the ~~((City Council))~~ Director of Transportation (“Director”) may ~~((, by resolution,))~~ renew the permit for ~~((two (2)))~~ one successive ~~((ten (10)))~~ ten-year ~~((terms,))~~ term beyond the term authorized in this amended ordinance, ~~((provided further that the total term of the permission as originally granted and thus extending shall not exceed thirty (30)))~~ not to exceed 30 years total from the term authorized in Ordinance 117105, subject to the right of the City ~~((by each such resolution, to revise the fee provided for in Section 13 hereof, and by ordinance to then revise any of the terms and conditions contained herein))~~ to require the removal of the pedestrian skybridge or to revise by ordinance any of the terms and conditions of the permission granted by this ordinance.

Section 3. **Removal for public use or for cause.** The ~~((permit))~~ permission granted ~~((hereby))~~ is subject to ~~((primary and secondary))~~ use of the street right-of-way or other public place (collectively, “public place”) by the City and the public for travel, ~~((and utilities))~~ utility purposes, and other public uses or benefits. ~~((and))~~ The City ~~((of Seattle (“City”)))~~ expressly reserves the right to deny renewal, or terminate the permission at any time prior to expiration of the initial term or any renewal term, and require the Permittee to remove the pedestrian skybridge, or any part thereof or installation on the public place, at the Permittee’s sole cost and expense, in the event that:

- (a) The City Council determines ~~((,))~~ by ordinance ~~((,))~~ that the space occupied by the pedestrian skybridge is necessary for any ~~((primary or secondary))~~ public use or benefit or that the pedestrian skybridge interferes with any ~~((primary or secondary))~~ public use or benefit; or

(b) ~~The Director ((of Engineering or official of the City (“Director”)))~~ determines that use of the pedestrian skybridge has been abandoned; or

(c) The Director determines that any term or condition of this ordinance has been violated, and the violation has not been corrected by the Permittee by the compliance date after a written request by the City to correct the violation (unless a notice to correct is not required due to an immediate threat to the health or safety of the public).

A City Council determination that the space is ~~((necessary for a primary or secondary))~~ needed for, or the pedestrian skybridge interferes with, a public use or benefit ((shall be)) is conclusive and final without any right of the Permittee to resort to the courts to adjudicate the matter.

Section 4A. **Permittee’s obligation to remove and restore.** ~~((In the event that the permit))~~ If the permission granted is not renewed ((;)) at the expiration of a term, or if the permission ((hereby granted extends to its termination in thirty (30) years)) expires without an application for a new permission being granted, or if the City ((orders removal of the pedestrian skybridge pursuant to the terms of this ordinance)) terminates the permission, then within ((ninety (90))) 90 days after ((such)) the expiration ((;)) or termination ((or order of removal)) of the permission, or prior to ((the)) any earlier date stated in an ((“Order to Remove”, as the case may be)) ordinance or order requiring removal of the pedestrian skybridge, the Permittee shall, at its own expense, remove the pedestrian skybridge and all of the Permittee’s equipment and property from the public place and ((shall place)) replace and restore all portions of the ((street)) public place that may have been disturbed for any part of the ((structure,)) pedestrian skybridge in as good condition for public use as ((they were)) existed prior to construction of the pedestrian skybridge, and in at least as good condition in all respects as the abutting portions ((thereof)) of the public place as required by Seattle Department of Transportation (SDOT) right-of-way restoration standards. ((Whereupon, the Director shall issue a certificate discharging the Permittee from responsibility under this ordinance for occurrences after the date of such discharge.))

Failure to remove the pedestrian skybridge as required by this section is a violation of Chapter 15.90 of the Seattle Municipal Code (SMC) or successor provision; however, applicability of Chapter 15.90 does not eliminate any remedies available to the City under this ordinance or any other authority. If the Permittee does not timely fulfill its obligations under this section, the City may in its sole discretion remove the pedestrian skybridge and restore the public place at the Permittee's expense, and collect such expense in any manner provided by law.

Upon the Permittee's completion of removal and restoration in accordance with this section, or upon the City's completion of the removal and restoration and the Permittee's payment to the City for the City's removal and restoration costs, the Director shall then issue a certification that the Permittee has fulfilled its removal and restoration obligations under this ordinance. Upon prior notice to the Permittee and entry of written findings that it is in the public interest, the Director may, in the Director's sole discretion, conditionally or absolutely excuse the Permittee from compliance with all or any of the Permittee's obligations under this section.

Section **4B. Protection of utilities.** The permission granted is subject to the Permittee bearing the expense of any protection, support, or relocation of existing utilities deemed necessary by the owners of the utilities, and the Permittee being responsible for any damage to the utilities due to the construction, repair, reconstruction, maintenance, operation, or removal of the pedestrian skybridge and for any consequential damages that may result from any damage to utilities or interruption in service caused by any of the foregoing.

Section 5. **Repair or reconstruction.** The pedestrian skybridge shall remain the exclusive responsibility of the Permittee and the Permittee shall maintain the pedestrian skybridge in good and safe condition for the protection of the public. The Permittee shall not (~~commence reconstruction, relocation, readjustment~~) reconstruct or repair any portion of the pedestrian skybridge except (~~under the supervision of, and~~) in strict accordance with plans and specifications approved by (~~;~~) the

Director. The Director (~~((in his/her))~~) may, in the Director's judgment, order ((such reconstruction, relocation, readjustment, or repair of)) any portion of the pedestrian skybridge reconstructed or repaired at the Permittee's ((own)) cost and expense because of: the deterioration or unsafe condition of any portion of the pedestrian skybridge; ((, grade separations, or)) the installation, construction, reconstruction, maintenance, operation, or repair of any ((and all)) municipally owned public utilities; ((;)) or for any other cause.

Section 6. **Failure to correct unsafe condition.** After written notice to the Permittee and failure of the Permittee to correct an unsafe condition within the time stated in the notice, the Director may order the pedestrian skybridge be closed or removed at the Permittee's expense if the Director deems that ~~((#))~~ the pedestrian skybridge has become unsafe or creates a risk of injury to the public. ~~((In a situation in which))~~ If there is an immediate threat to the health or safety of the public, a notice to correct is not required.

Section 7. **Continuing obligations.** Notwithstanding termination or expiration of the permission granted, or closure or removal of the pedestrian skybridge, the Permittee shall remain bound by all of its obligations under this ordinance until ((:(a) the pedestrian skybridge and all its equipment and property are removed from the street; (b) the area is cleaned and restored in a manner and to a condition satisfactory to the Director; and (c)) the Director ((certifies)) has issued a certification that the Permittee has ((discharged its obligation herein)) fulfilled its removal and restoration obligations under Section 4 of this ordinance. ((Provided, that upon prior notice to the Permittee and entry of written findings that such is in the public interest, the Director may, in his/her sole discretion, excuse the Permittee, conditionally or absolutely, from compliance with all or any of the Permittee's obligation to remove the pedestrian skybridge and its property and restore the disturbed areas.)) Notwithstanding the issuance of that certification, the Permittee shall continue to be bound by the obligations in Section 8 of this ordinance and shall remain liable for any unpaid fees assessed under Section 13 of this ordinance.

Section 8. **Release, hold harmless, indemnification, and duty to defend.** ~~((The pedestrian skybridge shall remain the exclusive responsibility of the Permittee.))~~ The Permittee, by ~~((the acceptance))~~ accepting the terms of this ordinance, ~~((and the permission hereby granted, does release))~~ releases the City, its officials, officers, employees, and agents from any and all claims, actions, suits, liability, loss, costs, expense, attorneys' fees, or damages of every kind and description ~~((resulting from damage or loss to its own property))~~ arising out of or by reason of the pedestrian skybridge or this ordinance, including but not limited to claims resulting from injury, damage, or loss to the Permittee or the Permittee's property. ~~((and does covenant and agree for itself, its successors or assigns, with The City of Seattle to at all times protect and save harmless The City of Seattle from all claims, actions, suits, liability, loss, costs, expense, or damages of every kind and description (excepting only such damages that may result from the sole negligence of the City), which may accrue to, or be suffered by, any person or persons and/or property or properties, including without limitation, damage or injury to the Permittee, its officers, agents, employees, contractors, invitees, tenants and tenants' invitees, licensees or their successors or assigns, by reason of the maintenance, operation or use of said City street, alley or portion thereof, or by reason of anything that has been done, or may at any time be done, by the Permittee, its successors or assigns, by reason of this ordinance, or by reason of the Permittee, its successors or assign, failing or refusing to strictly comply with each and every provision of this ordinance; and if such suit, action or claim shall be filed, instituted or begun against the City, the Permittee, its successors or assigns, shall, upon written notice thereof from the City, defend the same at its or their sole cost and expense, and in case judgement shall be rendered against the City in any suit or action, the Permittee, its successors or assigns, shall fully satisfy said judgement within 90 days after such action or suit shall have been finally determined, if determined adversely to the City.))~~

The Permittee agrees to at all times defend, indemnify, and hold harmless the City, its officials, officers, employees, and agents from and against all claims, actions, suits, liability, loss, costs, expense,

attorneys' fees, or damages of every kind and description, excepting only damages that may result from the sole negligence of the City, that may accrue to, be asserted by, or be suffered by any person or property including, without limitation, damage, death, or injury to members of the public or to the Permittee's officers, agents, employees, contractors, invitees, tenants, tenants' invitees, licensees, or successors and assigns, arising out of or by reason of:

(a) The existence, condition, construction, reconstruction, modification, maintenance, operation, use, or removal of the pedestrian skybridge or any portion thereof, or the use, occupation, or restoration of the public place or any portion thereof by the Permittee or any other person or entity;

(b) Anything that has been done or may at any time be done by the Permittee by reason of this ordinance; or

(c) The Permittee failing or refusing to strictly comply with every provision of this ordinance; or arising out of or by reason of the pedestrian skybridge or this ordinance in any other way.

If any suit, action, or claim of the nature described above is filed, instituted, or begun against the City, the Permittee shall upon notice from the City defend the City, with counsel acceptable to the City, at the sole cost and expense of the Permittee, and if a judgment is rendered against the City in any suit or action, the Permittee shall fully satisfy the judgment within 90 days after the action or suit has been finally determined, if determined adversely to the City. If it is determined by a court of competent jurisdiction that Revised Code of Washington (RCW) 4.24.115 applies to this ordinance, then in the event claims or damages are caused by or result from the concurrent negligence of the City, its agents, contractors, or employees, and the Permittee, its agents, contractors, or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Permittee or the Permittee's agents, contractors, or employees.

Section 9A. ~~((INSURANCE:))~~ **Insurance.** For as long as the Permittee ~~((, its successors and~~

~~assigns, shall))~~ exercises any permission granted by this ordinance and until the ~~((skybridge is entirely removed from its location as described in Section 1 or until such discharge by order of the Director as provided in Section 7 of this ordinance))~~ Director has issued a certification that the Permittee has fulfilled its removal and restoration obligations under Section 4 of this ordinance, the Permittee shall obtain and maintain in full force and effect, at its own expense, insurance ~~((policies which fully))~~ and/or self-insurance that protects the Permittee and the City from ~~((any and all))~~ claims and risks of loss from perils that can be insured against under commercial general liability (CGL) insurance policies in conjunction with:

(a) Construction, reconstruction, modification, operation, maintenance, use, or existence, or removal of the pedestrian skybridge ~~((permitted by this ordinance and of))~~ or any ~~((and all portions of the skybridge))~~ portion thereof, as well as restoration of any disturbed areas of the public place in connection with removal of the pedestrian skybridge;

(b) The Permittee's activity upon or the use or occupation of the ~~((areas))~~ public place described in Section 1 of this ordinance ~~((, as well as))~~ ; and

(c) ~~((any and all claims))~~ Claims and risks in connection with ~~((any activity))~~ activities performed by the Permittee by virtue of the permission granted by this ordinance.

Minimum insurance requirements ~~((shall be))~~ are CGL insurance written on an occurrence form ~~((policy of comprehensive commercial general liability,))~~ at least as broad as the Insurance Services Office (ISO) CG 00 01. The City requires insurance coverage to be placed with ~~((a company))~~ an insurer admitted and licensed to conduct business in Washington State or with a surplus lines carrier pursuant to Chapter 48.15 RCW. If coverage is placed with any other insurer or is partially or wholly self-insured, such insurer(s) or self-insurance is subject to approval by the City's Risk Manager.

Minimum ~~((policy))~~ limits of liability shall be \$2,000,000 per occurrence; \$4,000,000 ~~((aggregate each period))~~ General Aggregate; \$2,000,000 Products/Completed Operations Aggregate,

including Premises Operation; Personal/Advertising Injury; Contractual Liability. ((Coverage shall specifically name the pedestrian skybridge exposure. Coverage should add by endorsement the City of Seattle, its elected and appointed officers, officials, employees and agents as additional insured. Coverage shall contain a Separation of Insureds indicating essentially that “except with respect to the limits of insurance, and any rights or duties specifically assigned in this coverage part of the first name insured, this insurance applies to as if each named were the only named insured, and separately to each insured against whom claim is made or suit is brought”. Evidence of current coverage shall be submitted to the City in form of a full policy with all endorsements attached thereto, and is a condition to the validity of this permit.)) Coverage shall include the “City of Seattle, its officers, officials, employees and agents” as additional insureds for primary and non-contributory limits of liability subject to a Separation of Insureds clause.

((Whenever in the judgement of the Mayor of the City of Seattle, such insurance filed pursuant to the provisions hereof shall be deemed insufficient to fully protect The City of Seattle, the Permittee shall, upon demand by the Mayor, furnish additional insurance in such amount as may be specified by the Mayor.))

Within 60 days after the effective date of this ordinance, the Permittee shall provide to the City, or cause to be provided, certification of insurance coverage including an actual copy of the blanket or designated additional insured policy provision per the ISO CG 20 12 endorsement or equivalent. The insurance coverage certification shall be delivered or sent to the Director or to the Department of Transportation (SDOT) at an address as the Director may specify in writing from time to time. The Permittee shall provide a certified complete copy of the insurance policy to the City promptly upon request.

If the Permittee is self-insured, a letter of certification from the Corporate Risk Manager may be submitted in lieu of the insurance coverage certification required by this ordinance, if approved in

writing by the City’s Risk Manager. The letter of certification must provide all information required by the City’s Risk Manager and document, to the satisfaction of the City’s Risk Manager, that self-insurance equivalent to the insurance requirements of this ordinance is in force. After a self-insurance certification is approved, the City may from time to time subsequently require updated or additional information. The approved self-insured Permittee must provide 30 days’ prior notice of any cancellation or material adverse financial condition of its self-insurance program. The City may at any time revoke approval of self-insurance and require the Permittee to obtain and maintain insurance as specified in this ordinance.

In the event that the Permittee assigns or transfers the permission granted by this ordinance, the Permittee shall maintain in effect the insurance required under this section until the Director has approved the assignment or transfer pursuant to Section 12 of this ordinance.

Section 9B. **Contractor insurance.** The Permittee shall contractually require that any and all of its contractors performing work on any premises contemplated by this permit name the “City of Seattle, its officers, officials, employees and agents” as additional insureds for primary and non-contributory limits of liability on all CGL, Automobile and Pollution liability insurance and/or self-insurance. The Permittee shall also include in all contract documents with its contractors a third-party beneficiary provision extending to the City construction indemnities and warranties granted to the Permittee.

Section 10. ~~((Bond:))~~ **Performance bond.** Within ~~((sixty (60)))~~ 60 days after the effective date of this ordinance, the Permittee shall deliver to the Director ~~((of Engineering))~~ for filing with the City Clerk a ~~((good and))~~ sufficient bond executed by a surety company authorized and qualified to do business in the State of Washington that is: in the ~~((sum))~~ amount of ~~((Thirty Thousand Dollars (\$30,000)))~~ \$30,000 ~~((executed by a surety company authorized and qualified to do business in the State of Washington))~~ and conditioned with a requirement that the Permittee ~~((will))~~ shall comply with ~~((each and))~~ every provision of this ordinance and with ~~((each and))~~ every order ~~((of))~~ the Director ~~((pursuant~~

~~thereto)) issues under this ordinance. ((; provided, that if the Mayor of the City of Seattle in his/her judgement shall deem any bond or bonds filed to be insufficient and demand a new or additional bond, the permittee shall furnish a new or additional bond in such amount as the Mayor may specify to be necessary to fully protect the City. Said bond shall remain in effect until such time as the skybridge is entirely removed from its location as described in Section 1, or until discharged by order of the Director of Engineering as provided in Section 7 of this ordinance.)) The Permittee shall ensure that the bond remains in effect until the Director has issued a certification that the Permittee has fulfilled its removal and restoration obligations under Section 4 of this ordinance. An irrevocable letter of credit approved by the Director in consultation with the City Attorney's Office may be substituted for the bond. In the event that the Permittee assigns or transfers the permission granted by this ordinance, the Permittee shall maintain in effect the bond or letter of credit required under this section until the Director has approved the assignment or transfer pursuant to Section 12 of this ordinance.~~

Section 11A. **Contractor insurance.** ~~((Virginia Mason Medical Center))~~ The Permittee shall contractually require that any and all of its contractors performing ((construction)) work on ((the)) any premises ((as)) contemplated by this permit ((;)) name ((the)) "The City of Seattle, its officers, officials, employees and agents" as ((an)) additional insureds ~~((on all policies of public liability insurance, and))~~ for primary and non-contributory limits of liability on all CGL, Automobile and Pollution liability insurance and/or self-insurance. The Permittee shall also include in all contract documents with its contractors a third-party beneficiary provision extending to the City construction indemnities and warranties granted to ((Virginia Mason Medical Center)) the Permittee. ((to the City as well.))

Section 11B. **Adjustment of insurance and bond requirements.** The Director may adjust minimum liability insurance levels and surety bond requirements during the term of this permission. If the Director determines that an adjustment is necessary to fully protect the interests of the City, the Director shall notify the Permittee of the new requirements in writing. The Permittee shall, within 60

days of the date of the notice, provide proof of the adjusted insurance and surety bond levels to the Director.

Section 12. **Consent for and conditions of assignment or transfer.** The permission granted by this ordinance shall not be assignable or transferable by operation of law; nor shall the Permittee ((shall not)) assign, transfer, mortgage, pledge or encumber ((any privileges conferred by this ordinance without the consent of the City Council by resolution)) the same without the Director's consent, which the Director shall not unreasonably refuse. ((If permission is granted, the assignee or transferee shall be bound by all of the term and conditions of this ordinance. The permission conferred by this ordinance shall be not assignable or transferable by operation of law.)) The Director may approve assignment or transfer of the permission granted by this ordinance to a successor entity only if the successor or assignee has accepted in writing all of the terms and conditions of the permission granted by this ordinance; has provided, at the time of the acceptance, the bond and certification of insurance coverage required under this ordinance; and has paid any fees due under Section 13 of this ordinance. Upon the Director's approval of an assignment or transfer, the rights and obligations conferred on the Permittee by this ordinance shall be conferred on the successors and assigns. Any person or entity seeking approval for an assignment or transfer of the permission granted by this ordinance shall provide the Director with a description of the current and anticipated use of the pedestrian skybridge.

Section 13A. **Inspection fees.** The Permittee ((, its successors and assigns,)) shall, as provided by SMC Chapter 15.76 or successor provision, pay ((to)) the City ((such)) the amounts ((as may be justly chargeable)) charged by ((said)) the City ((as costs of inspection of said)) to inspect the pedestrian skybridge during ((repair or)) construction, reconstruction, repair, annual safety inspections, and at other times ((under the direction of the Director of Engineering and)) deemed necessary by the City. An inspection or approval of the pedestrian skybridge by the City shall not be construed as a representation, warranty, or assurance to the Permittee or any other person as to the safety, soundness, or condition of

the pedestrian skybridge. Any failure by the City to require correction of any defect or condition shall not in any way limit the responsibility or liability of the Permittee.

Section **13B. Inspection reports.** The Permittee shall submit to the Director, or to SDOT at an address specified by the Director, an inspection report that:

- (a) Describes the physical dimensions and condition of all load-bearing elements;
- (b) Describes any damages or possible repairs to any element of the pedestrian skybridge;
- (c) Prioritizes all repairs and establishes a timeframe for making repairs; and
- (d) Is stamped by a professional structural engineer licensed in the State of Washington.

A report meeting the foregoing requirements shall be submitted within 60 days after the effective date of this ordinance; subsequent reports shall be submitted every two years, within 30 days prior to the anniversary date of the last inspection report; provided that, in the event of a natural disaster or other event that may have damaged the pedestrian skybridge, the Director may require that additional reports be submitted by a date established by the Director. The Permittee has the duty of inspecting and maintaining the pedestrian skybridge. The responsibility to submit structural inspection reports periodically or as required by the Director does not waive or alter any of the Permittee's other obligations under this ordinance. The receipt of any reports by the Director shall not create any duties on the part of the Director. Any failure by the Director to require a report, or to require action after receipt of any report, shall not waive or limit the obligations of the Permittee.

Section **13C. Annual fee.** Beginning on May 5, 2015, and annually thereafter, the Permittee shall promptly pay to the City, ~~((in advance))~~ upon statements or invoices ~~((rendered))~~ issued by the Director, ~~((of Engineering))~~ an annual fee of ~~((Two Thousand Four Hundred Twenty Three Dollars (\$2,423.00) for the first five years of the permit))~~ \$10,890, or as adjusted annually thereafter, for the

~~privileges granted by this ordinance. ((The fee will then be re-evaluated by the City Appraiser and a new annual fee will be established by resolution of the City Council for the next five years of the permit. All payments shall be made to the City Finance Director for credit of the General Fund.))~~

Adjustments to the annual fee shall be made in accordance with a term permit fee schedule adopted by the City Council and may be made every year. In the absence of a schedule, the Director may only increase or decrease the previous year's fee to reflect any inflationary changes so as to charge the fee in constant dollar terms. This adjustment will be calculated by adjusting the previous year's fee by the percentage change between the two most recent year-end values available for the Consumer Price Index for the Seattle-Tacoma-Bremerton Area, All Urban Consumers, All Products, Not Seasonally Adjusted. All payments shall be made to the City Finance Director for credit to the Transportation Operating Fund.

Section 14. ~~((Non-Discrimination:))~~ **Compliance with other laws.** ~~((The Permittee shall not discriminate against any employee or applicant for employment in connection with the design, architectural or structural engineering work or the repair, or maintenance of the pedestrian skybridge permitted to be erected pursuant to this ordinance, on the basis of race, religion, creed, color, sex, martial status, sexual orientation, political ideology, ancestry, age national origin, or the presence of any sensory, mental or physical handicap unless based on bona fide occupational qualification. The foregoing commitment shall be implemented as follows:~~

a. ~~The Permittee will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, creed, color, sex, national origin or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.~~

b. ~~The Permittee shall post in conspicuous places available to such employees and applicants for such employment, notices setting forth the provisions of this non-discrimination clause.~~

e. ~~The permittee shall furnish to the Director of Human Rights or a successor official, upon his or her request and on such forms as may be provided, a report of the affirmative action taken in implementing this provision and will permit reasonable access to its records for the purposes of determining compliance with this Section. If, upon investigation the Director of Human Rights finds probable cause to believe that the Permittee has failed to comply with any of the terms of this Section, the Permittee and the Street Use Appeals Board (Board) will be so notified in writing. The Board shall give the Permittee at least ten (10) days notice and a hearing thereon. If the Board finds that there has been a violation of this Section, the Board may suspend the permission conferred pending full compliance with the terms of this Section.~~

~~Failure to comply with any of the terms of this provision shall be a material violation of this ordinance.~~

~~The foregoing paragraphs shall be inserted in any subcontracts for work undertaken pursuant to this ordinance in connection with the design, architectural or structural engineering work or the repair, or maintenance of the pedestrian skybridge permitted to be maintained hereunder, unless the Director of Human Rights authorizes the use of another equality of employment opportunity provision.))~~

Permittee shall construct, maintain, and operate the pedestrian skybridge in compliance with all applicable federal, state, County, and City laws and regulations. Without limitation, in all matters pertaining to the pedestrian skybridge, the Permittee shall comply with the City's laws prohibiting discrimination in employment and contracting including Seattle's Fair Employment Practices Ordinance, SMC Chapter 14.04, and Fair Contracting Practices Code, SMC Chapter 14.10 (or successor provisions).

Section 15. **Acceptance of terms and conditions.** ((:)) The Permittee shall deliver to the

Director its written signed acceptance of the ~~((permission conferred by this ordinance and its terms and conditions to the Director of Engineering))~~ terms of this ordinance within ~~((sixty (60)))~~ 60 days after the effective date of this ordinance. The ~~((acceptance shall be filed))~~ Director shall file the written acceptance with the City Clerk. If no such acceptance is received ~~((by then))~~ within that 60-day period, the privileges ~~((provided))~~ conferred by this ordinance shall be deemed declined or abandoned ~~((;))~~ and the permission ~~((extended, contingent upon its acceptance,))~~ granted deemed lapsed and forfeited, and the Permittee shall, at its own expense, remove the pedestrian skybridge and all of the Permittee's equipment and property and replace and restore all portions of the public place as provided in Section 4 of this ordinance.

Section 16. **Obligations run with the Property.** The obligations and conditions imposed on the Permittee by and through this ordinance are covenants that run with the land and bind subsequent owners of the property adjacent to the pedestrian skybridge and legally described in Section 1 of this ordinance (the "Property"), regardless of whether the Director has approved assignment or transfer of the permission granted herein to such subsequent owner(s). At the request of the Director, Permittee shall provide to the Director a current title report showing the identity of all owner(s) of the Property and all encumbrances on the Property. The Permittee shall, within 60 days of the effective date of this ordinance, and prior to conveying any interest in the Property, deliver to the Director upon a form to be supplied by the Director, a covenant agreement imposing the obligations and conditions set forth in this ordinance, signed and acknowledged by the Permittee and any other owner(s) of the Property and recorded with the King County Recorder's Office. The Director shall file the recorded covenant agreement with the City Clerk. The covenant agreement shall reference this ordinance by its ordinance number. At the request of the Director, Permittee shall cause encumbrances on the Property to be subordinated to the covenant agreement.

Section ~~((46))~~ 17. This ordinance shall take effect and be in force thirty (30) days from and after

its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the City Charter.

Section 3. **Section titles.** Section titles are for convenient reference only and do not modify or limit the text of a section.

Section 4. **Ratify and confirm.** Any act consistent with the authority of this ordinance taken after its passage and prior to its effective date is ratified and confirmed.

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

Passed by the City Council the _____ day of _____, 2017, and signed by me in open session in authentication of its passage this _____ day of _____, 2017.

President _____ of the City Council

Approved by me this _____ day of _____, 2017.

Edward B. Murray, Mayor

Filed by me this _____ day of _____, 2017.

Monica Martinez Simmons, City Clerk

(Seal)