

  
City Attorney's Office

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

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**RESOLUTION GRANTING A CONDITIONAL AND REVOCABLE MAJOR ENCROACHMENT PERMIT TO LIBERTY26, LLC TO ALLOW A PORTION OF AN EXISTING GARAGE AT 565 SYCAMORE STREET TO ENCROACH INTO THE PUBLIC RIGHT-OF-WAY ON SYCAMORE STREET, MAJOR ENCROACHMENT ENMJ20054.**

**WHEREAS**, Liberty26, LLC, (Permittee), is the owner of the real property known as 565 Sycamore Street and described in a Grant Deed Recorded March 12, 2018, by the Alameda County Clerk-Recorder and identified by the Alameda County Assessor as APN: 008-0676-40 and commonly known as 565 Sycamore Street hereto and incorporated herein (Property); and

**WHEREAS**, Permittee proposes a three-unit air space subdivision of an existing residential building for condominium purposes (Project); and

**WHEREAS**, the existing building has a garage that encroaches approximately three square feet into the public right-of-way (Encroachment); and

**WHEREAS**, the City has approved the Project (PLN18316), 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**, Permittee has filed an application with Department of Transportation for such conditional and revocable Major Encroachment Permit (ENMJ20054) (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 Encroachment, that the Encroachment in the public right-of-way and its location will not, currently understood, 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 a Community Plan, General Plan, or 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 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 Permit to allow the Encroachment, 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, \_\_\_\_\_, 20\_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES – FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO  
AND PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
Asha Reed  
City Clerk and Clerk of the Council  
of the City of Oakland, California

*Exhibit A:* 565 Sycamore Street Encroachment (1 page)  
*Exhibit B:* Indenture Agreement (8 pages)



**EXHIBIT B: INDENTURE AGREEMENT**

**(Attached Separately)**