

CAC RESOLUTION NO. 2020-XX

A RESOLUTION OF THE CULTURAL ARTS COMMISSION OF THE CITY OF POMONA APPROVING THE DISBURSEMENT OF \$30,000.00 FROM THE PUBLIC ART FUND TO ESTABLISH A TEMPORARY PUBLIC ART PROGRAM FOR THE PLACEMENT OF PUBLIC ART IN THE PUBLIC RIGHTS-OF-WAY CITYWIDE IN ASSOCIATION WITH THE ACTIVATE POMONA PILOT PROGRAM.

WHEREAS, on June 15, 2020, the City Council established the Activate Pomona Pilot Program to aid in Pomona's recovery from the impact of novel coronavirus disease ("COVID-19");

WHEREAS, Activate Pomona is intended not only for the Pomona business community, but also for the Pomona artist community, including individual artists, cooperatives, galleries, institutions, and other stakeholders regardless of ethnic or cultural background or socioeconomic status;

WHEREAS, the City of Pomona 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, through Activate Pomona, the City has secured re-purposed COVID-19 grant dollars from Active San Gabriel Valley via San Gabriel Valley Council of Governments, for the purchase of concrete and plastic barriers ("K-Rails"), to facilitate the use of public rights-of-way in a manner that reduces vehicle miles traveled and greenhouse gas emissions;

WHEREAS, K-Rails are durable, permanent, intentionally designed to be constantly visible to the public, and intended to withstand vehicular collisions, which aid in the establishment of places in the public rights-of-way that can encourage outdoor recreation, dining, retail, and other non-vehicular activity;

WHEREAS, City-owned utility boxes are durable, permanent, intentionally designed to be constantly visible to the public, and provides a "permanent display" to allow for the placement of artwork or works of art either permanent or temporary in nature in public view;

WHEREAS, the Cultural Arts Commission ("CAC"), in an effort to facilitate the expeditious pursuit of public art citywide, established by Request for Qualifications an Artist Shortlist, representing artists and non-profit organizations from the City of Pomona, from which future qualifying public art projects in the City of Pomona may be pursued;

WHEREAS, on September 8, 2020, the CAC held a Special Meeting to discuss the establishment of a Temporary Art Program, and the investment of Public Art Fund dollars towards the Program, and received public comment;

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

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SECTION 1. 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 2. Based on consideration of the whole record before it, including but not limited to, the staff report, public testimony received at the public discussion on this matter, and evidence made part of the public record, the Cultural Arts Commission hereby finds:

1. That the action to establish and fund a Temporary Art Program is in accordance with Section .5809-24—Public Art Requirement for Private Development and substantially conforms to the guidelines of the AIPP Manual and is consistent with Manual provisions.
2. That the use of K-Rails and City-owned utility boxes qualify as “*public art*” as they each are a “*permanent display*” that is “*specifically designed to be located on a site where it would be accessible to public view on public property within the City of Pomona;*”
3. That any proposed public art on K-Rails or City-owned utility boxes qualifies as an “*artwork or work of art*” as it may be temporary in nature and will be installed in public view, per Part I, Section III. Terms and Definitions of the AIPP Manual;
4. That Part I, Section IV.A of the AIPP Manual, “*public artwork is limited to permanent visual works of art,*” is inconsistent with the AIPP Manual definition of “public artwork” in Part I, Section III, which explicitly allows for temporary artwork, and that the definition prevails and is consistent with Manual provisions, whereas Part I, Section IV.A is inconsistent with Manual provisions;
5. That an Administrative Review process for any proposed artwork in association with the Temporary Art Program will be established, including the notification of the Cultural Arts Commission and its Citizens Advisory Committee, to offer a reasonable opportunity to bring forward any proposed artwork to a formal discussion at a regularly scheduled or special meeting; this process will replace the Conceptual Design Plan and Final Design Plan processes with respect to any scope within the Temporary Art Program, and is deemed to be consistent with Manual provisions.
6. That Administrative Review process for any proposed artwork in association with the Temporary Art Program should also include a meaningful process to engage local artists, groups and residents across all socioeconomic and ethnic backgrounds who may be benefitting from the proposed art, to facilitate a conversation on possible themes, concepts, or approaches to the artwork.
7. That the investment of Public Art Fund dollars into the Temporary Art Program is consistent with the AIPP Manual provisions, and Section IV.B, “These funds may be used for the provision of public artwork on a location that is consistent with the criteria in Parts 2 and 3 of the Manual *or for other purposes consistent with the Manual provisions.*”
8. That the Artist Shortlist represents individual artists, teams of artists, and qualified non-profit organization that have sufficient administrative capacity and expertise to efficiently execute public art citywide;
9. That the Temporary Art Program is consistent with the CAC 2020-2025 Action Plan,

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adopted on August 24, 2020, namely:

Goal 1: “In-lieu fee dollars are invested in a wide-range of public art across all mediums and target audiences in all areas of the City.”

Goal 2: “The process to pursue permitted public art in the City of Pomona is clear, simple, and efficient”

Action 2.1: “Establish a Temporary Art Permit that is ministerial (over-the-counter) with a 48-hour Commission appeals process upon application.”

Action 2.5 “Identify thresholds for small-scale projects where insurance would not be required (e.g. utility box painting)”

Goal 3: “All arts-related decisions made by the City represent fairness and equity and include a diverse range of perspectives.”

Action 5.3 “Establish ongoing relationships with non-profit organizations and other stakeholder groups whose mission is to support Pomona’s youth, and find opportunities for collaboration to increase the capacity to benefit Pomona’s youth.

Action 5.4 “Identify creative strategies to use the existing AIPP regulations to fund youth-targeted public art initiatives, and identify strategies to improve the AIPP regulations to better facilitate such initiatives.”

10. That the proposed investment would represent a modification to the Investment Priority List adopted on August 24, 2020, and be reflected in the available in-lieu fund balance remaining for Fall 2020-Summer 2021.

SECTION 3. The Cultural Arts Commission hereby approves the establishment of a Temporary Art Pilot Program and the disbursement of \$30,000.00 from the Public Art Fund for the placement of public art in the public rights-of-way citywide in association with the Activate Pomona Pilot Program. The expiration date of the pilot program will be the expiration date of the Activate Pomona Pilot Program, which may be amended by City Council.

SECTION 4. 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 agreement with one or more Artists from the Qualified Shortlist, which includes individual artists, teams of artists, and non-profit organizations, to execute the program scope identified in Exhibit A, in the substantive form attached hereto as Exhibit B, in a cumulative amount not to exceed \$30,000.00, for the purposes set forth in the 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 5. The Secretary shall certify to the adoption of this Resolution and forward the original to the City Clerk.

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APPROVED AND ADOPTED THIS 9th DAY OF SEPTEMBER 2020

ANDREW QUINONES
CULTURAL ARTS COMMISSION CHAIRPERSON

ATTEST:

ANITA D. GUTIERREZ, AICP
CULTURAL ARTS COMMISSION SECRETARY

STATE OF CALIFORNIA
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.

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