



Legislation Text

File #: CB 119844, Version: 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to a pedestrian skybridge over and across Sixth Avenue, north of Pine Street; amending Ordinance 118631 to update insurance and bond requirements; amending the annual fee and other terms and conditions of the permit; renewing the term of the permit to MPH Pacific Place LLC; providing for acceptance of the permit and conditions; and ratifying and confirming certain prior acts.

WHEREAS, by Ordinance 118631, The City of Seattle granted Pine Street Development, L.L.C. permission to construct, maintain, and operate a pedestrian skybridge over and across Sixth Avenue, north of Pine Street, for a ten-year term, renewable for two successive ten-year terms; and

WHEREAS, Ordinance 118631 was amended by Ordinance 121855; and

WHEREAS, the permission authorized by Ordinance 118631, as amended, was due for renewal on July 27, 2017; and

WHEREAS, MPH Pacific Place LLC purchased the property located at 600 Pine Street from Pine Street Development, L.L.C. on July 14, 2014, and MPH Pacific Place LLC submitted an application to the Director of Transportation to renew the permission granted by Ordinance 118631 for a second ten-year term; and

WHEREAS, MPH Pacific Place LLC 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 Pine Street Development, L.L.C. by Ordinance 118631, to

construct, maintain, and operate a pedestrian skybridge over and across Sixth Avenue, north of Pine Street, is transferred to MPH Pacific Place LLC and renewed for a ten-year term starting on July 27, 2017, and ending at 11:59 p.m. on July 26, 2027, upon the terms and conditions set forth in Ordinance 118631, as further amended by this ordinance.

Section 2. Section 1 of Ordinance 118631 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 to Pine Street Development, L.L.C.,))~~ (also referred to in this ordinance as a permit) to MPH Pacific Place LLC, and its successors and assigns as approved by the Director of the Seattle Department of Transportation (“Director”) according to Section 13 of this ordinance (the party named above and each such approved successor and assign are referred to as ~~((“Permittee”))~~ “Permittee”), ~~to ((construct,))~~ maintain, and operate a ~~((cable-stayed))~~ pedestrian skybridge over and across Sixth Avenue, north of Pine Street ~~((. Said pedestrian skybridge is (16) feet in width and is located approximately forty (40) feet above the street grade of Sixth Avenue, and will connect the Nordstrom Building and the Systems Block Building))~~ (collectively referred to as the “pedestrian skybridge”) adjacent in whole or in part to the properties legally described as:

LOTS 1 THROUGH 12 IN BLOCK 3 OF ADDITION TO THE TOWN OF SEATTLE, AS LAID OFF BY THE HEIRS OF SARAH A. BELL, DECEASED (COMMONLY KNOWN AS THE HEIRS OF SARAH A. BELL’S ADDITION TO THE CITY OF SEATTLE), AS PER PLAT RECORDED IN VOLUME 1 OF PLATS, PAGE 103, RECORDS OF KING COUNTY;

EXCEPT THAT PORTION OF LOTS 1 AND 12 CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NO. 57057 FOR THE WIDENING OF PINE STREET, AS PROVIDED BY CITY OF SEATTLE ORDINANCE NO. 14500;

TOGETHER WITH THE VACATED ALLEY LYING WITHIN SAID BLOCK, AS VACATED UNDER CITY OF SEATTLE ORDINANCE NO.S 82259, 82351, AND 110092;

SITUATE IN THE CITY OF SEATTLE, COUNTY OF KING, STATE OF WASHINGTON.

Section 3. Section 2 of Ordinance 118631, as amended by Ordinance 121855, is amended as follows:

Section 2. **Term.** The permission ~~((herein))~~ granted to the Permittee ~~((, its successors and~~

~~assigns shall be~~) is for a second and final renewed term of ten ((10)) years ((, commencing)) starting on ((the effective date of this ordinance)) July 27, 2017, and ((terminating)) ending at 11:59 p.m. on ((the last day of the tenth year)) July 26, 2027. ((; provided, however, that upon)) This second and final term shall not exceed 30 years total from the term authorized in Ordinance 118631, subject to the right of ((The)) the City ((of Seattle (“City”)) 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 4. Section 3 of Ordinance 118631 is amended as follows:

Section 3. **Inspection reports.** The Permittee shall ~~((have the cables, pins, brackets, anchors and cable connections tested every two years by a certified testing laboratory with reports submitted to the Director of Seattle Transportation within thirty days after such inspection.))~~ submit to the Director, or to the Seattle Department of Transportation (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.

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 5. Section 4 of Ordinance 118631 is amended as follows:

Section 4. **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)) utility purposes, and other public uses or benefits. ~~((and the))~~ The 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 Transportation (“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 ~~((such))~~ the violation ((is)) has not been corrected by the Permittee ~~((within thirty (30) days of))~~ by the compliance date after a written ~~((notification from))~~ 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 6. Section 5 of Ordinance 118631 is amended as follows:

Section 5. **Permittee’s obligation to remove and restore.** ~~((In the event that))~~ If the ((permit))

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 expiration, termination or order of removal))~~) the expiration or termination 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 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 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 7. Section 6 of Ordinance 118631 is amended as follows:

Section 6. **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 ~~((of))~~ the pedestrian skybridge except ~~((under the supervision of, and))~~ in strict accordance with plans and specifications approved by the Director. The Director may, in ~~((his/her))~~ the Director's judgment, ~~((may))~~ order ~~((such))~~ the pedestrian skybridge reconstructed or repaired at the Permittee's cost and expense because of: the deterioration of the pedestrian skybridge; the installation, construction, reconstruction, ~~((relocation, readjustment))~~ maintenance, operation, or repair of ~~((the pedestrian skybridge at the Permittee's own cost and expense because of the deterioration or unsafe condition 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 8. Section 7 of Ordinance 118631 is amended as follows:

Section 7. **Failure to correct unsafe condition.** After written notice to the Permittee ~~((;))~~ and failure of the Permittee to correct ~~((said))~~ an unsafe ~~((or risk-prone))~~ condition within the time stated in ~~((such))~~ the notice, the Director may order the pedestrian skybridge closed or removed at the Permittee's expense if the Director deems that ~~((it has become unsafe or))~~ the pedestrian skybridge 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 9. Section 8 of Ordinance 118631 is amended as follows:

Section 8. **Continuing obligations.** ~~((Notwithstanding))~~ 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 cleared 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 5 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 obligations to remove the pedestrian skybridge and its property and restore disturbed areas.))~~ Notwithstanding the issuance of that certification, the Permittee shall continue to be bound by the obligations in Section 9 of this ordinance and shall remain liable for any unpaid fees assessed under Sections 14A and 14B of this ordinance.

Section 10. Section 9 of Ordinance 118631 is amended as follows:

Section 9. **Release, hold harmless, indemnification, and duty to defend.** ~~((The pedestrian skybridge shall remain the exclusive responsibility of the Permittee.))~~ The Permittee, by ~~((acceptance))~~ accepting the terms of this ordinance, ~~((and the permission hereby granted, does))~~ releases the City, its officials, officers, employees, and agents from any and all claims, ~~((resulting from damage or loss to its own property and does covenant and agree for itself, its successors and 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, attorney's fees, 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 its successors and assigns, by reason of the maintenance, operation or use of said pedestrian skybridge, or any 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 assigns, failing or refusing to strictly comply with each and every provision of this ordinance; and if any such suit, action or claim be filed, instituted or begun against the City, the Permittee its successors or assigns, shall, upon notice thereof from the City, defend the same at its sole cost and expense, and in case judgment shall be rendered against the City in any suit or action, the Permittee, its successors and assigns, shall fully satisfy said judgment within ninety (90) days after such action or suit shall have been finally determined, if determined adversely to the City)) 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. ((Provided that if it is determined by a court of competent jurisdiction that 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:~~

- ~~(a) the City, its agents, contractors or employees;~~
- ~~(b) the Permittee, its agents, contractors, employees or its successors or assigns, this~~

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

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;

(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 11. Section 10 of Ordinance 118631, as amended by Ordinance 121855, is amended as follows:

Section 10. **Insurance.** For as long as the Permittee (~~(, its successors and assigns, shall)~~) exercises any permission granted by this ordinance and until (~~(the pedestrian skybridge is entirely removed from its location as described in Section 1 or until discharged by order of the Director as provided in Section 7 of this ordinance))~~) the Director has issued a certification that the Permittee has fulfilled its removal and restoration obligations under Section 5 of this ordinance, the Permittee shall obtain and maintain in full force and effect, at its own expense, insurance (~~(policies which)~~) 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))~~ Construction, reconstruction, modification, operation, maintenance, use, (or
) existence, or removal of the pedestrian skybridge, ((permitted by this ordinance and of any and all
portions of the pedestrian skybridge,)) as well as restoration of any disturbed areas of the public place in
connection with removal of the pedestrian skybridge;

(b) 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 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,))~~ Occurrence;
\$4,000,000 ((annual aggregate)) General Aggregate each period; \$2,000,000 Products/Completed
Operations Aggregate, including Premises Operations, Personal/Advertising Injury, and Contractual
Liability. ((Coverage shall specifically name the pedestrian skybridge exposure.)) Coverage shall ~~((add~~
~~by endorsement))~~ include "The City of Seattle, its elected and appointed officers, officials, employees,
and agents" as additional insureds for primary and non-contributory limits of liability subject to a
Separation of Insureds clause. ((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 to the first named insured, this insurance applies as if each named insured 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 the form of a copy of the full policy with all endorsements attached thereto, and is a condition of the validity of this permit.~~

~~The Director, in consultation with the City Risk Manager, may adjust minimum levels of liability insurance and surety bond requirements. The Director shall notify the Permittee of the new requirements in writing. Upon receipt, the Permittee shall provide proof of the required levels of insurance and surety bond to the Director within))~~ 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 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 13 of this ordinance.

Section 12. Section 11 of Ordinance 118631 is amended as follows:

Section 11. **Contractor insurance.** 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 City of Seattle, its officers, officials, employees, and agents” as ~~((an))~~ additional insureds ~~((on all policies of public))~~ for primary and non-contributory limits of liability on all CGL, Automobile and Pollution liability insurance ((;)) and/or self-insurance. ~~((and))~~ 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 ((Pine Street Associates to the City as well)) the Permittee.

Section 13. Section 12 of Ordinance 118631 is amended as follows:

Section 12A. **Performance bond.** Within ~~((sixty (60)))~~ 60 days after the effective date of this ordinance, the Permittee shall deliver to the Director ~~((of Transportation))~~ for filing with the City Clerk a ~~((good and))~~ sufficient bond ~~((in the sum of Fifty Thousand Dollars (\$50,000.00)))~~ executed by a surety company authorized and qualified to do business in the State of Washington that is: in the amount of \$120,000, 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; provided, that if in 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)) issues under this ordinance. ~~((Said bond shall remain in effect until such time as the pedestrian skybridge is entirely removed from its location as described in Section 1, or until discharged~~

~~by order of the Director 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 5 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 13 of this ordinance.

Section 12B. **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 14. Section 13 of Ordinance 118631, as amended by Ordinance 121855, is amended as follows:

Section 13. **Consent for and conditions of assignment or transfer.** When the Property is transferred, the permission granted by this ordinance shall be assignable and transferable by operation of law pursuant to Section 17 of this ordinance. Prior to transfer, the successor owner of the Property shall accept in writing all of the terms and conditions of the permission granted by this ordinance and shall be conferred with the rights and obligations of the Permittee by this ordinance. ((The)) Other than a transfer to a new owner of the Property, the Permittee ((, its successors and assigns)) shall not assign, transfer, mortgage, pledge, or encumber ((any privileges conferred by this ordinance)) the same without the Director's consent, ((of the Director,)) which ((consent)) the Director shall not ((be)) unreasonably ((withheld)) refuse. The Director may approve assignment ((and/or transfer)) or transfer of the ((permit)) permission granted by this ordinance to a successor entity ((in the case of a change of name

~~and/or ownership provided that))~~ only if the successor or assignee has ~~((demonstrated its acceptance of))~~ accepted in writing all of the terms and conditions of the permission granted ~~((to the initial Permittee))~~ 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 Sections 14A and 14B of this ordinance. ~~((If permission is granted, the assignee or transferee shall be bound by all of the terms and conditions of this ordinance. The permission conferred by this ordinance shall not be assignable or transferable by operation of law.))~~ 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 15. Section 14 of Ordinance 118631, as amended by Ordinance 121855, is amended as follows:

Section 14A. **Inspection fees.** ~~The Permittee ((, its successors and assigns,)) shall, as provided by SMC Chapter 15.76 or successor provision, pay ((to The)) the City ((of Seattle such)) the amounts ((as may be justly chargeable by said)) charged by the City ((as costs of inspection of said)) to inspect the pedestrian skybridge during construction, reconstruction, repair, annual ((structural)) safety inspections, and at other times deemed necessary ((to ensure the safety of the skybridge, under the direction of the Director and in addition shall promptly pay to the City in advance upon statements rendered by the Director an annual fee for the privileges granted and exercised hereunder of Five Thousand Nine Hundred Thirty-Three Dollars (\$5,933.00)) 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 14B. **Annual fee.** Beginning on the effective date of the ordinance introduced as Council Bill 119844, and annually thereafter, the Permittee shall promptly pay to the City, upon statements or invoices issued by the Director, an annual fee of \$28,512, or as adjusted annually thereafter, for the privileges granted by this ordinance.

Adjustments to the annual fee (~~((amount))~~) shall be made in accordance with a term permit fee schedule adopted by the City Council (~~((by ordinance))~~) and may be (~~((adjusted))~~) made every year. In the absence of (~~((such))~~) a schedule, the Director may only increase or decrease the previous year's fee (~~((amount annually))~~) to reflect any inflationary changes so as to charge (~~((said))~~) the fee in constant dollar terms. This adjustment will be calculated by adjusting the previous year's fee (~~((amount))~~) by the percentage change between the two most recent year-end values available (~~((of))~~) for the Consumer Price Index for the (~~((Seattle Tacoma Bremerton))~~) Seattle-Tacoma-Bellevue 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 16. Section 15 of Ordinance 118631 is repealed:

~~((Section 15. The Permittee shall not discriminate against any employee or applicant for employment in conjunction with the design, architectural engineering work or the construction, reconstruction, repair or maintenance of the pedestrian skybridge permitted pursuant to this ordinance, on the basis of race, religion, creed, color, sex, marital status, sexual orientation, political ideology, ancestry, age, national origin or the presence of any sensory, mental or physical handicap unless based upon 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;~~

~~(c) the Permittee shall furnish to the Director of Human Rights or a successor official, upon his or her request and on 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 Director of Transportation will be notified in writing. The Director of Transportation shall give Permittee at least ten (10) days notice and a hearing thereon. If the Director of Transportation finds that there has been a violation of this Section, he or she 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 construction, reconstruction, 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.))~~

Section 17. Section 16 of Ordinance 118631 is renumbered and amended as follows:

Section ~~((16))~~ 15. **Acceptance of terms and conditions.** The Permittee shall deliver to the Director its written signed acceptance of the ~~((permission conferred by))~~ terms of this ordinance ~~((and its terms and conditions to the Director of Transportation))~~ within ~~((sixty (60))~~ 60 days after the effective date of ~~((this ordinance))~~ the ordinance introduced as Council Bill 119844. The Director shall

file the written acceptance (~~((shall be filed))~~) 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 5 of this ordinance.

Section 18. A new Section 16 is added to Ordinance 118631 as follows:

Section 16. Compliance with other laws. Permittee shall 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 19. A new Section 17 is added to Ordinance 118631 as follows:

Section 17. 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 20. Section 17 of Ordinance 118631 is renumbered and amended as follows:

Section ~~((17))~~ 18. **Effective date.** This ordinance shall take effect and be in force ~~((thirty (30)))~~ 30 days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ~~((10))~~ days after presentation, it shall take effect as provided by ~~((Municipal Code))~~ SMC Section 1.04.020.

Section 21. **Section titles.** Section titles are for convenient reference only and do not modify or limit the text of a section.

Section 22. **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 23. 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 _____, 2020, and signed by me in open session in authentication of its passage this _____ day of _____, 2020.

President _____ of the City Council

Approved by me this _____ day of _____, 2020.

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2020.

Monica Martinez Simmons, City Clerk

(Seal)