

#3  
CB 117384

**ORDINANCE** \_\_\_\_\_

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

AN ORDINANCE relating to a pedestrian skybridge over and across East Cherry Street, near vacated 11<sup>th</sup> Avenue, amending Ordinance 120393, as amended by Ordinance 121855, updating the insurance and bond requirements, and amending the annual fee and other terms and conditions of the permit; renewing the term of the permit to Seattle University; providing for the acceptance of the permit and conditions; and ratifying and confirming certain prior acts.

WHEREAS, by Ordinance 120393, the City of Seattle granted Seattle University permission to construct, operate, and maintain a pedestrian skybridge over and across East Cherry Street, near vacated 11<sup>th</sup> Avenue, for a ten-year term, renewable for two successive ten-year terms; and

WHEREAS, the conditions of Ordinance 120393 were amended by Ordinance 121855; and

WHEREAS, the permission authorized by Ordinance 120393 was due for renewal on July 14, 2011; and

WHEREAS, Seattle University has submitted an application to the Seattle Department of Transportation Director (Director) to continue maintaining and operating the pedestrian skybridge; and

WHEREAS, Seattle University has satisfied all terms of the original authorizing ordinance and the Director recommends that the term permit be renewed subject to the terms identified in this ordinance; NOW, THEREFORE,

**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

Section 1. The permission granted to the Seattle University by Ordinance 120393 and amended by Ordinance 121855 to maintain and operate a pedestrian skybridge over and across East Cherry Street, near vacated 11<sup>th</sup> Avenue, is renewed for a ten-year period starting July 15, 2011, and ending at 11:59 p.m. on July 14, 2021, upon the terms and conditions set forth in Ordinance 120393, as amended by Ordinance 121855, and as further amended by this ordinance.

Section 2. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 of Ordinance 120393, as amended by Ordinance 121855, are amended as follows:



1           1. **Permission.** Subject to the terms and conditions of this ordinance, the City of Seattle  
2 (“City” grants permission ((is hereby granted)) (also referred to in this ordinance as a permit) to  
3 Seattle University, and its successors and assigns (((“Permittee”))) as approved by the Director  
4 of the Seattle Department of Transportation (“Director”) according to Section 13A of this  
5 ordinance (the party named above and each approved successor and assign is referred to as  
6 “Permittee”), to maintain and operate a pedestrian skybridge((;)) (skybridge) over and across  
7 East Cherry Street near vacated ((Eleventh)) 11<sup>th</sup> Avenue((-), adjacent in whole or in part to the  
8 property legally described as:

9                     The south half of Lot 10 and all of Lots 11 and 12, Block 4, according to the  
10                    Supplementary Plat of Edes & Knight’s Addition to the City of Seattle, according to the plat  
11                    thereof recorded in Volume 2 of Plats, page 194, in King County, Washington;

12                    Together with the vacated portion of Willow Street (now East Cherry Street) adjoining  
13                    said Lot 12;

14                    Also together with the vacated portion of 11<sup>th</sup> Avenue, adjoining the east margin of the  
15                    above-described property.

16                    The ((pedestrian)) skybridge((,-which)) is ((to be)) located at least ((twenty-two (22))) 22  
17                    feet above the maximum street grade of East Cherry Street, ((will connect)) connecting the  
18                    Archbishop Thomas Murphy Apartments to Seattle University’s ((new)) student center ((to be  
19                    built)) on the north side of East Cherry Street.

20                    2. **Term.** The permission ((herein)) granted to the Permittee((-its successors and assigns  
21 shall be)) is for a term of ten ((10)) years, ((commencing)) starting on the effective date of this  
22 ordinance and ((terminating)) ending at 11:59 p.m. on the last day of the tenth year((-provided,  
23 however, that upon)). Upon written application of the Permittee at least ((thirty (30))) 180 days



1 before expiration of the term, the Director (~~(of Transportation (“Director”))~~) or the City Council  
2 may renew the permit (~~(for two (2))~~) twice, each time for a successive ten ((10))-year ((terms,  
3 provided further that the total term of the permission as originally granted and thus extended  
4 shall not exceed thirty (30) years)) term, subject to the right of ((The)) the City ((of Seattle  
5 (“City”)) to require the removal of the skybridge or to revise by ordinance ((to then revise)) any  
6 of the terms and conditions ((contained herein)) of the permission granted by this ordinance. The  
7 total term of the permission, including renewals, shall not exceed 30 years. The Permittee shall  
8 submit any application for a new permission no later than 180 days prior to the expiration of the  
9 then-existing term.

11         3. **Protection of utilities.** The permission granted is (~~(hereby)~~) subject to the Permittee  
12 bearing the expense of any protection, support, or relocation of existing utilities deemed  
13 necessary by the (~~(owner))~~ owners of the ((utility and shall be done at Permittee’s expense with))  
14 utilities, and the Permittee being responsible for any ((subsequent)) damage to the utilities due to  
15 the construction, repair, reconstruction, maintenance, operation, or removal of the ((pedestrian))  
16 skybridge and for any consequential damages that may result from any damage to utilities or  
17 interruption in service caused by any of the foregoing.

19         4. **Removal for public use or for cause.** The (~~(permit))~~ permission granted ((hereby)) is  
20 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)), utility purposes, ((and  
22 the)) and other public uses or benefits. The City expressly reserves the right to deny renewal, or  
23 terminate the permission at any time prior to expiration of the initial term or any renewal term;  
24 and require the Permittee to remove the ((pedestrian)) skybridge, or any part thereof or  
25 installation on the public place at the Permittee’s sole cost and expense in the event that:



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

5 (b) the Director ~~((of Transportation ("Director")))~~ determines that use of the  
6 skybridge has been abandoned; or

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

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

15 **5. Permittee's obligation to remove and restore.** ~~((In the event that))~~ If the permission  
16 ((hereby)) granted is not renewed at the expiration of a term, or if the permission expires without  
17 an application for a new permission being granted ((extends to its termination in thirty (30)  
18 years)), or if the City ((orders)) terminates the permission; then within 90 days after the  
19 expiration or termination of the permission, or prior to any earlier date stated in an ordinance or  
20 order requiring removal of the ((pedestrian)) skybridge ((pursuant to the terms of this ordinance,  
21 then within ninety (90) days after such expiration, termination or order of removal, or prior to the  
22 date stated in an "Order to Remove", as the case may be,)); the Permittee shall, at its own  
23 expense, remove the ((pedestrian)) skybridge and all portions all of the Permittee's equipment  
24  
25  
26  
27  
28



1 and property from the public place. Following removal of the skybridge, the Permittee shall  
2 ((place)) replace and restore all portions of the ((street)) public place that may have been  
3 disturbed for any part of the skybridge((;)). The public place shall be replaced and restored in as  
4 good condition for public use as ((they were)) it was prior to construction((;)) of the skybridge  
5 and in at least as good condition in all respects as the abutting portions ((thereof)) of the public  
6 place as required by SDOT right-of-way restoration standards. ((Whereupon, the Director shall  
7 issue a certificate discharging the Permittee from responsibility under this ordinance for  
8 occurrences after the date of such discharge.))

10 Failure to remove the skybridge as required by this section is a violation of Chapter  
11 15.90 of the Seattle Municipal Code (SMC) or successor provision; however, applicability of  
12 Chapter 15.90 does not eliminate any remedies available to the City under this ordinance or any  
13 other authority. If the Permittee does not timely fulfill its obligations under this section, the City  
14 may in its sole discretion remove the skybridge and restore the public place at the Permittee's  
15 expense, and collect the expenses in any manner provided by law.

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

26 **6. Repair or reconstruction.** The skybridge shall remain the exclusive responsibility of  
27 the Permittee and the Permittee shall maintain the skybridge in good and safe condition for the



1 protection of the public. The Permittee shall not ~~((commence reconstruction, relocation,~~  
2 ~~readjustment))~~ reconstruct or repair ~~((of))~~ the ~~((pedestrian))~~ skybridge except ~~((under the~~  
3 ~~supervision of, and))~~ in strict accordance with plans and specifications approved by the Director.  
4 The Director may, in ~~((his/her))~~ the Director's judgment ~~((may)),~~ order ~~((such reconstruction,~~  
5 ~~relocation, readjustment or repair of))~~ the ~~((pedestrian))~~ skybridge reconstructed or repaired at  
6 the Permittee's ~~((own))~~ cost and expense because of: the deterioration or unsafe condition of the  
7 skybridge~~((, grade separations, or));~~ the installation, construction, reconstruction, maintenance,  
8 operation, or repair of any ~~((and all))~~ municipally-owned public utilities~~((;));~~ or for any other  
9 cause.  
10

11 **7. Failure to correct unsafe condition.** After written notice to the Permittee~~((;))~~ and  
12 failure of the Permittee to correct ~~((said))~~ an unsafe ~~((or risk prone))~~ condition within the time  
13 stated in ~~((such))~~ the notice, the Director may order the ~~((pedestrian))~~ skybridge be closed or  
14 removed at the Permittee's expense if the Director deems that ~~((it))~~ the skybridge has become  
15 unsafe or creates a risk of injury to the public. ~~((In a situation in which))~~ If there is an immediate  
16 threat to the health or safety of the public, a notice to correct is not required.  
17

18 **8. Continuing obligations.** ~~((Notwithstanding))~~ Notwithstanding termination or  
19 expiration of the permission granted, or closure or removal of the ~~((pedestrian))~~ skybridge, the  
20 Permittee shall remain bound by all of its ~~((obligation))~~ obligations under this ordinance until~~((:~~  
21 (a) ~~the pedestrian skybridge and all its equipment and property are removed for the street;~~  
22 (b) ~~the area is cleared and restored in a manner and to a condition satisfactory to the~~  
23 Director; and  
24 (c) ~~the Director certifies that the Permittee has discharged its obligation herein.~~  
25  
26  
27  
28



1            ~~Provided, that upon written notice to the Permittee and entry of written findings that such~~  
2 ~~is in the public interest, the Director may, in his/her sole discretion, excuse the Permittee,~~  
3 ~~conditionally or absolutely, from compliance with all or any of the Permittee's obligations to~~  
4 ~~remove the pedestrian skybridge and its property and restore disturbed areas.))~~ the Director has  
5 issued a certification that the Permittee has fulfilled its removal and restoration obligations under  
6 Section 5 of this ordinance. Notwithstanding the issuance of that certification, the Permittee  
7 shall continue to be bound by the obligations in Section 9 of this ordinance and shall remain  
8 liable for any unpaid fees assessed under Section 14 of this ordinance.

9  
10            **9. Release, hold harmless, indemnification, and duty to defend.** ~~((The pedestrian~~  
11 ~~skybridge shall remain the exclusive responsibility of the Permittee.))~~ The Permittee, by  
12 ~~((acceptance))~~ accepting the terms of this ordinance ~~((and the permission hereby granted, does~~  
13 ~~release))~~; releases the City, its officials, officers, employees, and agents; from and against any  
14 and all claims, actions, suits, liability, loss, costs, expense, attorneys' fees, or damages of every  
15 kind and description arising out of or by reason of the skybridge or this ordinance; including but  
16 not limited to claims resulting from injury, damage, or loss to ((its own)) the Permittee or the  
17 Permittee's property ((and does covenant and agree for itself, its successors and assigns, with  
18 The City of Seattle)).

19  
20            The Permittee agrees to at all times ((protect and save)) defend, indemnify, and hold  
21 harmless ((The)) the City ((of Seattle)), its officials, officers, employees, and agents; from and  
22 against all claims, actions, suits, liability, loss, costs, expense, attorneys' fees, or damages of  
23 every kind and description, ((())excepting only ((such)) damages that may result from the sole  
24 negligence of the City((, which)), that may accrue to, be asserted by, or be suffered by((;)) any  
25 person or ((persons and/or)) property ((or properties,)) including, without limitation, damage,  
26  
27  
28



1 death, or injury to ((the Permittee, its)) members of the public or to the Permittee's officers,  
2 agents, employees, contractors, invitees, tenants ((and)), tenants' invitees, licensees, or ((its))  
3 successors and assigns((;)) arising out of or by reason of:

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

8  
9 (b) anything that has been done((;)) or may at any time be done((;)) by the Permittee((, its  
10 successors or assigns,)) by reason of this ordinance((, or by reason of)); or

11 (c) the Permittee((, its successors or assigns,)) failing or refusing to strictly comply with  
12 ((each and)) every provision of this ordinance; ((and if)) or

13 (d) this ordinance in any other way.

14  
15 If any ((such)) suit, action, or claim ((be)) of the nature described above is filed,  
16 instituted, or begun against the City((;)); the Permittee((, its successors or assigns,)) shall((;))  
17 upon notice ((thereof)) from the City((;)) defend the ((same)) City, with counsel acceptable to the  
18 City, at ((its or their)) the sole cost and expense of the Permittee, and ((in case)) if a judgment  
19 ((shall be)) is rendered against the City in any suit or action, the Permittee((, its successors or  
20 assigns,)) shall fully satisfy ((said)) the judgment within ((ninety (90))) 90 days after ((such)) the  
21 action or suit ((shall have)) has been finally determined, if determined adversely to the City.

22  
23 ((Provided that if)) If it is determined by a court of competent jurisdiction that Revised Code of  
24 Washington (RCW) 4.24.115 applies to this ordinance, then in the event claims or damages are  
25 caused by or result from the concurrent negligence of((:(a))) the City, its agents, contractors, or  
26 employees; and((,(b))) the Permittee, its agents, contractors, or employees ((or its successors or  
27 assigns,))



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

4 10A. **Insurance.** For as long as the Permittee~~((, its successors or assigns, shall exercise))~~  
5 exercises any permission granted by this ordinance and until the ~~((pedestrian skybridge is~~  
6 ~~entirely removed form its location as described in Section 1 or until discharged by order of the))~~  
7 Director ~~((as provided by))~~ has issued a certification that the Permittee has fulfilled its removal  
8 and restoration obligations under Section 5 ~~((of this ordinance))~~, the Permittee shall obtain and  
9 maintain in full force and effect, at its own expense, insurance ~~((policies which fully protect))~~  
10 that protects the City from ~~((any and all))~~ claims and risks of ~~((any))~~ loss from perils ~~((which))~~  
11 that can be insured against under commercial general liability (CGL) insurance ~~((contracts and~~  
12 ~~fire insurance contracts, including any extended coverage endorsements thereto which are~~  
13 ~~eustomarily available from time to time,))~~ policies in conjunction with:  
14  
15

- 16 (a) construction, reconstruction, modification, operation, maintenance, use, ~~((or))~~  
17 existence, or removal of the ~~((pedestrian))~~ skybridge ~~((permitted by this ordinance~~  
18 ~~and of any and all portions))~~ or any portion thereof, as well as restoration of any  
19 disturbed areas of the public place in connection with removal of the ~~((pedestrian))~~  
20 skybridge;  
21  
22 (b) the Permittee's activity upon or the use or occupation of the ~~((areas))~~ public place  
23 described in Section 1 of this ordinance~~((, as well as))~~; and  
24  
25 (c) ~~((any and all))~~ claims and risks in connection with ~~((any activity))~~ activities  
26 performed by the Permittee by virtue of the permission granted by this ordinance.  
27  
28



1 Minimum insurance requirements (~~((shall be a policy of comprehensive commercial general~~  
2 ~~liability of a form acceptable to the City))~~ are CGL insurance based on the Insurance Services  
3 Office (ISO) form CG 00 01 or equivalent. The City (~~((will require))~~ requires insurance coverage  
4 to be placed with (~~((a company))~~ an insurer admitted and licensed to conduct business in  
5 Washington State or with a surplus lines carrier according to RCW Chapter 48.15, except that if  
6 it is infeasible to obtain (~~((such a policy))~~ coverage with the required insurer, the City may  
7 approve an alternative (~~((company))~~ insurer.

9 Minimum (~~((policy))~~ limits of liability shall be \$2,000,000 (~~((per))~~ each occurrence  
10 combined single limit bodily injury and property damage, with \$4,000,000 annual aggregate  
11 ((each period)). Coverage shall (~~((specifically))~~ name the (~~((pedestrian skybridge exposure.~~  
12 ~~Liability coverage shall add by endorsement the))~~ “City of Seattle, its elected and appointed  
13 officers, officials, employees and agents” as additional (~~((insured. Coverage shall contain a~~  
14 ~~Separation of Insureds indicating essentially that except with respect to the limits of insured,~~  
15 ~~and any rights or duties specifically assigned in this coverage part of the first named insured, the~~  
16 ~~insurance applies as if each named insured were the only named insured, and separately to each~~  
17 ~~insured against whom claim is made or suit is brought. The City will not accept a certificate of~~  
18 ~~insurance as evidence of current coverage. Evidence of current coverage shall be submitted to~~  
19 ~~the City in the form of a photocopy of the insurance policy declaration page, indicating all~~  
20 ~~endorsements attached thereto, and is a condition to the validity of this permit.))~~ insureds for  
21 primary and non-contributory limits of liability subject to a Separation of Insureds clause.

22 Within 60 days after the effective date of this ordinance, the Permittee shall provide to  
23 the City, or cause to be provided, certification of insurance coverage consisting of the CGL  
24 declarations page, schedule of forms and endorsements, and blanket or additional insured policy  
25  
26  
27  
28



1 provision per the ISO CG 20 12 or equivalent, modified as necessary to conform to the  
2 requirements of this ordinance. The insurance coverage certification shall be delivered or sent to  
3 the Director or to the Department of Transportation at an address as the Director may specify in  
4 writing from time to time. The Permittee shall provide a complete copy of the insurance policy to  
5 the City promptly upon request.

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

17 In the event that the Permittee assigns or transfers the permission granted by this  
18 ordinance, the Permittee shall maintain in effect the insurance required under this section until  
19 the Director has approved the assignment or transfer pursuant to Section 13A.

20 **10B. Adjustment of insurance and bond requirements.** The Director, in consultation  
21 with the City Risk Manager, may adjust minimum liability insurance levels ((of liability  
22 insurance)) and surety bond requirements during the term of this permission. ((The)) If the  
23 Director and City Risk Manager determine that an adjustment is necessary to fully protect the



1 interests of the City, the Director shall notify the Permittee of the new requirements in writing.

2 ~~((Upon receipt, the))~~ The Permittee shall, within 60 days of the date of the notice of adjustment,  
3 provide proof of the ~~((required levels of))~~ adjusted insurance and surety bond levels to the  
4 Director ~~((within 60 days)).~~

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

13  
14  
15 12. **Performance bond.** Within ~~((sixty (60)))~~ 60 days after the effective date of this  
16 ordinance, the Permittee shall deliver to the Director ~~((of Transportation))~~ for filing with the City  
17 Clerk a ~~((good and))~~ sufficient bond executed by a surety company authorized and qualified to  
18 do business in the State of Washington that is: in the ~~((sum))~~ amount of ~~((Twenty-Five~~  
19 ~~Thousand Dollars (\$25,000.00), executed by a surety company authorized and qualified to do~~  
20 ~~business in the State of Washington,))~~ \$175,000, and conditioned with a requirement that the  
21 Permittee ~~((will))~~ shall comply with ~~((each and))~~ every provision of this ordinance and with  
22 ~~((each and))~~ every order the Director ~~((pursuant thereto; provided, that if the Mayor of the City~~  
23 ~~of Seattle in his/her judgment shall deem any bond or bonds filed to be insufficient and demand a~~  
24 ~~new or additional bond, the Permittee shall furnish a new or additional bond in such amount as~~  
25 ~~the Mayor may specify to be necessary to fully protect the City. Said bond shall remain))~~ issues



1 under this ordinance. The Permittee shall ensure that the bond remains in effect until ((such time  
2 as the pedestrian skybridge is entirely removed from its location as described in Section 1, or  
3 until discharged by order of)) the Director ((as provided in)) has issued a certification that the  
4 Permittee has fulfilled its removal and restoration obligations under Section 5 ((of this  
5 ordinance)). An irrevocable letter of credit approved by the City Risk Manager may be  
6 substituted for the bond upon approval of the Director. In the event that the Permittee assigns or  
7 transfers the permission granted by this ordinance, the Permittee shall maintain in effect the bond  
8 or letter of credit required under this section until the Director has approved the assignment or  
9 transfer pursuant to Section 13A.

11 **13A. Consent for and conditions of assignment or transfer.** The ((Permittee, its  
12 successors and assigns, shall not)) permission granted by this ordinance shall not be assignable  
13 or transferable by operation of law; nor shall the Permittee transfer ((or)), assign ((any privileges  
14 conferred by this ordinance)), mortgage, pledge or encumber the same without the Director's  
15 consent ((of the Director.)), which the Director shall not unreasonably refuse. The Director may  
16 approve assignment ((and/or transfer)) or transfer of the ((permit)) permission granted by this  
17 ordinance to a successor entity ((in the case of a change of name and/or ownership provided  
18 that)) only if the successor or assignee has ((demonstrated its acceptance of)) accepted in writing  
19 all of the terms and conditions of the permission granted ((to the initial Permittee.  
20 Notwithstanding anything contained herein to the contrary, consent of the Director shall not be  
21 required for any transfer or assignment of the privileges conferred by this ordinance by way of  
22 mortgage, pledge or encumbrance or by way of foreclosure or deed in lieu of foreclosure of any  
23 mortgage, pledge or encumbrance. If permission is granted, the assignee or transferee shall be  
24 bound by all of the terms and conditions of this ordinance. The permission conferred by this  
25  
26  
27  
28



1 ordinance shall not be assignable or transferable by operation of law.)) by this ordinance; has  
2 provided, at the time of the acceptance, the bond and certification of insurance coverage required  
3 under this ordinance; and has paid any fees due under Section 14C of this ordinance. Any person  
4 or entity seeking approval for an assignment or transfer of the permission granted by this  
5 ordinance shall provide the Director with a description of the current and anticipated use of the  
6 skybridge.

7  
8 **13B. Obligations of successors and assigns.** The obligations and conditions imposed on  
9 the Permittee by and through this ordinance are also imposed on the Permittee's successors  
10 and/or assigns regardless of whether the Director has approved assignment or transfer of the  
11 permission granted by this ordinance to such successors and/or assigns. All references in this  
12 ordinance to obligations or conditions imposed on the "Permittee" shall also be deemed to refer  
13 to the successors and assigns of the Permittee.

14  
15 The obligations and conditions imposed on the Permittee by and through this ordinance  
16 are covenants that run with the land and bind subsequent owners of the property adjacent to the  
17 skybridge and legally described in Section 1 of this ordinance (the "Property"), regardless of  
18 whether the Director has approved assignment or transfer of the permission granted herein to  
19 such subsequent owner(s). At the request of the Director, Permittee shall provide to the Director  
20 a current title report showing the identity of all owner(s) of the Property and all encumbrances on  
21 the Property. The Permittee shall, within 60 days of the effective date of this ordinance, and prior  
22 to conveying any interest in the Property, deliver to the Director upon a form to be supplied by  
23 the Director, a covenant agreement imposing the obligations and conditions set forth in this  
24 ordinance, signed and acknowledged by the Permittee and any other owner(s) of the Property  
25 and recorded with the King County Recorder's Office. The Director shall file the recorded  
26  
27  
28



1 covenant agreement with the City Clerk. The covenant agreement shall reference this ordinance  
2 by its ordinance number. At the request of the Director, Permittee shall cause encumbrances on  
3 the Property to be subordinated to the covenant agreement.

4 14A. **Inspection fees.** The Permittee(~~(, its successors and assigns,)~~) shall, as provided by  
5 SMC Chapter 15.76 or successor provision, pay ((to The)) the City ((of Seattle such)) the  
6 amounts ((as may be justly chargeable by said)) charged by the City ((as costs of inspection of  
7 said pedestrian)) to inspect the skybridge during construction, reconstruction, repair, annual  
8 ((structural)) safety inspections, and at other times deemed necessary ((to ensure the safety of the  
9 skybridge, under the direction of the Director and in addition)) by the City. An inspection of the  
10 skybridge by the City shall not be construed as a representation, warranty, or assurance to the  
11 Permittee or any other person as to the safety, soundness, or condition of the skybridge. Any  
12 failure by the City to require correction of any defect or condition shall not in any way limit the  
13 responsibility or liability of the Permittee.

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

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

22 Washington.

23

24 A report meeting the foregoing requirements shall be submitted within 60 days after the effective  
25 date of this ordinance; subsequent reports shall be submitted every 2 years; provided that, in the  
26 event of a natural disaster or other event that may have damaged the skybridge, the Director may  
27



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

9  
10 14C. Annual fee. Beginning on July 15, 2011, and annually thereafter, the Permittee  
11 shall promptly pay to the City ((in advance)), upon statements or invoices ((rendered)) issued by  
12 the Director, an annual fee ((for the privileges granted and exercised hereunder of One Thousand  
13 Five Hundred Sixty Six Dollars (\$1,566.00) for each of the first five years of the permit. At the  
14 end of this period, adjustments)) of \$1,085, or as adjusted annually thereafter, for the privileges  
15 granted by this ordinance.

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



1           15. Compliance with other laws. (~~The Permittee shall not discriminate against any~~  
2 ~~employee or applicant for employment in connection with the design, architectural or structural~~  
3 ~~engineering work or the repair, or maintenance of the pedestrian skybridge permitted to be~~  
4 ~~erected pursuant to this ordinance, on the basis of race, religion, creed, color, sex, marital status,~~  
5 ~~sexual orientation, political ideology, ancestry, age, national origin, or the presence of any~~  
6 ~~sensory, mental or physical handicap unless based upon bona fide occupational qualification.~~

7  
8 The foregoing commitment shall be implemented as follows:

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

15  
16           b. ~~The Permittee shall post in conspicuous places available to such employees and~~  
17 ~~applicants for such employment, notices setting forth the provisions of this non-discrimination~~  
18 ~~clause.~~

19  
20           c. ~~The Permittee shall furnish to the Director of Human Rights or a successor official,~~  
21 ~~upon his or her request and on such forms as may be provided, a report of the affirmative action~~  
22 ~~taken in implementing this provision and will permit reasonable access to its records for the~~  
23 ~~purposes of determining compliance with this Section. If, upon investigation, the Director of~~  
24 ~~Human Rights finds probable cause to believe that the Permittee has failed to comply with any of~~  
25 ~~the terms of this Section, the Permittee and the Director of Transportation will be so notified in~~  
26 ~~writing. Within ten (10) days of receipt of the Director of Human Rights notice, the Director of~~  
27



1 ~~Transportation shall give the Permittee an opportunity to be heard on the matter of compliance~~  
2 ~~with this Section. The Director of Transportation shall designate a review officer, who shall~~  
3 ~~consider the matter and make a recommendation to the Director of Transportation. If the Director~~  
4 ~~of Transportation finds that there has been a violation of this Section, he or she may suspend the~~  
5 ~~permission conferred pending full compliance with the terms of this Section.~~

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

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

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

19 \*\*\*

20 **Section 3. Acceptance of terms and conditions.** The Permittee shall deliver to the  
21 Director its written signed acceptance of the terms of this ordinance within 60 days after the  
22 effective date of this ordinance. The Director shall file the written acceptance with the City  
23 Clerk. If no such acceptance is received within that 60-day period, the privileges conferred by



1 this ordinance shall be deemed to be declined or abandoned and the permission granted deemed  
2 to be lapsed and forfeited and the Permittee shall, at its own expense, remove the skybridge and  
3 all of the Permittee's equipment and property and replace and restore all portions of the public  
4 place as provided in Section 5 of Ordinance 120393, as further amended by Ordinance 121855  
5 and as further amended by this ordinance.

6           Section 4. **Section titles.** Section titles are for convenient reference only and do not  
7 modify or limit the text of a section.  
8

9           Section 5. **Ratify and confirm.** Any act taken by the City or the Permittee pursuant to the  
10 authority and in compliance with the conditions of this ordinance but prior to the effective date  
11 of the ordinance is ratified and confirmed.  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



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

4 Passed by the City Council the \_\_\_\_ day of \_\_\_\_\_, 2012, and  
5 signed by me in open session in authentication of its passage this  
6 \_\_\_\_ day of \_\_\_\_\_, 2012.

7 \_\_\_\_\_  
8 \_\_\_\_\_  
9 President \_\_\_\_\_ of the City Council

10  
11 Approved by me this \_\_\_\_ day of \_\_\_\_\_, 2012.

12 \_\_\_\_\_  
13 \_\_\_\_\_  
14 Michael McGinn, Mayor

15  
16 Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2012.

17 \_\_\_\_\_  
18 Monica Martinez Simmons, City Clerk

19 (Seal)



**FISCAL NOTE FOR NON-CAPITAL PROJECTS**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>CBO Analyst/Phone:</b>
Seattle Department of Transportation	Angela Steel/684-5967	Rebecca Guerra/684-5339

**Legislation Title:**

AN ORDINANCE relating to a pedestrian skybridge over and across East Cherry Street, near vacated 11<sup>th</sup> Avenue, amending Ordinance 120393, as amended by Ordinance 121855, updating the insurance and bond requirements, and amending the annual fee and other terms and conditions of the permit; renewing the term of the permit to Seattle University; providing for the acceptance of the permit and conditions; and ratifying and confirming certain prior acts.

**Summary of the Legislation:**

This legislation amends Ordinance 120393, as amended by Ordinance 121855, for the Seattle University to continue maintaining and operating the existing pedestrian skybridge located over and across East Cherry Street, near vacated 11<sup>th</sup> Avenue. An area map is attached for reference.

This permit is renewed for a ten-year term starting on July 15, 2011. The legislation updates the insurance and surety bond provisions as recommended by the City Risk Manager, specifies the conditions under which authorization is granted, and provides for acceptance of the permit and conditions.

The ordinance requires the Seattle University to pay the City an annual fee of \$1,085 starting from the last paid annual fee invoice, July 15, 2011, 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. An Annual Fee Appraisal Summary is attached for reference.

**Background:**

By Ordinance 120393, the City granted permission to the Seattle University to construct, operate, and maintain a pedestrian skybridge over and across East Cherry Street, near vacated 11<sup>th</sup> Avenue, for a ten-year term, renewable for two successive ten-year terms.

The conditions of Ordinance 120393 were amended by Ordinance 121855. The permission authorized by Ordinance 120393 was due for renewal on July 14, 2011.

Please check one of the following:



x   **This legislation has financial implications.**

**Appropriations:** N/A

**Anticipated Revenue/Reimbursement Resulting from this Legislation:**

<b>Fund Name and Number</b>	<b>Department</b>	<b>Revenue Source</b>	<b>2011 Revenue</b>	<b>2012 Revenue</b>
Transportation Operating Fund 10310	Seattle Department of Transportation	Annual Fee –	\$1,085	\$1,085
<b>TOTAL</b>			<b>\$1,085</b>	<b>\$1,085</b>

Revenue/Reimbursement Notes: N/A

**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 \$1,085. As previously stated, the City of Seattle has the option to adjust the fee amount on an annual basis.
- 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

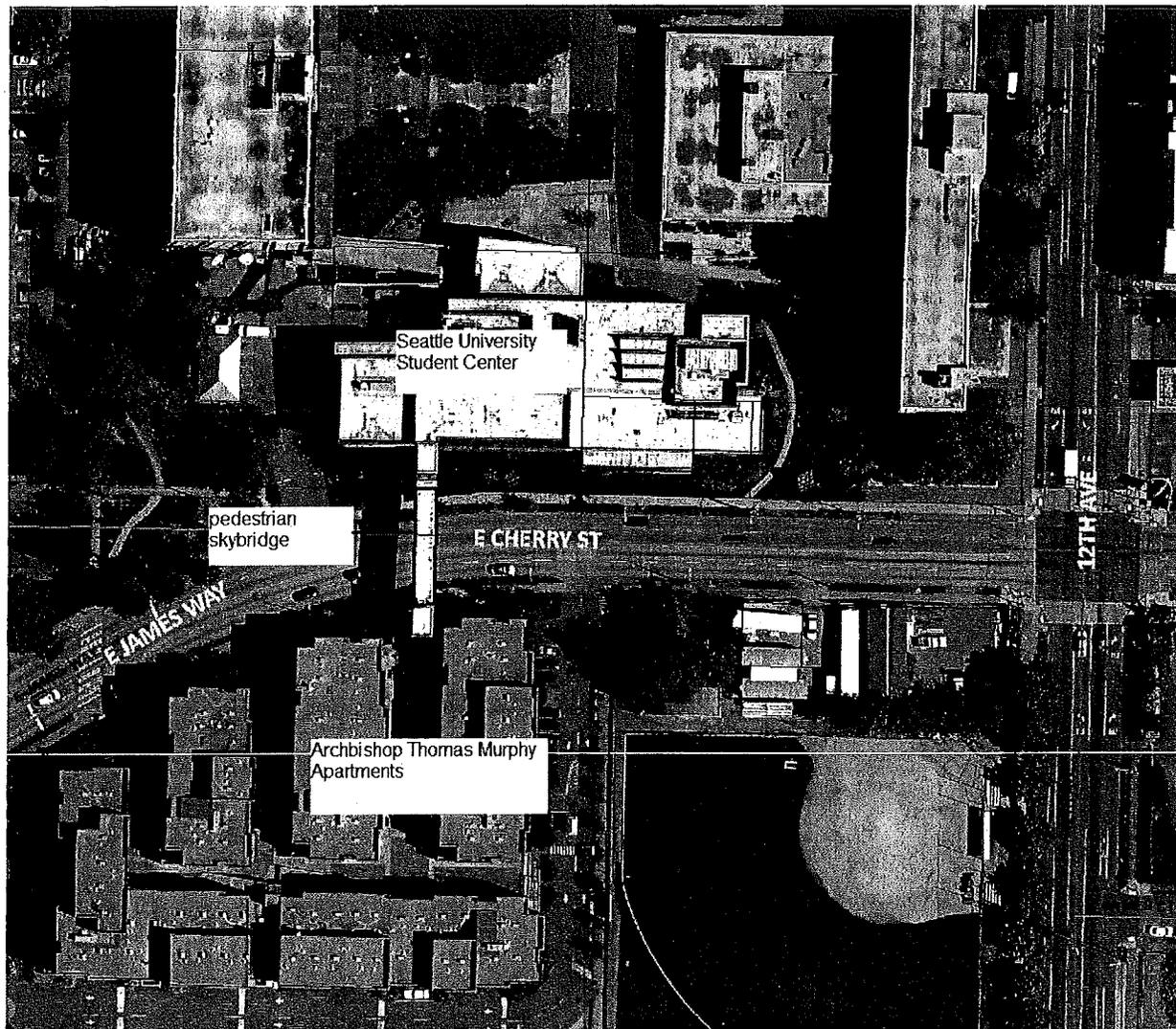
**g) Does this legislation affect a piece of property?**  
Yes, an area map is attached for reference.

**h) Other Issues:** N/A

**List attachments to the fiscal note below:**

Attachment A – Seattle University Skybridge Area Map  
Attachment B – Annual Fee Assessment Summary

Attachment A – Seattle University 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 - Annual Fee Assessment Summary

STREET USE ANNUAL FEE ASSESSMENT

Date: 11/30/11

Summary:  
**Land Value: \$125/SF**  
**First Year Permit Fee:**  
**\$1,085**

**I. Property Description:**

Pedestrian skybridge over and across East Cherry Street, near vacated 11<sup>th</sup> Avenue. The skybridge connects the Seattle University Student Center with the Archbishop Thomas Murphy Apartments. Adjacent tax parcels are listed below. The skybridge is 1,085 square feet.

**Applicant:**  
Seattle University

**Abutting Parcels, Property Size, Assessed Value:**

1. Parcel 2254500250; 24,955 SF

Tax year 2011 Appraised Land Value \$3,119,300  
Assessed at \$125/SF

2. Parcel 2197600315; 98,886 SF

Tax year 2011 Appraised Land Value \$12,360,700  
Assessed at \$125/SF

Average 2011 tax assessed land value: \$125/SF

**II. Annual Fee Assessment:**

The 2011 permit fee is calculated as follows:  $(\$125/\text{SF}) \times (1,085 \text{ SF}) \times (10\%) \times (8\%) =$   
**\$1,085**, where 10% is the degree of alienation for a public-use skybridge and 8% is the  
estimated annual rate of return.

Fee methodology authorized under Ordinance 123485.





City of Seattle  
Office of the Mayor

December 27, 2012

Honorable Richard Conlin  
President  
Seattle City Council  
City Hall, 2<sup>nd</sup> Floor

Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill that will grant to the Seattle University a ten-year renewal permit for an existing pedestrian skybridge over and across East Cherry Street, near vacated 11<sup>th</sup> Avenue, as authorized by Ordinance 120393.

The existing skybridge provides an aerial connection for pedestrians to connect with the Seattle University Student Center and the Archbishop Thomas Murphy Apartments. 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 questions, please contact Angela Steel at (206) 684-5967.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael McGinn'.

Michael McGinn  
Mayor of Seattle

on behalf of

cc: Honorable Members of the Seattle City Council

Michael McGinn, Mayor  
Office of the Mayor  
600 Fourth Avenue, 7<sup>th</sup> Floor  
PO Box 94749  
Seattle, WA 98124-4749

Tel (206) 684-4000  
Fax (206) 684-5360  
TDD (206) 615-0476  
mike.mcgin@seattle.gov

