

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: John Ristow

SUBJECT: STREET PAINTING

DATE: August 3, 2020

Approved



Date

8/3/20

INFORMATION

Following the tragic killing of George Floyd, an unarmed black man, at the hands of Minneapolis police in May 2020, there have been numerous protests across the country. In many cities, Black Lives Matter has been one of the central themes of the protests. In some cities, the message 'Black Lives Matter' has been painted on various buildings and public spaces, including public streets.

On July 4, a group holding a gathering at Backesto Park painted BLACK LIVES MATTER on Empire St, between 15th St and 18th St. While the City affirms the message, as demonstrated by the June 30, 2020 Council resolution proclaiming Black Lives Matter, the specific painted message was unauthorized, as the group did not seek a permit or approval from the City for its installation.

Recently, various Council Offices have received requests from other individuals interested in painting other messages and political statements on a public street, with some requesting that the alternate message be painted in the vicinity of the existing BLACK LIVES MATTER message on Empire St.

The City does not have a permit process or program for the installation of non-traffic related messages/markings in the public right-of-way. The Office of Cultural Affairs has occasionally permitted street painting through their Temporary Outdoor Special Events program, with the painting occurring on a street closed to traffic as part of a large events, and removed prior to the street reopening.

It is important to note that the Federal Highway Administration (FHWA) expressly prohibits intersection murals, street artwork, and other painted messages, primarily due to traffic safety concerns and potential distraction by road users. While the Black Lives Matter painted message on Empire St does not meet the standard definition of a mural, it would also fall under the FHWA prohibition given that the message is attempting to communicate with road users, and is not an authorized roadway marking in both federal and state guidelines.

HONORABLE MAYOR AND CITY COUNCIL

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Page 2

To entertain the ability to permit such a display, the City would need a program for this and associated permitting process. Crafting this type of program would be complex and involve other City departments, including the Office of Cultural Affairs and the Attorney's Office. Therefore, exploring the potential development of a program for installation of painted messages in the public right-of-way would need to be prioritized.

/s/

JOHN RISTOW

Director of Transportation

For questions please contact Laura Wells, Department of Transportation, Assistant Director, at 408-975-3725