

APPROVED AS TO FORM AND LEGALITY

Farrah Hussein
CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION GRANTING A CONDITIONAL AND REVOCABLE MAJOR ENCROACHMENT PERMIT ENMJ24057 TO ROMAN CATHOLIC WELFARE CORPORATION OF OAKLAND TO ALLOW A MODULAR CLASSROOM ON AN UNIMPROVED PORTION OF 81ST AVENUE AT 2225 81ST AVENUE, AND ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

WHEREAS, the Roman Catholic Welfare Corporation of Oakland (Permittee), is the owner of real property known as 2225 81st Avenue and described in a Grant Deed recorded June 29, 1962, by the Alameda County Clerk-Recorder and identified by the Alameda County Assessor as APN: 040-3376-005-01 (Property); and

WHEREAS, Permittee has filed an application with the Oakland Department of Transportation for such conditional and revocable Major Encroachment Permit (ENMJ24057), hereinafter referred to as the "Permit" to allow an existing modular classroom to encroach into an unimproved portion of the closed 81st Avenue right-of-way; the encroachment limits are delineated on *Exhibit A* hereto and incorporated herein (Encroachments); and

WHEREAS, said unimproved portion of 81st Avenue was closed to traffic in 1959 by Resolution No. 37874 C.M.S. to allow the adjoining Saint Benedict's Church, which is located on said parcel, to use the public right-of-way for a playground; and

WHEREAS, the modular building is a state-approved transportable classroom, approximately twenty-four (24) feet wide and sixty (60) feet long, which will be installed on approved portable supports; and

WHEREAS, the location of the modular building is necessary to provide expanded classroom space that will serve Aspire College Academy (formerly Aspire Millsmont Secondary Academy), which is chartered by the Oakland Unified School District and adjoins said portion of 81st Avenue; and

WHEREAS, the owner has been issued a Building permit (B1504302) for the installation of the modular building and its use as a classroom; and

WHEREAS, staff has determined, in accordance with the Oakland Municipal Code Chapter 12.08 and based on a 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, this action is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15301 (existing facilities) 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) 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 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 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 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 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:

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 A: Depiction of Encroachment

Exhibit B: Indenture Agreement