

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

14-010-0

ORDINANCE NO. _____

AN ORDINANCE GRANTING THE DULUTH TRANSIT AUTHORITY A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A SKYWALK OVER WEST MICHIGAN STREET BETWEEN SECOND AND THIRD AVENUES WEST.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is hereby granted to the Duluth Transit Authority, and its successor(s) in interests, referred to herein as the permittees, to occupy, erect and maintain a skywalk in that part of West Michigan Street, described as follows:

This new bridge will start between 1.5 feet of the SE corner of Lot 40 Block 6 Central Division of Duluth and 28.5 feet from the SW corner of Lot 40 Block 6. It will end between 1.5 feet of the NE corner of Lot 10 Block 10 of the Central Division of Duluth and 3.5 feet from the NW corner of that same lot. The height over the driving lanes and parking lanes will be at least 15.5 feet.

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk a duly executed and acknowledged written acceptance of the terms of this ordinance.

Section 3. Said permit granted under this ordinance may be terminated at any time when and if the city of Duluth determines to use the area occupied by said permittees for any purpose in accordance with the duly dedicated public easement or other lawful use. Unless a shorter period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittees six months' written notice by resolution of the council of the city of Duluth to the last known address of the permittees shall be sufficient notice of termination.

Section 4. Upon the giving of the notice of termination as aforesaid, the

permittees shall remove said skywalk and all fixtures and pertinencies of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittees, and without right on the part of the permittees to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. By the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittees, and agree that such skywalk shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, water mains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said West Michigan Street and agree that the city of Duluth shall not be liable for damage caused to such skywalk, while the city is engaged in making repairs to public utilities provided that the city exercises reasonable care to avoid such damage, and agree to pay to the city of Duluth all extra costs of installation of any such sewers, gas mains, water mains, pipes, conduits or other public utilities made necessary by the presence of such skywalk in said West Michigan Street.

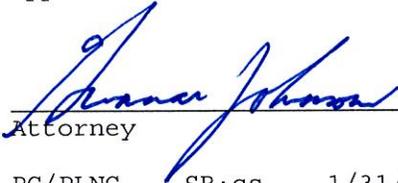
Section 6. The construction of the skywalk be limited to and in substantial compliance with the plans to be approved by the City Engineer.

Section 7. The skywalk be operated and maintained in such a way as to allow citizens to walk bicycles in the skywalk. The Duluth Transit Authority, and its successor(s) in interests, will maintain a pedestrian crosswalk at the corner of West Michigan Street and Third Avenue West intersection adjacent to the new multi-modal transportation facility.

Section 8. That this ordinance shall take effect 30 days after its passage

and publication.

Approved as to form:



Attorney

PC/PLNG SR:cs 1/31/2014

STATEMENT OF PURPOSE: This ordinance provides for the construction of a skywalk to connect the existing Transit Center East (TCE) with the new multi-modal transportation facility on West Michigan Street between Second and Third Avenue West. The planning commission was asked to review the request to approve the general area that the future skywalk and would occupy with the understanding that the construction plans and a development agreement will be approved by the City in the future as project designs are completed.

On February 12, 2013, the planning commission held a public meeting on the proposal, and voted 9 yeas, 0 nays, and 0 abstentions to recommend that the city council approve the request for a concurrent use of streets as requested, with two conditions.

Petition Received: January 15, 2013

Action Deadline: There is no action deadline for this ordinance.

CERTIFIED COPY OF ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DULUTH, MINNESOTA

ORDINANCE 10207 (File No. 13-011)

ADOPTED: MARCH 25, 2013

ORDINANCE NO. 10207

AN ORDINANCE GRANTING THE DULUTH TRANSIT AUTHORITY A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A SKYWALK OVER WEST MICHIGAN STREET BETWEEN SECOND AND THIRD AVENUES WEST.

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Section 4. Upon the giving of the notice of termination as aforesaid, the permittees shall remove said skywalk and all fixtures and pertinencies of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittees, and without right on the part of the permittees to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. By the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittees, and agree that such skywalk shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, watermains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said West Michigan Street and agree that the city of Duluth shall not be liable for damage caused to such skywalk, while the city is engaged in making repairs to public utilities provided that the city exercises reasonable care to avoid such damage, and agree to pay to the city of Duluth all extra costs of installation of any such sewers, gas mains, watermains, pipes, conduits or other public utilities made necessary by the presence of such skywalk in said West Michigan Street.

Section 6. The construction of the skywalk be limited to and in substantial compliance with the plans to be approved by the city engineer.

CERTIFIED COPY OF ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DULUTH, MINNESOTA

Section 7. The skywalk be operated and maintained in such a way as to allow citizens to walk bicycles in the skywalk. The Duluth Transit Authority, and its successor(s) in interests, will maintain a pedestrian crosswalk at the corner of West Michigan Street and Third Avenue West intersection adjacent to the new multi-modal transportation facility.

Section 8. This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: April 26, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Larson, Stauber and Vice President Krug -- 8

Nays: None -- 0

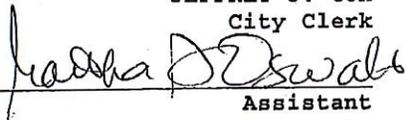
Absent: President Boyle -- 1

ATTEST:
JEFFREY J. COX, City Clerk

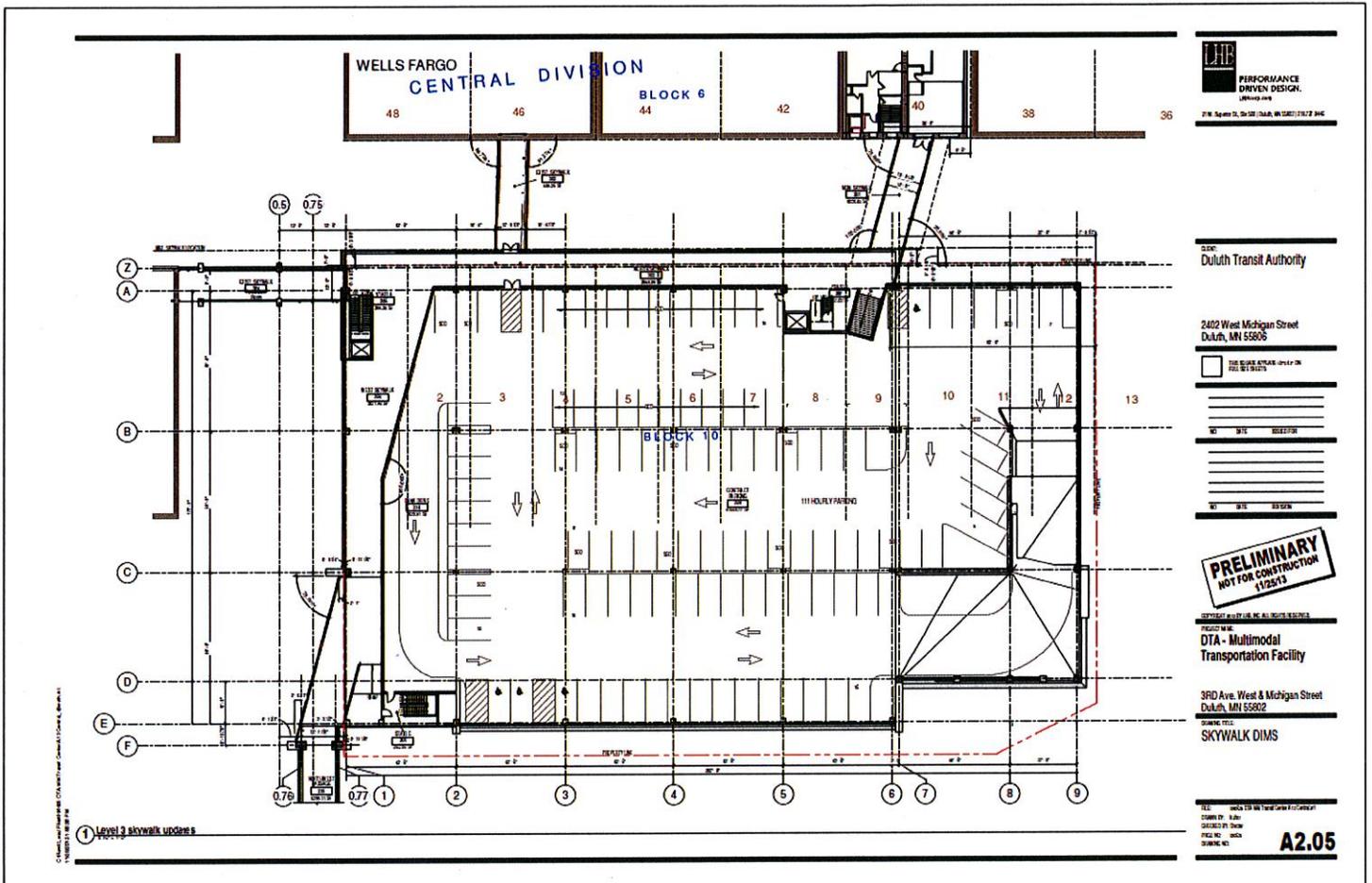
Passed March 25, 2013
Approved March 25, 2013
DON NESS, Mayor

I, JEFFREY J. COX, city clerk of the city of Duluth, Minnesota, do hereby certify that I have compared the foregoing ordinance passed by the city council on the 25th day of March, 2013, with the original in my custody as city clerk of said city and that the same is a true and correct transcript therefrom.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said city of Duluth, this 26th day of April, 2013.

JEFFREY J. COX
City Clerk
by 
Assistant
CITY OF DULUTH, MINNESOTA

Transit Center East (TCE) Skywalk Bridge, January 2014 Revised Location



This new bridge from the existing TCE to the new facility will be have an interior open space of 12.5 feet and exterior space not to exceed 15 feet. It will start within 10.5 feet of the SE corner of Lot 40 Block 6 Central Division. It will attach to the new facility within 1.5 feet of the NE corner of Lot 9, Block 10 of the Central Division and eight (8) feet east of the NW corner of that same block.

The Concurrent Use permit is for the entire bridge, building face to building face.