

**CITY OF SEATTLE**

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

COUNCIL BILL 117807

AN ORDINANCE relating to a pedestrian skybridge over and across Post Avenue, north of Spring Street; amending Ordinance 117589, 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 Watermark Tower Association of Apartment Owners; providing for the acceptance of the permit and conditions; and ratifying and confirming certain prior acts.

WHEREAS, by Ordinance 117589, the City of Seattle granted the Watermark Tower Condominium permission to operate and maintain an existing pedestrian skybridge over and across Post Avenue, north of Spring Street, for a ten-year term, renewable for two successive ten-year terms; and

WHEREAS, the conditions of Ordinance 117589 were amended by Ordinance 121855; and

WHEREAS, the permission authorized by Ordinance 117589 was due for renewal on January 19, 2013; and

WHEREAS, the Watermark Tower Association of Apartment Owners has submitted an application to the Seattle Department of Transportation Director ("Director") to continue maintaining and operating the pedestrian skybridge; and

WHEREAS, the Watermark Tower Association of Apartment Owners 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 Watermark Tower Condominium by Ordinance 117589 and amended by Ordinance 121855, and now to the Watermark Tower Association of Apartment Owners, to maintain and operate a pedestrian skybridge over and across Post Avenue, north of Spring 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 117589, 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 117589, 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 Watermark Tower ((Condominium)) Association of Apartment Owners, and its successors  
6 and assigns ((("Permittee"))) as approved by the Director of the Seattle Department of  
7 Transportation ("Director") according to Section 12A of this ordinance (the party named above  
8 and each approved successor and assign is referred to as "Permittee"), to maintain((-)) and  
9 operate a pedestrian skybridge ("skybridge") over and across Post Avenue, north of Spring  
10 Street, connecting the Watermark Tower Building at 1107 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-six)) 26 feet above the maximum grade of the street, and  
13 situated approximately ((one-hundred (100))) 100 feet north of the centerline of Spring  
14 Street((-)), adjacent in whole or in part to the property legally described as:

17 Lots 3 and 4 in Block 184 of Seattle Tide Lands, in King County, Washington, and Lots 6  
18 and 7 in Block C of Addition to the Town of Seattle, as laid out by A.A. Denny, Commonly  
19 known as A.A. Denny's 1<sup>st</sup> Addition to the City of Seattle, as per plat recorded in Volume 1 of  
20 Plats, on page 27A, records of King County, Washington;

22 Except the Northeasterly 9 feet of said Block C condemned for 1<sup>st</sup> Avenue South;

23 And except that portion of said Block C lying in Seattle Tidlands;

24 Situate in the City of Seattle, County of King, State of Washington.

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

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14 **3A. Removal for public use or for cause.** The ~~((permit))~~ permission granted ~~((hereby))~~  
15 is subject to ~~((primary and secondary))~~ use of the street right-of-way or other public place  
16 (collectively public place) by the City and the public for travel ((and)), utility purposes, ((and  
17 ~~the))~~ and other public uses or benefits. The City expressly reserves the right to deny renewal, or  
18 terminate the permission at any time prior to expiration of the initial term or any renewal term;  
19 and require the Permittee to remove the ((pedestrian)) skybridge, or any part thereof, or  
20 installation on the public place, at the Permittee’s sole cost and expense in the event that:

- 21  
22 (a) The City Council determines~~((;))~~ by ordinance~~((;))~~ that the space occupied by the  
23 ~~((pedestrian))~~ skybridge is necessary for any ~~((primary and secondary))~~ public use or  
24 benefit or that the ~~((pedestrian))~~ skybridge interferes with any ~~((primary and~~  
25 ~~secondary))~~ public use or benefit; or  
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1 (b) The Director (~~((of Engineering (“Director”)))~~) determines that use of the skybridge has  
2 been abandoned; or

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

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

12 **3B. Protection of utilities.** The permission granted is subject to the Permittee bearing the  
13 expense of any protection, support, or relocation of existing utilities deemed necessary by the  
14 owners of the utilities, and the Permittee being responsible for any damage to the utilities due to  
15 the construction, repair, reconstruction, maintenance, operation, or removal of the skybridge and  
16 for any consequential damages that may result from any damage to utilities or interruption in  
17 service caused by any of the foregoing.

18  
19 **4. Permittee’s obligation to remove and restore.** (~~((In the event that))~~) If the ((permit))  
20 permission granted is not renewed at the expiration of a term, or if the permission ((hereby))  
21 expires without an application for a new permission being granted ((extends to its termination in  
22 thirty (30) years)), or if the City ((orders)) terminates the permission; then within 90 days after  
23 the expiration or termination of the permission, or prior to any earlier date stated in an ordinance  
24 or order requiring removal of the ((pedestrian)) skybridge ((pursuant to the terms or this  
25 ordinance, then within ninety (90) days after such expiration, termination or order of removal, or  
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1 ~~prior to the date stated in an “Order to Remove”, as the case may be,);~~ the Permittee shall, at its  
2 own expense, remove the ~~((pedestrian))~~ skybridge and all of the Permittee’s equipment and  
3 property from the public place. Following removal of the skybridge, the Permittee shall ~~((place))~~  
4 replace and restore all portions of the ~~((street))~~ public place that may have been disturbed for any  
5 part of the ~~((structure,))~~ skybridge. The public place shall be replaced and restored in as good  
6 condition for public use as ~~((they were))~~ it was prior to construction~~((;))~~ of the skybridge and in  
7 at least as good condition in all respects as the abutting portions ~~((thereof))~~ of the public place as  
8 required by SDOT right-of-way restoration standards. ~~((Whereupon, the Director shall issue a~~  
9 ~~certificate discharging the Permittee from responsibility under this ordinance for occurrences~~  
10 ~~after the date of such discharge.))~~

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

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



1           5. **Repair or reconstruction.** The skybridge shall remain the exclusive responsibility of  
2 the Permittee and the Permittee shall maintain the skybridge in good and safe condition for the  
3 protection of the public. The Permittee shall not (~~commence reconstruction, relocation,~~  
4 ~~readjustment~~) reconstruct or repair (~~(of)~~) the (~~(pedestrian)~~) skybridge except (~~(under the~~  
5 ~~supervision of, and)~~) in strict accordance with plans and specifications approved by the Director.  
6 The Director may, in (~~(his/her)~~) the Director's judgment (~~(may)~~), order (~~(such reconstruction,~~  
7 ~~relocation, readjustment or repair of)~~) the (~~(pedestrian)~~) skybridge reconstructed or repaired at  
8 the Permittee's (~~(own)~~) cost and expense because of: the deterioration or unsafe condition of the  
9 skybridge(~~(, grade separations, or)~~); the installation, construction, reconstruction, maintenance,  
10 operation, or repair of any (~~(and all)~~) municipally-owned public utilities(~~(,)~~); or for any other  
11 cause.  
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14           6. **Failure to correct unsafe condition.** After written notice to the Permittee and failure  
15 of the Permittee to correct an unsafe condition within the time stated in the notice, the Director  
16 may order the (~~(pedestrian)~~) skybridge be closed or removed at the Permittee's expense if the  
17 Director deems that (~~(it)~~) the skybridge has become unsafe or creates a risk of injury to the  
18 public. (~~(In a situation in which)~~) If there is an immediate threat to the health or safety of the  
19 public, a notice to correct is not required.  
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21           7. **Continuing obligations.** Notwithstanding termination or expiration of the permission  
22 granted, or closure or removal of the (~~(pedestrian)~~) skybridge, the Permittee shall remain bound  
23 by all of its (~~(obligation)~~) obligations under this ordinance until(~~(:~~

24           a) ~~the pedestrian skybridge and all its equipment and property are removed from the~~  
25 ~~street;~~  
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1           ~~b) the area is cleared and restored in a manner and to a condition satisfactory to the~~  
2 ~~Director; and~~

3           ~~e) the Director certifies that the Permittee has discharged its obligation herein.~~

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

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

21           The Permittee agrees to at all times ((protect and save)) defend, indemnify, and hold  
22 ~~harmless ((The)) the City ((of Seattle)), its officials, officers, employees, and agents; from and~~  
23 ~~against all claims, actions, suits, liability, loss, costs, expenses, attorneys' fees, or damages of~~



1 every kind and description, ~~((f))~~ ~~excepting only~~ ~~((such))~~ damages that may result from the sole  
2 negligence of the City ~~((, which))~~, that may accrue to, be asserted by, or be suffered by ~~((;))~~ any  
3 person or ~~((persons and/or))~~ property ~~((or properties;))~~ including, without limitation, damage,  
4 death, or injury to ~~((the Permittee, its))~~ members of the public or to the Permittee's officers,  
5 agents, employees, contractors, invitees, tenants ~~((and))~~, tenants' invitees, licensees, or ~~((their))~~  
6 successors and assigns ~~((;))~~ arising out of or by reason of:

7  
8 (a) the existence, condition, construction, reconstruction, modification, maintenance,  
9 operation ~~((or))~~, use, or removal of ~~((said City street, alley))~~ the skybridge or any portion thereof,  
10 or ~~((by reason of))~~ the use, occupation, or restoration of the public place or any portion thereof  
11 by the Permittee or any other person or entity;

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

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

16 (d) this ordinance in any other way.

17  
18 If any ~~((such))~~ suit, action, or claim ~~((shall be))~~ of the nature described above is filed,  
19 instituted, or begun against the City ~~((;))~~; the Permittee ~~((, its successors or assigns;))~~ shall ~~((;))~~  
20 upon notice ~~((thereof))~~ from the City ~~((;))~~ defend the ~~((same))~~ City, with counsel acceptable to the  
21 City, at ~~((its or their))~~ the sole cost and expense of the Permittee, and ~~((in case))~~ if a judgment  
22 ~~((shall be))~~ is rendered against the City in any suit or action, the Permittee ~~((, its successors, or~~  
23 ~~assigns;))~~ shall fully satisfy ~~((said))~~ the judgment within 90 days after ~~((such))~~ the action or suit  
24 ~~((shall have))~~ has been finally determined, if determined adversely to the City. (Provided that  
25 if) If it is determined by a court of competent jurisdiction that Revised Code of Washington  
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1 (RCW) 4.24.115 applies to this ordinance, then in the event claims or damages are caused by or  
2 result from the concurrent negligence of ~~((a))~~ the City, its agents, contractors, or employees;  
3 and ~~((b))~~ the Permittee, its agents, contractors, or employees ~~((or their successors or assigns,));~~  
4 this indemnity provision shall be valid and enforceable only to the extent of the negligence of the  
5 Permittee or the Permittee's agents, contractors, or employees ~~((, or their successors or assigns)).~~

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

- 15  
16  
17 (a) construction, reconstruction, modification, operation, maintenance, use ~~((or)),~~  
18 existence, or removal of the skybridge ~~((permitted by this ordinance and of any and~~  
19 ~~all portions))~~ or any portion thereof, as well as restoration of any disturbed areas of  
20 the public place in connection with removal of the skybridge;  
21  
22 (b) the Permittee's ~~((activities))~~ activity upon or the use or occupation of the ~~((areas))~~  
23 public place 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.  
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1 Minimum insurance requirements (~~(shall be an occurrence form policy of commercial general~~  
2 ~~liability,))~~ are CGL insurance based on the Insurance Services Office (ISO) form CG 00 01 or  
3 equivalent. The City requires insurance coverage to be placed with ~~((a company))~~ an insurer  
4 admitted and licensed to conduct business in Washington State or with a surplus lines carrier  
5 according to RCW Chapter 48.15. If coverage is placed with any other insurer or is partially or  
6 wholly self-insured, such insurer(s) or self-insurance is subject to approval by the City's Risk  
7 Manager.

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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))~~ include the (~~(skybridge exposure.~~  
12 Coverage shall add by endorsement the)) "City of Seattle, its elected and appointed officers,  
13 officials, employees and agents" as additional (~~(insured. Coverage shall contain a Separation of~~  
14 ~~Insureds indicating essentially that "except with respect to the limits of insurance, and any rights~~  
15 ~~or duties specifically assigned in this coverage part of the first named insured, this insurance~~  
16 ~~applies as if each named insured were the only named insured, and separately to each insured~~  
17 ~~against whom claim is made or suit is brought. The City will not accept a certificate of insurance~~  
18 ~~as evidence of current coverage. Evidence of current coverage shall be submitted to the City in~~  
19 ~~the form of a copy of the full policy with all endorsements attached thereto, and is a condition to~~  
20 ~~the validity of this permit.))~~ insureds for primary and non-contributory limits of liability subject  
21 to a Separation of Insureds clause.

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

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

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

18 **9B. Adjustment of insurance and bond requirements.** The Director, in consultation  
19 with the City's Risk Manager, may adjust minimum liability insurance levels ((of liability  
20 insurance)) and surety bond requirements during the term of this permission. ((The)) If the  
21 Director and City's Risk Manager determine that an adjustment is necessary to fully protect the  
22 interests of the City, the Director shall notify the Permittee of the new requirements in writing.  
23 ((Upon receipt, the)) The Permittee shall, within 60 days of the date of the notice of adjustment,  
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1 provide proof of the ~~((required levels of))~~ adjusted insurance and surety bond levels to the  
2 Director ~~((within 60 days))~~.

3 **10. Performance bond.** Within ~~((sixty (60)))~~ 60 days after the effective date of this  
4 ordinance, the Permittee shall deliver to the Director ~~((of Engineering))~~ for filing with the City  
5 Clerk a ~~((good and))~~ sufficient bond executed by a surety company authorized and qualified to  
6 do business in the State of Washington that is: in the ~~((sum))~~ amount of ~~((Twenty Thousand~~  
7 ~~Dollars (\$20,000) executed by a surety company authorized and qualified to do business in the~~  
8 ~~State of Washington,))~~ \$43,000, and conditioned with a requirement that the Permittee ((will))  
9 shall comply with ((each and)) every provision of this ordinance and with ((each and)) every  
10 order ((of)) the Director ((pursuant thereto; provided, that if the Mayor of the City of Seattle in  
11 his/her judgment shall deem any bond or bonds filed to be insufficient and demand a new or  
12 additional bond, the Permittee shall furnish a new or additional bond in such amount as the  
13 Mayor may specify to be necessary to fully protect the City. Said bond shall remain)) issues  
14 under this ordinance. The Permittee shall ensure that the bond remains in effect until ((such time  
15 as the skybridge is entirely removed from its location as described in Section 1, or until  
16 discharged by order of)) the Director ((of Engineering as provided in)) has issued a certification  
17 that the Permittee has fulfilled its removal and restoration obligations under Section ((7 of this  
18 ordinance))4. An irrevocable letter of credit approved by the City's Risk Manager may be  
19 substituted for the bond upon approval of the Director. In the event that the Permittee assigns or  
20 transfers the permission granted by this ordinance, the Permittee shall maintain in effect the bond  
21 or letter of credit required under this section until the Director has approved the assignment or  
22 transfer pursuant to Section 12A.  
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1           11. **Contractor insurance.** The ~~((Watermark Tower Condominium))~~ Permittee shall  
2 contractually require that any and all of its contractors performing ~~((construction))~~ work on any  
3 premises ~~((as))~~ contemplated by this permit~~((;))~~ name the “City of Seattle, its elected and  
4 appointed officers, officials, employees and agents” as ~~((an))~~ additional ~~((insured on all policies~~  
5 ~~of public))~~ insureds for primary and non-contributory limits of liability on all CGL, Automobile  
6 and Pollution liability insurance~~((;))~~ and/or self-insurance. The Permittee shall also include in all  
7 contract documents with its contractors a third-party beneficiary provision extending to the City  
8 construction indemnities and warranties granted to the ~~((Watermark Tower Condominium to the~~  
9 ~~City as well))~~ Permittee.

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11           12A. **Consent for and conditions of assignment or transfer.** The ~~((Permittee shall not))~~  
12 permission granted by this ordinance shall not be assignable or transferable by operation of law;  
13 nor shall the Permittee assign, transfer, mortgage, pledge or encumber ~~((any privileges conferred~~  
14 ~~by the ordinance))~~ the same without the Director’s consent ~~((of the Director.)),~~ which the  
15 Director shall not unreasonably refuse. The Director may approve assignment ~~((and/or~~  
16 ~~transfer))~~ or transfer of the ~~((permit))~~ permission granted by this ordinance to a successor entity  
17 ~~((in the case of a change of name and/or ownership provided that))~~ only if the successor or  
18 assignee has ~~((demonstrated its acceptance of))~~ accepted in writing all of the terms and  
19 conditions of the permission granted ~~((to the initial Permittee. If permission is granted, the~~  
20 ~~assignee or transferee shall be bound by all of the terms and conditions of this ordinance. The~~  
21 ~~permission conferred by this ordinance shall not be assignable or transferable by operation of~~  
22 ~~law.))~~ by this ordinance; has provided, at the time of the acceptance, the bond and certification of  
23 insurance coverage required under this ordinance; and has paid any fees due under Section 13C  
24 of this ordinance. Any person or entity seeking approval for an assignment or transfer of the  
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1 permission granted by this ordinance shall provide the Director with a description of the current  
2 and anticipated use of the skybridge.

3 12B. Obligations of successors and assigns. The obligations and conditions imposed on  
4 the Permittee by and through this ordinance are also imposed on the Permittee's successors  
5 and/or assigns regardless of whether the Director has approved assignment or transfer of the  
6 permission granted by this ordinance to such successors and/or assigns. All references in this  
7 ordinance to obligations or conditions imposed on the "Permittee" shall also be deemed to refer  
8 to the successors and assigns of the Permittee.

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



1           13A. **Inspection fees.** ~~The Permittee((, its successors and assigns,)) shall, as provided by~~  
2 ~~SMC Chapter 15.76 or successor provision, pay ((to)) the City ((such)) the amounts ((as may be~~  
3 ~~justly chargeable by said)) charged by the City ((as costs of inspection of said pedestrian)) to~~  
4 ~~inspect the skybridge during construction, reconstruction, repair ((or reconstruction or)), annual~~  
5 ~~safety inspections, and at other times ((under the direction of)) deemed necessary by the City.~~  
6 An inspection of the skybridge by the City shall not be construed as a representation, warranty, or  
7 assurance to the Permittee or any other person as to the safety, soundness, or condition of the  
8 skybridge. Any failure by the City to require correction of any defect or condition shall not in any  
9 way limit the responsibility or liability of the Permittee.

11           13B. **Inspection reports.** The Permittee shall submit to the Director, or to the  
12 Department of Transportation at an address specified by the Director, an inspection report that:

- 13
- 14           (a) describes the physical dimensions and condition of all load-bearing elements;
  - 15           (b) describes any damages or possible repairs to any element of the skybridge;
  - 16           (c) prioritizes all repairs and establishes a timeframe for making repairs; and
  - 17           (d) is stamped by a professional structural engineer licensed in the State of  
18 Washington.

19

20 A report meeting the foregoing requirements shall be submitted within 60 days after the effective  
21 date of this ordinance; subsequent reports shall be submitted every 2 years; provided that, in the  
22 event of a natural disaster or other event that may have damaged the skybridge, the Director may  
23 require that additional reports be submitted by a date established by the Director. The Permittee  
24 has the duty of inspecting and maintaining the skybridge, and the responsibility to submit  
25 structural inspection reports periodically or as required by the Director does not waive or alter  
26 any of the Permittee's other obligations under this ordinance. The receipt of any reports by the  
27



1 Director shall not create any duties on the part of the Director. Any failure by the Director to  
2 require a report, or to require action after receipt of any report, shall not waive or limit the  
3 obligations of the Permittee.

4 13C. Annual fee. Beginning on January 20, 2013, and annually thereafter, the Permittee  
5 shall promptly pay to the City, upon statements or invoices issued by the Director, an annual fee  
6 of ((\$1,197.00 as established by Resolution 29695)) \$7,440.58, or as adjusted annually  
7 thereafter, for the privileges granted by this ordinance.

8  
9 Adjustments to the annual fee (~~(amount)~~) shall be made in accordance with a term permit  
10 fee schedule adopted by the City Council (~~(by ordinance)~~) and may be (~~(adjusted)~~) made every  
11 year. In the absence of (~~(such)~~) a schedule, the Director may only increase or decrease the  
12 previous year's fee (~~(amount annually)~~) to reflect any inflationary changes so as to charge (~~(said)~~)  
13 the fee in constant dollar terms. This adjustment will be calculated by adjusting the previous  
14 year's fee (~~(amount)~~) by the percentage change between the two most recent year-end values  
15 available (~~(of)~~) from the Consumer Price Index for the Seattle-Tacoma-Bremerton Area, All  
16 Urban Consumers, All Products, Not Seasonally Adjusted. All payments shall be made to the  
17 City Finance Director for credit to the Transportation Operating Fund.

18  
19  
20 14. Compliance with other laws. (~~The Permittee shall not discriminate against any~~  
21 ~~employee or applicant for employment in connection with the design, architectural or structural~~  
22 ~~engineering work or the repair, or maintenance of the pedestrian skybridge permitted to be~~  
23 ~~erected pursuant to this ordinance, on the basis of race, religion, creed, color, sex, marital status,~~  
24 ~~sexual orientation, political ideology, ancestry, age, national origin, or the presence of any~~  
25 ~~sensory, mental or physical handicap unless based upon bona fide occupational qualification.~~

26  
27 The foregoing commitment shall be implemented as follows:  
28



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

7  
8 b. ~~The Permittee shall post in conspicuous places available to such employees and~~  
9 ~~applicants for such employment, notices setting forth the provisions of this non-discrimination~~  
10 ~~clause.~~

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

20  
21  
22 Failure to comply with any of the terms of this provision shall be a material violation of  
23 this ordinance.

24 The foregoing paragraphs shall be inserted in any subcontracts for work undertaken  
25 pursuant to this ordinance in connection with the design, architectural or structural engineering  
26 work or the repair, or maintenance of the pedestrian skybridge permitted to be maintained  
27  
28



1 ~~hereunder, unless the Director of Human Rights authorizes the use of another equality of~~  
2 ~~employment opportunity provision.))~~

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

10 \*\*\*

11 Section 3. **Acceptance of terms and conditions.** Within 60 days after the effective date  
12 of this ordinance, the Permittee shall deliver to the Director its written signed acceptance of the  
13 terms of this ordinance as approved by its Board acting on behalf of the Permittee. The Director  
14 shall file the written acceptance with the City Clerk. If no such acceptance is received within  
15 that 60-day period, the privileges conferred by this ordinance shall be deemed to be declined or  
16 abandoned and the permission granted deemed to be lapsed and forfeited and the Permittee shall,  
17 at its own expense, remove the skybridge and all of the Permittee's equipment and property and  
18 replace and restore all portions of the public place as provided in Section 4 of Ordinance 117589,  
19 as further amended by Ordinance 121855 and as further amended by this ordinance.

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

24 Section 5. **Ratify and confirm.** Any act taken by the City or the Permittee pursuant to the  
25 authority and in compliance with the conditions of this ordinance but prior to the effective date  
26 of the ordinance is ratified and confirmed.  
27



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 Municipal Code Section 1.04.020.  
4

5 Passed by the City Council the \_\_\_\_ day of \_\_\_\_\_, 2013, and  
6 signed by me in open session in authentication of its passage this  
7 \_\_\_\_ day of \_\_\_\_\_, 2013.

8  
9  
10 \_\_\_\_\_  
11 President \_\_\_\_\_ of the City Council

12  
13 Approved by me this \_\_\_\_ day of \_\_\_\_\_, 2013.

14  
15 \_\_\_\_\_  
16 Michael McGinn, Mayor

17  
18  
19 Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2013.

20  
21 \_\_\_\_\_  
22 Monica Martinez Simmons, City Clerk

23  
24 (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	Christie Parker/684-5211

**Legislation Title:**

AN ORDINANCE relating to a pedestrian skybridge over and across Post Avenue, north of Spring Street; amending Ordinance 117589, 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 Watermark Tower Association of Apartment 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 117589, as amended by Ordinances 121855, for Watermark Tower Association of Apartment Owners to continue maintaining and operating the existing skybridge located over and across Post Avenue, north of Spring 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 Watermark Tower Association of Apartment Owners to pay the City of Seattle an annual fee of \$7,440.58 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. An Annual Fee Appraisal Summary is attached for reference.

**Background:**

By Ordinance 117589, the City granted permission to Watermark Tower Condominium to construct, maintain, and operate a pedestrian skybridge over and across Post Avenue, north of Spring Street, for a ten-year term, renewable for two successive ten-year terms.

The conditions of Ordinance 117589 were amended by Ordinance 121855. The permission authorized by Ordinance 117589 was due for renewal on January 19, 2013.



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>2013 Revenue</b>	<b>2014 Revenue</b>
Transportation Operating Fund 10310	Seattle Department of Transportation	Annual Fee	\$7,440.58	TBD
<b>TOTAL</b>			<b>\$7440.58</b>	<b>TBD</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 \$7,440.58. 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 117589, 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



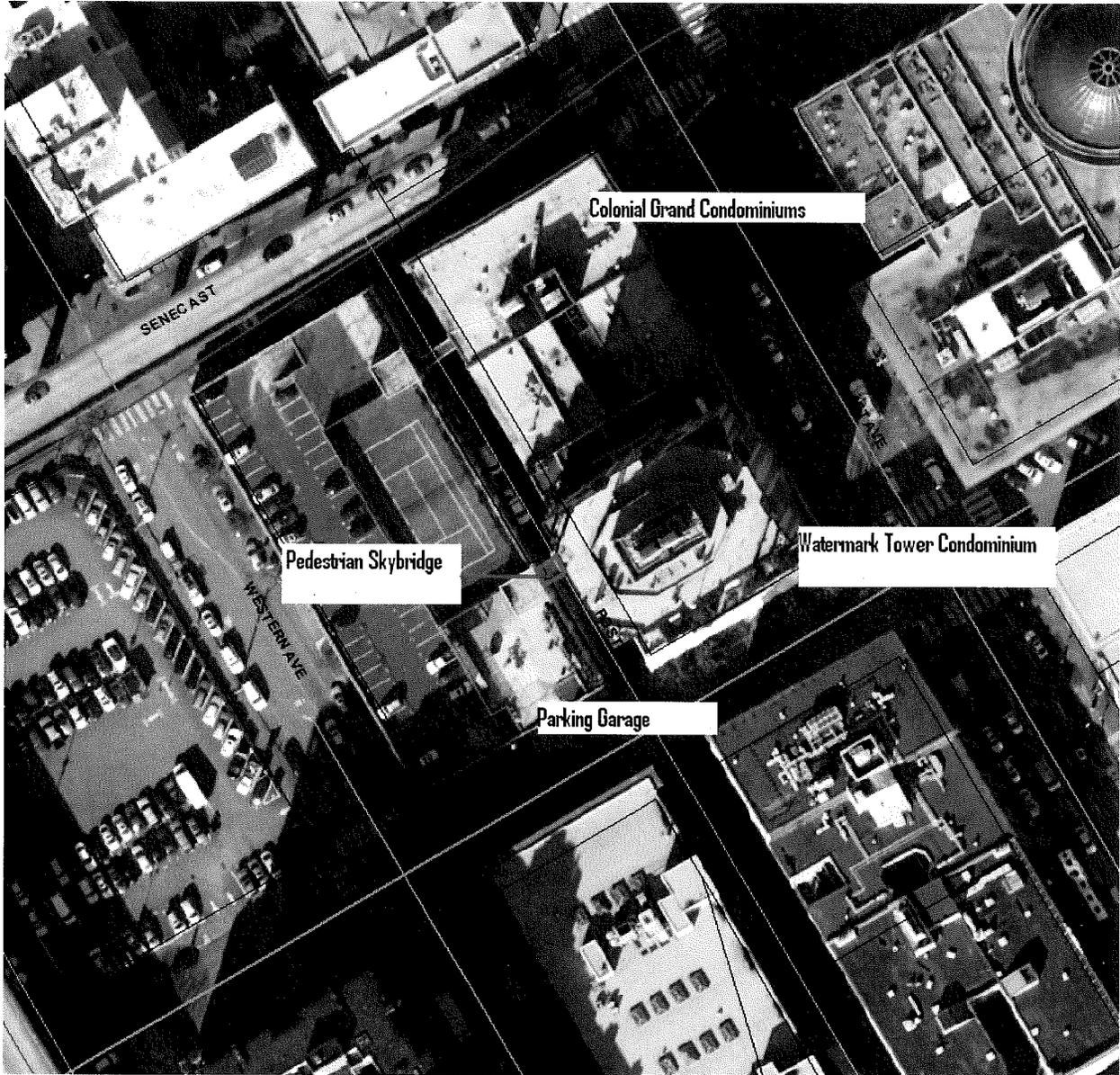
- f) **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?** No
  
- g) **Does this legislation affect a piece of property?** Yes, an area map is attached for reference.
  
- h) **Other Issues:** None

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

- Attachment A – Watermark Tower Condominium Skybridge Area Map
- Attachment B – Watermark Tower Condominium Skybridge Photo
- Attachment C – Annual Fee Assessment Summary



Attachment A – Watermark Tower 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.



Amy Gray  
SDOT Watermark Skybridge ATT B  
March 6, 2013  
Version #1

## Attachment B – Watermark Tower Condominium Skybridge



Attachment C - Annual Fee Assessment Summary

STREET USE ANNUAL FEE ASSESSMENT

Date: 3/1/13

Summary: <b>Land Value: \$298.10/SF</b> <b>2013 Permit Fee:</b> <b>\$7,440.58</b>
--

I. **Property Description:**

Existing pedestrian skybridge located over and across Post Alley, north of Spring Street. The skybridge provides a connection between the Watermark Tower Condominiums and the parking garage. The skybridge area is **156 square feet**.

**Applicant:**

Watermark Tower Association of Apartment 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 9197200000, square feet 13,261  
Tax year 2013 Appraised Land Value \$5,253,900  
2013 tax assessed land value: \$396.19/SF

Average 2013 tax assessed land value: \$298.10/SF

II. **Annual Fee Assessment:**

The 2013 permit fee is calculated as follows:

$(\$298.10/\text{SF}) \times (156 \text{ SF}) \times (200\%) \times (8\%) = \$7,440.58$  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  
Office of the Mayor

May 28, 2013

Honorable Sally J. Clark  
President  
Seattle City Council  
City Hall, 2<sup>nd</sup> Floor

Dear Council President Clark:

I am pleased to transmit the attached proposed Council Bill that will grant to Watermark Tower Association of Apartment Owners a 10-year renewal permit for an existing pedestrian skybridge over and across Post Avenue, north of Spring Street, as authorized by Ordinance 117589.

The existing skybridge, which was authorized by Ordinance 117589 and amended by Ordinance 121855, provides a connection between the Watermark Tower 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 questions, please contact Angela Steel at (206) 684-5967.

Sincerely,

Michael McGinn  
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

