SEATTLE CITY COUNCIL

Legislative Summary

CB 118612

Record No.: CB 118612 **Type:** Ordinance (Ord) 124987 **Status:** Passed

Version: 1 **In Control:** City Clerk

File Created: 11/18/2015

Final Action: 02/11/2016

Title: AN ORDINANCE relating to a pedestrian skybridge over and across the alley between University Way Northeast and 15th Avenue Northeast, north of Northeast 45th Street, and certain window protrusions over a portion of University Way Northeast; amending Ordinance 122202, 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 Limantzakis Properties No. 1 LLC; providing for the acceptance of the permit and conditions; and ratifying and confirming certain prior acts.

Notes:

Sponsors: O'Brien

Attachments:

Drafter: amy.gray@seattle.gov

	Date
Filed with City Clerk:	
Mayor's Signature:	
Vetoed by Mayor:	
Veto Overridden:	
Veto Sustained:	

Filing Requirements/Dept Action:

History of Legislative File **Legal Notice Published:** ☐ Yes ☐ No

Ver-sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Mayor	12/08/2015	Mayor's leg transmitted to Council	City Clerk			
	Action Text: The Council Bill (CB) was Mayor's leg transmitted to Council. to the City Clerk						
	Notes:						
1	City Clerk	12/08/2015	sent for review	Council President's Office			
	Action Text: The Council Bill (CB) was sent for review. to the Council President's Office						
	Notes:						
1	Council President's Office	12/09/2015	sent for review	Transportation Committee			
	Action Text: The Council Bill (CB) was sent for review. to the Transportation Committee						

Notes:

1	Council President's Office	01/08/2016	sent for review	Sustainability and Transportation Committee	

Action Text: The Council Bill (CB) was sent for review. to the Sustainability and Transportation
Notes:

1	Full Council	01/25/2016	referred	Sustainability and Transportation Committee	

Action Text: The Council Bill (CB) was referred. to the Sustainability and Transportation Committee
Notes:

1	Sustainability and Transportation Committee	02/02/2016	pass		Pass

Action Text: The Committee recommends that Full Council pass the Council Bill (CB).
Notes:

In Favor: 2 Chair O'Brien, Vice Chair Johnson

Opposed: 0

1	Full Council	02/08/2016	passed		Pass

Action Text: The Council Bill (CB) was passed by the following vote, and the President signed the Bill:

In Favor: 8 Councilmember Bagshaw, Councilmember González , Council President Harrell, Councilmember Herbold, Councilmember Johnson, Councilmember Juarez, Councilmember O'Brien, Councilmember Sawant

Opposed: 0

1	City Clerk	02/08/2016	submitted for Mayor's signature	Mayor	

Action Text: The Council Bill (CB) was submitted for Mayor's signature. to the Mayor
Notes:

1	Mayor	02/11/2016	Signed		

Action Text: The Council Bill (CB) was Signed.
Notes:

1	Mayor	02/11/2016	returned	City Clerk	

Action Text: The Council Bill (CB) was returned. to the City Clerk
Notes:

1	City Clerk	02/11/2016	attested by City Clerk		

Action Text: The Ordinance (Ord) was attested by City Clerk.
Notes:

Amy Gray
SDOT Limantzakis Skybridge ORD
D1a

CITY OF SEATTLE

ORDINANCE 124987

COUNCIL BILL 118612

AN ORDINANCE relating to a pedestrian skybridge over and across the alley between University Way Northeast and 15th Avenue Northeast, north of Northeast 45th Street, and certain window protrusions over a portion of University Way Northeast; amending Ordinance 122202, 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 Limantzakis Properties No. 1 LLC; providing for the acceptance of the permit and conditions; and ratifying and confirming certain prior acts.

WHEREAS, by Ordinance 122202, The City of Seattle granted Limantzakis Properties No. 1 LLC permission to operate and maintain an existing pedestrian skybridge over and across the alley between University Way Northeast and 15th Avenue Northeast, north of Northeast 45th Street, and certain window protrusions over a portion of University Way Northeast, for a ten-year term, renewable for two successive ten-year terms, and

WHEREAS, the permission authorized by Ordinance 122202 was due for renewal on February 1, 2015; and

WHEREAS, Limantzakis Properties No. 1 LLC submitted an application to the Director of Transportation to renew the permission granted by Ordinance 122202 for a ten year term; and

WHEREAS, Limantzakis Properties No. 1 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 Limantzakis Properties No. 1 LLC by Ordinance 122202, to maintain and operate a pedestrian skybridge over and across the alley between University Way Northeast and 15th Avenue Northeast, north of Northeast 45th Street, and certain window protrusions over a portion of University Way Northeast, is renewed for a ten-year period starting on February 1, 2015, and ending at 11:59 p.m. on January 31, 2025, upon the terms and conditions set forth in Ordinance 122202, as further amended by this ordinance.

Section 2. Ordinance 122202 is amended as follows:

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 Limantzakis Properties No. 1 LLC, and its successors and assigns (((~~"Permittee"~~))) as approved by the Director of Transportation ("Director") according to Section 13 of this ordinance (the party named above and each such approved successor and assign is referred to as "Permittee"), to maintain and operate((~~: a~~))) a pedestrian skybridge, and a stairway within, over and across the alley ((~~parallel to Northeast 45th St and Northeast 47th Street~~)) between University Way Northeast and 15th Avenue Northeast, north of Northeast 45th Street, ((~~between the properties known as King County parcel numbers 8816400135 and 8816400015; said skybridge is 20 feet above the existing grade of said alley, to be used by Permittee solely for the purpose of providing overhead access for pedestrians across said alley; and b~~)) and window protrusions over a portion of University Way Northeast ((~~abutting Lots 19 and 20, Block 1, University Heights Addition, known as King County parcel number 8816400135, extending approximately three feet four inches (3'-4") into said portion of said street, to occupy approximately 44.3 square feet of street area, and the bottommost part of said window protrusions are, and shall remain, approximately~~

~~fourteen feet (14'-0") above the existing grade of said street at said location~~)), adjacent in whole or in part to the property legally described as:

The North 1/2 of Lot 19, all of Lot 20, and the South 1/2 of Lot 21, all in Block 1, University Heights Addition to the City of Seattle, Washington, according to the plat thereof recorded in Volume 9 of Plats, Page 41, records of King County.

2. **Term.** The permission ((~~herein~~)) granted to ((~~the~~)) Permittee ((~~its successors and assigns, shall be~~)) is for a term of ten (((~~10~~))) years((~~, with the date of commencement retroactive to February 1, 2005~~)) starting on February 1, 2015 and ((~~terminating~~)) ending at 11:59 p.m. on January 31, ((~~2015; provided, however, that~~))2025. ((~~u~~))Upon written application ((~~of~~)) made by the Permittee at least ((~~thirty (30)~~))) 180 days before expiration of the term, the Director ((~~of the Seattle Department of Transportation ("Director")~~))) or the City Council may renew the permit ((~~for two (2)~~))) for a successive ((~~ten (10 year terms~~)) ten-year term, ((~~provided further that the~~)) subject to the right of the City to require the removal of the pedestrian skybridge and window protrusions or to revise by ordinance any of the terms and conditions of the permission granted by this ordinance. The total term of the permission ((~~as originally granted and thus extended~~)), including renewals, shall not exceed ((~~thirty (~~)) 30((~~)~~))) years ((~~subject the right of the City of Seattle ("City") by ordinance to then revise any terms and conditions contained herein~~)). The Permittee shall submit any application for a new permission no later than 180 days prior to the expiration of the then-existing term.

3. **Protection of utilities.** The permission ((~~is hereby~~)) 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 ((~~utility~~)) utilities, and ((~~shall be done at the Permittee's expense with~~)) the Permittee being responsible for any ((~~subsequent~~)) damage to the utilities due to the construction, repair, reconstruction, maintenance, ((~~or~~)) operation, or removal of ((~~said~~)) the

pedestrian skybridge and((~~/or~~)) window protrusions and for any consequential damages that may result from any damage to utilities or interruption in service caused by any of the foregoing.

4. **Removal for public use or for cause.** The ((~~permit~~)) permission granted ((~~hereby~~)) is subject to ((~~primary and secondary~~)) use ((~~by the public~~)) 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. ((~~t~~))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 ((~~said~~)) the pedestrian skybridge and ((~~/or~~)) window protrusions, 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 and((~~/or~~)) window protrusions is necessary for any ((~~primary or secondary~~)) public use or benefit((~~,~~)) or that ((~~said~~)) the pedestrian skybridge and((~~/or~~)) window protrusions interferes with any ((~~primary or secondary~~)) public use or benefit; or

b) the Director determines that use of the pedestrian skybridge and window protrusion has been abandoned; or

c) the Director determines that any term or condition of this ordinance has been violated, and ((~~such~~)) the violation has not been corrected by the Permittee by the compliance date after a ((~~notice of violation has been given~~)) 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 and window protrusions 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.

5. **Permittee's obligation to remove and restore.** ((~~In the event that~~)) If the permission ((~~hereby~~)) granted ((~~extends to its termination in thirty (30) years,~~)) is not renewed at the expiration of a term, or if the permission expires without an application for a new permission being granted, or if the City ((~~orders removal of said~~)) terminates the permission, then within 90 days after the expiration or termination of the permission, or prior to any earlier date stated in an ordinance or order requiring removal of the pedestrian skybridge and ((~~/or~~)) window protrusions ((~~pursuant to the terms of this ordinance, then within ninety (90) days after such expiration, termination or order of removal, or prior to the date stated in an "Order to Remove", as the case may be~~)), the Permittee shall, at its own expense, remove ((~~said~~)) the pedestrian skybridge and ((~~/or~~)) window protrusions and ((~~shall place~~)) all of the Permittee's equipment and property from the public place and replace and restore all portions of the ((~~street~~)) public place that may have been disturbed for any part of ((~~said~~)) the pedestrian skybridge and((~~/or~~)) window protrusions((~~,~~)) in as good condition for public use as ((~~it was~~)) existed prior to construction of ((~~said~~)) the pedestrian skybridge and((~~/or~~)) window protrusion, 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.

Failure to remove the pedestrian skybridge and window protrusions 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 window protrusions and restore the public place at the Permittee's expense, and collect such expense in any manner provided by law.

((~~Whereupon,~~)) 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 ((~~certificate discharging~~)) certification that the Permittee ((~~from responsibility~~)) has fulfilled its removal and restoration obligations under this ordinance ((~~for occurrences after the date of such discharge~~)). 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.

6. **Repair or reconstruction.** The pedestrian skybridge and window protrusions shall remain the exclusive responsibility of the Permittee and the Permittee shall maintain the pedestrian skybridge and window protrusion in good and safe condition for the protection of the public. The Permittee shall not ((~~commence reconstruction, relocation, readjustment~~)) reconstruct or repair ((~~of said~~)) the pedestrian skybridge and((~~/or~~)) window protrusions((~~,~~)) 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 said~~)) the pedestrian skybridge and((~~/or~~)) window protrusions reconstructed or repaired at the Permittee's ((~~own~~)) cost and expense (())for: (((~~a~~))) the deterioration or unsafe condition of ((~~said~~)) the pedestrian skybridge and((~~/or~~)) window protrusions((~~, grade separations, or (b)~~)); the installation, construction,

reconstruction, maintenance, operation, or repair of any ((~~and all~~)) municipally-owned public utilities((~~,~~)); (((~~e~~))) or for any other cause.

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 ((~~said~~)) the pedestrian skybridge and((~~/or~~)) window protrusions be closed or removed at the Permittee's expense if the Director deems that ((~~it has~~)) the pedestrian skybridge and window protrusions have become unsafe or create((~~s~~)) 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.

8. **Continuing obligations.** Notwithstanding termination or expiration of the permission granted, or closure or removal of ((~~said~~)) the pedestrian skybridge and((~~/or~~)) window protrusions, the Permittee shall remain bound by all of its obligations under this ordinance until((~~:~~

~~a) said pedestrian skybridge and window protrusions and all of their equipment and property are removed from the street; and~~

~~b) the areas 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 ((~~been discharged of its obligations herein. Provided, that upon such 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 said pedestrian skybridge and/or window protrusion and its property, and restore disturbed areas~~)) fulfilled its removal and restoration obligations under Section 5 of this ordinance. 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 Section 14 of this ordinance.

9. **Release, hold harmless, indemnification, and duty to defend.** ((~~Said pedestrian skybridge and/or window protrusions 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~~)), actions, suits, liability, loss, costs, expense, attorneys' fees, or damages of every kind and description arising out of or by reason of the pedestrian skybridge and window protrusions or this ordinance, including but not limited to claims resulting from injury, damage, or loss to the Permittee or the Permittee's property.

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 ((~~damage or loss to its own property and does covenant and agree for itself, their successors and assigns, with the City, to at all times protect and save harmless the City 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, be asserted by, or be suffered by((~~,~~)) any person ((~~or persons and/~~)) or property((~~ or properties,~~)) including, without limitation, damage, death, or injury to members of the public or to the Permittee((~~,~~))'s ((~~its~~)) officers, agents, employees, contractors, invitees, tenants ((~~and~~)), tenants' invitees, licensees, or ((~~their~~)) successors and assigns, arising out of or by reason of:

(a) ((~~by reason of~~)) the existence, condition, construction, reconstruction, modification, maintenance, operation, ((~~or~~)) use, or removal of ((~~said~~)) the pedestrian skybridge and((~~/or~~)) window protrusions((~~,~~)) 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; or

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

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

If any suit, action, or claim ((~~be~~)) of the nature described above is filed, instituted, or begun against the City, the Permittee((~~, its successors and assigns,~~)) shall((~~,~~)) upon notice ((~~thereof~~)) from the City((~~,~~)) defend the ((~~same~~)) City, with counsel acceptable to the City, at ((~~its or their~~)) the sole cost and expense of the Permittee, and ((~~in case~~)) if a judgment ((~~shall be~~)) is rendered against the City in any suit or action, the Permittee((~~, its successors and assigns,~~)) shall fully satisfy ((~~said~~)) the judgment within ((~~ninety (~~))) 90((~~)~~)) days after ((~~such~~)) the action or suit ((~~shall have~~)) has been finally determined, if determined adversely to the City. ((~~Provided that, if~~)) 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

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

((~~b~~))) the Permittee, its agents, contractors, or employees ((~~or their successors and 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, or employees ((~~or its successors and assigns~~)).

10. **Insurance.** For as long as the Permittee((~~, its successors and assigns, shall~~)) exercises any permission granted by this ordinance and until ((~~said pedestrian skybridge and/or window protrusions are entirely removed from their location described in Section 1, or until discharged by order of~~)) the Director ((~~as provided in~~)) 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 fully protect the Permittee and the City from ((~~any all~~)) claims and risks of ((~~any~~)) loss from perils ((~~which~~)) that can be insured against under commercial general liability (CGL) insurance ((~~contracts and fire insurance contracts, including any extended coverage endorsements thereto which are customarily available from time to time,~~)) policies in conjunction with:

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

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

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

Minimum insurance requirements ((~~shall be a policy of comprehensive commercial general liability of a form acceptable to the City~~)) are CGL insurance written on an occurrence

form at least as broad as the Insurance Services Office (ISO) CG 00 01. The City ((~~will~~)) requires insurance coverage to be placed with ((~~a company~~)) an insurer admitted and licensed to conduct business in Washington State ((~~, except that if it is infeasible to obtain such a policy, the City may approve an alternative company~~)) 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 $1,000,000 per ((~~o~~)) Occurrence; $2,000,000 General Aggregate; $2,000,000 Products/Completed Operations ((~~and $2,000,000 annual a~~))Aggregate ((~~each period~~)), including Premises Operation; Personal/Advertising Injury; Contractual Liability. ((~~Coverage shall specifically name said pedestrian skybridge exposure.~~))((~~Liability e~~))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 clause 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 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". The city will not accept a certificate of insurance as evidence of current coverage.~~

~~Evidence of current coverage shall be submitted to the City in the form of a photocopy of the insurance policy declaration page, indicating all endorsements attached thereto, and is a condition to 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,~~))Within 60 days after the effective date of this ordinance, the Permittee shall provide ((~~proof of the required levels of insurance and surety bond to the Director within 60 days~~)) 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 14 of this ordinance.

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 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 the Permittee((to the City as well)).

12a. **Performance bond.** Within ((sixty ()) 60(())) days after the effective date of this ordinance, the Permittee shall deliver to the Director for filing with the City Clerk a ((good and)) sufficient bond ((in the sum of $7,500,)) executed by a surety company authorized and qualified to do business in the State of Washington((,)) that is: in the amount of $60,000 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 the Mayor of the City in his/her judgment 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)) issues under this ordinance. The Permittee shall ensure that the bond ((shall)) remains in effect until ((such time as said pedestrian skybridge and window protrusions are entirely removed from their locations as described in Section 1, or until discharged by order of the Director as provided in Section 5 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. 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 14 of this ordinance.

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.

13. **Consent for and conditions of assignment or transfer.** The ((~~right, privilege and authority hereby~~)) permission granted by this ordinance shall not be assignable or transferable by operation of law ((~~,~~)); nor shall ((~~said~~)) the Permittee ((~~, its successors or assigns,~~)) transfer, assign,((~~transfer,~~)) mortgage, pledge, or encumber the same without the ((~~consent of the~~)) Director's consent, which the Director shall not unreasonably refuse. The Director may approve assignment ((~~and/~~)) or transfer((~~al~~)) 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~~)) accepted in writing ((~~of~~)) 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 Section 15 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 and window protrusions.

14a. **Inspection fees.** The Permittee((~~, their 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 the City ((~~as costs of inspection of said~~)) to inspect the pedestrian skybridge and window protrusions during construction, reconstruction, repair, annual ((~~structural~~)) safety inspections, and at other times deemed necessary ((~~to ensure the safety of said pedestrian skybridge, under the direction of the Director, as provided by Municipal Code Section 15.76~~)) by the City. An inspection or approval of the pedestrian skybridge and window protrusions 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 and window protrusions. 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.

14b. **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 and window protrusions;

(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 and window protrusions, 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 and window protrusions. 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.

14c. **Annual fee.** Beginning on February 1, 2015, and annually thereafter, the Permittee shall ((~~also~~)) promptly pay to the City ((~~in advance~~)), upon statements or invoices ((~~rendered~~)) issued by the Director, an annual fee of $7,116.00, or as adjusted annually thereafter, for the privileges granted ((~~and executed hereunder of $708.00 beginning the effective date of~~)) by this ordinance ((~~and annually thereafter~~)).

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~~)) 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 Area, All Urban Consumers, All Products, Not Seasonally Adjusted((~~, Base Period 1982-84 = 100~~)). All

payments shall be made to the City Finance Director for credit to the Transportation Operating Fund.

15. **Compliance with other laws.** Permittee shall ((~~not discriminate against any (1) employee, (2) applicant for employment, or (3) person with respect to the award or referral of a contract or with respect to the conditions, terms, price or performance standards, or other provisions of a contract in connection with the design, architectural or structural engineering work or the construction, repair, or maintenance of said~~)) construct, maintain and operate the pedestrian skybridge and window protrusions ((~~permitted to be erected and/or operated pursuant to this ordinance, on the basis of race, religion, creed, sex, marital status, sexual orientation, gender identity, political ideology, ancestry, age, national origin, or the presence of any sensory, mental or physical handicap unless based upon bona fide occupational qualification. The Permittee shall:~~

~~a) post in conspicuous places available to such employees and applicants for such employment, notices setting forth the provisions of this non-discrimination clause;~~

~~b) insert in any contract for work undertaken in connection with the design, architectural or structural engineering work or the repair, construction, maintenance or operation of said pedestrian skybridge referenced in this ordinance language substantially similar to the language contained in this Section 15 and which requires any person or entity entering into such contract to comply with the non-discrimination provisions of this Section.~~)) in compliance with all applicable federal, state, County and City laws and regulations. Without limitation, in all matters pertaining to the pedestrian skybridge and window protrusions, 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).

16.A **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~~)) within ((~~sixty (~~)) 60((~~)~~)) days after the effective date of this ordinance. 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 window protrusions 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.

B. 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 window protrusions 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 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 8th day of February, 2016, and signed by me in open session in authentication of its passage this 8th day of February, 2016.

President _____ of the City Council

Approved by me this 11th day of February, 2016.

Edward B. Murray, Mayor

Filed by me this 11th day of February, 2016.

Monica Martinez Simmons, City Clerk

(Seal)