

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL 118060

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3
4 AN ORDINANCE relating to a pedestrian skybridge over and across Post Avenue, south of
5 Seneca Street; amending Ordinance 117590, as amended by Ordinance 121855; updating
6 the insurance and bond requirements; amending the annual fee and other terms and
7 conditions of the permit; renewing the term of the permit to the Colonial Grand Pacific
8 Building Owners; providing for the acceptance of the permit and conditions; and ratifying
9 and confirming certain prior acts.

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11 WHEREAS, by Ordinance 117590, the City of Seattle granted the Colonial Grand Pacific
12 Building Owners permission to operate and maintain an existing pedestrian skybridge
13 over and across Post Avenue, south of Seneca Street, for a ten-year term, renewable for
14 two successive ten-year terms; and

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16 WHEREAS, the conditions of Ordinance 117590 were amended by Ordinance 121855; and

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18 WHEREAS, the permission authorized by Ordinance 117590 was due for renewal on January
19 19, 2013; and

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21 WHEREAS, the Colonial Grand Pacific Building Owners submitted an application to the Seattle
22 Department of Transportation Director ("Director") to renew the permission granted by
23 Ordinance 117590 as amended by Ordinance 121855 for a ten-year term; and

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25 WHEREAS, the Colonial Grand Pacific Building Owners satisfied all terms of the original
26 authorizing ordinance and the Director recommends that the term permit be renewed for ten
27 years subject to the terms identified in this ordinance; NOW, THEREFORE,

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BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The permission granted to the Colonial Grand Pacific Building Owners by
Ordinance 117590 and amended by Ordinance 121855, to maintain and operate a pedestrian
skybridge over and across Post Avenue, south of Seneca Street, is renewed for a ten-year period
starting January 20, 2013, and ending at 11:59 p.m. on January 19, 2023, upon the terms and
conditions set forth in Ordinance 117590, as amended by Ordinance 121855, and as further
amended by this ordinance.

1 Section 2. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14 of Ordinance 117590, as
2 amended by Ordinance 121855, are amended as follows:

3 1. **Permission.** Subject to the terms and conditions of this ordinance, the City of Seattle
4 ("City") grants permission ((is hereby granted)) (also referred to in this ordinance as a permit) to
5 the Colonial Grand Pacific Building Owner's Association, and its successors and assigns
6 ((("Permittee"))) as approved by the Director of the Seattle Department of Transportation
7 ("Director") according to Section 12A of this ordinance (the party named above and each such
8 approved successor and assign is referred to as "Permittee"), to maintain((;)) and operate a
9 pedestrian skybridge ("skybridge") over and across Post Avenue, south of Seneca Street,
10 connecting the Colonial Grand Pacific Building at 1119 First Avenue with a parking garage at
11 1108 Western Avenue. ((Said pedestrian)) The skybridge is ((six)) 6 feet wide, ((twenty-six)) 26
12 feet long, approximately ((twenty-nine)) 29 feet above the maximum grade of the street, and
13 situated approximately ((seventy-eight)) 78 feet south of the centerline of Seneca Street((-)),
14 adjacent in whole or in part to the property legally described as:

17 LOTS 2 AND 3 IN BLOCK C OF ADDITION TO THE TOWN OF SEATTLE, AS
18 LAID OUT BY A.A. DENNY (COMMONLY KNOWN AS A.A. DENNY'S FIRST
19 ADDITION TO THE CITY OF SEATTLE), AS PER PLAT RECORDED IN VOLUME 1 OF
20 PLATS, PAGE 27A, RECORDS OF KING COUNTY:

22 EXCEPT THE EASTERLY 9 FEET THEREOF CONDEMNED IN TERRITORIAL
23 DISTRICT COURT CAUSE NO. 7092, FOR WIDENING OF FIRST AVENUE, AS
24 PROVIDED BY ORDINANCE NO. 1129 OF THE CITY OF SEATTLE;

25 TOGETHER WITH LOTS 1 AND 2 IN BLOCK 184 OF SEATTLE TIDE LANDS;
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1 SITUATE IN THE CITY OF SEATTLE, COUNTY OF KING, STATE OF
2 WASHINGTON.

3 2. **Term.** The permission (~~((herein))~~) granted to the Permittee(~~(, its successors and assigns~~
4 ~~shall be))~~ is for a term of ten (~~((10))~~) years, (~~(, commencing)~~) starting on January 20, 1993 and
5 (~~((terminating))~~) ending at 11:59 p.m. on the last day of the tenth year(~~(; provided, however, that~~
6 ~~upon))~~. Upon written application (~~((of))~~) made by the Permittee at least (~~((thirty (30))~~) 180 days
7 before expiration of the term, the Director (~~((of Transportation ("Director"))~~) or the City Council
8 may (~~((by resolution,))~~) renew the permit (~~((for two (2))~~) twice, each time for a successive ten
9 (~~((10))~~)-year (~~((terms, provided further that the total term of the permission as originally granted~~
10 ~~and thus extended shall not exceed thirty (30) years))~~) term, (~~((provided further that the total term~~
11 ~~of the permission as originally granted and thus extended shall not exceed thirty (30) years,))~~)
12 subject to the right of (~~((F))~~)the City (~~((of Seattle ("City"))~~) to require the removal of the skybridge
13 or to revise by ordinance (~~((to then revise))~~) any of the terms and conditions (~~((contained herein))~~)
14 of the permission granted by this ordinance. The total term of the permission, including
15 renewals, shall not exceed 30 years. The Permittee shall submit any application for a new
16 permission no later than 180 days prior to the expiration of the then-existing term.

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19 3A. **Removal for public use or for cause.** The (~~((permit))~~) permission granted (~~((hereby))~~)
20 is subject to (~~((primary and secondary))~~) use of the street right-of-way or other public place
21 (collectively, public place) by the City and the public for travel (~~((and utilities))~~), utility purposes,
22 ((and the)) and other public uses or benefits. The City expressly reserves the right to deny
23 renewal, or terminate the permission at any time prior to expiration of the initial term or any
24 renewal term, and require the Permittee to remove the (~~((pedestrian))~~) skybridge, or any part
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1 thereof or installation on the public place, at the Permittee's sole cost and expense in the event
2 that:

3 (a) The City Council determines~~((s))~~ by ordinance~~((s))~~ that the space occupied by the
4 ~~((pedestrian))~~ skybridge is necessary for any ~~((primary and secondary))~~ public use or
5 benefit or that the ~~((pedestrian))~~ skybridge interferes with any ~~((primary and~~
6 ~~secondary))~~ public use or benefit; or

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8 (b) The Director ~~((of Engineering ("Director")))~~ determines that use of the skybridge has
9 been abandoned; or The Director determines that any term or condition of this
10 ordinance has been violated, and the violation has not been corrected by the Permittee
11 by the compliance date after a written request by the City to correct the violation
12 (unless a notice to correct is not required due to an immediate threat to the health or
13 safety of the public).

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

18 **3B. Protection of utilities.** The permission granted is subject to the Permittee bearing the
19 expense of any protection, support, or relocation of existing utilities deemed necessary by the
20 owners of the utilities, and the Permittee being responsible for any damage to the utilities due to
21 the construction, repair, reconstruction, maintenance, operation, or removal of the skybridge and
22 for any consequential damages that may result from any damage to utilities or interruption in
23 service caused by any of the foregoing.

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

16 Failure to remove the skybridge as required by this section is a violation of Chapter
17 15.90 of the Seattle Municipal Code (SMC) or successor provision; however, applicability of
18 Chapter 15.90 does not eliminate any remedies available to the City under this ordinance or any
19 other authority. If the Permittee does not timely fulfill its obligations under this section, the City
20 may in its sole discretion remove the skybridge and restore the public place at the Permittee’s
21 expense, and collect such expense in any manner provided by law.

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

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7 **5. Repair or reconstruction.** The skybridge shall remain the exclusive responsibility of
8 the Permittee and the Permittee shall maintain the skybridge in good and safe condition for the
9 protection of the public. The Permittee shall not (~~commence reconstruction, relocation,~~
10 readjustment)) reconstruct or repair (~~(of)~~) the (~~(pedestrian)~~) skybridge except (~~(under the~~
11 supervision of, and)) in strict accordance with plans and specifications approved by(~~(,))~~) the
12 Director. The Director may, in (~~(his/her)~~) the Director's judgment (~~(may)~~), order (~~(such~~
13 reconstruction, relocation, readjustment or repair of)) the (~~(pedestrian)~~) skybridge reconstructed
14 or repaired at the Permittee's (~~(own)~~) cost and expense because of: the deterioration or unsafe
15 condition of the (~~(pedestrian)~~) skybridge(~~(, grade separations, or)~~); the installation, construction,
16 reconstruction, maintenance, operation, or repair of any (~~(and all)~~) municipally-owned public
17 utilities(~~(,))~~); or for any other cause.

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

1 7. **Continuing obligations.** Notwithstanding termination or expiration of the permission
2 granted, or closure or removal of the ~~((pedestrian))~~ skybridge, the Permittee shall remain bound
3 by all of its ~~((obligation))~~ obligations under this ordinance until(~~(:~~

4 ~~(a) the pedestrian skybridge and all its equipment and property are removed from the~~
5 ~~street;~~

6 ~~(b) the area is cleared and restored in a manner and to a condition satisfactory to the~~
7 ~~Director; and~~

8 ~~(c) the Director certifies that the Permittee has discharged its obligation herein.~~

9 Provided, that upon prior notice to the Permittee and entry of written findings that such is
10 in the public interest, the Director may, in his/her sole discretion, excuse the Permittee,
11 conditionally or absolutely, from compliance with all or any of the Permittee's obligations to
12 remove the pedestrian skybridge and its property and restore disturbed areas.) the Director has
13 issued a certification that the Permittee has fulfilled its removal and restoration obligations under
14 Section 4 of this ordinance. Notwithstanding the issuance of that certification, the Permittee
15 shall continue to be bound by the obligations in Section 8 of this ordinance and shall remain
16 liable for any unpaid fees assessed under Section 13C of this ordinance.

17 8. **Release, hold harmless, indemnification, and duty to defend.** ~~((The pedestrian~~
18 ~~skybridge shall remain the exclusive responsibility of the Permittee.))~~ The Permittee, by ~~((its~~
19 ~~acceptance))~~ accepting the terms of this ordinance ~~((and the permission hereby granted, does~~
20 ~~release))~~, releases the City, its officials, officers, employees, and agents from any and all claims,
21 actions, suits, liability, loss, costs, expense, attorneys' fees, or damages of every kind and
22 description arising out of or by reason of the skybridge or this ordinance, including but not
23 limited to claims resulting from injury, damage, or loss to ~~((its own))~~ the Permittee or the
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1 Permittee's property ~~((and does covenant and agree for itself, its successors and assigns, with~~
2 ~~The City of Seattle))~~.

3 The Permittee agrees to at all times ~~((protect and save))~~ defend, indemnify, and hold
4 harmless ~~((T))~~ the City ~~((of Seattle)), its officials, officers, employees, and agents from and
5 against all claims, actions, suits, liability, loss, costs, expense, attorneys' fees, or damages of
6 every kind and description, ~~((f))~~ excepting only ~~((such))~~ damages that may result from the sole
7 negligence of the City ~~((, which)), that may accrue to, be asserted by, or be suffered by~~ ~~((;))~~ any
8 person or ~~((persons and/or))~~ property ~~((or properties;))~~ including, without limitation, damage,
9 death, or injury to ~~((the Permittee, its))~~ members of the public or to the Permittee's officers,
10 agents, employees, contractors, invitees, tenants ~~((and)), tenants' invitees, licensees, or~~ ~~((their))~~
11 successors and assigns, arising out of or by reason of:~~

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13 (a) the existence, condition, construction, reconstruction, modification, maintenance,
14 operation ~~((or)), use, or removal of~~ ~~((said City street, alley))~~ the skybridge or any portion thereof,
15 or ~~((by reason of the maintenance, operation or))~~ the use ~~((of said City street, alley)),~~
16 occupation, or restoration of the public place or any portion thereof ~~((; or by reason of))~~ by the
17 Permittee or any other person or entity;

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19 (b) anything that has been done ~~((;))~~ or may at any time be done ~~((;))~~ by the Permittee ~~((; its~~
20 ~~successors or assigns;))~~ by reason of this ordinance ~~((; or by reason of))~~; or

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22 (c) the Permittee ~~((; its successors or assigns;))~~ failing or refusing to strictly comply with
23 ~~((each and))~~ every provision of this ordinance; ~~((and if))~~ arising out of or by reason of the
24 skybridge or this ordinance in any other way.

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26 If any ~~((such))~~ suit, action, or claim ~~((shall be))~~ of the nature described above is filed,
27 instituted, or begun against the City, the Permittee ~~((; its successors or assigns;))~~ shall ~~((;))~~ upon

1 notice ~~((thereof))~~ from the City~~((;))~~ defend the ~~((same))~~ City, with counsel acceptable to the City,
2 at ~~((its or their))~~ the sole cost and expense of the Permittee, and ~~((in case))~~ if a judgment ((shall
3 be)) is rendered against the City in any suit or action, the Permittee~~((; its successors, or assigns,))~~
4 shall fully satisfy ((said)) the judgment within 90 days after ((such)) the action or suit ((shall
5 have)) has been finally determined, if determined adversely to the City. ((Provided that if)) If it is
6 determined by a court of competent jurisdiction that Revised Code of Washington (RCW)
7 4.24.115 applies to this ordinance, then in the event claims or damages are caused by or result
8 from the concurrent negligence of~~((; (a)))~~ the City, its agents, contractors, or employees~~((;)),~~ and
9 ~~((b))~~ the Permittee, its agents, contractors, or employees~~((or their successors or assigns)),~~ this
10 indemnity provision shall be valid and enforceable only to the extent of the negligence of the
11 Permittee or the Permittee's agents, contractors, or employees~~((or their successors or assigns)).~~
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14 **9A. Insurance.** For as long as the Permittee~~((; its successors or assigns, shall exercise))~~
15 exercises any permission granted by this ordinance and until the ((skybridge is entirely removed
16 from its location as described in Section 1 or until discharged by order of the)) Director ((as
17 provided in)) has issued a certification that the Permittee has fulfilled its removal and restoration
18 obligations under Section ((7)) 4 of this ordinance, the Permittee shall obtain and maintain in full
19 force and effect, at its own expense, insurance ~~((policies which protect against)) and/or self-~~
20 insurance that protects the Permittee and the City from claims and risks of loss from perils that
21 can be insured against under commercial general liability (CGL) insurance policies in
22 conjunction with:
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- 24 (a) construction, reconstruction, modification, operation, maintenance, use ~~((or)),~~
25 existence, or removal of the skybridge ~~((permitted by this ordinance and of any and~~
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1 all portions)) or any portion thereof, as well as restoration of any disturbed areas of
2 the public place in connection with removal of the skybridge;

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

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

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

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16 Minimum ((policy)) limits of liability shall be \$2,000,000 ((per occurrence,)) each
17 Occurrence; \$4,000,000 ((annual aggregate each period)) General Aggregate; \$2,000,000
18 Products/Completed Operations Aggregate, including Premises Operation; Personal/Advertising
19 Injury; Contractual Liability. Coverage shall ((specifically name)) include the ((skybridge
20 exposure. Coverage shall add by endorsement the)) "City of Seattle, its ((elected and appointed))
21 officers, officials, employees, and agents" as additional ((insured. Coverage shall contain a
22 Separation of Insureds indicating essentially that "except with respect to the limits of insurance,
23 and any rights or duties specifically assigned in this coverage part to the first named insured, this
24 insurance applies as if each named insured were the only named insured, and separately to each
25 insured against whom claim is made or suit is brought. Evidence of current coverage shall be
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1 submitted to the City in the form of a copy of the full policy with all endorsements attached
2 thereto, and is a condition to the validity of this permit.)) insureds for primary and non-
3 contributory limits of liability subject to a Separation of Insureds clause.

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

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11 If the Permittee is self-insured, a letter of certification from the Corporate Risk Manager
12 may be submitted in lieu of the insurance coverage certification required by this ordinance, if
13 approved in writing by the City's Risk Manager. The letter of certification must provide all
14 information required by the City's Risk Manager and document, to the satisfaction of the City's
15 Risk Manager, that self-insurance equivalent to the insurance requirements of this ordinance is in
16 force. After a self-insurance certification is approved, the City may from time to time
17 subsequently require updated or additional information. The approved self-insured Permittee
18 must provide 30 days' prior notice of any cancellation or material adverse financial condition of
19 its self-insurance program. The City may at any time revoke approval of self-insurance and
20 require the Permittee to obtain and maintain insurance as specified in this ordinance.

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23 In the event that the Permittee assigns or transfers the permission granted by this
24 ordinance, the Permittee shall maintain in effect the insurance required under this section until
25 the Director has approved the assignment or transfer pursuant to Section 12A of this ordinance.
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1 **9B. Adjustment of insurance and bond requirements.** The Director(~~(, in consultation~~
2 ~~with the City Risk Manager,)) may adjust minimum liability insurance levels (~~(of liability~~
3 ~~insurane)) and surety bond requirements during the term of this permission. (~~(The)) If the~~
4 Director determines that an adjustment is necessary to fully protect the interests of the City, the
5 Director shall notify the Permittee of the new requirements in writing. (~~(Upon receipt, the)) The~~
6 Permittee shall, within 60 days of the date of the notice, provide proof of the (~~(required))~~
7 adjusted insurance and surety bond levels (~~(of insurance and surety bond)) to the Director~~
8 (~~(within 60 days)).~~~~~~

10 **10. Performance bond.** Within (~~(sixty (60))~~) 60 days after the effective date of this
11 ordinance, the Permittee shall deliver to the Director (~~(of Engineering)) for filing with the City~~
12 Clerk a (~~(good and))~~ sufficient bond executed by a surety company authorized and qualified to
13 do business in the State of Washington that is: in the (~~(sum))~~ amount of (~~(Twenty Thousand~~
14 ~~Dollars (~~) \$20,000, (~~(~~) executed by a surety company authorized and qualified to do business in
15 the State of Washington,)) and conditioned with a requirement that the Permittee (~~(will))~~ shall
16 comply with (~~(each and))~~ every provision of this ordinance and with (~~(each and))~~ every order
17 (~~(of))~~ the Director (~~(pursuant thereto; provided, that if the Mayor of the City of Seattle in his/her~~
18 ~~judgment shall deem any bond or bonds filed to be insufficient and demand a new or additional~~
19 ~~bond, the Permittee shall furnish a new or additional bond in such amount as the Mayor may~~
20 ~~specify to be necessary to fully protect the City. Said bond shall remain))~~ issues under this
21 ordinance. The Permittee shall ensure that the bond remains in effect until (~~(such time as the~~
22 ~~skybridge is entirely removed from its location described in Section 1, or until discharged by~~
23 ~~order of))~~ the Director (~~(of Engineering as provided in))~~ has issued a certification that the
24 Permittee has fulfilled its removal and restoration obligations under Section (~~(7 of this~~
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1 ordinance.) 4 of this ordinance. An irrevocable letter of credit approved by the Director in
2 consultation with the City Attorney's Office may be substituted for the bond. In the event that
3 the Permittee assigns or transfers the permission granted by this ordinance, the Permittee shall
4 maintain in effect the bond or letter of credit required under this section until the Director has
5 approved the assignment or transfer pursuant to Section 12A of this ordinance.

6 **11. Contractor insurance.** The ~~((Colonial Grand Pacific Building Owners Association))~~
7 Permittee shall contractually require that any and all of its contractors performing
8 ~~((construction))~~ work on ~~((the))~~ any premises ~~((as))~~ contemplated by this permit~~((;))~~ name the
9 "City of Seattle, its officers, officials, employees and agents" as ~~((an))~~ additional ~~((insured-on-all~~
10 ~~polices-of-public))~~ insureds for primary and non-contributory limits of liability on all CGL,
11 Automobile and Pollution liability insurance~~((;))~~ and/or self-insurance. The Permittee shall also
12 include in all contract documents with its contractors a third-party beneficiary provision
13 extending to the City construction indemnities and warranties granted to the ~~((Colonial Grand~~
14 ~~Building Owner Association to the City as well))~~ Permittee.

15 **12A. Consent for and conditions of assignment or transfer.** The ~~((Permittee shall not))~~
16 permission granted by this ordinance shall not be assignable or transferable by operation of law;
17 nor shall the Permittee assign, transfer, mortgage, pledge or encumber ~~((any privileges conferred~~
18 ~~by the ordinance))~~ the same without the Director's consent ~~((of the Director)),~~ which the Director
19 shall not unreasonably refuse. The Director may approve assignment ~~((and/or transferal))~~ or
20 transfer of the ~~((permit))~~ permission granted by this ordinance to a successor entity ~~((in the case~~
21 ~~of a change of name and/or ownership provided that))~~ only if the successor or assignee has
22 ~~((demonstrated its acceptance of))~~ accepted in writing all of the terms and conditions of the
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1 permission granted ~~((to the initial Permittee. If permission is granted, the assignee or transferee~~
2 ~~shall be bound by all of the terms and conditions of this ordinance.~~

3 ~~The permission conferred by this ordinance shall not be assignable or transferable by~~
4 ~~operation of law.)) by this ordinance; has provided, at the time of the acceptance, the bond and~~
5 ~~certification of insurance coverage required under this ordinance; and has paid any fees due~~
6 ~~under Section 13C of this ordinance. Upon the Director's approval of an assignment or transfer,~~
7 ~~the rights and obligations conferred on the Permittee by this ordinance shall be conferred on the~~
8 ~~successors and assigns. Any person or entity seeking approval for an assignment or transfer of~~
9 ~~the permission granted by this ordinance shall provide the Director with a description of the~~
10 ~~current and anticipated use of the skybridge.~~

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12 **12B. Obligations run with the Property.** The obligations and conditions imposed on
13 the Permittee by and through this ordinance are covenants that run with the land and bind
14 subsequent owners of the property adjacent to the skybridge and legally described in Section 1 of
15 this ordinance (the "Property"), regardless of whether the Director has approved assignment or
16 transfer of the permission granted herein to such subsequent owner(s). At the request of the
17 Director, Permittee shall provide to the Director a current title report showing the identity of all
18 owner(s) of the Property and all encumbrances on the Property. The Permittee shall, within 60
19 days of the effective date of this ordinance, and prior to conveying any interest in the Property,
20 deliver to the Director upon a form to be supplied by the Director, a covenant agreement
21 imposing the obligations and conditions set forth in this ordinance, signed and acknowledged by
22 the Permittee and any other owner(s) of the Property and recorded with the King County
23 Recorder's Office. The Director shall also file the recorded covenant agreement with the City
24 Clerk. The covenant agreement shall reference this ordinance by its ordinance number. At the
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1 request of the Director, Permittee shall cause encumbrances on the Property to be subordinated
2 to the covenant agreement.

3 13A. **Inspection fees.** The Permittee(~~(, its successors and assigns,))~~ shall, as provided by
4 SMC Chapter 15.76 or successor provision, pay (~~(to))~~ the City (~~(such))~~ the amounts (~~((as may be~~
5 justly chargeable by said)) charged by the City (~~((as costs of inspection of said pedestrian))~~ to
6 inspect the skybridge during construction, reconstruction, repair (~~((or reconstruction or)),~~ annual
7 safety inspections, and at other times (~~((under the direction of))~~ deemed necessary by the City.
8 An inspection of the skybridge by the City shall not be construed as a representation, warranty, or
9 assurance to the Permittee or any other person as to the safety, soundness, or condition of the
10 skybridge. Any failure by the City to require correction of any defect or condition shall not in any
11 way limit the responsibility or liability of the Permittee.

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14 13B. **Inspection reports.** The Permittee shall submit to the Director, or to SDOT at an
15 address specified by the Director, an inspection report that:

- 16 (a) describes the physical dimensions and condition of all load-bearing elements;
17 (b) describes any damages or possible repairs to any element of the skybridge;
18 (c) prioritizes all repairs and establishes a timeframe for making repairs; and
19 (d) is stamped by a professional structural engineer licensed in the State of
20 Washington.

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22 A report meeting the foregoing requirements shall be submitted within 60 days after the effective
23 date of this ordinance; subsequent reports shall be submitted every 2 years, within 30 days prior
24 to the anniversary date of the last inspection report; provided that, in the event of a natural
25 disaster or other event that may have damaged the skybridge, the Director may require that
26 additional reports be submitted by a date established by the Director. The Permittee has the duty
27

1 of inspecting and maintaining the skybridge. The responsibility to submit structural inspection
2 reports periodically or as required by the Director does not waive or alter any of the Permittee's
3 other obligations under this ordinance. The receipt of any reports by the Director shall not create
4 any duties on the part of the Director. Any failure by the Director to require a report, or to
5 require action after receipt of any report, shall not waive or limit the obligations of the Permittee.

6 13C. Annual fee. Beginning on January 20, 2013, and annually thereafter, the Permittee
7 shall promptly pay to the City, upon statements or invoices issued by the Director ((and in
8 addition shall promptly pay to the City in advance upon statements or invoices rendered by the
9 Director)), an annual fee of ((~~\$1,197.00 as established by Resolution 29803~~) \$7,485.99, or as
10 adjusted annually thereafter, for the privileges granted by this ordinance.

11
12 Adjustments to the annual fee ((~~amount~~)) shall be made in accordance with a term permit
13 fee schedule adopted by the City Council ((~~by ordinance~~)) and may be ((~~adjusted~~)) made every
14 year. In the absence of ((~~such~~)) a schedule, the Director may only increase or decrease the
15 previous year's fee ((~~amount annually~~)) to reflect any inflationary changes so as to charge ((~~said~~))
16 the fee in constant dollar terms. This adjustment will be calculated by adjusting the previous
17 year's fee ((~~amount~~)) by the percentage change between the two most recent year-end values
18 available ((~~of~~)) from the Consumer Price Index for the Seattle-Tacoma-Bremerton Area, All
19 Urban Consumers, All Products, Not Seasonally Adjusted. All payments shall be made to the
20 City Finance Director for credit to the Transportation Operating Fund.

21
22 14. Compliance with other laws. ((~~The Permittee shall not discriminate against any~~
23 ~~employee or applicant for employment in connection with the design, architectural or structural~~
24 ~~engineering work or the repair, or maintenance of the pedestrian skybridge permitted to be~~
25 ~~erected pursuant to this ordinance, on the basis of race, religion, creed, color, sex, marital status,~~
26
27
28

1 ~~sexual orientation, political ideology, ancestry, age, national origin, or the presence of any~~
2 ~~sensory, mental or physical handicap unless based upon bona fide occupational qualification.~~

3 ~~The foregoing commitment shall be implemented as follows:~~

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

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

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

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

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

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

12 ***

13
14
15 **Section 3. Acceptance of terms and conditions.** Within 60 days after the effective date
16 of this ordinance, the Permittee shall deliver to the Director its written signed acceptance of the
17 terms of this ordinance as approved by its Board acting on behalf of the Permittee. The Director
18 shall file the written acceptance with the City Clerk. If no such acceptance is received within
19 that 60-day period, the privileges conferred by this ordinance shall be deemed to be declined or
20 abandoned and the permission granted deemed to be lapsed and forfeited and the Permittee shall,
21 at its own expense, remove the skybridge and all of the Permittee's equipment and property and
22 replace and restore all portions of the public place as provided in Section 4 of Ordinance 117590,
23 as further amended by Ordinance 121855 and as further amended by this ordinance.

24
25
26 **Section 4. Section titles.** Section titles are for convenient reference only and do not
27 modify or limit the text of a section.

1 Section 5. **Ratify and confirm.** Any act taken by the City or the Permittee pursuant to the
2 authority and in compliance with the conditions of this ordinance but prior to the effective date
3 of the ordinance is ratified and confirmed.

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

7
8 Passed by the City Council the ____ day of _____, 2014, and
9 signed by me in open session in authentication of its passage this
10 ____ day of _____, 2014.

11
12
13 _____
14 President _____ of the City Council

15
16 Approved by me this ____ day of _____, 2014.

17
18 _____
19 Edward B. Murray, Mayor

20
21
22 Filed by me this ____ day of _____, 2014.

23
24 _____
25 Monica Martinez Simmons, City Clerk

26
27 (Seal)

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle Department of Transportation	Angela Steel/684-5967	Christie Parker/684-5211

Legislation Title:

AN ORDINANCE relating to a pedestrian skybridge over and across Post Avenue, south of Seneca Street; amending Ordinance 117590, as amended by Ordinance 121855; 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 the Colonial Grand Pacific Building Owners; providing for the acceptance of the permit and conditions; and ratifying and confirming certain prior acts.

Summary of the Legislation:

This legislation amends Ordinance 117590, as amended by Ordinance 121855, for Colonial Grand Pacific Building Owners to continue maintaining and operating the existing skybridge located over and across Post Avenue, south of Seneca Street. An area map is attached for reference.

This permit is renewed for a ten-year term starting on January 19, 2013. The legislation updates the insurance and surety bond provisions, specifies the conditions under which authorization is granted, and provides for acceptance of the permit and conditions.

The ordinance requires Colonial Grand Pacific Building Owners to pay the City of Seattle an annual fee of \$7,485.99 starting from the last paid annual fee invoice, January 20, 2013, 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. A Street Use Annual Fee Assessment is attached for reference.

Background:

By Ordinance 117590, the City granted permission to the Colonial Grand Pacific Building Owners to construct, maintain, and operate a pedestrian skybridge over and across Post Avenue, south of Seneca Street, for a ten-year term, renewable for two successive ten-year terms.

The conditions of Ordinance 117590 were amended by Ordinance 121855. The permission authorized by Ordinance 117590 was due for renewal on January 19, 2013.

Please check one of the following:

This legislation has financial implications.

Appropriations: N/A

Anticipated Revenue/Reimbursement Resulting from this Legislation:

Fund Name and Number	Department	Revenue Source	2014 Revenue	2015 Revenue
Transportation Operating Fund 10310	Seattle Department of Transportation	Annual Fee --	2013 Fee = \$7,485.99 2014 Fee = \$9,358.19	TBD
TOTAL			\$16,844.18	TBD

Revenue/Reimbursement Notes: Ordinance is effective January 19, 2013. The 2013 fee is \$7,485.99. The 2014 fee is \$9,358.19. Total 2014 revenue will be \$16,844.18; the increase in the fee is due to an increase in the assessed land value by King County. The 2015 fee will be based on 2015 King County Assessment values.

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

Other Implications:

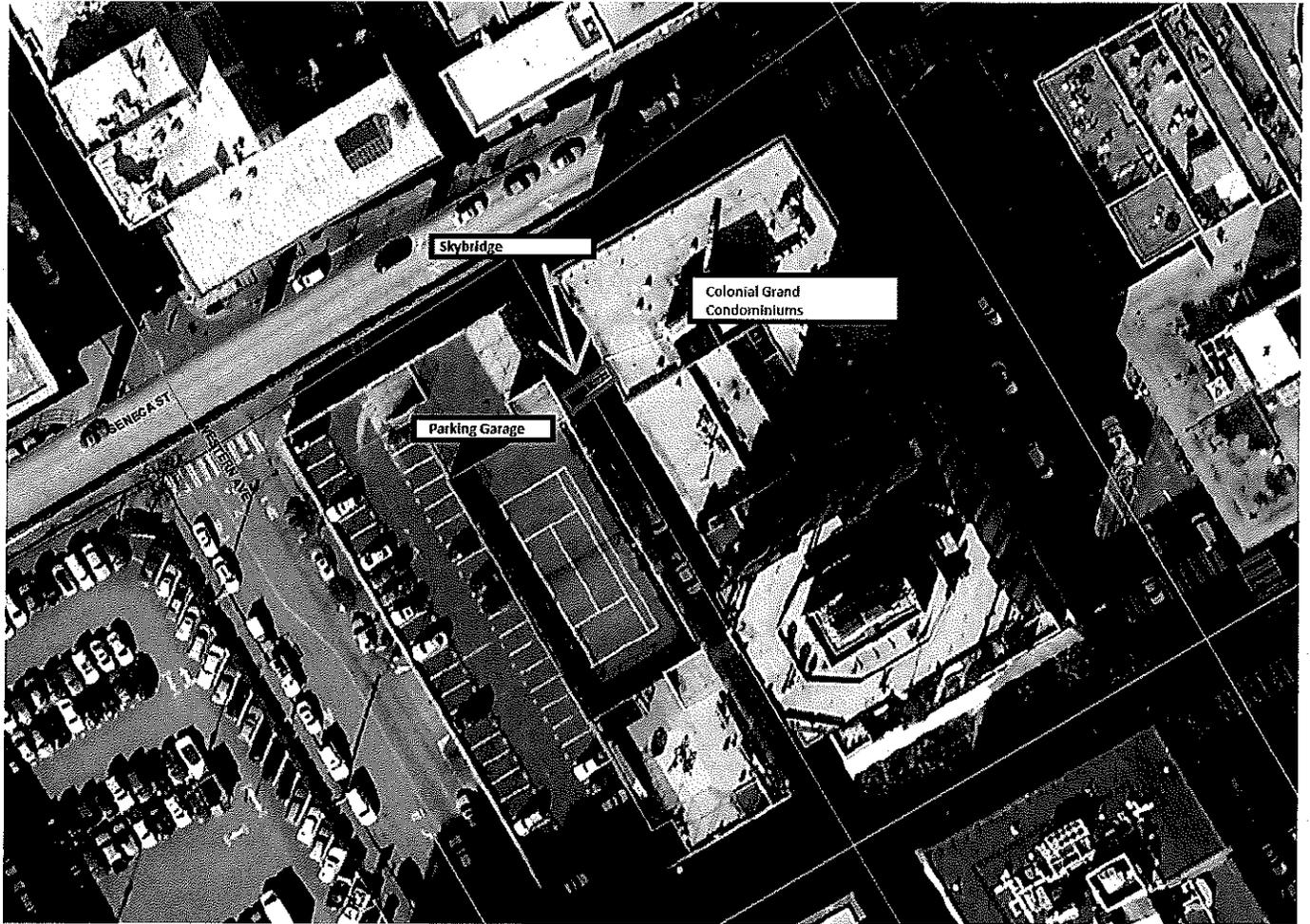
- a) **Does the legislation have indirect financial implications, or long-term implications?**
No
- b) **What is the financial cost of not implementing the legislation?**
If the legislation is not enacted by the City Council, the City of Seattle will not receive the annual fee of \$7,485.99. As previously stated, the City of Seattle has the option to adjust the fee amount on an annual basis. The skybridge, as originally permitted under Ordinance 117590, will no longer be permitted and will have to be removed.
- c) **Does this legislation affect any departments besides the originating department?** No
- d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** None
- e) **Is a public hearing required for this legislation?** No

- f) **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?** No
- g) **Does this legislation affect a piece of property?** Yes, an area map is attached for reference.
- h) **Other Issues:** None

List attachments to the fiscal note below:

- Attachment A – Colonial Grand Pacific Condominium Skybridge Area Map
- Attachment B – Colonial Grand Pacific Condominium Skybridge
- Attachment C – Street Use Annual Fee Assessment

Attachment A – Colonial Grand Pacific Condominium Skybridge 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 – Colonial Grand Pacific Condominium Skybridge



Attachment C – Street Use Annual Fee Assessment

STREET USE ANNUAL FEE ASSESSMENT

Date: 3/12/14

<p><u>Summary:</u> Land Value: \$299.92/SF 2013 Permit Fee: \$7,485.99</p>

I. Property Description:

Existing pedestrian skybridge located over and across Post Alley, south of Seneca Street. The skybridge provides a connection between the Colonial Grand Pacific Condominiums and their parking garage. The skybridge area is **156 square feet**.

Applicant:

Colonial Grand Pacific Building Owners

Abutting Parcels, Property Size, Assessed Value:

1. Parcel 7666202510, square feet 25,565
Tax year 2013 Appraised Land Value \$5,113,000
2013 tax assessed land value: \$200.00/ SF
2. Parcel 1697500000, square feet 16,771
Tax year 2013 Appraised Land Value \$6,705,700
2013 tax assessed land value: \$399.84/SF

Average 2013 tax assessed land value: \$299.92/SF

II. Annual Fee Assessment:

The 2014 permit fee is calculated as follows:

$(\$299.92/\text{SF}) \times (156 \text{ SF}) \times (200\%) \times (8\%) = \$7,485.99$ where 200% is the degree of alienation for a private-use skybridge and 8% is estimated annual rate of return.

Fee methodology authorized under Ordinance 123485.



City of Seattle
Edward B. Murray
Mayor

March 18, 2014

Honorable Tim Burgess
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Burgess:

I am pleased to transmit the attached proposed Council Bill that will grant to the Colonial Grand Pacific Building Owners a 10-year renewal permit for an existing pedestrian skybridge over and across Post Avenue, south of Seneca Street, as authorized by Ordinance 117590.

The existing skybridge, which was authorized by Ordinance 117590 and amended by Ordinance 121855, provides a connection between the Colonial Grand Pacific Condominiums and the parking garage across the alley. In addition to granting a new 10-year permit renewal, the proposed Council Bill updates the insurance and bond requirements, updates the annual fee, and specifies the conditions under which authorization is granted.

Thank you for your consideration of this legislation. Should you have any questions, please contact Angela Steel at (206) 684-5967.

Sincerely,

Edward B. Murray
Mayor of Seattle

cc: Honorable Members of the Seattle City Council