

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION GRANTING A CONDITIONAL AND REVOCABLE MAJOR ENCROACHMENT PERMIT TO PROPERTY OWNER, TENTH CHURCH OF CHRIST SCIENTIST, TO ALLOW PORTIONS OF AN AMERICAN WITH DISABILITIES ACT COMPLIANT ACCESS RAMP TO ENCROACH INTO THE PUBLIC RIGHT OF WAY FRONTING THE PROPERTY AT 1880 MOUNTAIN BOULEVARD, MAJOR ENCROACHMENT PERMIT ENMJ24052, AND ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

WHEREAS, Tenth Church of Christ Scientist (Permittee), is the owner of the real property known as 1880 Mountain Boulevard and as described in a Grant Deed recorded April 14, 1954, by the Alameda County Clerk-Recorder and identified by the Alameda County Assessor as APN: 48F-7369-52 commonly known as 1880 Mountain Boulevard (Property); and

WHEREAS, the Permittee proposes to replace an existing access ramp servicing the church with an American with Disabilities Act (ADA) compliant access ramp such that portions of the ramp and landings will encroach into the public right-of-way (Project); and

WHEREAS, the existing ramp is in the public right-of-way, and the Project was designed such that approximately 268 square feet of the ADA-compliant access ramp is proposed to encroach into the public right-of-way (Encroachment); the limits of Encroachment are delineated on *Exhibit A*; and

WHEREAS, the Department of Planning and Building has approved a design review exemption (DRX240355) for the ramp; and

WHEREAS, the Permittee has filed an application with the Oakland Department of Transportation for such conditional and revocable Major Encroachment Permit (ENMJ24052), 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 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 public use; and

WHEREAS, this action is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15303 (Minor Alterations to Land), and 15183 (Project Consistent with a Community Plan or Zoning), each as a separate and independent basis; now, therefore, be it

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

FURTHER RESOLVED: That the City Council finds and determines that the decision made hereby is exempt from CEQA, on a separate and independent basis pursuant to CEQA Guidelines sections 15303 (Minor Alterations to Land), and 15183 (Projects Consistent with a Community Plan or Zoning), 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 imposed 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 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