# DOCKET ITEM #6 Encroachment #2018-0012 600 Montgomery Street – Hank's Pasta Bar

Application	General Data		
Request:	<b>Planning Commission</b>	March 5, 2019	
Consideration of a request for an	Hearing:		
encroachment into the public right-	City Council	March 16, 2019	
of-way for outdoor dining.	Hearing:		
Address: 600 Montgomery Street	Zone:	CD-X/Commercial Downtown	
		(Old Town North)	
Applicant:	Small Area Plan:	Old Town North	
Hank's Pasta Bar LLC, represented			
by David Chamowitz, attorney			

**Staff Recommendation:** APPROVAL subject to compliance with all applicable codes and ordinances and the recommended permit conditions found in Section III of this report.

**Staff Reviewer:** Sam Shelby, <a href="mailto:sam.shelby@alexandriava.gov">sam.shelby@alexandriava.gov</a>



PROJECT LOCATION MAP

#### I. DISCUSSION

The applicant, Hank's Pasta Bar LLC, represented by David Chamowitz, attorney, requests approval for an encroachment into public right-of-way for the addition of outdoor dining seats at an existing restaurant at 600 Montgomery Street.

#### SITE DESCRIPTION

The site contains one corner lot of record with 39.50 and 92 feet of frontage along Montgomery and North Saint Asaph Streets, respectively, with a total lot area of 3,634 square feet. A two-story commercial building occupies the site and houses an existing 99-seat restaurant on the first floor. The building is located 0.3 feet beyond the south side lot line, about 0.1 feet beyond the front lot line along the North Saint Asaph Street and about 1.1 feet from the front lot line along Montgomery Street. It is attached to the commercial building to the east and provides no east side yard.

The site is located at the southwest corner of the intersection of Montgomery and North Saint Asaph Streets in the Old Town North area of the City. It is one block east of the George Washington Memorial Parkway (North Washington Street). A mix of commercial uses surrounds the site. Two office buildings, to the north and east, face the subject site across Montgomery and North Saint Asaph Streets. Two restaurants, an architect's office and a bank are located along the same side of Montgomery Street to the west. The site abuts a 16-foot wide public alley to the south. Across that alley is a commercial building that contains office and personal service uses. A mixed-use development, currently under construction, containing ground level commercial and upper floor residential uses, is located diagonally across the intersection to the northeast. Figure one, below, shows the subject site.



Figure 1 - Subject site

### **BACKGROUND**

City Council approved Encroachment #2010-0006 in conjunction with administrative SUP #2010-0046, to add outdoor dining in 2010. The encroachment allowed for approximately 275 square feet of the public right-of-way to be utilized for 10 outdoor dining seats.

#### **PROPOSAL**

The applicant proposes to expand the existing outdoor dining area to the south along North Saint Asaph between the existing sidewalk and the restaurant building. Under this proposal, an additional 263 square feet of the right-of-way would be occupied with outdoor dining tables, 22 additional seats and a small storage structure. The proposed area of encroachment is shown in Figure Two, below.

City Council will review separately the addition of the 22 outdoor dining seats in the proposed area of encroachment as part of SUP #2018-0093 on the March 2019 docket.

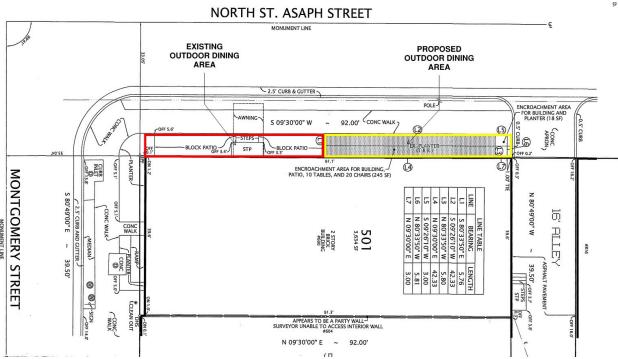


Figure 2 – Proposed encroachment area outlined in yellow

#### ZONING/MASTER PLAN

The subject site is located within the Old Town North Small Area Plan (SAP) "Subarea 4 – Mixed Use Core." A restaurant use with outdoor dining is consistent with the goals and objectives of the SAP.

The subject site is located within the locally regulated Old and Historic Alexandria District. All exterior alterations require BAR approval.

#### VALUE OF ENCROACHMENT

Section 3-2-85 of the City Code states that an annual commercial encroachment fee shall be assessed. The fee is based on the real estate tax that would be assessed on the encroachment area. The Department of Real Estate Assessments estimates that the annual fee would be \$743.00 (rounded). Details on this estimate can be found in the attached Memorandum dated February 12, 2019.

#### II. STAFF ANALYSIS

Staff supports the applicant's encroachment request. Because a predominant mix of commercial uses surround the subject site, expanded outdoor dining is appropriate in this location. The proposal is also well-aligned with the Old Town North SAP's goals to keep the area vibrant and enjoyable with active and enlivened streetscapes.

Pedestrian movement along the adjacent sidewalk would not be impacted because a minimum six-foot clearance in the public right-of-way is maintained along the entire encroachment area, consistent with the area of encroachment approved in 2010. As the existing encroachment for 10 outdoor dining seats immediately to the north has not resulted in complaints or concerns, staff does not anticipate this further encroachment to negatively impact pedestrian movement.

Staff also recommends that the existing tree within the encroachment area shall be preserved and protected, as required in Condition #2.

Subject to the conditions contained in Section III of this report staff recommends approval of this request.

#### III. RECOMMENDED CONDITIONS

Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the following conditions:

- 1. The 22-seat outdoor dining area at the restaurant in the area of encroachment shall comply with all requirements and conditions of SUP #2018-0093. (P&Z)
- 2. The tree located within the area of encroachment shall be preserved and protected. If the tree becomes severely damaged by natural causes it shall be replaced to the satisfaction of the Director of Planning and Zoning. (P&Z)
- 3. The applicant shall maintain a minimum 6' wide unobstructed sidewalk. (T&ES)
- 4. The owner shall obtain and maintain a policy of general liability insurance in the amount of \$1,000,000, which will indemnify the owner (and all successors in interest) and the City of Alexandria, as Additional Insured, against claims, demands, suits-and all related costs, including attorneys' fees, arising from any bodily injury or property damage which may occur as a result of this encroachment. (T&ES)

Please submit Insurance Certificate: City of Alexandria T&ES ATTN: Heather Diez 301 King Street, Room 4130 Alexandria, VA 22314

- 5. Neither the City nor any Private utility company will be held responsible for damage to the private improvements in the public right-of-way during repair, maintenance or replacement of any utilities that may be located within the area of the proposed encroachment. (T&ES)
- 6. In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any structure that encroached into the public right-of-way, within 60 days, upon notification by the City. (T&ES)
- 7. The applicant shall bear all the cost associated with the removal of the encroachments. (T&ES)

STAFF: Tony LaColla, AICP, Division Chief, Department of Planning and Zoning Ann Horowitz, Principal Planner, Department of Planning and Zoning Sam Shelby, Urban Planner, Department of Planning and Zoning

#### IV. CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

## <u>Transportation & Environmental Services:</u>

- F-1 No comments received from Survey and Traffic. (T&ES)
- F-2 Transportation Planning has no comments. (T&ES)
- R-1 An unobstructed and clear 6' sidewalk shall be maintained at all times; therefore, revise the sitting arrangement to provide an unobstructed and clear 6' sidewalk. (T&ES)
- R-2 Neither the City nor any Private utility company will be held responsible for damage to the private improvements in the public right-of-way during repair, maintenance or replacement of any utilities that may be located within the area of the proposed encroachment. (T&ES)
- R-3 In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any structure that encroached into the public right-of-way, within 60 days, upon notification by the City. (T&ES)
- R-4 The applicant shall bear all the cost associated with the removal of the encroachments. (T&ES)
- R-5 The owner shall obtain and maintain a policy of general liability insurance in the amount of \$1,000,000 which will indemnify the owner (and all successors in interest); and the City as an Additional Insured, against claims, demands, suits and related costs, including attorneys' fees, arising from any bodily injury or property damage which may occur as a result of the encroachment. (Sec. 5-29 (h)(1)) (T&ES)

Please submit Insurance Certificate: City of Alexandria T&ES Attn: Heather Diez 301 King Street, Room 4130 Alexandria, VA 22314

#### Code Enforcement:

No comments.

#### <u>Health Department:</u>

- C-1 An Alexandria Health Department Permit is required for all regulated facilities. A permit shall be obtained prior to operation, and is not transferable between one individual, corporation or location to another. Permit application and fee are required.
- C-2 Construction plans shall be submitted to the Health Department located at 4480 King Street and through the Multi-Agency Permit Center. Plans shall be submitted and approved by

- the Health Department prior to construction. There is a \$200.00 plan review fee payable to the City of Alexandria.
- C-3 Construction plans shall comply with Alexandria City Code, Title 11, Chapter 2, The Food Safety Code of the City of Alexandria. Plans shall include a menu of food items to be offered for service at the facility and specification sheets for all equipment used in the facility, including the hot water heater.
- C-4 A Food Protection Manager shall be on-duty during all operating hours.
- C-5 The facility shall comply with the Virginia Indoor Clean Air Act and the Code of Alexandria, Title 11, Chapter 10, Smoking Prohibitions.
- C-6 In many cases, original wooden floors, ceilings and wall structures in historical structures may not be suitable for food service facilities. Wood materials shall be finished in a manner that is smooth, durable, easily-cleanable, and non-absorbent.
- C-7 Facilities engaging in the following processes may be required to submit a HACCP plan and/or obtain a variance: Smoking as a form of food preservation; curing/drying food; using food additives to render food not potentially-hazardous; vacuum packaging, cookchill, or sous-vide; operating a molluscan shellfish life-support system; sprouting seeds or beans; and fermenting foods.
- C-8 Bar sections located within an open-air dining area will be limited in preparation activities. The bar section shall be placed in a location that reduces the potential adulteration of beverages served at the establishment. To the maximum extent possible, the location shall be free from dust, dirt, vermin, animals, birds, overhead leakage, or other contamination. Overhead protection shall be provided that fully extends over all beverages, condiments, utensil holding facilities and equipment associated with the bar section. All food, other than beverages, shall be prepared inside an approved, fully enclosed food establishment. No food preparation shall take place in the outdoor dining area. If the facility intends to have food preparation outdoors then the submission of construction plans and a plan review process are required.

#### Parks and Recreation:

No comments received.

## Police Department:

No comments.

#### Fire Department:

C-1 The fire department connection (FDC), main drain discharge, and hose bib are within the proposed encroachment. City and Statewide Fire Prevention Codes require 36-inch clearance around fire department connection. Applicant shall provide additional information concerning seating arrangement and any barriers near the FDC.

Real Estate Assessments:
See attached Memorandum, dated February 12, 2019.

# City of Alexandria, Virginia

# MEMORANDUM

DATE:

FEBRUARY 12, 2019

TO:

KARL MORITZ, DIRECTOR

DEPARTMENT OF PLANNING AND ZONING

FROM:

WILLIAM BRYAN PAGE SRA, RM, REAL ESTATE ASSESSOR

OFFICE OF REAL ESTATE ASSSESSMENTS

ADDRESS:

600 MONTGOMERY STREET, ALEXANDRIA, VIRGINIA

**SUBJECT:** 

5.76 FEET WIDE BY 45.64 FEET LONG ENCROACHMENT ALONG THE

600 BLOCK OF MADISON STREET, ALEXANDRIA, VIRGINIA

ACCOUNT: 12165000 (Hank's Pasta Bar, LLC)

**PROJECT:** ENCROACHMENT #2018-000012

Per your request, we have reviewed the proposed encroachment into the public right-of-way located at the southeast corner of Madison Street and North St. Asaph Street in the Old Town North area of the City of Alexandria. The actual encroachment encumbers a 263 square-foot strip of sidewalk and patio that is flush with the northern elevation of the building. It will project out into the right-of-way a distance of 5.76 feet and extend a distance of 45.64 feet. All but 18 square feet will be used for outdoor dining designed to accommodate 20 patrons at ten tables of four.

The improvements consist of a 7,200 square-foot two-story slab and grade masonry building originally constructed in 1945, sited on a 3,634 square-foot parcel zoned CD-X (Commercial Downtown Zone (Old Town North). A floor area ratio of 2.0 is 1.98 is indicated.

The value of the encroachment can be determined by the application of Section 3-2-85 of the City Code which defines the annual charge for commercial encroachments to be the equivalent of what would be the real estate tax upon the land being encroached if it were owned by the owner or owners of the encroaching property.

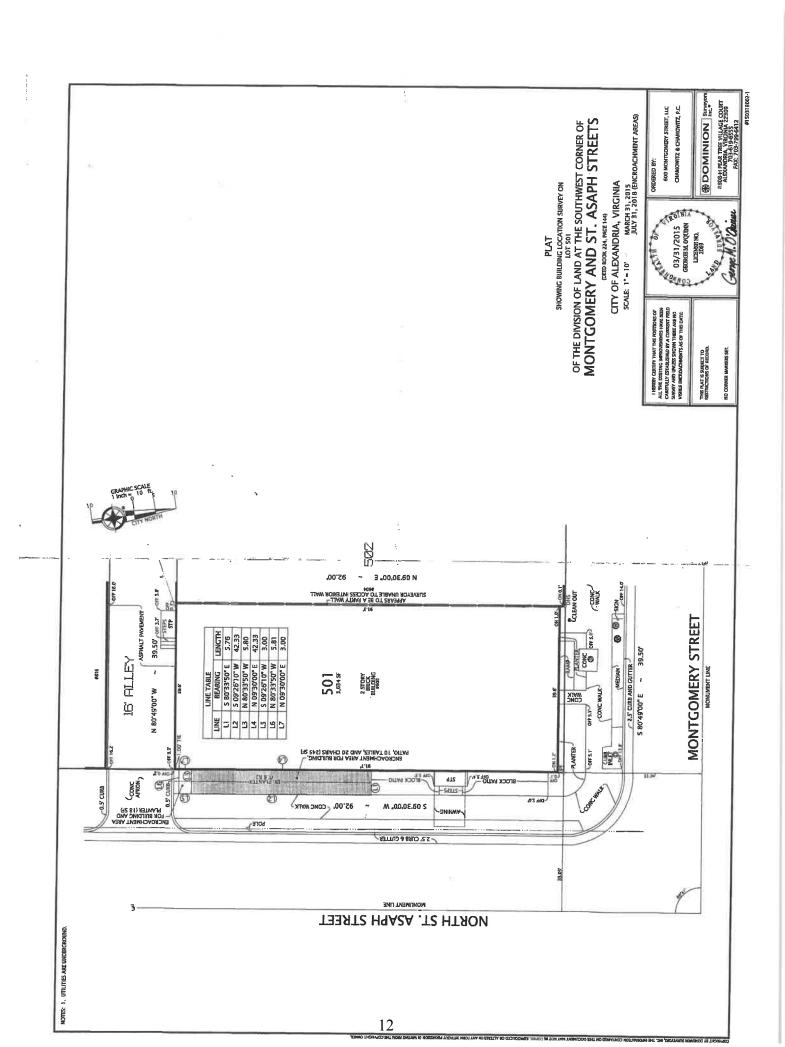
Based on a land value of \$250 per square-foot, a land encroachment area of 263 square feet and the 2018 tax rate of 1.13 per \$100 of assessed value, the indicated annual fee of the encroachment is \$743.00 (rounded).

## **Seven Hundred and Forty-Three Dollars**

This analysis does not constitute a fully documented real property appraisal report and should not be purported as such. The analysis is based on the current 2018 per square-foot assessed land values of the subject and similarly zoned parcels in the immediate area of the subject property, and complies with City policies and guidelines.

Attachments
Encroachment Plat (ENC# 2018-00012)

cc: Patrick Silva, Senior Planning Technician Sam Shelby, Primary Planner





ENC#		
PROPERTY LOCATION	600 Montgomery S	treet
TAX MAP REFERENCE	54.04-03-07	ZONE: CD-X
APPLICANT		
Name:	HANK'S PASTA BA	R, LLC
Address:	600 MONTGOMER	Y STREET
PROPERTY OWNER		
Name:	600 MONTGOMER	Y STREET, LLC
Address	600 MONTGOMER	Y STREET
PROPOSED USE:	RESTAURANT (PA	ATIO)
A certificate of general liab as an additional insured m  THE UNDERSI	ility insurance in the amou ust be attached to this app <b>GNED</b> hereby applies for	et Insurance Co Ltd. POLICY # 30SBABY0777  nt of \$1,000,000 which will indemnify the owner and names the city dication.  an Encroachment Ordinance in accordance with the provisions of the city of Alexandria, Virginia.
		an Administrative Use Permit in accordance with the provisions of Article ne City of Alexandria, Virginia.
	notice on the property for	ermission from the property owner, hereby grants permission to the City of which this application is requested, pursuant to Article XI, Section 11-301 andria, Virginia.
		of the information herein provided and specifically including all surveys, rect and accurate to the best of their knowledge and belief.
David L Chamowitz		Toll
Print Name of Applicant or	Agent	Signature
118 N. Alfred Street		(703) 548-0110
Mailing/Street Address		Telephone # Fax #
Alexandria, VA	22314	dchamowitz@chamlaw.com
City and State	Zip Code	Email address
		September 21, 2018
		Date

Date and Fee Paid: \$\_\_\_\_\_ Application Received: ACTION - PLANNING COMMISSION: \_\_\_\_ ACTION - CITY COUNCIL: \_\_\_\_\_

application encroachment ROW.pdf 8/1/06 Pnz\Applications, Forms, Checklists\Planning Commission

#### OWNERSHIP AND DISCLOSURE STATEMENT

Use additional sheets if necessary

1. Applicant. State the name, address and percent of ownership of any person or entity owning an interest in the applicant, unless the entity is a corporation or partnership, in which case identify each owner of more than three percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

Name	Address	Percent of Ownership
Jamie Lees	600 Monggomery	100%
2.		
3.		
3.		

2. Property. State the name, address and percent of ownership of any person or entity owr interest in the property located at	ing an
unless the entity is a corporation or partnership, in which case identify each owner of more tha	n three
percent. The term ownership interest shall include any legal or equitable interest held at the tir	ne of the
application in the real property which is the subject of the application.	

Name	Address	Percent of Ownership
1. Jonie Leels	600 Mongonery	100%
2.		
3.		

3. Business or Financial Relationships. Each person or entity indicated above in sections 1 and 2, with an ownership interest in the applicant or in the subject property are require to disclose any business or financial relationship, as defined by <u>Section 11-350 of the Zoning Ordinance</u>, existing at the time of this application, or within the 12-month period prior to the submission of this application with any member of the Alexandria City Council, Planning Commission, Board of Zoning Appeals or either Boards of Architectural Review. All fields must be filled out completely. Do not leave blank. (If there are no relationships please indicated each person or entity and "None" in the corresponding fields).

For a list of current council, commission and board members, as well as the definition of business and financial relationship, click here.

Name of person or entity	Relationship as defined by Section 11-350 of the Zoning Ordinance	Member of the Approving Body (i.e. City Council, Planning Commission, etc.)
1. Janue Ceels	Nine	None
3.		

NOTE: Business or financial relationships of the type described in Sec. 11-350 that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings.

As the applicant or the applicant's authorized agent,	I hereby attest to the best of my ability th	a
the information provided above is true and correct.		

Date Printed Name Signature

HANKPAS

# ACORD.

# CERTIFICATE OF LIABILITY INSURANCE

7/27/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT Select Business Unit					
CBIZ Insurance Svcs (Select) 44 Baltimore Street	PHONE (A/C, No, Ext): 888-408-7500 FAX (A/C, No): 8	55-288-6103				
Cumberland, MD 21502	E-MAIL ADDRESS: CBIZSelect@cbiz.com	E-MAIL ADDRESS: CBIZSelect@cbiz.com				
Cumbendia, MD 21302	INSURER(S) AFFORDING COVERAGE	NAIC#				
	INSURER A: Sentinel Insurance Co. Ltd.	11000				
Hanks Pasta Bar LLC 600 Montgomery Street, LLC 115 South Patrick St Suite 101 Alexandria, VA 22314	INSURER B : Hartford Accident & Indemnity	22357				
	INSURER C:					
	INSURER D :					
	INSURER E :					
	INSURER F:					
COVERAGES CERTIFICATE NUMBER:	REVISION NUMBER:	· ·				

T	THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD						
10	INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS						
■ CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TEDMS							
=	EXCLUSIONS AND CONDITIONS OF SUCH	POLICIE	S. LIMITS SHOWN MAY HAVE BEE	N REDUCED	BY PAID CLA	MS.	,
INSF	TYPE OF INSURANCE	ADDL SUB INSR WVE	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMIT	`s
A	X COMMERCIAL GENERAL LIABILITY		30SBABY0777			EACH OCCURRENCE	\$1,000,000
	CLAIMS-MADE X OCCUR					DAMAGE TO RENTED PREMISES (Ea occurrence)	\$1,000,000
ļ						MED EXP (Any one person)	s5,000
1						PERSONAL & ADV INJURY	s1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:					GENERAL AGGREGATE	\$2,000,000
l	X POLICY JECT LOC					PRODUCTS - COMP/OP AGG	\$2,000,000
⊢	OTHER:						\$
	AUTOMOBILE LIABILITY					COMBINED SINGLE LIMIT (Ea accident)	\$
	ANY AUTO OWNED SCHEDULED					BODILY INJURY (Per person)	\$
	AUTOS ONLY AUTOS					BODILY INJURY (Per accident)	\$
l	HIRED AUTOS ONLY AUTOS ONLY					PROPERTY DAMAGE (Per accident)	\$
_							\$
Α	X UMBRELLA LIAB X OCCUR		30SBABY0777	12/15/2017	12/15/2018	EACH OCCURRENCE	\$1,000,000
	EXCESS LIAB CLAIMS-MADE					AGGREGATE	s1,000,000
	DED X RETENTION \$10000						\$
В	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N		30WECCU8396	12/15/2017	12/15/2018	X PER OTH-	
	ANY PROPRIETOR/PARTNER/EXECUTIVE	N/A				E.L. EACH ACCIDENT	s500,000
	(Mandatory in NH) If yes, describe under					E.L. DISEASE - EA EMPLOYEE	s500,000
_	DÉSCRIPTION OF OPERATIONS below					E.L. DISEASE - POLICY LIMIT	<b>\$500,000</b>
Α	Liquor Liability		30SBABY0777	12/15/2017	12/15/2018	\$1,000,000 Each	
						\$2,000,000 Aggregat	te
DES	DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)						
Cit	City of Alexandria, Transportation & Environmental Services is Additional Insured as respects to General						

CERTIFICATE HOLDER	CANCELLATION
City of Alexandria, Transportation & Environmental Services	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
301 King Street, Room 4130	AUTHORIZED REPRESENTATIVE
Alexandria, VA 22314	CBIZ Insurance Services, Inc.

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