

2023 JAN 17 PM 2:39

APPROVED AS TO FORM AND LEGALITY

FILED
OFFICE OF THE CITY CLERK
OAKLAND

~~FILED~~
CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. 89554 C.M.S.

RESOLUTION GRANTING A CONDITIONAL AND REVOCABLE MAJOR ENCROACHMENT PERMIT TO RESNECK VENTURES, LLC, TO ALLOW PORTIONS OF THREE OUTWARD SWINGING DOORS AND BUILDING ELEMENTS TO ENCROACH INTO THE PUBLIC RIGHT OF WAY ADJACENT TO 581 5TH STREET, MAJOR ENCROACHMENT PERMIT ENMJ22052; AND ADOPTING APPROPRIATE CALIFORNIA ENVIROMENTAL QUALITY ACT FINDINGS.

WHEREAS, Resneck Ventures, LLC (Permittee), is the owner of the real property known as 581 5th Street and described in a Deed of Trust recorded August 03, 2017, by the Alameda County Clerk-Recorder and identified by the Alameda County Assessor as APN: 001-0129-016 commonly known as 581 5th Street, hereto and incorporated herein (Property); and

WHEREAS, Permittee owns the existing two-story building on the Property with existing three outward swinging doors, and building elements encroaching into the public right of way (Encroachments); and

WHEREAS, Permittee has an application with the Building Department to legalize A2 occupancy (B2104596) which categories the primary use of the building for assembly uses intended for food and/or drink consumption; 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, staff has determined, in accordance with the Oakland Municipal Code section 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, currently understood, interfere with 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 Major Encroachment Permit (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* (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 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:

JAN 17 2023


AYES - *File, Grallo, Jenkins, Kalb, Kaplan, Ramachandran, Reid, Fortunato Bas*

NOES - \emptyset

ABSENT - \emptyset

ABSTENTION - \emptyset

ATTEST:



ASHA REED

City Clerk and Clerk of the Council of the
City of Oakland, California

Exhibit A: 581 5th Street Encroachments (1 page)

Exhibit B: Indenture Agreement (8 pages)

EXHIBIT A: 581 5th STREET ENCROACHMENTS

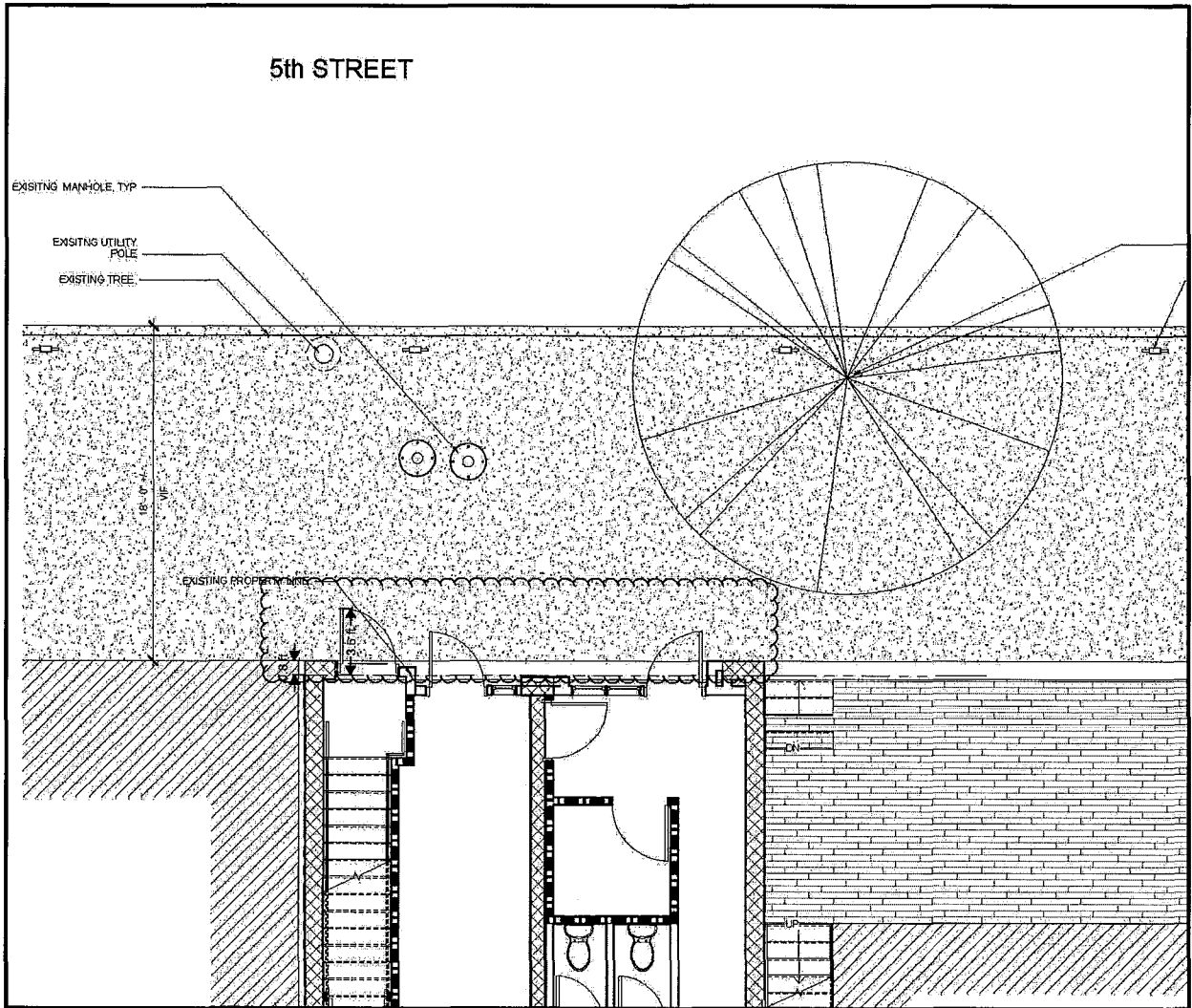


EXHIBIT B: Indenture Agreement
(Attached Separately)