

2023 FEB -6 PM 1:29

FILED
OFFICE OF THE CITY CLERK
OAKLAND

APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. 89587 C.M.S.

RESOLUTION GRANTING A CONDITIONAL AND REVOCABLE MAJOR ENCROACHMENT PERMIT ENMJ22055, TO ALLOW A SUBSURFACE TRANSFORMER ROOM AND STRUCTURAL ELEMENTS TO ENCROACH INTO THE PUBLIC RIGHT-OF-WAY AT 525 12TH STREET; AND ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS.

WHEREAS, Samuel Merritt University (Permittee), has entered into a ground lease with the City of Oakland (City) dated November 14, 2022, for the real property known as 525 12th Street (Property); and

WHEREAS, Permittee proposes to construct a ten-story, 237,629 square foot university building on the Property (Project); and

WHEREAS, the Project is designed such that a subsurface transformer room approximately eleven feet, five inches by sixty-nine feet, eight inches will encroach into the public right-of-way (currently controlled by the City) on 12th Street, the encroachment limits of which are delineated on *Exhibit A* hereto and incorporated herein (Encroachments); and

WHEREAS, the City Planning Bureau has approved the development of the Project (PLN21249), subject to a condition of approval that Permittee obtain a conditional and revocable major encroachment permit of the Encroachments; and

WHEREAS, Permittee has filed an application with the Oakland Department of Transportation for such conditional and revocable major encroachment permit (ENMJ22055), 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, or 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 15183 (Projects Consistent with a Community Plan or Zoning); 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 this action is exempt from CEQA pursuant to CEQA Guidelines section CEQA 15183 (Projects Consistent with a Community Plan or Zoning); 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 a Maintenance Agreement in substantially the same form as attached hereto as *Exhibit B* (Maintenance 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 Maintenance 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 Maintenance 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,

FEB 07 2023

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

EXHIBIT B: MAINTAINENCE AGREEMENT

(Attached Separately)