

CITY OF OAKLAND

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OFFICE OF THE CITY CLERK
OAKLAND

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AGENDA REPORT

TO: Members of the City Council

FROM: Councilmember Lynette
Gibson McElhane

SUBJECT: Authorizing Agreements with
CalTrans and Attitudinal Healing
Connection

DATE: October 25, 2017

RECOMMENDATION

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

EXECUTIVE SUMMARY

This legislation resolves the last obstacle to installing a community inspired solution to beautify an underpass in West Oakland. Attitudinal Healing Connection proposes to install the "Oakland Super Heroes Mural No. 4" at the I-580 underpass at West Street. This proposal requires the City of Oakland to apply on their behalf to the California Department of Transportation. City of Oakland policies also require that Attitudinal Healing Connection assume the cost of maintaining the project, indemnify the City of Oakland, and agree to remove the mural at the end of its lifespan. This resolution authorizes the City Administrator to enter into these two agreements.

BACKGROUND / LEGISLATIVE HISTORY

Attitudinal Healing Connection (AHC) is sponsoring a series of six proposed murals for the Hoover Corridor Neighborhood in West Oakland. Oakland Redevelopment Agency Resolution No. 011-0047 C.M.S. was adopted on June 7, 2011 in support of the proposal.

In July 2012, AHC painted the first of six proposed murals on the eastern abutment wall under Interstate 580 on San Pablo Avenue, a Caltrans property. Mural No. 2 on Market Street was completed in April 2014, and Mural No. 3 on West Street (western wall) was completed in October 2015. The murals serve as a gateway to West Oakland and Downtown, provide a positive reflection of the community, and have been approved enthusiastically by the City and Caltrans and embraced by the community. Each mural has been designed with a specific school group, as youth are engaged in the 'Self as Super Hero' curriculum, which takes students through a collective process of character development through visualization of super (s)hero

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characters that embody the students' images and address community concerns. The design for "Oakland Super Heroes No. 4" was created in 2016 by AHC Creative Originator Amana Harris, Art Director David Burke, Lead Artist Lindsey Millikan and youth from Hoover Elementary.

At its meeting of January 7, 2017, the Public Art Advisory Committee (PAAC) accepted artist Attitudinal Healing Connection's proposal to paint "Oakland Super Heroes Mural No. 4" for West Street under Interstate 580 in West Oakland. The PAAC's acceptance of the final proposal constituted a recommendation to City Council to pass a resolution approving the project and authorizing the City Administrator to enter into an agreement with Attitudinal Healing Connection for the installation of the mural and to provide ongoing maintenance for the mural project.

ANALYSIS AND POLICY ALTERNATIVES

Attitudinal Healing Connection is required to gain permission from Caltrans to utilize the location. As a condition of approval, Caltrans requires the local government entity, in this case the City of Oakland, to be the applicant for all art proposals for state property, as outlined in their Transportation Art guidelines. A preliminary Transportation Art application for this project was submitted by the City to Caltrans in April 2017. Approval of this application is pending the passage of this resolution which resolves outstanding concerns over installation and maintenance of artwork on Caltrans property.

Caltrans requires a separate maintenance agreement for each proposed Transportation Art project. Caltrans terms require the City to hold all maintenance responsibility for the artwork including, but not limited to: restoration or replacement of damaged artwork; removal of dirt, debris, graffiti, grown vegetation and weeds surrounding artwork and the immediate area City uses to access and maintain artwork; and 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. Caltrans requires all work by or on behalf of the City to be done at no cost to the State. Finally, the City is required to remove artwork whenever, in the opinion of the State, it creates a maintenance or operational concern, and states that in the event the City fails to remove artwork in a timely manner, the State may remove artwork and bill the City for all costs of its removal and for the restoration of State owned areas to their original condition.

The City's policy through its Public Art Program regulations requires that gifts of art and community-initiated artwork projects 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.

The proposed resolution authorizes the City Administrator to enter into an agreement with Attitudinal Healing Connection by which AHC will be required to provide proof of liability insurance, obtain and comply with any City and State permits that may be required to perform the work, and assume responsibility for ongoing maintenance, cleaning, and restoration of the artwork in order to meet Caltrans and City requirements. The Agreement will also provide for how and when the artwork will be removed or painted over at the end of its lifespan.

In order for Caltrans to give the final approval for the "Oakland Super Heroes Mural No. 4" artwork project, a resolution of support from the Oakland City Council, and a maintenance agreement between Caltrans and the City are required.

FISCAL IMPACT

There is no anticipated fiscal impact to this resolution.

COORDINATION

This report and resolution are the result of coordinated efforts by Councilmember McElhaney's staff, staff from the Cultural Affairs Division of the Economic and Workforce Development Department, Attitudinal Healing Connection and the Office of the City Attorney.

SUSTAINABLE OPPORTUNITIES

Economic: The information presented in this report presents no economic impact.

Environmental: There are no environmental opportunities identified in this report.

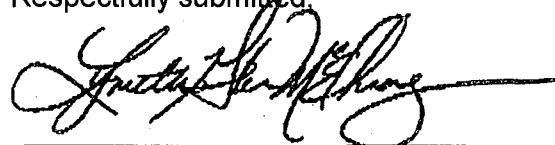
Social Equity: The adoption of this resolution will advance the goals of social equity in the City of Oakland by moving forward a community driven beautification project in a historically underserved neighborhood.

ACTION REQUESTED OF THE CITY COUNCIL

Adopt a 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.

For questions regarding this report, please contact Alex Marqusee, Sr. Legislative Analyst, at 510-238-7031.

Respectfully submitted,



Lynette Gibson McElhaney
City Councilmember

2017 OCT 26 PM 12:40


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; and

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