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Title: ***RESOLUTION - Adopting the Artistic Crosswalk Policy (Subject to Mayor's veto) (Citywide)

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REPORT TO THE CITY COUNCIL

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SUBJECT

***RESOLUTION - Adopting the Artistic Crosswalk Policy (Subject to Mayor's veto) (Citywide)

RECOMMENDATION

Staff recommends the Council to adopt the Resolution of the Artistic Crosswalk Policy.

EXECUTIVE SUMMARY

Organizations and businesses in the City of Fresno request permission to install artistic crosswalks. Staff recognizes the desire to improve the visual quality of the streetscape and create a sense of place, character, or identity of a neighborhood or location. This policy, as drafted, would define the planning, design and installation of artistic crosswalks on residential streets.

BACKGROUND

Artistic crosswalks have been used in cities across the nation to improve the visual quality of the

streetscape and to create a sense of place, character, and/or identity for a neighborhood or location. In July 2019 the Fresno Arts Council organized a community event to install art commissioned by an artist in the crosswalks at the intersection of Van Ness Boulevard/Echo Avenue and Weldon Avenue. Staff met with the Fresno Arts Council on July 6, 2022, to discuss this policy.

Several local, state and federal rules and laws govern the implementation and appearance of all crosswalks, including artistic crosswalks. The City of Fresno's policy *Installation of Uncontrolled Crosswalks* provides direction on the infrastructure needed at a newly installed crosswalk based on characteristics such as roadway width, volume and speed. The California Manual on Traffic Control Devices (CA MUTCD) mandates the function, design and appearance of crosswalks in the public right-of-way. The Federal Highway Administration (FHWA) has reiterated its position on colored pavement striping in a 2013 with Interpretation Letter 3(09)-24(I) - Application of Colored Pavement Treatments in Crosswalks.

In addition to rules and regulations governing crosswalks, there are laws in place to protect artists' rights and their work. The California Art Preservation Act is one such law. Under this proposed policy, artwork installed at a crosswalk will not be considered public art, a work of fine art under the California Art Preservation Act, or a work of visual art under the Federal Visual Artists Right Act of 1991. Artists will be required to waive all intellectual-property rights or moral rights defined under the California Art Preservation Act, under the Federal Visual Artists Rights Act of 1991 or under any other local, state, federal, or international laws that confer such rights.

To ensure the application of this principle and to be consistent with current City practices staff proposes the adoption of the attached policy.

The Artistic Crosswalk Policy outlines the procedures and processes for the installation of crosswalk art on local streets. The policy defines eligibility, locations, design standards, material and paint type, application and permitting, waiver of artist's rights, and maintenance.

Eligibility for artistic crosswalk installation is determined by considering location metrics such as the posted speed limit along a roadway is 30MPH or less, ability of the requestor to secure a street work permit, presence of an existing crosswalk, and applicant acceptance of responsibility for the design, maintenance and removal of an artistic crosswalk. Artistic crosswalks shall be at a location in which a marked crosswalk exists and vehicles are required to stop, by stop sign or traffic signal. If a crosswalk does not exist the applicant may request to have a marked crosswalk installed. New marked crosswalk locations will be approved by the City Traffic Engineer in accordance with the City's policies and standards and will be installed by City staff. Artistic crosswalks shall be installed at intersections with asphalt surfaces that are in good condition.

All crosswalks in the City of Fresno are designed and installed consistent with standards outlined in the most current CA MUTCD. Art in a crosswalk shall not impair the visibility of the transvers crosswalk lines, which shall be white except in a school zone where they shall be yellow. Advertising, logos, text, offensive symbols, three dimensional graphics or geometric shapes (such as triangles or octagons) that could be confused with standard traffic control devices or legends shall not be used. The design of the artistic crosswalk should be for aesthetic purposes only and shall not convey any political, religious, commercial or other messaging. Designs that could distract a driver or be confused with traffic signs or traffic pavement legends are prohibited.

Designs shall contribute to the visual quality of the streetscape using simple graphics and a limited

palette of colors to avoid visual clutter, taking into account the needs of person with color deficiencies or partial sight.

All paint and materials used in the design of an artistic crosswalk shall be reviewed and approved by the City Traffic Engineer. Material shall be non-reflective street-grade or thermoplastic paint that provides a non-slip surface for pedestrians, bicyclists, and those who use wheelchairs or other assistive-mobility devices. All material shall meet City and Caltrans standards for pavement markings.

All permittees shall be required to maintain liability insurance that names the City as an additional insured as long as the artistic crosswalk is in place. An acceptable certificate of insurance shall be provided before performing maintenance on the artistic crosswalk. Each permittee is responsible for all permitting fees and all costs associated with traffic control. All maintenance and associated costs shall be paid by the permittee.

An artistic crosswalk permittee must agree to the following:

1. That the City will maintain transverse crosswalk lines and other traffic control devices but assumes no responsibility for maintaining the artistic crosswalk.
2. That the City, telecommunication companies, utility companies, Underground Service Alert, and other entities that work within the public right-of-way on roadways are not responsible for damage to, or alteration of, the artistic crosswalk and are not responsible for repairing damage to the artistic crosswalk.
3. That the City performs maintenance on its streets, such as overlays and slurry seals; that such maintenance may require the removal of covering of an artistic crosswalk; and that the City will not reinstall the artistic crosswalk, although the permittee may reinstall the artistic crosswalk at permittee's cost.
4. That the City may revoke the artistic crosswalk permit at any time by written notice to the permittee.
5. That the permittee must promptly remove the artistic crosswalk and restore the crosswalk to the condition before installation of the artistic crosswalk, all at no cost to the City, upon receiving a revocation notice or the City's written request for removal, or when the artistic crosswalk permit expires.
6. That the permittee relinquished all intellectual property rights and moral rights (droit moral) in the artistic crosswalk, including but not limited to all such rights under the California Art Preservation Act; under the Federal Visual Artists Rights Act of 1991; or under any other local, state, federal, or international laws that confer such rights, whether in effect on the date the permit is issued or enacted thereafter.

ENVIRONMENTAL FINDINGS

By the definition in the California Environmental Quality Act (CEQA) Guidelines Section 15378, the

Artistic Crosswalk Policy does not qualify as a “project” as defined CEQA.

LOCAL PREFERENCE

Local preference was not implemented because the Artistic Crosswalk Policy does not include a bid or award a construction or services contract.

FISCAL IMPACT

The implementation of this policy is not anticipated to have any impact to the General Fund.

Attachments:

Resolution - Artistic Crosswalk

Artistic Crosswalk Policy

Waiver of Proprietary Rights

Artistic Crosswalk Request Form - Draft