

CITY OF OAKLAND

AGENDA REPORT

TO: Cultural Affairs Commission
ATTN: Matais Pouncil, Acting Chair
FROM: Steven Huss, Cultural Arts Manager
DATE: January 24, 2011

RE: **Agenda Item 8B – Review and Recommend Acceptance of Fruitvale Avenue / Caltrans I-580 Underpass Proposed Graphic Enhancements for City Council Resolution.**

SUMMARY

The Public Art Advisory Committee recommends that the Cultural Affairs Commission approve, and recommend for passage of a Resolution by City Council, the proposed work-for-hire graphic enhancements by Golden Associates, Landscape Architects for the Fruitvale Avenue / I-580 underpass columns and fencing located on Caltrans property.

FISCAL IMPACT

There is no fiscal impact on the Public Art Fund. The proposed project will be funded through a Metropolitan Transportation Commission grant for Fruitvale Alive! project construction, and not with City of Oakland 1.5% for Art funds.

BACKGROUND

Projects within the City of Oakland that will result in the placement of a permanent work of art on City property, as well as public art funded in whole or in part with City monies from any source, must undergo a City of Oakland public art review and approval process before such projects can be executed. The review process involves Cultural Arts & Marketing Department Public Art Program staff and the Public Art Advisory Committee (PAAC); in cases where a City Council Resolution is required, the recommendation of the PAAC must also be approved by the Cultural Affairs Commission.

Additional guidelines and rules apply when Caltrans structures are involved. Artistic or graphic treatments (“Transportation Art”) proposed for Caltrans structures require the responsible local public agency (in this case the City of Oakland) to approve and to take responsibility for the project, whether or not the local agency has funded the project, before Caltrans will consider the proposal. As stated in Caltrans’ *Project Development Procedures Manual*, Chapter 29, “Transportation art may include graphic or sculptural artwork, either freestanding or placed on required engineering features (such as noise barriers, retaining walls, bridges, bridge abutments, bridge rails, or slope paving) that expresses something special about a community’s history, resources, or character.” (The full document can be found at http://www.dot.ca.gov/hq/oppd/pdpm/chap_pdf/chapt29.pdf.)

The local public agency must issue a resolution recommending approval of the proposed transportation art and requesting authority to install that work on State right-of-way; this is done through application for an encroachment permit.

By City of Oakland policy, the PAAC will review proposals for art and design projects on Caltrans property and will make an advisory judgment regarding form, content and feasibility of the artwork, and will determine if the proposed project meets standards for public art in the City of Oakland.

PROGRAM DESCRIPTION

The Oakland Redevelopment Agency is implementing improvements to the streetscape of Fruitvale Avenue in the Dimond district. This design and landscaping upgrade and sidewalk improvement project is titled “Fruitvale Alive” and the landscape architect on the project is the Oakland firm of Golden Associates. The project team held a series of public meetings with the Dimond community to develop the details of the project. One element that emerged was the community’s interest in having the support columns of the I-580 Underpass treated with colorful visuals, in a theme reflecting the local natural environment. They also wanted to see the parking lot under the freeway visually screened off. Golden Associates developed a proposed enhancement on this site that would include a colorful mural spread across six support columns and custom-designed fencing panels to screen the parking lot. The design concept reflects the proximity of Sausal Creek, a defining landmark and recreational attraction of the Dimond neighborhood and connector to the greater Oakland watershed.

KEY ISSUES AND IMPACTS

The PAAC found the proposal to be of merit and commended the depth of community involvement in the process of developing the proposal. However, PAAC established that this proposal should be defined as a graphic enhancement rather than artwork, as it is a graphic treatment designed by an associate (landscape architect and graphic designer) in the project landscape architecture firm, rather than by a professional fine artist selected for a public art opportunity through a competitive process. For these reasons it should also be considered work for hire, and not subject to the artistic protections afforded under the Federal Visual Artists Rights Act (VARA) or the California Art Preservation Act (CAPA). The project team stated that these design enhancements would be maintained by the Dimond Improvement Association. The PAAC advised that a Memorandum of Understanding would need to be executed with this group so that is clear that the City will not fund the ongoing maintenance of the project.

RECOMMENDATION

On January 10, 2011, the PAAC moved to recommend approval of “the proposed work-for-hire graphic enhancements by Golden Associates, Landscape Architects, for the Fruitvale Avenue / I-580 underpass columns and fencing located on Caltrans property, contingent upon receipt, prior to commencement of fabrication, of a written and signed Memorandum of Understanding with the Dimond Improvement Association (DIA) for maintenance of the work for a predetermined period of time.” Staff will not forward the recommendation to Council until this Memorandum of Understanding is received.

ACTION REQUESTED

Staff and the Public Art Advisory Committee recommend that the Cultural Affairs Commission approve, and recommend for passage of a Resolution by City Council, the proposed work-for-hire graphic enhancements by Golden Associates, Landscape Architects for the Fruitvale Avenue / I-580 underpass columns and fencing located on Caltrans property.

Respectfully submitted,

Steven Huss
Cultural Arts Manager
Cultural Arts & Marketing Department
Community & Economic Development Agency

Attachments

Attachment A: Golden Associates “Fruitvale Alive!” Proposal Materials