

ORDINANCE NO. _____

AN ORDINANCE authorizing the owner of the property located at 2900 Main Line Boulevard to construct and maintain encroachments for roof overhangs and a canopy at that location.

WHEREAS, LBG Parcel H, LLC is the Owner (“Owner”) of the property located at 2900 Main Line Boulevard in the City of Alexandria, Virginia; and

WHEREAS, Owner desire to establish and maintain roof overhangs and a canopy which will encroach into the public right-of-way at that location; and

WHEREAS, the public right-of-way at that location will not be significantly impaired by this encroachment; and

WHEREAS, in Encroachment No. 2012-0002 the Planning Commission of the City of Alexandria recommended approval to the City Council subject to certain conditions at one of its regular meetings held on October 2, 2012, which recommendation was approved by the City Council at its public hearing on October 13, 2012 and

WHEREAS, it has been determined by the Council of the City of Alexandria that this encroachment is not detrimental to the public interest; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Owner be, and the same hereby is, authorized to establish and maintain an encroachment into the public right-of-way, at 2900 Main Line Boulevard (Tax Map #025.01-05-14) in the City of Alexandria, said encroachment consisting of roof overhangs and a canopy, as shown in the plat titled “Encroachment Exhibit” and dated June 6, 2012 attached hereto and incorporated herein by this reference, until the encroachment is removed or destroyed or the authorization to maintain it is terminated by the city; provided, that this authorization to establish and maintain the encroachment shall not be construed to relieve Owner of liability for any negligence on their part on account of or in connection with the encroachment and shall be subject to the provisions set forth below.

Section 2. That the authorization hereby granted to establish and maintain said encroachment shall be subject to and conditioned upon Owner maintaining, at all times and at their own expense, liability insurance, covering both bodily injury and property damage, with a company authorized to transact business in the Commonwealth of Virginia and with minimum limits as follows:

Bodily Injury:	\$1,000,000 each occurrence
	\$1,000,000 aggregate
Property Damage:	\$1,000,000 each occurrence
	\$1,000,000 aggregate

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2 This liability insurance policy shall identify the City of Alexandria and Owner as named insureds
3 and shall indemnify the Owner (and his /her successors, if any) and the City of Alexandria, as an
4 additional named insured, against all claims, demands, suits, etc., and all costs related thereto,
5 including attorney fees, relating to any bodily injury or property damage which may occur as a
6 result of the granting of this encroachment.. Evidence of the policy and any renewal thereof
7 shall be filed with the city attorney's office. Any other provision herein to the contrary
8 notwithstanding, in the event this policy of insurance lapses, is canceled, is not renewed or
9 otherwise ceases to be in force and effect, the authorization herein granted to establish and
10 maintain the encroachment shall, at the option of the city, forthwith and without notice or
11 demand by the city, terminate. In that event, Owner shall, upon notice from the city, remove the
12 encroachment from the public right-of-way, or the city, at its option, may remove the
13 encroachment at the expense and risk of Owner. Nothing in this section shall relieve Owner of
14 their obligations and undertakings required under this ordinance. The insurance for each building
15 shall be posted prior to the release of the first Certificate of Occupancy for that building.
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17 Section 3. That the authorization hereby granted to establish and maintain said
18 encroachment shall in addition be subject to and conditioned upon the following terms:
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- 20 (a) Neither the City of Alexandria nor any public or private utility company shall be
21 responsible for damage to Owner's property encroaching into the public right-of-way
22 during repair, maintenance or replacement of the public right-of-way or any public
23 facilities or utilities in the area of encroachment.
24
- 25 (b) The Owner shall be responsible for replacement and repairs to the adjacent City
26 right-of-way, including any areas damaged during construction activity.
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- 28 (c) All canopies shall have a minimum clear head room of 80 inches (6'-8").
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- 30 (d) All canopies shall be placed so as to not interfere with the proposed street trees.
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32 Section 4. That by accepting the authorization hereby granted to establish and
33 maintain the encroachment and by so establishing and/or maintaining the encroachment, Owner
34 shall be deemed to have promised and agreed to save harmless the City of Alexandria from any
35 and all liability (including attorneys' fees and litigation expenses) arising by reason of the
36 establishment, construction, placement, existence, use or maintenance of the encroachment.
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38 Section 5. That the authorization herein granted to establish and maintain the
39 encroachment shall be subject to Owner maintaining the area of the encroachment at all times
40 unobstructed and free from accumulation of litter, snow, ice and other potentially dangerous
41 matter.
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43 Section 6. That nothing in this ordinance is intended to constitute, or shall be
44 deemed to be, a waiver of sovereign immunity by or on behalf of the City of Alexandria or any
45 of its officers or employees.
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