

CITY OF OAKLAND
SUPPLEMENTAL REPORT

2007 JUN 21 11:53:37

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Council President De La Fuente
DATE: June 21, 2007
RE:

**A RESOLUTION FROM THE OAKLAND CITY COUNCIL
SUPPORTING THE INSTALLATION OF A MURAL ALONG
FRUITVALE AVENUE BELOW THE 880 OVERPASS AND
ASSUMING RESPONSIBILITY FOR ITS MAINTENANCE AND
UPKEEP**

This is a supplemental report regarding the installation of a mural along Fruitvale Avenue below the 880 overpass. Several attachments have been included to provide further clarification on this project. Attached you will find:

1. A revised resolution
2. Caltrans' Transportation Art Program Guidelines
3. The proposed Memorandum of Understanding (MOU) between Artist Ruben Guzman, Spanish Speaking Unity Council and the City of Oakland which will be entered into if and when Caltrans approves the mural project.
4. Letters of support from Fruitvale residents and business owners in support of the mural project

This mural project is scheduled to go before the Caltrans Transportation Art Program Committee on July 17, 2007. In addition, if approved by Caltrans, a second maintenance agreement will be entered into between the City and Caltrans in order to allow for the City to maintain the mural on Caltrans property.

The Cultural Arts and Marketing Division has agreed to assume responsibility for the maintenance and upkeep (including graffiti removal) or repair and removal (or restoration) of the artwork.

OFFICE OF THE CLERK
2007 JUN 29 PM 5:38

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C. M. S.

INTRODUCED BY COUNCILMEMBER President IGNACIO DE LA FUENTE



A RESOLUTION FROM THE OAKLAND CITY COUNCIL
SUPPORTING THE INSTALLATION OF A MURAL ALONG
FRUITVALE AVE AT THE 880 OVERPASS AND ASSUMING
RESPONSIBILITY FOR ITS MAINTENANCE AND UPKEEP

WHEREAS, The community around the Fruitvale District has been working for several years for improvements around the 880 Underpass along Fruitvale Avenue; and

WHEREAS, Fruitvale Avenue is a street under the jurisdiction of the City of Oakland and is an important pedestrian access point into the Fruitvale District; and

WHEREAS, The Fruitvale Avenue entrance to the Fruitvale District is an inhospitable environment with BART and Caltrans facilities overhead; and

WHEREAS, The inclusion of public artwork with multicultural content is desirable and has the potential to enliven and beautify the urban landscape of Fruitvale Ave; and

WHEREAS, a Mural proposal by Ruben Guzman has been selected for the site; and

WHEREAS, The proposed mural, funded by a CDBG grant received by the Unity Council, has an expected lifespan of 20 years; and

WHEREAS, as a condition to approving the installation of artwork on California Department of Transportation (Caltrans) facilities, Caltrans requires a resolution from the City Council that the City is responsible for maintenance and upkeep of artwork on Caltrans facilities; now therefore be it

RESOLVED: That the Oakland City Council supports the installation of a mural along Fruitvale Ave at the 880 overpass and that the City's Cultural Arts and Marketing Division assumes responsibility for maintenance and upkeep of the mural for its expected lifespan of 20 years..

IN COUNCIL, OAKLAND, CALIFORNIA, _____,

PASSED BY THE FOLLOWING VOTE:

AYES-- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, REID, QUAN, AND PRESIDENT DE LA FUENTE

NOES--

ABSENT--

ABSTENTION--

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

Caltrans District 4 Transportation Art Program

Transportation art is defined as artwork created, constructed, or painted on structures, and on or in other facilities or spaces that are within the Caltrans right-of-way.

The State has an interest in encouraging aesthetic considerations in the design of all transportation facilities and services. Caltrans recognizes that well conceived art forms, properly located, can enhance the experiences of those using transportation facilities, as well as enrich the environment of neighboring communities.

Local communities often have the desire to visually express attitudes and feelings about their physical environment, ethnic values, and cultural heritages. Therefore, it is Caltrans' intent, by means of its Transportation Art Program, to encourage others to use its facilities, structures, and right-of-way spaces for creative expression through the visual arts.

It is required that permit applicant for transportation art be the responsible public agency (city or county) supporting the proposed art and representing the community impacted by the art. The public agency shall issue a resolution recommending approval of the proposed art and requesting installation on the State right-of-way. The artist submits the proposal as outlined below for preliminary review by the Transportation Art Committee. After securing initial approvals, the proposal will be submitted to the District Permit Engineer for processing. If at any time during the process changes are recommended, the proposal will be returned to the artist for revisions.

PROPOSAL OUTLINE

I. RESUME OF ARTIST'S WORKS AND BACKGROUND

II. PROPOSAL

1. Description
2. Location
3. Materials

III. SCALE DRAWING AND/OR MODEL

Some structures and/or sculptures will require drawings signed by registered Engineer or Architect to ensure structural integrity.

IV. TIME SCHEDULE

Approximate installation & removal dates. Temporary or permanent?

V. MAINTENANCE REQUIREMENTS

VI. COST ESTIMATE

VII. SOURCE(S) OF FUNDING

VIII. LETTERS OF SUPPORT

From local art commission or community groups impacted by the artwork.

REVIEW CRITERIA

I. ARTWORK MUST BE APPROPRIATE TO PROPOSED SETTING

- It should be located so as not to present a hazard to the public.
- **It should not create a distraction to the motoring public.**
- It will require minimal or no maintenance.
- It must be in proper scale to surroundings.
- It will not require major re-grading of the site.
- It will not adversely affect landscaping.

II. Caltrans Transportation Art Review Committee includes department representatives from:

- Maintenance
- Landscape Architecture
- Right of Way
- Traffic
- Project Development (Engineering)
- Public Affairs
- Local Community Artist

Proposals should be sent to:

Joe Lieber
Coordinator, Transportation Art Committee
Caltrans
Office of Landscape Architecture
P.O. Box 23660
Oakland, CA 94623-0660
(510) 286-5920

DRAFT

Memorandum of Understanding

Between Artist Ruben Guzman, Spanish Speaking Unity Council and
City of Oakland

1. On or about August 15, 2005, artist Ruben Guzman ("Artist") entered into a Memorandum of Understanding ("2005 MOU") with the Spanish Speaking Unity Council ("Unity") whereby Unity agreed to pay Artist to create a Mural ("Artwork") along Fruitvale Avenue at the I-880 overpass. A true and correct copy of the 2005 MOU and Scope of Work for the Artwork are attached hereto and incorporated herein by reference.
2. On or about July 3, 2007, pursuant to conditions imposed by Caltrans on the placement of the Artwork on a Caltrans structure, the City Council of the City of Oakland passed Resolution _____ C.M.S. supporting the installation of the Artwork along Fruitvale Avenue at the I-880 overpass and assuming responsibility for maintenance for a period of twenty years.
3. By this MOU, and in order to facilitate the City's maintenance obligations, Artist agrees to apply a double coating of Protective Clear Coat over the entire Artwork. The Artwork shall not be considered 100% completed until the protective coating required under this MOU has been properly applied.
4. By this MOU, and in order to facilitate the City's maintenance obligations, Artist agrees to provide City the absolute right to alter, repair, modify, remove, relocate, sell, dispose of, distort, destroy, mutilate, or deface (collectively, "Modify") the Artwork in City's sole judgment. For example, City may modify the Artwork to eliminate hazard, to comply with the ADA, to remove graffiti and otherwise aid City in the management of the property and surrounding area, or through neglect or accident.
5. By this MOU, Artist agrees to waive any and all claims, arising at any time and under any circumstances, against City, its officers, agents, employees, successors and assigns, arising under the Federal Visual Artists Rights Act (17 U.S.C. §§106A and 113(d), the California Art Preservation Act (Cal. Civil Code §§987 et seq.), and any other local, state, federal or international laws that convey rights of the same nature as those conveyed under 17 U.S.C. §106A, Cal. Civil Code §§987 et seq., or any other type of moral right protecting the integrity of works of art. If the Artwork is incorporated into a building or structure such that the Artwork cannot be removed without physical defacement, mutilation, alteration, distortion, destruction, or other modification (collectively, "Modification") of the Artwork, Artist waives any and all such claims against the City, its agents, officers and employees for Modification of the Artwork.

6. By this MOU, Unity agrees that the Artwork shall not be considered 100% complete, and final payment under the terms of the 2005 MOU shall not be made, until City and Unity have confirmed that Artist has complied with section 3 of this MOU by applying graffiti resistant clear coat to the entire surface of the Artwork.

RUBEN GUZMAN, Artist

Date

Spanish Speaking Unity Council

Date

City of Oakland

Date

March 14, 2007

To Whom It May Concern:

I am a merchant in the Fruitvale district and I have reviewed the proposed 880 freeway underpass mural projects drawings that would be created by a local artist, Ruben Guzman.

I feel that such a project would beautify a blighted area and would create a significant gateway for the Fruitvale commercial district.

I am in support of this project and look forward to the area being improved with this proposed public art.

Sincerely,



Steve Voong

WANH M77 HING MKT & LIQ.

3432 INT'L BLVD

OAKLAND, CA 94601

March 14, 2007

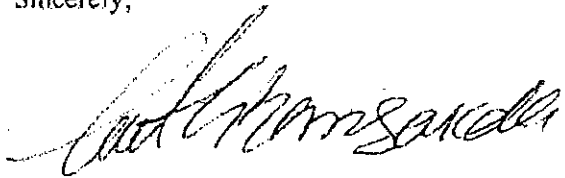
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Sincerely,



AIRTHA EXPRESS
3448 international BLVD
OKALAND, CA 94601

March 14, 2007

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Sincerely,

CARLOS LOADES CRYSTAL

3610 International Blw.

March 14, 2007

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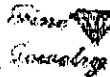
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Sincerely,

Fernando Bueas



Thalia's Jewelry Shop
3908 International Blvd.
Oakland, CA 94601
(510) 534-4615

March 14, 2007

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Sincerely,

OSWAL JIMENEZ

CAFE EL OASIS

3612 International Blvd.

OAK CA 94601



March 14, 2007

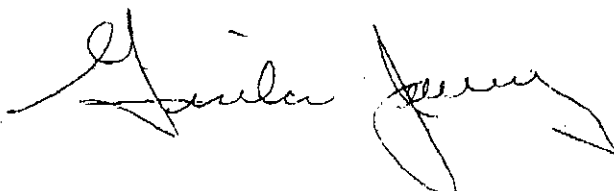
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Sincerely,

Dulceria La Rosa
3606 International Blvd
Oakland, CA 94600


March 14, 2007

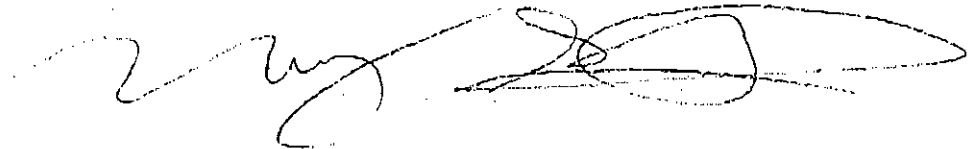
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Sincerely,

A handwritten signature in black ink, appearing to be 'Ruben Guzman', written in a cursive style.

LE'S PHOTO
3608 International Blvd.
Oakland, CA 94601

March 14, 2007

To Whom It May Concern:

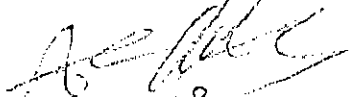
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I am in support of this project and look forward to the area being improved with this proposed public art.

Sincerely,

ARX ALVAREZ



Manager of
Rancho Market.
1950 Fruitvale Ave.
Oakland, CA 94601

March 14, 2007

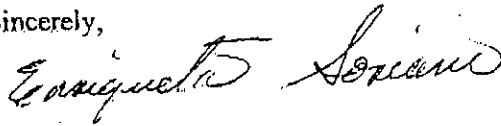
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Sincerely,



EL Palacio
3281 International Blvd
Oakland, CA 94601

March 14, 2007

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Sincerely,

Dall Dall Lay

4030 # B

Calvin.

International Blvd

Oakland, CA 94601

March 14, 2007

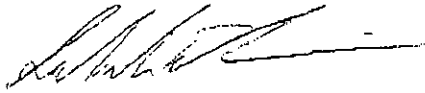
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Sincerely,



Salah E. ELBAKERI

Concise Insurance Services,

3349 International Blvd

Suite # 2

Oakland, CA 94601

March 14, 2007

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Sincerely,

Ciro Machinera
Ciro's ESCANDALO
3820 INTERNATIONAL BLD.
OAKLAND CA 94601