

**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE APPROVING A PUBLIC ART PROJECT TO PAINT RANCHO GRANDE PARK BASKETBALL COURT, ACCEPTING DONATION OF TIME AND MATERIALS, WAIVING PERMIT APPLICATION FEES, AND FINDING THE PROJECT EXEMPT FROM CEQA; LOCATION – RANCHO GRANDE PARK; APPLICANT – CITY OF ARROYO GRANDE, ARROYO GRANDE LIONS CLUB, AND THE PICK FAMILY**

**WHEREAS**, the City’s Architectural Review Committee (ARC) reviewed and recommended the City Council approve the proposed painting of the basketball court at Rancho Grande Park (“project”) on June 17, 2024 in accordance with the City’s Public Art Guidelines and Public Art Donation Program (the “Guidelines”); and

**WHEREAS**, on June 25, 2024, the City Council reviewed the project at a duly noticed public hearing; and

**WHEREAS**, the City Council finds that the project will have a public benefit and therefore the application fee of \$1,044.75 can be waived; and

**WHEREAS**, when the City Council approves art on public property, such art becomes the property and speech of the government, and in order to submit an application, the artist waives all rights under the Visual Artists Rights Act, 17 U.S.C. §§106A and 113(d) and the California Art Preservation Act, Cal. Civil Code §§ 987 and 989.

1. **Recitals.** All recitals above are true and correct and hereby incorporated into reference.
2. **CEQA.** The painting of the basketball court is categorically exempt from the California Environmental Quality Act (“CEQA”) under the Class 1 exemption, which applies to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing structures, facilities, mechanical equipment, or topographical features where the project involves negligible or no expansion of existing or former use. (State CEQA Guidelines, § 15301.) None of the exceptions to the Class 1 exemption apply to the painting of a mural because: the location of the project will not result in any significant environmental impacts; there will not be any cumulative environmental impacts as a result of the project; the project does not impact or damage any scenic resources; the project is not located on a hazardous waste site; and the project does not adversely affect any historic resources.
3. **Public Art Selection Criteria:**
  1. Evaluation of artistic excellence, examining:
    - a. The artist’s qualifications, including: education, training, experience, The artist’s record of previous collaboration with other agencies, organizations, artists, fabricators, or installers to achieve a successful result in implementing the proposed project;
    - b. The artist’s experience working in the public realm;

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- c. To the extent applicable, the artist's previous proven successful experience in creating, producing or otherwise implementing projects similar to the one proposed;
- d. The original nature of the proposed concept;
- e. The inherent artistic quality and aesthetic merit of the work;

*The applicant team, including Project Backboard, has completed numerous projects with similar scopes and scale and has collaborated with dozens of public and private agencies to complete similar projects throughout the country. The proposed conceptual designs are original and have not yet been created elsewhere in the community or in other locations of the state. The artwork provides an attractive design of different shapes and images that provide unique ways of reimagining basketball court design.*

- 2. Appropriateness of scale, form, material, content and design relative to the immediate neighborhood and environment; no mural shall be approved if the mural, as proposed, would create an objective risk to public health, safety, or welfare (e.g. a mural near a roadway would be rejected for the use of reflective materials, like mirrors, which could cause a distraction to drivers). Scale is defined as the relative size of a building element in relation to other forms and the human body. Form is the shape or configuration of the artwork;

*The proposal is appropriate for the location in terms of material and content and the scale of the artwork is appropriate for the basketball court. The applicant proposes to use paint, sand, and sealant for the art piece. The sand will be used in a manner that increases friction of the surface, which design is anticipated to reduce the likelihood of falling on the court. The sealant will be used to ensure that the paint withstands usage for basketball.*

- 3. Appropriateness of proposed materials in regards to structural and surface integrity. Materials should be considered in the context of ability to deter against vandalism, withstand weathering, and maintain the intended design; *The applicant team has chosen materials that are appropriate for outdoor applications on sport courts and the chosen materials will contribute to the longevity and playability of the court for years. These materials include paint, sand, and sealant. In the event of vandalism, these materials can be painted over. The sealant will aid in preventing damage from sun, water, and usage.*

- 4. Ease of maintenance and longevity of the proposed materials; *The proposal was designed to reduce maintenance needs and the proposed materials are incredibly durable and intended for outdoor applications. As stated in prior findings, the sealant prevents damage to the artwork itself. Costs of maintenance are estimated as minimal by the applicant because of the use of*

*materials that withstand sun, water, and usage.*

5. Appropriateness of the proposed method of installation of the artwork with consideration given to the safety and structural factors involved in installation; *The artwork is proposed to be installed by the applicant team in a way that will contribute to the longevity of the artwork and increase the playability of the playing surface for all users. Additionally, the usage of sand will prevent slippage of the surface by increasing friction.*

6. Location, considering the intended audience for the proposal, whether the public will be a captive audience or whether a person would need to take affirmative steps to view the project. Consideration shall be given to whether the mural would be in an area typically accessed or viewable by minors; *Located at a public park, the artwork has been designed in a way that caters to the intended audience of children and generally uses different shapes and patterns symmetrical in form.*

7. A mural shall not be approved if it includes:

- a. Copyrighted work without permission of the holder of the copyright.
- b. Obscene materials.
- c. Defamatory content.
- d. Fighting words or advocates imminent lawless action.
- e. Content, including but not limited to, words, symbols, signs, trademarks, or references to products or services provided on the premises. Such content meets the Arroyo Grande Municipal Code (AGMC) definition for signage, as regulated by AGMC Chapter 16.60;

*The artwork, as proposed, does not contain any of the above prohibited types of speech or content.*

#### **4. Waiver of Application Fees Finding**

1. The project will be available for the public at-large and the project will be used or will benefit more than the residents of the immediate vicinity; and
2. The project will be of obvious public benefit because it provides beautification of existing public facilities through the application of public artwork.

**5. Severability.** If any section, division, sentence, clause, phrase or portion of this resolution or the document in the record in support of this resolution is determined by a court of competent jurisdiction to be invalid, unenforceable, unconstitutional or otherwise void, that determination shall not affect the validity of the remaining sections, divisions, sentences, clauses, or phrases of this resolution.

**NOW, THEREFORE, BE IT RESOLVED** that the Council of the City of Arroyo Grande

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hereby accepts the donation of time and materials, waives the application permit fees, and approves the project as described and subject to all requirements of the public art guidelines, attached hereto and incorporated herein by this reference.

On a motion by Council member \_\_\_\_\_, seconded by Council member \_\_\_\_\_, and by the following roll call vote to wit:

**AYES:**

**NOES:**

**ABSENT:**

the foregoing Resolution was adopted this 25<sup>th</sup> day of June 2024.

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**CAREN RAY RUSSOM, MAYOR**

**ATTEST:**

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**JESSICA MATSON, CITY CLERK**

**APPROVED AS TO CONTENT:**

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**MATTHEW DOWNING, CITY MANAGER**

**APPROVED AS TO FORM:**

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**ISAAC ROSEN, CITY ATTORNEY**