

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE APPROVING A PUBLIC ART PROJECT TO PAINT UTILITY BOXES, ACCEPTING DONATIONS OF TIME AND MATERIALS, WAIVING PERMIT APPLICATION FEES, AND FINDING THE PROJECT EXEMPT FROM CEQA; LOCATION – CITYWIDE; APPLICANT – SHIRLEY HORACEK, ARROYO GRANDE PUBLIC ART

WHEREAS, the City’s Architectural Review Committee (ARC) reviewed and recommended the City Council approve the proposed painting of utility boxes (“project”) on October 7, 2024 in accordance with the City’s Public Art Guidelines and Public Art Donation Program (the “Guidelines”); and

WHEREAS, on November 26, 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 utility boxes 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 utility boxes 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;
 - 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 has engaged skilled and qualified artists with a proven track record in executing similar projects, both in terms of scale, medium, and public placement. The proposed conceptual designs are original, thoughtfully crafted with the Arroyo Grande community in mind. The artwork reflects a high standard of artistic quality, elevating what would otherwise be a utilitarian street fixture into a meaningful work of art.

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 proposed designs are well-suited to their intended locations, both in terms of materials and content, with the scale of the artwork being appropriately sized for utility boxes. The applicant plans to prepare the surfaces by sanding, taping where necessary, and sealing the artwork for durability. The materials, scale, form, content, and overall design have been carefully selected to ensure they do not pose any adverse impact on public safety.

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 donation of time and materials will support the project, which includes the use of materials commonly employed in public art installations. The selected materials are of high quality, designed to enhance the surface integrity of the utility boxes and to endure natural weathering over time. In the event of vandalism, these materials can be easily repainted. Furthermore, the chosen materials are intended to provide protection against damage from sunlight, moisture, and general wear.*

4. Ease of maintenance and longevity of the proposed materials; *The proposal was designed to reduce maintenance needs, and the proposed materials are durable and intended for outdoor applications. As stated in prior findings, the sealant prevents damage to the artwork itself. Acrylic paint will be used, which dries quickly and is waterproof once dry. Costs of maintenance are*

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estimated as minimal by the applicant because of the use of materials that withstand sun, water, and other natural elements.

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 planned to be installed by the artists in a manner that will enhance the durability and longevity of the installation. Additionally, no structural alterations are proposed as part of the project—only cosmetic painting. To preserve the functionality of the utility boxes, keyholes, hinges, and other movable elements will be carefully taped off to prevent any interference with their operation.*

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; *The proposed utility box designs have been selected for key public intersections around the city, with locations chosen based on recommendations from the Architectural Review Committee and City Staff. In areas with high foot traffic from minors, the designs have been carefully selected to feature themes and interests that resonate with younger audiences.*

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

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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 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 26th day of November 2024.

CAREN RAY RUSSOM, MAYOR

ATTEST:

JESSICA MATSON, CITY CLERK

APPROVED AS TO CONTENT:

MATTHEW DOWNING, CITY MANAGER

APPROVED AS TO FORM:

ISAAC ROSEN, CITY ATTORNEY