

CAC RESOLUTION NO. 2023-001

A RESOLUTION OF THE CULTURAL ARTS COMMISSION OF THE CITY OF POMONA, CALIFORNIA APPROVING PUBLIC ART – FINAL DESIGN PLAN TO ALLOW THE INSTALLATION OF A PUBLIC ART MIXED-MEDIA MURAL ON A COMMERCIAL PROPERTY LOCATED AT 3099-3101 W. TEMPLE AVENUE (APN: 8719-002-016).

WHEREAS, the applicant, SCG America, Yunni Zhai, has submitted an application for Public Art – Final Design Plan to allow installation of a mural designed by artist Ed Massey, to be installed on the facade of an existing building located at 3099 W. Temple Avenue;

WHEREAS, on February 23, 2022, the Planning Commission adopted Resolution No. 22-008 approving Conditional Use Permit (CUP 14649-2020) for the development of a six-story, 59,569 square foot expansion consisting of 90 guest rooms and associated on-site improvements for an existing Double Tree hotel located at 3101 W. Temple Avenue

WHEREAS, on January 9th, 2023, the Cultural Arts Commission Citizens Advisory Committee considered a Conceptual Design Plan for the placement of public art on private property recommending the artist Ed Massey concept design;

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Cultural Arts Commission of the City of Pomona, California:

SECTION 1. Pursuant to the provisions of the California Environmental Quality Act (CEQA-Public Resources Code, Section 21084 et. Seq.), the guidelines include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA. In compliance with Article 19, Section 15301, (Class 1 – Existing Facilities), the proposed project described above hereby meets the guidelines for a Categorical Exemption. 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 4. Based upon careful consideration of all pertinent testimony and the staff report offered in the case as presented at the public hearing, the Cultural Art Commission hereby approves Public Art – Final Design Plan subject to compliance with all applicable laws and ordinances of the City:

Planning

1. The subject property shall be developed and/or used in a manner consistent with the project plans reviewed and approved by the Cultural Arts Commission on January 30th, 2023, and as illustrated in the stamped approved final design plans dated January 30th, 2023. Any

major modifications to the approved project plans shall be reviewed and approved by the Cultural Arts Commission as part of a modification to the approved plans. Any minor modifications that do not affect the overall intent of the approved project, may be reviewed and approved by the Development Services Director or designee.

2. The property owner shall maintain the Public Art in good condition, including protecting the artwork against physical defacement, mutilation, or alteration, and securing and maintaining fire and extended coverage insurance in an amount to be determined by the City's Risk Manager in perpetuity as outlined in the Art in Public Places Manual.
3. This approval shall lapse and become void if the privilege authorized is not utilized within one year from the date of this approval (January 30th, 2023). The Cultural Arts Commission may extend this period for one year upon receipt of an application for a Time Extension request submitted by the applicant at least thirty days before the expiration date of this approval.
4. The project is subject to a twenty day appeal period. Written appeals may be filed with the Planning Division within twenty days by one or more City Council members, the applicant, or any person owning property within four hundred feet of the exterior boundary of the applicant's property. The appeal shall be filed with the City Clerk within twenty days from the date of action by the Cultural Arts Commission.
5. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, law suits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the any action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the project, whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action.
6. In case of a violation of any of the conditions of approval and/or City law, the property owner and tenant will be issued a Notice of Correction. If said violation is not remedied

within a reasonable period of time and/or a subsequent violations of the conditions of approval and/or City law occurs within ninety (90) days of any Notice of Correction, the property owner shall be held responsible to reimburse the City for all staff time directly attributable to enforcement of the conditions of approval and/or City law.

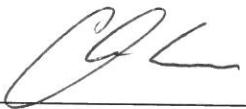
7. Any future substantial changes in the approved plans, except as allowed for by the following conditions, shall require a modification to the Public Art – Final Design Plan.
8. The proposed public art piece shall include the installation of an identification as required by the Art in Public Places Manual subject to CAC Resolution No.19-006.

SECTION 5. The Secretary shall certify to the adoption of this Resolution and forward the original to the City Clerk.

APPROVED AND ADOPTED THIS 30TH DAY OF JANUARY, 2023.


VENITA REYNOLDS
CULTURAL ARTS COMMISSION CHAIRPERSON

ATTEST:



ATA KHAN
CULTURAL ARTS COMMISSION SECRETARY

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)ss.
CITY OF POMONA)

AYES: Batts, Sanchez, Swodeck, Esparza, Marquez.
NOES: Dalet Ramos.
ABSTAIN: None.
ABSENT: Reynolds.

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.

