



**CITY OF SOUTH PASADENA
PUBLIC ART COMMISSION
SPECIAL MEETING AGENDA
December 7, 2021 at 6:30 p.m.**

South Pasadena Public Art Commission Statement of Civility

As your elected governing board, we will treat each other, members of the public, and city employees with patience, civility and courtesy as a model of the same behavior we wish to reflect in South Pasadena for the conduct of all city business and community participation. The decisions made tonight will be for the benefit of the South Pasadena community and not for personal gain.

NOTICE ON PUBLIC PARTICIPATION & ACCESSIBILITY

Pursuant to Governor Newsom’s Executive Order N-08-21, the Public Art Commission may conduct its meetings remotely and may be held via video conference. Pursuant to such Executive Order, the Public Art Commission may participate remotely and not be physically present in the City Council Chambers. Until further notice and as such Executive Orders remain in effect, the Public Art Commission may also allow public participation to continue via live public comment conducted over ZOOM.

The Public Art Commission Meeting for December 7, 2021 will be conducted in-person from the City Manager’s Conference Room, located at 1414 Mission Street, South Pasadena.

Please be advised that pursuant to the Executive Order(s), and to ensure the health and safety of the public, staff, and Commissioners, as the City Manager’s Conference Room will be open to the public for the meeting and members of the public may attend and/or participate in the in-person meeting, all are kindly reminded to follow Los Angeles County Public Health and CDC regulations and guidelines that are in place and may be posted.

The In-person Hybrid meeting will be conducted live in the City Manager’s Conference Room.

The Meeting will be available:

- In **Person** Hybrid – City Manager’s Conference Room, 1414 Mission Street
- Via Zoom - **Webinar ID: 823 1334 6757**

Public Comments participation may be made as follows:

- Written Comment submitted by no later than meeting day, 12:00 PM, deadline via the website.
- In Person Hybrid – City Manager’s Conference Room, 1414 Mission Street.
- Via Zoom by “raising hand” (see Public Comment Section below for instructions.)

To maximize public safety while still maintaining transparency and public access, members of the public can observe the meeting via Zoom in one of the three methods below.

1. Go to the Zoom website, <https://zoom.us/join> and enter the Zoom Meeting information; or
2. Click on the following unique Zoom meeting link: <https://us02web.zoom.us/j/82313346757>; or
3. You may listen to the meeting by calling: +1-669-900-6833 and entering the Zoom Meeting ID and Passcode when prompted.

For additional Zoom assistance with telephone audio, you may find your local number at:
<https://zoom.us/j/aiXV0TAW2>

CALL TO ORDER: Phung Huynh, Chair

ROLL CALL: Phung Huynh, Chair
Kris Kuramitsu, Vice-Chair
Steven Wong
Jeffrey Burke
Annalee Andres

COUNCIL LIAISONS: Mayor Pro-Tem Michael Cacciotti

STAFF PRESENT: Margaret Lin, Deputy Director of Community Development

APPROVAL OF AGENDA

Majority vote of the Commission to proceed with Commission business.

PUBLIC COMMENTS AND SUGGESTIONS

The Public Art Commission welcomes public input. If you would like to comment on an agenda item, members of the public may participate by means of one of the following options:

Option 1: Participate in-person at the City Manager’s Conference Room.

Option 2: Participants will be able to “raise their hand” using the Zoom icon during the meeting, and they will have their microphone un-muted during comment portions of the agenda to speak for up to 3 minutes per item. (Note: For the purpose of best ensuring that all of the agenda items are considered at the Commission Meeting, the Chair may exercise the Chair's discretion, subject to the approval of the majority of the Commission, to limit public comment(s) to less than 3 minutes on any given agenda item).

Option 3: Email public comment(s) to publicartcomments@southpasadenaca.gov. Public Comments received in writing will not be read aloud at the meeting, but will be part of the meeting record. Written public comments will be uploaded online for public viewing under Additional Documents. There is no word limit on emailed Public Comment(s). Please make sure to indicate: 1) Name (optional), and 2) Agenda item you are submitting public comment on. 3) Submit by no later than 12:00 p.m., on the day of the Commission meeting.

NOTE: Pursuant to State law, the Commission may not discuss or take action on issues not on the meeting agenda, except that members of the Commission or staff may briefly respond to statements

COMMUNICATIONS

1. City Council Liaison Communications

2. Commissioner Communications

3. Staff Liaison Communications

ACTION/DISCUSSION

4. Public Art Projects/Exhibit License Agreement

Recommendation

It is recommended that the Commission review and provide direction regarding the proposed license agreement.

CONSENT

5. Minutes from Regular October 27, 2021 Meeting

Recommendation

It is recommended that the Commission review and approve the minutes.

6. Minutes from Special November 8, 2021 Meeting

Recommendation

It is recommended that the Commission review and approve the minutes.

ADJOURNMENT

7. Adjourn to the Special Public Art Commission meeting scheduled for January 26, 2022 at 6:30 PM.

PUBLIC ACCESS TO AGENDA DOCUMENTS

The complete agenda packet may be viewed on the City’s website at:

<https://www.southpasadenaca.gov/government/boards-commissions/public-art-commission>

Meeting recordings will be available for public viewing after the meeting. Recordings will be uploaded to the City’s YouTube Channel no later than the next business day after the meeting.

The City’s YouTube Channel may be accessed at:

https://www.youtube.com/channel/UCnR169ohzi1AIewD_6sfwDA/featured

ACCOMMODATIONS



The City of South Pasadena wishes to make all of its public meetings accessible to the public. If special assistance is needed to participate in this meeting, please contact the City Clerk's Division via e-mail at CityClerk@southpasadenaca.gov or by calling (626) 403-7230. Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities. Notification at least 48 hours prior to the meeting will assist staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting (28 CFR 35.102-35.104 ADA Title II).

I declare under penalty of perjury that I posted this notice of agenda on the bulletin board in the courtyard of City Hall at 1414 Mission Street, South Pasadena, CA 91030, and on the City’s website as required by law.

12/2/21

Date

Name



Public Arts Commission Agenda Report

ITEM NO. ____

DATE: December 2, 2021
TO: Public Arts Commission
FROM: Margaret Lin, Deputy Community Development Director
SUBJECT: Public Art Projects/Exhibits License Agreement

Recommendation

It is recommended that the Commission review and provide direction regarding the proposed license agreement.

Discussion

On December 1, 2021, the City Council approved repurposing the funds allocated to the Civic Center Art Gallery to fund three public art projects/exhibits to occur in outdoor spaces on city-owned properties at the City Hall courtyard, Garfield Park, and Heritage Park. The City Council provided direction that the Request for Proposals (RFP) should prioritize:

- Local artists; and
- Permanent artwork that can contribute to the City's public art collection.

Staff will integrate the direction provided by the Council and also include the attached license agreement. The license agreement is needed for the City to grant the proposed artwork to be located within or on City-owned properties.

Next Steps

1. December 10, 2021 - Release the RFP
2. January 11, 2022 - Award of projects
3. June 30, 2022 - Completion of projects

Background

On November 8, 2021, the Commission recommended that the City Council repurpose the Civic Center Art Gallery budget to fund temporary public art projects and exhibits to occur during Fiscal Year 2021-2022 in three possible spaces:

1. City Hall Courtyard (1414 Mission Street);
2. Garfield Park (1000 Park Avenue); and/or
3. Heritage Park (Mission Street/Meridian Avenue).

The Commission also recommended that the Professional Services Agreement be simplified and eliminate irrelevant sections to create a more artist-friendly process.

Public Notification of Agenda Item

The public was made aware that this item was to be considered this evening by virtue of its inclusion on the legally publicly noticed agenda, posting of the same agenda and reports on the City's website.

Attachment: License Agreement

**LICENSE AGREEMENT
[ARTWORK] INSTALLATION AND MAINTENANCE**

(City of South Pasadena / [Name])

1. IDENTIFICATION

This LICENSE AGREEMENT (“Agreement”) is entered into by and between the City of South Pasadena, a California municipal corporation (“City”), and [Name] (“Licensee”).

2. GRANT OF LICENSE

THE CITY DOES HEREBY GRANT TO LICENSEE the nonexclusive right to encroach upon, occupy, and use the [Location], depicted in Exhibit “A,” attached hereto and incorporated herein by this reference (hereafter, the “Licensed Area”), subject to any and all covenants, restrictions, reservations, exceptions, rights, and easements, whether or not of record, upon and subject to the terms, reservations, covenants, and conditions set forth in this revocable License (“License”). For and in consideration of the faithful performance by Licensee of the terms, covenants, and agreements herein set forth to be kept and performed by Licensee, City does hereby grant this License to Licensee solely for the following purpose: [Description of artwork] depicted in Exhibit B (the “Artwork”) at the Licensed Area (hereafter, collectively the "License Purpose").

3. ACCEPTANCE OF LICENSE AND LICENSED AREA

The Parties agree the consideration of receiving the Artwork at the Licensed Area by the City and the publicity displaying the Artwork at the Licensed Area by the Licensee in a prominent public location within the City is sufficient consideration for this Agreement between the parties. City grants to Licensee this License based on the sufficiency of this consideration and the terms of this Agreement.

Recognizing the value inherent in the publicity and installation of the Licensed Purpose in a public location within the City, and the value of the Licensed Area as a space for the Licensed Purpose, Licensee agrees to accept, at no cost to the City, the above-referenced License for the City to use and display the Artwork and for Licensee to use the Licensed Area for the Licensed Purpose. Nothing in this License prohibits Licensee from obtaining payment or other consideration for placement of the Artwork by person(s) other than the City.

Licensee agrees to accept the Licensed Area in its present condition and "as is" with respect to matters that might affect the use of the Licensed Area. Licensee also agrees that no representation, statement, or warranty, express or implied, has been made by or on behalf of City as to the condition of the Licensed Area or as to the uses that may be made of area adjacent to the Licensed Area.

4. TERM OF LICENSE

Unless otherwise terminated as provided herein, the term of this License will commence on, _____, 2021 ("Commencement Date"), and shall continue for a period of ten (10) years and Licensee abides by the terms of this License, notwithstanding any termination of the License.

5. TERMINATION

Notwithstanding anything to the contrary, either Party may terminate this License with or without cause at any time by serving the other Party hereto with a written notice of termination at least thirty (30) days prior to the time such termination is to take effect. Termination, does not release Licensee from any liability or obligation (indemnity or otherwise) which Licensee may have incurred. Licensee shall have the right to remove the artwork from the site at the end of the term or upon termination of this License, provided that such removal does not cause damage to the wall surface or the Licensed Area.

6. OCCUPANCY AND USE OF THE LICENSED AREA

- 6.1. **Non-Exclusive and Non-Possessory Interest.** Licensee may occupy and use the Licensed Area in the manner authorized by this License for the License Purpose, described in Section 2 herein, and for no other purpose. Licensee understands and agrees that this License Purpose shall be exclusive of the right of any other person to use any portion of the Licensed Area for the same or similar purpose pursuant to any other license now or hereafter granted by City during the term of this License. City retains full possession of the Licensed Area and Licensee will not acquire any interest, temporary, permanent, irrevocable, possessory, or otherwise, by reason of this License, or by the exercise of the permission given herein. Licensee will make no claim to any such interest. Any violation of this provision will immediately void and terminate this License.
- 6.2. **Scope of License.** Licensee acknowledges and agrees that the License constitutes a limited, revocable, non-possessory, personal and nonassignable privilege to use the Licensed Area solely for the License Purpose. Licensee further acknowledges and agrees that: In consideration of City's grant of the License, Licensee specifically and expressly waives, releases, and relinquishes any and all right(s) to assert any claim of right, privilege or interest in the Licensed Area other than the License Purpose.
- 6.3. **Condition of Licensed Area.** Licensee will keep the Licensed Area clean, free from weeds, brush, rubbish and debris and in a condition satisfactory to City.
- 6.4. **Signs.** Signs or outdoor advertising on the Licensed Area are prohibited. Licensee shall not place any other work of art, image, or message other than the Artwork, or alter the Artwork without the written permission of the City.
- 6.5. **Graffiti.** Licensee shall be solely responsible for refurbishing of the Artwork if altered with graffiti. City shall notify Licensee within three (3) days from the date on which the City becomes aware of graffiti. Licensee shall within three (3) day from the date of notice remove such graffiti from the Licensed Area in a manner reasonably acceptable to the City. In the event that Licensee does not remove the graffiti, City shall at its sole option remove the graffiti, repair the Artwork, or terminate the License and cause the Artwork to be removed.
- 6.6. **Waste and Nuisance.** In its use of the Licensed Area, Licensee shall not commit, nor allow to be committed, any waste nor spillage, nor maintain or allow to be maintained any hazard or nuisance thereon.

7. RESTRICTIONS ON THE OCCUPANCY AND USE OF THE LICENSED AREA

- 7.1. **Right of Entry.** Licensee agrees that City, its successors, and assigns, have the right to enter upon the Licensed Area at all times, for any purpose to conduct any required repairs or improvement activity of the Licensed Area. Exercise of these rights will not result in compensation to Licensee for any damages whatsoever to personal property, and/or Artwork located on the Licensed Area, nor shall Licensee be entitled to any compensation for any loss of use of the Licensed Area or a portion thereof, and/or any related damages, as a result of City's activities under this Section.
- 7.2. **Licensee's Improvements.**
- 7.2.1 Licensee intends to undertake work in the public space for the installation of the Artwork. The Licensee shall have the right of entry to the site to access the Licensed Area to perform the License Purpose during regular business hours (8:00 a.m. to 5:00 p.m.), and with 48-hour advance written notice to the City, subject to any prior programming of the areas adjacent to the Licensed Area.
- 7.2.2 Licensee must submit, for City's prior written approval, complete improvement plans, including, but not limited to, schematics and renderings of Artwork to be installed for approval by the City a minimum of sixty (60) days prior to making any use of the Licensed Area for installation of the Artwork. Written approval may be rejected, modified and/or rescinded by City for any reason whatsoever.
- 7.2.3 Licensee must submit, for City's prior written approval, schematics and renderings for any modifications to such Artwork. Written approval may be rejected, modified and/or rescinded by City for any reason whatsoever.
- 7.2.4 To the extent City reviews and/or approves any improvement plans, or modifications thereto, City is doing so only for purposes of determining whether said improvements are compatible with Licensee's use of the Licensed Area. Under no circumstances shall such review and/or approval be construed as a warranty, representation, or promise that the Licensed Area is fit for the proposed improvements or modifications, or that said improvements or modifications thereto comply with any applicable City, state, or county building requirements, other legal requirements, or the generally accepted standard of care.
- 7.2.5 It is expressly understood that the City can, in its sole discretion, revoke this License at any time upon giving the Licensee notice in accordance with Sections 5 and 14 herein. Should the City revoke this License, the Licensee must remove all Artwork within the public space at the Licensee's sole expense.
- 7.2.6 Liens: During the term of this License, Licensee shall keep the Licensed Area and every part thereof free and clear of all mechanics' liens, materialmen's liens, and other liens for any work or labor done, services performed, or materials and appliances used or furnished for or in connection with any operation of Licensee, any repair, alteration, or addition which Licensee may make or permit or cause to be made, or any work or construction by, for, or permitted by Licensee on or about the Licensed Area. Licensee shall at all times promptly and fully pay and discharge any and all claims on which any such liens may or could be based, and shall indemnify City against all such liens, claims of liens,

and suits or other procedures pertaining thereto. Licensee agrees to serve City with a notice of any repair, alteration, or addition to the Licensed Area, including any of the improvements now or hereafter located on the Licensed Area, at least five (5) days in advance of the commencement of work upon such repair, alternation or addition in order that CITY may post appropriate notices of nonresponsibility.

7.3. Licensee's Personal Property.

- 7.3.1 Licensee may place Licensee's personal property necessary for the installation or maintenance of the Artwork in the immediate area adjacent to the Licensed Area consistent with the use and other terms of this License. Such permission granted by City shall be revoked upon the termination or expiration of this License.
- 7.3.2 Licensee shall (and shall cause its Representatives to) use reasonable standard of care to properly secure all work areas created or caused by Licensee in the performance of the Activities to prevent harm to Owner's tenants, employees, agents and invitees. Licensee shall (and shall cause its Representatives to) use reasonable standard of care to keep any equipment used or brought onto the Property in the performance of the Activities under its absolute and complete control at all times, and said equipment shall be used on the Property at the sole risk of Licensee. Neither Licensee nor its Representatives may store equipment on the Property when not conducting the Activities.
- 7.3.3 Licensee shall be responsible for any damage to the Licensed Area and/or City's personal property arising out of Licensee's activities on the Licensed Area, including its use and/or removal of Licensee's personal property. Licensee further acknowledges and agrees that City is not responsible for Licensee's personal property during the effectiveness of this License, or upon termination or expiration. City further assumes no duty or obligation to maintain or secure Licensee's personal property at any time.
- 7.3.4 If Licensee fails or refuses to remove any of Licensee's personal property ("Improvements") from the License Area prior to the termination date, said personal property shall be deemed abandoned by the Licensee, and the City shall have the right, but not the obligation, to remove, destroy, sell, or otherwise dispose of them with no further notice to Licensee. In addition, the City shall have the right to charge and recover from Licensee all costs and expenses incurred related to the removal, disposal, or sale of Licensee's personal property, and the restoration of the License Area to the condition it was in prior to Licensee's use of the Licensed Area. Licensee agrees to pay such expenses to the City upon demand.
- 7.3.5 City shall not be required to seek and/or obtain judicial relief prior to removing and/or disposing of Licensee's personal property or improvements from the Licensed Area, nor shall City be responsible for the value of said property.

7.4. Protection of Surrounding Property.

Licensee shall protect from damage the area, improvements, and property surrounding the Licensed Area during installation and maintenance of the Artwork. Licensee shall be solely responsible for repairs, clean-up, or remediation necessary to return the area, improvements, and property surrounding the Licensed Area damaged during installation and maintenance of the Artwork to the state prior to such damage occurring.

8. LOCATION, ALTERATION OR REMOVAL

The City retains the right to relocate or remove the Artwork and Licensed Purpose from public display for any reason, or no reason at all, at the sole discretion of the City.

9. OWNERSHIP

9.1 Licensee warrants that the Artwork is the result of the artistic efforts of Licensee. Licensee warrants that the Artwork is unique and original and does not infringe upon any copyright or the rights of any person or entity.

9.2 Unless otherwise provided in this Agreement, Licensee shall retain all 17 U.S.C. § 106 copyrights in the Artwork to the extent such copyrights are applicable. The City shall not be responsible for any third-party infringement of Licensee's copyright or for protecting Licensee's intellectual property.

9.3 Licensee hereby grants the City an unlimited and irrevocable license to do the following with respect to the Artwork:

9.3.1 use and display the Artwork at the site;

9.3.2 make, display, and distribute, and authorize the making, displaying, and distribution of photographs and other reproductions of the Artwork. The City may use such reproductions for any City-related purpose, including advertising, educational and promotional materials, brochures, books, flyers, postcards, print, broadcast, film, electronic, and multimedia publicity. The City shall ensure that such reproductions are made in a professional and tasteful manner, in its sole and reasonable judgment. The City shall make reasonable efforts to ensure that such reproductions include the following credit line and copyright notice where practicable: “[TITLE OF ARTWORK]” Failure to include such credit line and notice in any reproductions shall not constitute a breach of this Agreement.

9.4 With respect to the Artwork, Licensee hereby waives any and all claims, arising at any time and under any circumstances, against the City, its officers, agents, contractors, employees, volunteers, successors and assigns, arising under the federal Visual Licensees Rights Act (17 U.S.C. §§ 106A and 113(d)), the California Art Preservation Act (Cal. Civil Code § 987 et seq.), and any other local, state, federal or international laws that convey rights of the same nature as those conveyed under 17 U.S.C. § 106A, California Civil Code § 987 et seq., or any other type of moral right protecting the integrity of works of art. Specifically, Licensee hereby waives any and all such claims against any future owners of the Artwork, and their agents, officers and employees. Licensee hereby represents and warrants that Licensee is authorized to sign this waiver and this License.

9.5 In the event that the City's use of the Artwork creates trademark, service mark or trade dress rights in connection with the Artwork, the City shall have an exclusive and irrevocable right in such trademark, service mark, or trade dress.

9.6 If any alteration or damage to the Artwork occurs, the Licensee shall have the right to disclaim authorship of the Artwork. Upon written request, the City shall remove all attributive references to the Licensee at its own expense within thirty days of receipt of the notice. No provision of this Agreement shall obligate the City to alter or remove any such attributive reference printed or published prior to the City's receipt of such notice.

9.7 The representations and warranties in this Section shall survive the termination or other extinction of this Agreement.

10. COMPLIANCE WITH LAWS AND REGULATIONS

At all times Licensee is engaged in occupying and using the Licensed Area pursuant to this License, Licensee shall carry on such occupancy and use in full compliance with all applicable laws and regulations, and the work must be undertaken in compliance with all of the requirements of the South Pasadena Municipal Code.

If applicable, Licensee, at its sole cost and expense, shall be responsible for obtaining any and all permits and approvals from any governmental authority which may be necessary for it to conduct any Activities at or on the Licensed Area. Upon request by Licensee, City shall cooperate with any reasonable request by Licensee for information or assistance in Licensee's efforts to obtain necessary governmental permits and approvals.

11. HOLD HARMLESS AND INDEMNIFICATION OBLIGATIONS

11.1. Licensee shall hold harmless, defend, and indemnify the City, its officers, agents, employees, boards, and commissions, and members thereof, and its successors and assigns, from and against all claims, loss, damage, actions, causes of actions, expense and/or liability arising from or growing out of this License and/or Licensee's occupancy and use of the Licensed Area in the manner authorized by this License, or the use or occupancy of the License Area by Licensee or any person claiming under Licensee, including those claims arising from the active or passive negligence of the City, but excepting those claims arising from the sole negligence or willful misconduct of the City.

11.2. Should City or any of its officers, employees, agents, boards and commissions, and members thereof, be named in any suit, or should any claim be made against any of them by suit or otherwise, arising out of or relating to this License, and/or Licensee's occupancy and use of the Licensed Area in the manner authorized by this License, Licensee shall defend and indemnify them for any judgment rendered against them or any sums paid out in settlement or otherwise.

11.3. Licensee will defend and indemnify City, its directors, officers, agents, subcontractors, and employees, and its successors and assigns, from any and all claims, loss, damage, actions, causes of action, expenses and/or liability related to any claim by a non-party arising from the storage of and/or damage to such non-party's personal property.

11.4. Licensee further acknowledges that if Licensee is entitled to any relief for the City's negligence, wrongful disposal, conversion, damage, or destruction of Licensee's personal property after the termination or expiration of this agreement, in no event shall

City's liability exceed the total sum of license fees actually paid by Licensee to City pursuant to this agreement.

12. NONASSIGNABILITY OF LICENSE

Licensee shall not assign, transfer, or sell this License, or any of the rights granted to Licensee pursuant to this License, without the prior written approval of the City. Any attempted assignment shall confer no right on any third party, shall be null and void, and shall terminate this License and all rights of Licensee hereunder.

13. AMENDMENTS TO LICENSE

This License sets forth the entire agreement of the parties as to the matter set forth herein and may be modified or amended only by a writing duly authorized and executed by both City and Licensee. It may not be amended or modified by oral agreement or understanding between the parties unless the same shall be reduced to writing duly approved and executed by both parties.

14. NOTICES

Any notice or document given or required to be given pursuant to this License shall be in writing and delivered personally or by U.S. mail, first class, postage prepaid, or by certified mail. Notice sent by mail shall be addressed to each Party's designated representative as set forth below. When addressed in accordance with this Section, such notice shall be deemed given upon deposit in the United States mail. In all other instances, notices shall be deemed given at the time of actual delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner described in this Section.

If to City

Margaret Lin
City of South Pasadena
1414 Mission Street
South Pasadena, CA 91030
Telephone: (626) 403-7236
Facsimile: (626) 403-7241

If to Licensee

[Name]
[Address 1]
[Address 2]
[Telephone]

With courtesy copy to:

Andrew L. Jared
South Pasadena City Attorney
Colantuono, Highsmith & Whatley, PC
790 E. Colorado Blvd. Ste. 850
Pasadena, CA 91101
Telephone: (213) 542-5700
Facsimile: (213) 542-5710

15. INDEPENDENT RELATIONSHIP

City and Licensee are independent entities and are not to be, and shall not be, construed as joint venturers, partners, employer/employee, or agents one of the other, and neither shall have the power to bind or obligate the other, except as set forth in this license.

16. DEFAULT

Licensee shall be deemed in default under this License:

- 16.1. Upon breach of any of the covenants and conditions of this License with respect to the sale, assignment, transfer, or encumbrance of the Licensed Area; with respect to the bankruptcy or insolvency of Licensee; upon failure to pay any rent or any other charge required under this License to be paid by Licensee to City when due; upon failure to provide evidence of the insurance when due; or, with respect to any other covenant or condition of this License, which breach cannot be cured, immediately upon being given notice thereof by City.
- 16.2. Upon the breach of any of Licensee's other duties and obligations under this License, which breach can be cured, if such breach is not cured within 30 days after notice thereof by City.
- 16.3. **Remedies Upon Default.** Upon Licensee's default of this License beyond any stated cure period, all rights, options, and remedies of City contained in this License shall be construed and held to be cumulative and not one of them shall be exclusive of the other, and City shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided for by law, whether or not stated in this License.
- 16.4. **Waiver of Default.** Any waiver by City of a default of this License arising out of the breach of any of the covenants, conditions, or restrictions of this License shall not be construed or held to be a waiver of any succeeding or preceding default arising out of a breach of the same or any other covenant, condition, or restriction of this License.

17. DISCRIMINATION

Licensee and their agents, contractors, officers, volunteers, and employees in the performance of this Agreement shall not discriminate against any person on the basis of race, color, religion, sex, creed, marital status, national origin, ancestry, or any other prohibited class.

18. GOVERNING LAW

The terms of this License shall be interpreted according to the laws of the State of California. Should litigation occur, venue shall be in the Superior Court of California, Los Angeles County.

19. FORCE MAJUERE

Neither party shall be considered in default in the performance of its obligations hereunder or any of them, if such obligations were prevented or delayed by any cause of force majeure, existing or future, beyond the reasonable control of such party, which includes, but are not limited to, government regulation or order, including without limitation, a court order, legislative enactment, or executive regulation or decree; acts of terrorism, riots, strikes or lockouts by third parties providing labor, material, or services under contract to a party; delays caused by the other party to this agreement; inability to procure critical materials; unforeseen catastrophic emergencies; or other phenomena of nature beyond the power of a party reasonably to foresee or to make preparation in defense against.

20. PARTIES BOUND

The covenants and conditions herein contained shall apply to and bind the legal representatives, successors, and assigns of all of the Parties hereto, and all of the Parties hereto shall be jointly and severally liable hereunder

21. INSURANCE

21.1. **Insurance Required.** Consultant shall maintain insurance as described in this section and shall require all of its subcontractors, consultants, and other agents to do the same. Approval of the insurance by the City shall not relieve or decrease any liability of Consultant Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.

21.2. **Documentation of Insurance.** City will not execute this agreement until it has received a complete set of all required documentation of insurance coverage. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant’s obligation to provide them. Consultant shall file with City:

- Certificate of Insurance, indicating companies acceptable to City, with a Best's Rating of no less than A:VII showing. The Certificate of Insurance must include the following reference: [Artwork Name]
- Documentation of Best’s rating acceptable to the City.
- Original endorsements effecting coverage for all policies required by this Agreement.
- City reserves the right to obtain a full certified copy of any Insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of the right to exercise later.

21.3. **Coverage Amounts.** Insurance coverage shall be at least in the following minimum amounts:

- Professional Liability Insurance: \$2,000,000 per occurrence,
\$2,000,000 aggregate
- General Liability:
 - General Aggregate: \$2,000,000
 - Products Comp/Op Aggregate \$2,000,000
 - Personal & Advertising Injury \$2,000,000
 - Each Occurrence \$2,000,000
 - Fire Damage (any one fire) \$ 100,000
 - Medical Expense (any 1 person) \$ 10,000
- Workers' Compensation:
 - Workers' Compensation
 - EL Each Accident

- EL Disease - Policy Limit
- EL Disease - Each Employee
- Automobile Liability
 - Any vehicle, combined single limit \$1,000,000

Any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured

- 21.4. **General Liability Insurance.** Commercial General Liability Insurance shall be no less broad than ISO form CG 00 01. Coverage must be on a standard Occurrence form. Claims-Made, modified, limited or restricted Occurrence forms are not acceptable.
- 21.5. **Worker's Compensation Insurance.** Consultant is aware of the provisions of Section 3700 of the Labor Code which requires every employer to carry Workers' Compensation (or to undertake equivalent self-insurance), and Consultant will comply with such provisions before commencing the performance of the work of this Agreement. If such insurance is underwritten by any agency other than the State Compensation Fund, such agency shall be a company authorized to do business in the State of California.
- 21.6. **Automobile Liability Insurance.** Covered vehicles shall include owned if any, non-owned, and hired automobiles and, trucks.
- 21.7. **Professional Liability Insurance or Errors & Omissions Coverage.** The deductible or self-insured retention may not exceed \$50,000. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work. Coverage shall be continued for two years after the completion of the work by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement insurance with a retroactive date no later than the commencement of the work under this Agreement.
- 21.8. **Claims-Made Policies.** Claims-Made Insurance policies are not allowed to fulfill the insurance requirements of this License.
- 21.9. **Additional Insured Endorsements.** The City, its City Council, Commissions, officers, and employees of South Pasadena must be endorsed as an additional insured for each policy required herein, other than Professional Errors and Omissions and Worker's Compensation, for liability arising out of ongoing and completed operations by or on behalf of the Consultant. Consultant's insurance policies shall be primary as respects any claims related to or as the result of the Consultant's work. Any insurance, pooled coverage or self-insurance maintained by the City, its elected or appointed

officials, directors, officers, agents, employees, volunteers, or consultants shall be non-contributory. All endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf. General liability coverage can be provided using an endorsement to the Consultant's insurance at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37.

- 21.10. **Failure to Maintain Coverage.** In the event any policy is canceled prior to the completion of the project and the Consultant does not furnish a new certificate of insurance prior to cancellation, City has the right, but not the duty, to obtain the required insurance and deduct the premium(s) from any amounts due the Consultant under this Agreement. Failure of the Consultant to maintain the insurance required by this Agreement, or to comply with any of the requirements of this section, shall constitute a material breach of this Agreement.
- 21.11. **Notices.** Contractor shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; (3) or the deductible or self-insured retention is increased. Consultant shall provide no less than 30 days' notice of any cancellation or material change to policies required by this Agreement. Consultant shall provide proof that cancelled or expired policies of insurance have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages. The name and address for Additional Insured Endorsements, Certificates of Insurance and Notices of Cancellation is: City of South Pasadena, Attn: Community Development Department, South Pasadena, CA 95945.
- 21.12. **Consultant's Insurance Primary.** The insurance provided by Consultant, including all endorsements, shall be primary to any coverage available to City. Any insurance or self-insurance maintained by City and/or its officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.
- 21.13. **Waiver of Subrogation.** Consultant hereby waives all rights of subrogation against the City. Consultant shall additionally waive such rights either by endorsement to each policy or provide proof of such waiver in the policy itself.
- 21.14. **Report of Claims to City.** Consultant shall report to the City, in addition to the Consultant's insurer, any and all insurance claims submitted to Consultant's insurer in connection with the services under this Agreement.
- 21.15. **Premium Payments and Deductibles.** Consultant must disclose all deductibles and self-insured retention amounts to the City. The City may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within retention amounts. Ultimately, City must approve all such amounts prior to execution of this Agreement.

City has no obligation to pay any premiums, assessments, or deductibles under any policy required in this Agreement. Consultant shall be responsible for all premiums and

deductibles in all of Consultant's insurance policies. The amount of deductibles for insurance coverage required herein are subject to City's approval.

21.16. **Duty to Defend and Indemnify.** Consultant's duties to defend and indemnify City under this Agreement shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement.

22. COMPLETE AGREEMENT

The Parties acknowledge that this License and any exhibits attached hereto constitute the entire agreement between the Parties and that it may be modified only pursuant to Section 13, herein.

23. SEVERABILITY

If any provision of this License shall be held invalid, the remainder of this License shall not be affected thereby.

24. SIGNATURE AUTHORITY

Each of the persons executing this License warrants and represents that he or she has the full and complete authority to enter into this agreement on behalf of the Party for which he or she is signing, and to bind said party to the agreements, covenants and terms contained herein.

TO EFFECTUATE THIS AGREEMENT, the parties have caused their duly authorized representatives to execute this Agreement on the dates set forth below.

"City"
City of South Pasadena

"Licensee"
[Name]

, Mayor

[Name]

Date: _____

Arminé Chaparyan, City Manager

Date: _____

Attest:

By: _____
Christina Muñoz
Deputy City Clerk

Date: _____

Approved as to form:

By: _____
Andrew Jared, City Attorney

Date: _____

Exhibit A
License Area

Exhibit B
Artwork

**MINUTES OF THE REGULAR MEETING OF THE
PUBLIC ART COMMISSION
OF THE CITY OF SOUTH PASADENA
CONVENED THIS 27th DAY OF OCTOBER 2021 6:30 P.M.
CITY COUNCIL CHAMBERS
1414 MISSION STREET**

CALL TO ORDER/ROLL CALL	The meeting of the Public Art Commission (Commission) was convened at 6:30 P.M. Commissioners present: Phung Huynh (Chair), Kris Kuramitsu (Vice-Chair), Jeffrey Burke, Steven Wong and Annalee Andres Council Liaison absent: Michael Cacciotti Staff present: Margaret Lin, Deputy Community Development Director
APPROVAL OF AGENDA	Unanimously approved (4 ayes, 0 noes, 1 absent)
PUBLIC COMMENTS AND SUGGESTIONS (ITEMS NOT ON THE AGENDA)	None.
COMMUNICATIONS	
1. CITY COUNCIL LIAISON COMMENTS	None.
2. COMMISSIONER COMMENTS	Commissioner Burke stated that he hoped the Council Liaison would be available for future meetings and that it would be great if the commission meetings could be held in the Council Chambers again. Commissioner Wong expressed concerns with the limited social distancing provided within the City Manager’s Conference Room. Commissioner Andres shared that she had attended the arts crawl.
3. STAFF LIAISON COMMENTS	Deputy Lin shared that Ted Gerber would be the new Acting Public Works Director, and that the Community Development Department was in the process of filling the Planning Manager and three Associate Planner positions.
ACTION/DISCUSSION ITEMS	
4. CIVIC CENTER ART GALLERY	Chair Huynh stated that the item was continued from the previous meeting. Deputy Lin shared that due to the equipment failure the City Council would need to identify funding for a new system. Commissioner Burke stated that due to the issues with Spectrum it would be good to consider programing for the cable channel next year but that he would be available to talk to Spectrum regarding the Public Educational and Government access channel.

	<p>Chair Huynh suggested that the \$25,000 allocated to the Civic Center Art Gallery could be used for a Request for Proposals for a range of projects. The Commission discussed the details of the proposed project that should be included in the Request for Proposals (RFP), including the range of projects, schedule, and budget. The Commission elected Chair Huynh and Vice-Chair Kuramitsu to serve on the ad hoc committee to work with Staff on the RFP</p>
<p>5. DIVERSITY, EQUITY, AND INCLUSION</p>	<p>The Commission discussed possible dates and potential participants. Chair Huynh stated that due to the focus on the Public Art RFP, the proposal to consider a community forum for public art could be tabled temporarily. However, the importance of DEI should be addressed by the Commission. Commissioner Burke would like to see a draft resolution for the Artist Friendly City and invite the City Attorney to attend a meeting to discuss the item further.</p>
<p>CONSENT ITEMS</p>	
<p>6. SEPTEMBER 22, 2021 MEETING MINUTES</p>	<p>Commissioner Burke moved to approve the minutes and Commissioner Kuramitsu seconded the motion. Unanimously approved (5 ayes, 0 noes, 0 absent)</p>
<p>ADJOURNMENT</p>	<p>By consensus, the Commission adjourned the meeting at 7:36 P.M.</p>

Approved By:

Phung Huynh
Chair

**MINUTES OF THE SPECIAL MEETING OF THE
PUBLIC ART COMMISSION
OF THE CITY OF SOUTH PASADENA
CONVENED THIS 8th DAY OF NOVEMBER 2021 6:34 P.M.
CITY MANAGER'S CONFERENCE ROOM
1414 MISSION STREET**

CALL TO ORDER/ROLL CALL	The meeting of the Public Art Commission (Commission) was convened at 6:34 P.M. Commissioners present: Phung Huynh (Chair), Kris Kuramitsu (Vice-Chair), and Jeffrey Burke Commissioner absent: Steven Wong and Annalee Andres Council Liaison present: Michael Cacciotti Staff present: Margaret Lin, Deputy Community Development Director
APPROVAL OF AGENDA	Unanimously approved (3 ayes, 0 noes, 2 absent)
PUBLIC COMMENTS AND SUGGESTIONS (ITEMS NOT ON THE AGENDA)	None.
COMMUNICATIONS	
1. CITY COUNCIL LIAISON COMMENTS	Mayor Pro Tem Cacciotti provided an update regarding the City Council's efforts on the sale of the Caltrans surplus properties, American Rescue Plan, redistricting, SB 1383 organic recycling, electronic leaf blowers, and homelessness.
2. COMMISSIONER COMMENTS	None.
3. STAFF LIAISON COMMENTS	None.
ACTION/DISCUSSION ITEMS	
4. SOUTH PASADENA AUDIO TOUR	Elana Mann, Anti-Racism Committee of South Pasadena, provided a presentation regarding an upcoming South Pasadena Audio Walking Tour that focuses on the history of South Pasadena through an anti-racism lens. The project is still in the early stages of development and will include different events, interviews, and narration. Chair Huynh thanked Ms. Mann for her presentation. Vice-Chair Kuramitsu stated that she supported the concept, the use of QR codes to engage with the community, and suggested that a visual component may amplify the impact. Commissioner Burke commented that he was looking forward to seeing the details about the project in the future. Mayor Pro-Tem Cacciotti commented that

	<p>it was a great project and that he was excited to hear more about it as well.</p>
<p>5. CIVIC CENTER ART GALLERY BUDGET</p>	<p>Deputy Lin stated that the City Attorney recommended that the repurposing of the funds for the Civic Center Art Gallery should be brought back to the City Council.</p> <p>The Commission discussed the specific locations for the potential projects. Mayor Pro Tem commented that any proposed project that would be placed at the park should go to the Parks and Recreation Commission and that the residences around the park should be notified if there are any exhibits or projects that will have an impact on them. The Commission discussed whether the projects should be temporary. Commissioner Burke corrected the deadline on the RFP and commented that the contract was too long and not specific to the RFP and should be more artist friendly. The Commission made a recommendation to the City Council to repurpose the Civic Center Art Gallery to fund three public art projects.</p>
<p>ADJOURNMENT</p>	<p>By consensus, the Commission adjourned the meeting at 7:14 P.M.</p>

Approved By:

Phung Huynh
Chair