

22 MAY 23 PM 12: OAKLAND CITY COUNCIL

Approved as to Form and Legality


Celso Ortiz (May 9, 2022 14:16 PDT)

City Attorney

RESOLUTION No. 89126 C.M.S.

Introduced by Councilmember _____

RESOLUTION GRANTING A CONDITIONAL AND REVOCABLE MAJOR ENCROACHMENT PERMIT ENMJ21051 TO VM MEADOWS APARTMENT LP, TO ALLOW PORTIONS OF BASEMENT AND SIDEWALK VAULTS AT 622 14TH STREET TO ENCROACH INTO THE PUBLIC RIGHT-OF-WAY ALONG 14TH STREET, ADJACENT TO 618-622 14TH STREET AND ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

WHEREAS, VM Meadows Apartment LP (Permittee) is the owner of the real property known as 622 14th Street and described in a Grant Deed Recorded April 3, 2018, by the Alameda County Clerk-Recorder and identified by the Alameda County Assessor as APN: 003-0071-022-00 and commonly known as 622 14th Street hereto and incorporated herein (Property); and

WHEREAS, Permittee owns the existing building on the property with an existing basement and sidewalk vaults encroaching below ground into the public right-of-way; and

WHEREAS, the basement and sidewalk vaults encroaching into the public right-of-way by approximately 150 square feet, the limits of which encroachment are delineated on *Exhibit A* hereto and incorporated herein (Encroachments); and

WHEREAS, the City approved a planning permit for small design project (DS180203), and informed Permittee a conditional and revocable major encroachment permit for the Encroachments were necessary to maintain the existing Encroachments; and

WHEREAS, Permittee has filed an application with Department of Transportation for such conditional and revocable Major Encroachment Permit (ENMJ21051), 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 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, each as a separate and independent basis, this action is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15301(existing facilities), 15183 (projects consistent with General Plan and Zoning), and 15061(b)(3) (no significant effect on the environment); now, therefore, be it

RESOLVED: That the City Council has reviewed all relevant documents relating to its grant of the encroachment permit that is the subject of this resolution; and be it

FURTHER RESOLVED: That the City Council finds and determines that, each as a separate and independent basis, this action is exempt from the CEQA pursuant to CEQA Guidelines sections 15301(existing facilities), 15183 (projects consistent with General Plan and 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 directs the City Administrator to file a Notice of Exemption; 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* (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, _____ **APR 19**, 2022

PASSED BY THE FOLLOWING VOTE:

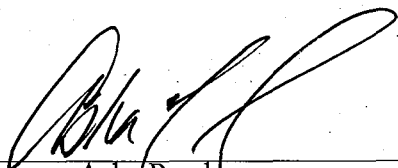
AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND
PRESIDENT FORTUNATO BAS - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:



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

Exhibit A: 622 14th Street Encroachment (2 pages)
Exhibit B: Indenture Agreement (8 pages)

EXHIBIT A (Page 1 of 2): 622 14th Street ENCROACHMENT

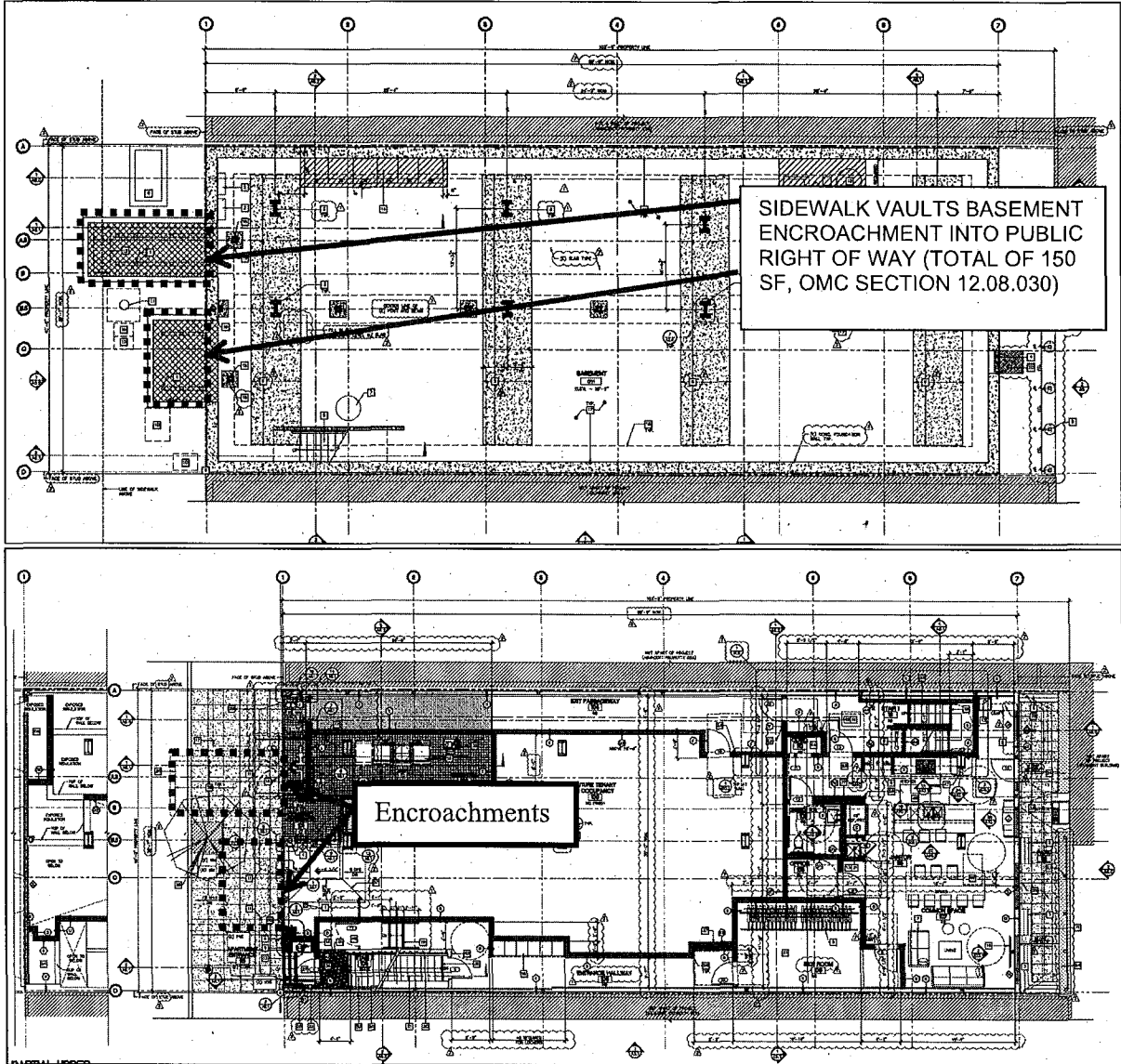


EXHIBIT A (Page 2 of 2): 622 14th Street ENCROACHMENT

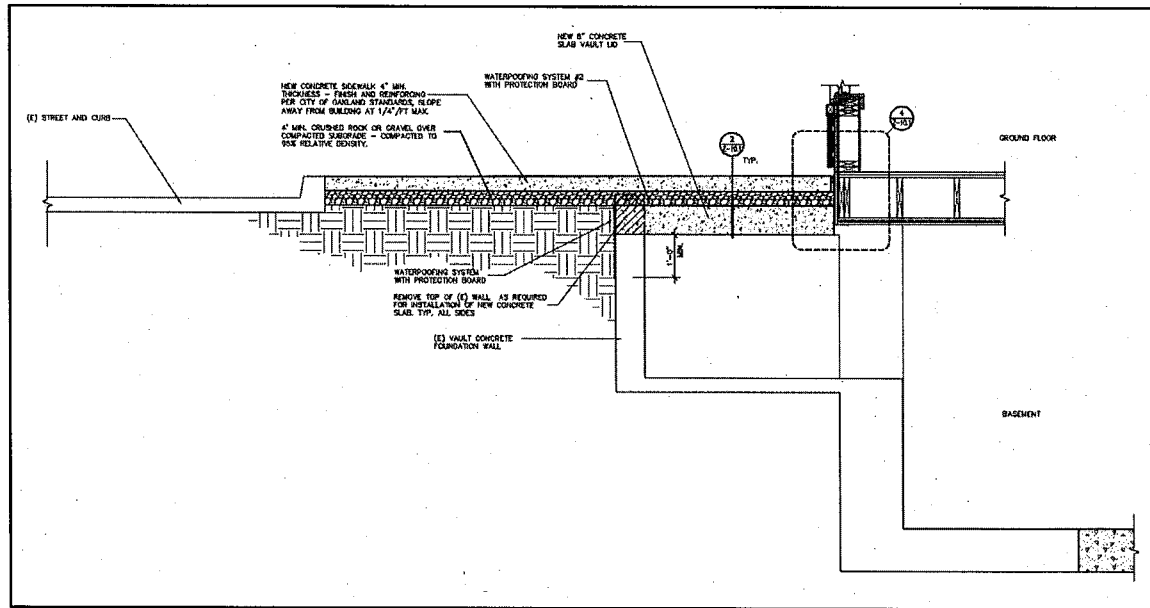
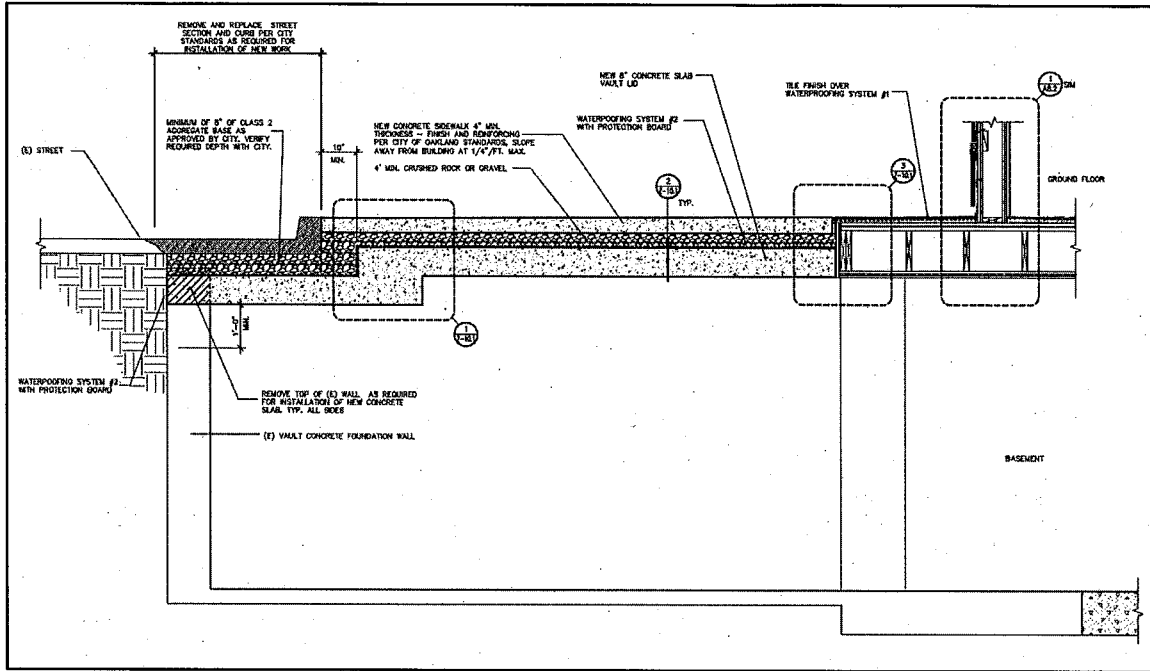


EXHIBIT B: INDENTURE AGREEMENT

(Attached Separately)