

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION GRANTING A CONDITIONAL AND REVOCABLE MAJOR ENCROACHMENT PERMIT TO 2101 TELEGRAPH AVENUE ASSOCIATES, A CALIFORNIA LIMITED PARTNERSHIP, TO ALLOW PORTIONS OF AN EXISTING BASEMENT AND LIFT TO ENCROACH INTO THE PUBLIC RIGHT OF WAY FRONTING THE PROPERTY AT 2101 TELEGRAPH AVENUE, MAJOR ENCROACHMENT PERMIT ENMJ24015, AND ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

WHEREAS, 2101 Telegraph Ave Associates, LP (Permittee), is the owner of the real property known as 2101 Telegraph Avenue and as described in a Grant Deed recorded December 20, 1994, by the Alameda County Clerk-Recorder and identified by the Alameda County Assessor as APN: 8-647-2 and 8-647-1 commonly known as 2101 Telegraph Avenue hereto and incorporated herein (Property); and

WHEREAS, the Permittee proposes to construct an eight-story, ninety-seven unit affordable housing project for seniors (Project) and to perform improvements to public infrastructure, including the repair and replacement of street improvements such as the curb, gutter, and sidewalk, along with lift replacement and repairs; and

WHEREAS, the Project incorporates an approximately 4,094 square feet of existing basement and existing lift that encroach into the public right-of-way on 21st Street and Telegraph Avenue and require a structural sidewalk replacement to meet current standards (Encroachments); the limits of the Encroachment are delineated on *Exhibit A* attached hereto and incorporated herein; and

WHEREAS, the Permittee has filed an application with the Oakland Building Department (B2105280) for the development and an application with the Oakland Department of Transportation (PX2400006) for public infrastructure improvements; and

WHEREAS, the Permittee has filed a Major Encroachment Permit application with the Oakland Department of Transportation for the Encroachments (ENMJ24051), hereinafter referred to as “Permit,”; and

WHEREAS, Oakland Department of Transportation 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 Encroachments, that the Encroachments in the public right-of-way and their location will not interfere with the public use of the roadway, sidewalk, or buried utilities, and the Encroachments will not endanger the public welfare and convenience during public use; and

WHEREAS, this action is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15301 (existing facilities), 15183 (Projects Consistent with a Community Plan or Zoning), and 15061(b)(3) (no significant effect on the environment), each as a separate and independent basis; 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 exempt from CEQA pursuant to CEQA since, on a separate and independent basis, this action is exempt from CEQA pursuant to CEQA Guidelines sections 15301 (existing facilities), 15183 (Projects Consistent with a Community Plan or Zoning), and 15061(b)(3) (no significant effect on the environment) and therefore, the decision made hereby is made in conformance with the requirements of CEQA; and be it

FURTHER RESOLVED: That the City Council grants to the Permittee a conditional and revocable Permit to allow the Encroachments, which shall take effect only upon the City and Permittee entering into an Indenture Agreement in substantially the same form as attached hereto as *Exhibit B* (Indenture Agreement), the conditions therein being incorporated into the Permit; 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 the 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 of Oakland City Attorney and the City of Oakland City Engineer 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 termination by resolution of the City Council as being in the City's best interest; and be it

FURTHER RESOLVED: That the Oakland Department of Transportation is hereby directed to file a copy of the executed Indenture Agreement 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, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California