

CAC RESOLUTION NO. 25-###

A RESOLUTION OF THE CULTURAL ARTS COMMISSION OF THE CITY OF POMONA APPROVING AN AMENDMENT TO THE EXISTING AGREEMENT WITH RAOUL GHYMEL FOR THE GAREY UNDERPASS (AREA 1) CALL FOR ART FOR ARTIST TRAFFIC SAFETY

WHEREAS, the City of Pomona (“City”) is dedicated to preserving and building on the inventory of existing public art within the community;

WHEREAS, the City Council established the Art in Public Places Program (“AIPP”) that includes both a public art for private development component and a public acquisitions and donations component, codified as Section .5809-24—Public Art for Private Development in the Pomona Zoning Ordinance, and further adopted through the AIPP Policy and Guidelines Manual (“AIPP Manual”);

WHEREAS, the City established a Public Art Fund, which is an interest-bearing account that is managed by the City Manager, or designee, into which public art funds, including donated funds, in-lieu funds and/or public art grant funds are deposited;

WHEREAS, on August 26, 2024, the Cultural Arts Commission approved the Garey Underpass (Area 1) Call for Art to be released by September 5, 2024;

WHEREAS, on October 28, 2024, the Cultural Arts Commission approved the selection for proposal submissions from three (3) artists—Timothy Smith, Hector Flores, and Raoul Ghymel;

WHEREAS, on December 12, 2024, the Cultural Arts Commission approved Raoul Ghymel (“Artist”) as the artist to complete the Garey Underpass (Area 1) Call for Art;

WHEREAS, on December 16, 2024, City Council approved adoption of Resolution No. 2024-197 that will appropriate \$150,000 of Art in Public Places Funds (AIPP) to “Holt Avenue Corridor Improvements,” Project No. 428-2590-XXXXX-68575 to support the implementation of the Garey Underpass (Area 1) Call for Art;

WHEREAS, on March 6, 2025, an agreement was executed between the Artist and the City of Pomona of \$250,000.00 for the Garey Underpass (Area 1) Call for Art that did not reflect proper coverage of street closure.

NOW, THEREFORE, BE IT RESOLVED by the Cultural Arts Commission of the City of Pomona as follows:

SECTION 1. Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), this action as defined is Categorically Exempt, under Section 15301, Class 1 exemption for existing facilities, in that the project involves minor alterations of an existing public structure. Therefore, no further environmental review is required.

SECTION 2. If any part, provision, or section of this resolution is determined by a court or other legal authority with jurisdiction over the subject matter of this resolution to be unenforceable or invalid, the remainder of the entirety of this resolution shall not be affected and shall continue in full force and effect. To this end, the provisions of this resolution are severable.

SECTION 3. Based on consideration of the whole record before it, including but not limited to, the staff report, public testimony received at the public hearing on this matter, and evidence made part of the public record, the Cultural Arts Commission hereby finds that the action is in accordance with Section .5809-24—Public Art Requirement for Private Development and conforms to the guidelines of the AIPP Manual.

SECTION 4. The Cultural Arts Commission hereby approves the amendment with Raoul Ghymel in the revised scope and budget as identified in Exhibits A and B..

SECTION 5. The Cultural Arts Commission further recommends that the City of Pomona, under the delegated authority of the City Manager, subsequently administer the provisions of an amendment with Raoul Ghymel, in the substantive form attached hereto as “Exhibit B,” for the purposes set forth in the original agreement, which delegated authority includes the authority to extend or terminate the agreement in accordance with its terms and to make other non-material changes.

SECTION 6. The Secretary shall certify to the adoption of this Resolution and forward the original to the City Clerk.

APPROVED AND ADOPTED THIS 15TH DAY OF MAY 2025.

CHRISTIAN ORNELAS
CULTURAL ARTS COMMISSION CHAIRPERSON

ATTEST:

ATA KHAN
CULTURAL ARTS COMMISSION SECRETARY

STATE OF CALIFORNIA

CAC Resolution No. 25-###

May 15th, 2025

Page 3 of 7

COUNTY OF LOS ANGELES

CITY OF POMONA

AYES:

NOES:

ABSENT:

ABSTAIN:

Pursuant to Resolution No. 76-258 of the City of Pomona, the time in which judicial review of this action must be sought is governed by California Code of Civil Procedure Section 1094.6.

Exhibit A

The Garey Underpass (Area 1) Call for Art would require impacting the Art in Public Places fund up to \$211,800.00.

There will be artist stipends at \$600 per Artist for the submission of a complete proposals for review. The Cultural Arts Commission selected three (3) artists—Timothy Smith, Hector Flores, and Raoul Ghymel—to submit proposals. Thus, the total amount of artist stipends to be given is \$1,800.00.

The “Holt Avenue Corridor Improvements,” Project No. 428-2590-XXXXX-68575, requested this Call for Art while having an initial budget of \$100,000.00. Whereas this project’s magnitude required further funding, City Council approved appropriating \$150,000.00 of additional funding from the Art in Public Places fund.

The costs for road closures of art work installation were not accounted for in the “Holt Avenue Corridor Improvements,” Project No. 428-2590-XXXXX-68575.

The maximum all-inclusive art project budget is \$310,000.00.

This budget includes all costs associated with completion of the project deliverables including (when applicable) community engagement expenses, artist design fee, travel expenses, project assistant(s), administrative costs, production, consultant fees as necessary (architect, engineer), conservation services, auto and liability insurance, materials, artwork fabrication, storage, equipment, art installation costs, permit and inspector fees (as necessary), display costs, site preparation, and professional photography.

The City of Pomona may elect to revise the budget to address changes in the Scope of Work, price, or any term and condition. This will be a deliverables-based contract, with payments made as deliverables are completed and approved. In the event there are unspent funds in the budget after completion of the project, the City of Pomona may, at its sole discretion, choose to contract with the Artist for additional services.

Exhibit B

**FIRST AMENDMENT
TO AGREEMENT FOR COMMISSION OF PUBLIC ARTWORK**

This FIRST AMENDMENT to the AGREEMENT is entered into by and between the CITY OF POMONA (the “CITY”) and Raoul Ghymel (“ARTIST”), hereinafter referred to as the Parties.

RECITALS

WHEREAS, on December 12, 2024, the Artist’s Submittal was reviewed and approved by the City’s Cultural Arts Commission in accordance with Pomona Zoning Ordinance Section .5809—24—Public Art for Private Development;

WHEREAS, on December 12, 2024, the Cultural Arts Commission recommended execution of an agreement between the City of Pomona and the Artist; and

WHEREAS, the Artist is a qualified professional, and the City desires the Artist to execute a mural (“the Work”), located on the roadway walls of the Garey Underpass between W. First Street and W. Monterey Avenue, Pomona, CA 91766 (“the Site”);

WHEREAS, on May 15, 2025, the Cultural Arts Commission approved an amendment to alter the budget for the agreement between the City of Pomona and Raoul Ghymel for an additional SIXTY-THOUSAN DOLLARS (\$60,000.00) for unaccounted costs in road closures;

WHEREAS, the Parties agree to amend this AGREEMENT to extend the term for completion and alter the project scope to coordinate with a new location and updated budget.

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

SECTION 1. Section 2-1(a) is hereby amended as follows:

- (a) The City shall pay the Artist an amount not to exceed THREE HUNDRED AND TEN THOUSAND DOLLARS AND ZERO CENTS/100 CENTS (\$310,000.00), which will constitute full compensation and payment for all services to be performed under this Agreement including execution, fabrication, artist and/or agent travel, transportation, installation, and road closures.

SECTION 2. Section 2-2(a) is hereby amended as follows:

- (a) Payment shall be made in accordance with the following Disbursement Schedule:

Disbursement	Amount	Action Required Prior to Disbursement
Phase 1	\$100,000.00	Execution of Agreement
Phase 2	\$100,000.00	<i>Request for Disbursement</i> following completion of a Progress Report Form, a Budget Expenditure Report, and a Disbursement Form, submitted by Artist and reviewed and approved by City. (See Section 2-2 (b))
Phase 3	\$50,000.00	<i>Request for Disbursement</i> following completion of a Progress Report Form, a Budget Expenditure Report, and a Disbursement Form, submitted by Artist and reviewed and approved by City. (See Section 2-2 (b))
Phase 4	\$50,000.00	<i>Request for Disbursement</i> following completion of a Progress Report Form, a Budget Expenditure Report, and a Disbursement Form, submitted by Artist and reviewed and approved by City. (See Section 2-2 (b))
Phase 5	\$10,000.00	<i>Request for Disbursement</i> following completion of a Progress Report Form, a Budget Expenditure Report, and a Disbursement Form submitted by Artist and reviewed and approved by City. (See Section 2-2 (b)) <i>Request for Final Acceptance of Public Art</i> submitted by Artist to City. <i>Notification of Acceptance of Public Art</i> provided to Artist by City. (See Section 1-5)
Total	\$310,000.00	

SECTION 5. All other terms and conditions of the contract will remain the same.

IN WITNESS WHEREOF this FIRST AMENDMENT is signed by the Parties hereto on the date(s) indicated below.

CITY OF POMONA

ARTIST

CAC Resolution No. 25-###

May 15th, 2025

Page 7 of 7

Anita D. Scott, City Manager

Date: _____

Raoul Ghymel

Date: _____

APPROVED AS TO FORM:

City Attorney