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Approved as to Form and Legality

DRAFT

City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO 1) SUBMIT AN APPLICATION AND ENTER INTO AN AGREEMENT WITH THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION FOR THE SPONSORSHIP AND MAINTENANCE OF THE "OAKLAND SUPER HEROES MURAL NO. 4," PROJECT FOR WEST STREET UNDER INTERSTATE 580 - EAST WALL, AS PROPOSED BY ATTITUDINAL HEALING CONNECTION; AND 2) ENTER INTO AN AGREEMENT WITH ATTITUDINAL HEALING CONNECTION FOR INSTALLATION OF THE MURAL PROJECT AND ONGOING MAINTENANCE

WHEREAS, the Oakland-based nonprofit organization Attitudinal Healing Connection ("AHC") has sponsored a large scale mural revitalization program, completing three projects to-date, to realize a series of six murals at various locations below the Interstate 580 freeway in West Oakland, collectively called the Oakland Super Heroes Mural Project; and

WHEREAS, the City Council originally authorized the proposal by AHC for a series of six murals under Interstate 580 between Martin Luther King Jr. and San Pablo Avenues, per Oakland Redevelopment Agency Resolution No. 011-0047 C.M.S. on June 7, 2011; and

WHEREAS, AHC's "Oakland Super Heroes Mural No. 4" is planned for the eastern abutment wall of West Street, and is designed by local youth from Hoover Elementary working with creative originator Amana Harris, art director David Burke and Teaching Artist Lindsey Millikan; and

WHEREAS, the City of Oakland Public Art Advisory Committee at its meeting of January 9, 2017 reviewed the design and has recommended that the City Council accept the proposal by AHC for the "Oakland Super Heroes Mural No. 4" for the eastern support wall on West Street below the Interstate 580 freeway; and

WHEREAS, AHC has agreed to maintain the mural after its completion for the mural's lifespan of twenty (20) years; and

WHEREAS, the State of California Department of Transportation ("Caltrans" or "State") requires that the City of Oakland sponsor, and take responsibility for, all artwork authorized by Caltrans for placement on Caltrans property within the Oakland city limits; and

WHEREAS, as a condition to approving the installation of artwork on Caltrans facilities, Caltrans requires a resolution from the City Council in support of the project and an agreement with the City of Oakland stating that the City will assume responsibility for maintenance and upkeep of artwork on Caltrans facilities within the Oakland city limits at City's expense; and

WHEREAS, section 504(l) of the City Charter authorizes the City Administrator to enter into intergovernmental agreements subject to City Council approval; and

WHEREAS, the proposed agreement with Caltrans requires that City maintain the artwork including, but not limited to: (1) restoration or replacement of damaged artwork; (2) removal of dirt, debris, graffiti, grown vegetation and weeds surrounding artwork and the immediate area City uses to access and maintain artwork; and (3) removal of any deleterious item or material on artwork in an expeditious manner, including graffiti removal, which must conform to applicable State policies and guidelines that require prompt removal of offensive messages and timely removal of all other graffiti, for the proposed lifespan of the artwork; and

WHEREAS, Caltrans requires that all work by or on behalf of the City will be done at no cost to State; and

WHEREAS, the proposed agreement with Caltrans requires that the City shall remove artwork whenever, in the opinion of State, it creates a maintenance or operational concern, and states that in the event the City fails to remove artwork in a timely manner, State may remove artwork and will bill the City for all costs of its removal and for the restoration of State owned areas to their original condition; and

WHEREAS, the State requires the City to obtain from artists, or any party the City contracts with for the artwork, an assignment of all copyright interests in the artwork to the State; and

WHEREAS, it is the City's policy through its Public Art Program regulations that gifts of art and community-initiated artwork projects may be accepted only on the terms that the artwork sponsor or donor make provision for ongoing maintenance of the artwork, which entails entering into agreements with artists and organizations establishing the artist/donor's agreement and responsibility to provide maintenance and upkeep; and

WHEREAS, City proposes to enter into an Agreement with AHC requiring AHC to assume all maintenance responsibilities specific to the artwork as stipulated by State, and comply with all City and State permit requirements for the installation of the mural; now, therefore be it

RESOLVED: That the City Administrator is hereby authorized to submit an artwork proposal, and enter into an Agreement with Caltrans for the sponsorship and maintenance of the mural referred to as "Oakland Super Heroes Mural Project No. 4," by AHC, for the eastern abutment wall of Highway 580 at West Street, between 35th and 36th Streets, at Post Mile 45.39; and be it

FURTHER RESOLVED: That the City Administrator is hereby authorized to enter into an agreement with AHC to install the mural at the location and require AHC to assume all maintenance responsibilities specific to the artwork; and be it

FURTHER RESOLVED: That the City Administrator is authorized to conduct all negotiations, execute and submit all documents, including but not limited to applications, agreements, amendments, modifications, and related actions which may be necessary for the above-referenced agreements and the Oakland Super Heroes Mural No. 4; and be it

FURTHER RESOLVED: That said agreements shall be reviewed as to form and legality by the Office of the City Attorney and copies will be filed in the Office of the City Clerk.

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: _____

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