



\$1,000,000 aggregate

This liability insurance policy shall identify the City of Alexandria and Owners as named insureds and shall provide for the indemnification of the City of Alexandria and Owners against any and all loss occasioned by the establishment, construction, placement, existence, use or maintenance of the encroachment. Evidence of the policy and any renewal thereof shall be filed with the city attorney's office. Any other provision herein to the contrary notwithstanding, in the event this policy of insurance lapses, is canceled, is not renewed or otherwise ceases to be in force and effect, the authorization herein granted to establish and maintain the encroachment shall, at the option of the city, forthwith and without notice or demand by the city, terminate. In that event, Owners shall, upon notice from the city, remove the encroachment from the public right-of-way, or the city, at its option, may remove the encroachment at the expense and risk of Owners. Nothing in this section shall relieve Owners of their obligations and undertakings required under this ordinance.

Section 3. That the authorization hereby granted to establish and maintain said encroachment shall in addition be subject to and conditioned upon the following terms:

- (a) Neither the City of Alexandria nor any public or private utility company shall be responsible for damage to Owners' property encroaching into the public right-of-way during repair, maintenance or replacement of the public right-of-way or any public facilities or utilities in the area of encroachment.
- (b) The Owners shall be responsible for replacement and repairs to the adjacent City right-of-way, including any areas damaged during construction activity.
- (c) The owner or any successor in interest shall remove the encroachment if the City determines that the encroachment interferes with public access or is otherwise inconsistent with the public welfare. In such case, the City shall provide the owner or successor in interest with written notice of the need to remove the encroachment at least 10 days prior to the date on which the removal must be completed. If the owner or successor in interest cannot be found, or fails to remove the encroachment within the time specified, the City shall have the right to remove the encroachment, at the expense of the owner or successor, and shall not be liable for any loss or damage to the encroaching structure that may occur as a result of the removal.

Section 4. That by accepting the authorization hereby granted to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, Owners shall be deemed to have promised and agreed to save harmless the City of Alexandria from any and all liability (including attorneys' fees and litigation expenses) arising by reason of the establishment, construction, placement, existence, use or maintenance of the encroachment.

Section 5. That the authorization herein granted to establish and maintain the encroachment shall be subject to Owners maintaining the area of the encroachment at all times

1 unobstructed and free from accumulation of litter, snow, ice and other potentially dangerous  
2 matter.

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4 Section 6. That nothing in this ordinance is intended to constitute, or shall be  
5 deemed to be, a waiver of sovereign immunity by or on behalf of the City of Alexandria or any  
6 of its officers or employees.

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8 Section 7. That the authorization herein granted to establish and maintain the  
9 encroachment shall be terminated whenever the City of Alexandria desires to use the affected  
10 public right-of-way for any purpose whatsoever and, by written notification, demands from  
11 Owners the removal of the encroachment. Said removal shall be completed by the date specified  
12 in the notice and shall be accomplished by Owners without cost to the city. If Owners cannot be  
13 found, or shall fail or neglect to remove the encroachment within the time specified, the city shall  
14 have the right to remove the encroachment, at the expense of Owners, and shall not be liable to  
15 Owners for any loss or damage to the structure of the encroachment or personal property within  
16 the encroachment area, caused by the removal.

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18 Section 8. The terms “Owners” shall be deemed to include Carr 220 South Union,  
19 LLC and its successors in interest.

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21 Section 9. That this ordinance shall be effective upon the date and at the time of its  
22 final passage.

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25 WILLIAM D. EUILLE  
26 Mayor

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28 Attachment: Encroachment plat

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30 Introduction: November 11, 2014  
31 First Reading: November 11, 2014  
32 Publication:  
33 Public Hearing: November 15, 2014  
34 Second Reading: November 15, 2014  
35 Final Passage: November 15, 2014