

ATTACHMENT 1

ORDINANCE ALLOWING THE ENCROACHMENT OF A PEDESTRIAN BRIDGE OVER THE RIGHT-OF WAY OF YORKTOWN BOULEVARD, BETWEEN 26TH STREET AND N. GLEBE ROAD, ADJACENT TO AND CONNECTING A PARCEL OF PROPERTY OWNED BY MARYMOUNT UNIVERSITY BY DEED RECORDED AT DEED BOOK 2501, PAGE 1729, RPC NO. 03065001 WITH PARCEL A, AN ABANDONED PORTION OF YORKTOWN BOULEVARD, RPC NO. 03047217, WITH CONDITIONS.

BE IT ORDAINED by the County Board of Arlington County, Virginia, that the Applicant, Marymount University ("Applicant"), as developer of the project known as Marymount University, and, authorized by Use Permit Amendment, U-1671-65-3, is permitted to construct a pedestrian bridge within a portion of the airspace over the surface of the public right-of-way of Yorktown Boulevard, immediately adjacent to and connecting a parcel of property owned by Marymount University, by deed recorded at Deed Book 2501, Page 1729, RPC No. 03065001 with Parcel A, an Abandoned Portion of Yorktown Boulevard, RPC No. 03047217 ("Pedestrian Bridge"). The dimensions (length, width, and beginning and ending elevations) and spatial location of the permitted encroachment are depicted in Exhibit A attached to the County Manager's Report dated August 20, 2007, entitled "Proposed Encroachment Area Thru Yorktown Boulevard, Arlington County, Virginia", prepared by Dewberry & Davis LLC, dated December, 2006 (three pages) and Exhibit attached thereto (jointly "Plat"). The dimensions, the location, the characteristics of the permitted Pedestrian Bridge, and the spatial area of the permitted encroachment are shown on the Plat. No other structures are permitted to be installed or constructed by Applicant, or to exist, within the County property shown on the Plat.

BE IT FURTHER ORDAINED that this permission for the encroachment shall continue until such time as that portion of the Pedestrian Bridge encroaching within a portion of the airspace of the public right-of-way is destroyed, removed, no longer in use, or not continuously and promptly maintained by the Applicant. Nothing in this Ordinance shall be construed either: to allow the installation by Applicant, or any other person or entity, of any above ground structure or any structure other than the Pedestrian Bridge within the area as shown on the Plat; or to allow any greater encroachment beyond the dimensions and spatial area shown on the Plat.

BE IT FURTHER ORDAINED that the Applicant, its successors and assigns, shall continuously and promptly maintain the Pedestrian Bridge, and maintain, restore, repair, and replace all County owned facilities, within and adjacent to the public right-of-way, including any sidewalk, curb and gutter, and paved surface, which are damaged by the installation, maintenance, destruction, continued existence, or removal of the Pedestrian Bridge. No provision of this Ordinance is intended, or shall be construed to relieve the Applicant, or any other person or entity, to obtain all required permits, approvals, and permissions to perform any work in the public rights-of-way.

BE IT FURTHER ORDAINED that this Ordinance shall not be construed to release the Applicant, its successors and assigns, of negligence on their part on account of such encroachment, and the Applicant, by constructing, or causing to be constructed and by continuing to have the Pedestrian Bridge encroach within the dedicated public right-of-way, thereby agrees for itself, its successors and assigns, to indemnify and hold harmless the County Board of Arlington County, Virginia and County officials, officers, employees, and agents from all claims, negligence, damages, costs and expenses arising out of the construction, maintenance and repair of the Pedestrian Bridge, and the permission for the Pedestrian Bridge to encroach within a portion of the air space of the public right-of-way permitted by this Ordinance.

BE IT FURTHER ORDAINED that no portion of the Pedestrian Bridge permitted by this Ordinance to encroach within the public right-of-way shall be constructed until the Applicant has paid to the County the sum of \$9,000.00 as compensation for the encroachment.

BE IT FURTHER ORDAINED that, on or before September 8, 2010, the Applicant, at its sole expense, shall cause a certified copy of this Ordinance and a Plat, approved by the Director of the Department of Environmental Services or his designee, to be recorded in the lands records of the Arlington County Circuit Court and evidence thereof shall be promptly delivered by the Applicant to the Real Estate Bureau Chief, Engineering and Capital Projects Division, Department of Environmental Services.