

# OAKLAND CITY COUNCIL

Approved as to Form and Legality

  
City Attorney

RESOLUTION NO. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

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**RESOLUTION GRANTING A CONDITIONAL AND REVOCABLE MAJOR ENCROACHMENT PERMIT TO 2327 SAN PABLO, LLC, TO ALLOW THREE EXISTING OUTWARD SWINGING DOORS AND PORTIONS OF THE EXISTING BUILDING ABOVE GRADE AT 2327 SAN PABLO AVENUE TO ENCROACH INTO THE PUBLIC RIGHT-OF-WAY ON SAN PABLO AVENUE, MAJOR ENCROACHMENT PERMIT ENMJ20056; AND MAKING CALIFORNIA ENVIRONMENTAL ACT FINDINGS**

**WHEREAS**, 2327 San Pablo, LLC, ("Permittee"), is the owner of the real property known as 2327 San Pablo Avenue and described in a Grant Deeds Recorded June 26, 2018, by the Alameda County Clerk-Recorder and identified by the Alameda County Assessor as APN: 003-0021-006 and commonly known as 2327 San Pablo Avenue hereto and incorporated herein (the "Property"); and

**WHEREAS**, Permittee owns the existing three-story building on the Property with existing habitable space and outward swinging doors encroaching into the right-of-way; and

**WHEREAS**, The City of Oakland Department of Planning and Building issued a Building Permit for building renovations (B1901546), subject to a condition of approval that Permittee obtain a conditional and revocable major encroachment permit for the Encroachment shown on **Exhibit A**; and

**WHEREAS**, Permittee has filed an application with Department of Transportation for such conditional and revocable Major Encroachment Permit (ENMJ20056) (hereinafter referred to as the "Permit"); and

**WHEREAS**, staff has determined, in accordance with the Oakland Municipal Code Chapter 12.08 and based on review of the plans and investigation of the Property and the area of the proposed Encroachments, that the Encroachments in the public right-of-way and their location will not, currently understood, interfere with the public use of the roadway, sidewalk, buried utilities, and will not endanger the public welfare and convenience during said public use; and

**WHEREAS**, this action is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15301 (Existing Facilities); now, therefore, be it

**RESOLVED:** That the City Council has reviewed all relevant documents relating to its grant of this Permit; and be it

**FURTHER RESOLVED:** That the City Council finds and determines that the decision made hereby is made in conformance with the requirements of CEQA; and be it

**FURTHER RESOLVED:** That the City Council hereby grants to the Permittee a conditional revocable Permit to allow the Encroachments, which Permit shall take effect only upon the City and Permittee entering into an Indenture Agreement in the form substantially attached hereto as **Exhibit B** (the “Indenture Agreement”), the conditions therein being incorporated into the Permit; and be it

**FURTHER RESOLVED:** That the Permit shall commence and continue in effect so long as Permittee satisfies, and continues to satisfy, all conditions and obligations set forth in the Indenture Agreement; and be it

**FURTHER RESOLVED:** That the City Council, at its sole discretion and at a future date not yet determined, may impose additional and continuing fees for use and occupancy of the public right-of-way; and be it

**FURTHER RESOLVED:** That the Permit authorized by this Resolution shall take effect when all the conditions and obligations set forth in the Indenture Agreement shall have been complied with to the satisfaction of the City Attorney and the City Engineer of the City of Oakland and shall become null and void upon the failure of the Permittee to comply with the conditions and obligations set forth in the Indenture Agreement, subject to the notice and cure provisions set forth therein, or upon a termination by resolution of the City Council as being in the City’s best interest; and be it

**FURTHER RESOLVED:** That the City Engineer is hereby directed to file a certified copy of this Resolution for recordation with the Office of the Alameda County Clerk-Recorder as an encumbrance of the title of the property identified above.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND  
PRESIDENT FORTUNATO BAS

NOES –

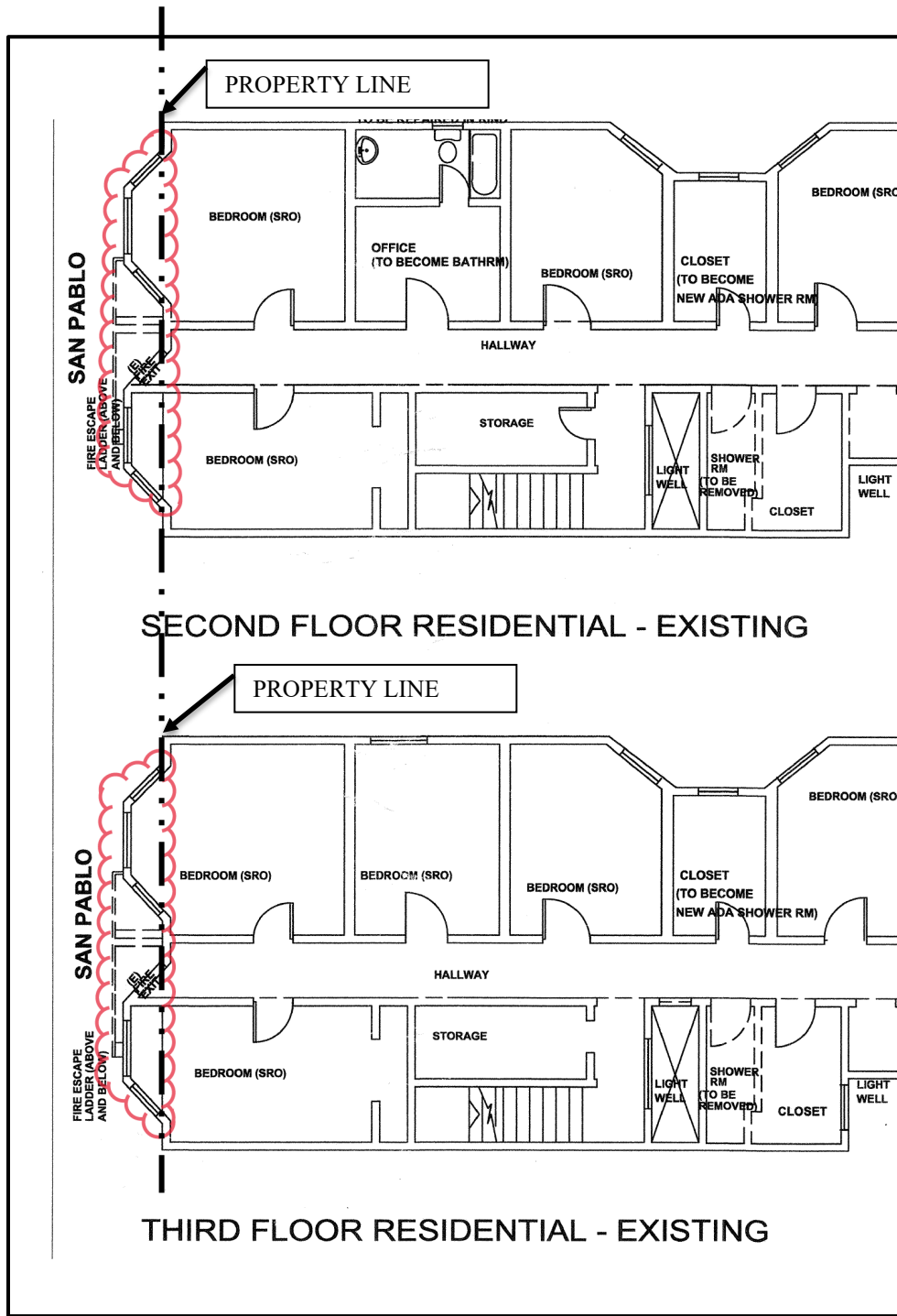
ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_  
ASHA REED  
Acting City Clerk and Clerk of the Council of  
the City of Oakland, California

**Exhibit A:** 2327 San Pablo Avenue Encroachments (1 page)  
**Exhibit B:** Indenture Agreement (9 pages)

**EXHIBIT A: 2327 SAN PABLO AVENUE ENCROACHMENTS**



Three (3) existing outward swinging doors encroach approximately three (3) feet each in the Public Right-of-Way. Portions of existing building encroach approximately three and a half (3.5) feet with approximately eighty (80) square feet of area encroaching into the Public Right-of-Way.

**EXHIBIT B: INDENTURE AGREEMENT**

**(Attached Separately)**