



**Date:** June 6, 2022

**To:** Wanda S. Page, City Manager  
**Through:** Bertha T. Johnson, Deputy City Manager  
**From:** Jina B. Propst, Director, General Services Department  
**Subject:** Resolution Supporting Installation of Public Art at Select Bus Shelters and Associated Encroachment Agreement with the North Carolina Department of Transportation

### **Executive Summary**

As part of the cycle-one participatory budgeting (PB) process in FY20, the City's Cultural and Public Art Program partnered with Budget and Management Services to hire professional artists to create public art to enrich select new green energy powered bus shelters located across Durham. Nine total bus shelters will be improved by the addition of public art, including seven new bus shelters located at existing stops that lack shelters and other amenities, and two existing shelters.

Due to five of the selected bus shelters being located within the North Carolina Department of Transportation (NCDOT) right-of-way, NCDOT policy requires that the City adopt a resolution supporting the public art project, in addition to entering into an encroachment agreement with the agency.

### **Motion**

To adopt the Resolution Supporting the Installation of Public Art for Select Bus Shelters located within the North Carolina Department of Transportation Right of Way; and

To authorize the City Manager to enter into associated encroachment agreement(s) with the North Carolina Department of Transportation as required to install and maintain the public art.

### **Background**

As part of the cycle-one participatory budgeting process in FY20, the City of Durham's Cultural and Public Art Program partnered with the Budget and Management Services Department to hire professional artists to create public art to enrich the new green energy powered bus shelters. Seven bus shelters will be installed at existing stops that lack shelters and other amenities, and two existing shelters will be improved by the addition of public art. To improve the ridership experience as well as contribute to renewable energy generation, shelters will include 2-D vinyl artwork commissioned by the City, as well as photovoltaic panels at select shelters that will generate green energy to power lighting and USB charging stations.

The selected bus shelters are located across the three Durham voting wards based upon community input collected through the PB process. Participatory budgeting outlined the following description of the project:

"Bus Shelters with reclaimed art and solar panels. Install bus shelters at existing stops that lack shelters and other stop amenities in nearby areas. To improve the ridership

experience and aesthetics as well as contribute to renewable energy generation, shelters will include artwork commissioned by local artists using reclaimed materials as well as solar panels installations at select shelters that will power lights and USB charging stations.”

The City released a Request for Qualifications (RFQ), in English and in Spanish, in June 2020 seeking artists or artist teams, and received 38 qualifications packages in response. City staff offered technical assistance sessions during the RFQ process to promote broad participation. The artist selection panel was comprised of community members and arts advocates, as well as GoDurham and City staff. The selection panel endorsed artists Tanya Lipscomb, Jermaine “JP” Powell, and the artist team of Tim Stallmann and William Paul Thomas for their strong qualifications, connections to the Durham community, and plans to engage GoDurham staff, transit users, and community members living in proximity to the project sites. Selected artists presented project proposals to the Public Art Committee for endorsement during late 2020 and early 2021. Pending adoption of the proposed resolution, and authorization of the encroachment agreement by Council, and subsequent approval by NCDOT, the General Services Department, Cultural and Public Art Program, and the Transportation Department will work to complete all 9 planned bus shelter projects during late summer and fall 2022.

### **Issues and Analysis**

Due to five of the proposed bus shelter sites being within the NCDOT right-of-way, NCDOT requires the City to adopt a resolution in support of the public art project prior to NCDOT granting its approval. The proposed resolution, attached hereto as Exhibit A, will codify the installation process for the artwork in the NCDOT right-of-way, ensuring applicable standards are met. The resolution further certifies that local community input informed the proposed art projects as documented in Exhibit B.

Pending City Council adoption of the proposed resolution, NCDOT additionally requires that the City enter into an encroachment agreement prior to installation of the artworks. The mandated encroachment agreement between the City and NCDOT would include an indemnification clause; affirm NCDOT’s ability to remove the artworks from right-of-way for reasons of safety and/or maintenance or future roadway construction at no cost to NCDOT; and permit NCDOT the right to reproduce artworks for promotional purposes without compensation to the City or the artist (with the selected artists having consented to a copyright waiver during the contracting process). NCDOT outlines the requirements of the encroachment agreement in its North Carolina Public Art on the Right of Way Policy, attached hereto as Exhibit C.

In accordance with NCDOT’s North Carolina Public Art on the Right of Way Policy, the City assumes responsibility for all costs associated with the installation, maintenance and removal of the shelters and the artwork, as is customary for bus shelters in the GoDurham system.

### **Alternatives**

City Council could choose not to adopt specific provisions within the proposed resolution, or not to adopt the proposed resolution in its entirety. City Council could also choose not to authorize the City Manager to enter into the required encroachment agreement. Without an adopted resolution and authorized encroachment agreement, the City would be unable to deliver the public art projects as contemplated by the cycle-one FY21 PB process.

**Financial Impact**

The \$36,000 project budget was approved by City Council as part of the cycle-one FY21 PB process to include artist fees, community engagement, and materials. Account Code: 30006000:732301:62033.

**Equal Business Opportunity Summary**

The agenda item was not reviewed for compliance with the Ordinance to Promote Equal Business Opportunities in City Contracting.

**Contractor Workforce Diversity & Hiring Practices**

Due to the nature of this agenda item, obtaining Contractor Workforce Diversity & Hiring Practices information is not applicable.

**Attachments**

Exhibit A - Resolution Supporting Installation of Public Art for Select Bus Shelters Located Within the NCDOT Right of Way

Exhibit B - Project Background for Public Art at Bus Shelters

Exhibit C - NCDOT Public Art on the Right of Way Policy

Exhibit D - Sample NCDOT Encroachment Agreement