

RESOLUTION 21-11015

A RESOLUTION PERMITTING GRANT RECIPIENT OF ASPHALT ART INITIATIVE PROJECT TO APPLY DECORATIVE PAINTING ON CITY STREETS WITHIN EBURD

WHEREAS the Bloomberg Philanthropies Asphalt Art Initiative grant program is designed to fund visual art interventions on roadways, pedestrian spaces, and public infrastructure in the United States with the goals of improving street and pedestrian safety, revitalizing public spaces, and promoting collaboration and civic engagement in their local communities;

WHEREAS the East Billings Urban Revitalization District (EBURD) is a 2021 grant program recipient (Recipient) of the Asphalt Art Initiative seeking to embrace art as an effective and relatively low-cost strategy to improve and enrich city streets within the EBURD;

WHEREAS Section 22-101, BMCC, provides that it unlawful for any person, without the permission of the City Council, to paint, mark, or write any sign, letters or words with crayon, paint or other material upon any sidewalk, curb, or pavement within the City of Billings.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, as follows:

1. The Bloomberg Philanthropies Asphalt Art Initiative grant program Recipient, through its stakeholders and community volunteers, is granted permission to apply decorative painting on certain city street locations within the EBURD approved by the Director of Public Works.
2. By permitting the decorative application of paint herein, the City does not intend to create a forum of speech nor to convert the surface of the city streets and right-of-way within the EBURD into a forum for speech, nor does the City intend such paintings to be an official traffic control device.
3. The decorative painting permitted herein shall include decorative designs and patterns only and shall not contain text, numerals, symbols, overt messages or any images designed to convey a message of any kind, including commercial messages, and shall be intended to enhance the appearance of the city streets and right-of-way within the EBURD, and to work in connection with the ordinary uses of the city streets, and shall not be designed to draw pedestrians or cyclists into portions of the roadway that are not intended for their use.
4. Prohibited painting or design features within the EBURD shall include:
 - a) No retro reflectivity.
 - b) The paint and resulting design shall not include any relief or texture.
 - c) The design shall not create a three-dimensional or multi-dimensional effect or other optical illusion.

- d) The design shall not include any element that mimics or imitates an official traffic control device or marking or would be confused with the same.
- e) The design shall not include any feature or element that, in the opinion of the Public Works Director, would create a safety hazard for vehicles or pedestrians.
- f) Nothing about the design shall violate any applicable city, state, or federal law.

5. The Public Works Director shall review the proposed design to determine compliance with the criteria set forth in this Resolution and shall take into account the proposed design in relation to the configuration of the intersection or roadway, including but not limited to: the overall shape and size of the intersection or roadway, the presence and location of stop lines and marked and unmarked crosswalks, and whether or not the proposed design would interfere with such markings or is likely to confuse motor vehicle drivers, bicycle operators or pedestrians using the roadway.
6. Only acrylic water-based traffic marking paint may be used in the colors traditionally available (white, yellow, blue, red, and black) or other colors that may be achieved by mixing the traditional colors.
7. Paint must not result in a slippery surface and must contain an anti-skid additive approved by the Public Works Director.
8. Once the design has been fully approved under this Resolution, the Recipient must apply for and obtain any right-of-way permits that may be required. No work may be performed on the painting project within the public right-of-way without any required right-of-way permits and for the dates(s) and time(s) of the work.
9. The Recipient shall be solely responsible for maintaining the design in good condition and repair. If the design should become deteriorated or damaged and in the opinion of the City, the design is repairable, the Recipient must repair it or plan for its repair or removal within sixty (60) days of written notice by the City to the EBURD Board of Directors. "Repair" shall mean restoring the original design to the originally approved specifications. All repairs shall follow the previous requirements hereunder including any required right-of-way permits.
10. In granting of this permission, the City shall not be responsible for any maintenance or repairs or removal of the design or any damage to the design regardless of cause, including but not limited to damage caused by any utility or contractor performing work in the right-of-way or resulting from street surface maintenance such as street cleaning, plowing, and road treatment for snow and ice. Utility work or roadwork by the City or a utility may result in damage to the design requiring the design to be permanently removed. Additionally, if any portion of the design creates a hazard in the sole opinion of the City, the City may remove the design without notice to the Recipient. The granting of this permission shall be

considered terminated upon removal of the design by the City or Recipient.

11. The City may revoke its permission given under this Resolution at any time if the Recipient violates the conditions of the approval, herein stated, including but not limited to installing something other than the approved design, modification of the design after the initial installation, or violations of the terms of any required right-of-way permits.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, on the 8th day of November, 2021.

CITY OF BILLINGS

By: William A. Cole
William A. Cole, Mayor

ATTEST:

By: Denise R. Bohlman
Denise R. Bohlman, City Clerk

