

18 DEC -6 PM 4:20

## OAKLAND CITY COUNCIL

ORDINANCE No. \_\_\_\_\_ C.M.S.

Introduced by Vice Mayor Campbell Washington

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**ORDINANCE AUTHORIZING A LICENSE AGREEMENT WITH ANDREW JOHNSTONE FOR USE OF THE CITY-OWNED PROPERTY AT 1910 MOUNTAIN BOULEVARD FOR AN AMOUNT LESS THAN FAIR MARKET VALUE FOR THE INSTALLATION OF A GRAFFITI ABATEMENT MURAL FOR A TERM OF FIVE YEARS**

**WHEREAS**, the City council adopted a budget that set aside graffiti abatement funds for murals and green walls in the amount of \$50,000 for each council member to grant, subject to Council approval, in order to address graffiti within their districts; and

**WHEREAS**, The wall on the East Railroad Trestle at the Northern part of the Village on Mountain Blvd. is currently in a state of graffiti blight; and

**WHEREAS**, community members have communicated their interest in having a mural that incorporates historical themes of the railroad on this empty wall, which is owned by the City; and

**WHEREAS**, pursuant to Resolution No. 85348 C.M.S. the City Council approved a grant of City Council District Four graffiti abatement funds to Andrew Johnstone for the installation of a mural on the wall of the East Railroad Trestle at 1910 Mountain Boulevard in Oakland; and

**WHEREAS**, Oakland Municipal Code ("OMC") Section 2.42.110 provides that a license for use of City property must be for a rent or fee, payable in cash or other consideration, equal to or exceeding the property's fair market value, unless the City Council determines that the license of the property for less than its fair market value is in the best interests of the City; and

**WHEREAS**, OMC Section 2.42.110 provides that the value of in-kind services in lieu of cash rent provided by licensee to the City or the community at large, including social and cultural benefits to the community, may be considered by the Council in making a finding that the license for use of the property for less than its fair market rental value is in the best interests of the City; and

**WHEREAS**, the installation of the mural at this site will increase beautification and reduce blight in this neighborhood; and

**WHEREAS**, Andrew Johnstone will be responsible for maintaining the mural and will obtain any permits required to install the mural; and

**WHEREAS**, the Public Art Advisory Commission approved the artwork at the December 2, 2013 meeting;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** The City Council hereby authorizes a license agreement with Andrew Johnstone for use of the City-owned property at 1910 Mountain Boulevard for a term of five years for the installation of a mural on the property.

**SECTION 2.** Pursuant to OMC Section 2.42.110 and based on the value of the in-kind services provided by the licensee as discussed above, the City Council hereby determines that the license for use of the property at 1910 Mountain Boulevard for less than its fair market rental value is in the best interest of the City.

**SECTION 3.** The City Attorney shall review and approve the proposed license agreement as to form and legality, and a copy shall be placed on file with the City Clerk.

**SECTION 4. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

**SECTION 5. Effective Date.** This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL-WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLÉN, KALB, KAPLAN AND PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST:

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LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California

Date of Attestation:

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**FILED**  
OFFICE OF THE CITY CLERK  
OAKLAND

**NOTICE AND DIGEST**

**2019 JAN 15 AM 9:27**

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This Ordinance would authorize a license agreement with Andrew Johnstone for use of the City-owned property at 1910 Mountain Boulevard for the installation of a graffiti abatement mural for a term of five years. This Ordinance would authorize the license agreement for less than fair market value, at no cost.