

**RESOLUTION NO.****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE ACCEPTING A DONATION OF TIME AND MATERIALS FOR THE PAINTING OF UTILITY BOXES CITYWIDE AND WAIVING OF ENCROACHMENT PERMIT FEES AND FINDING THE ACTION EXEMPT FROM CEQA; STAFF PROJECT 23-007; LOCATION – CITYWIDE; APPLICANT – SHIRLEY HORACEK, ARROYO GRANDE PUBLIC ART**

**WHEREAS**, on August 11, 2023, Arroyo Grande Public Art recommended the City Council hold a public hearing on the proposed painting of four (4) utility boxes within the City (“project”) and consider the donation of time and materials for the proposed project in accordance to the Public Arts Guidelines; and

**WHEREAS**, on October 24, 2023, the City Council held a duly noticed public hearing for the project; and

**WHEREAS**, the City Council finds that the project will have a public benefit and therefore encroachment permit fees totaling \$720 for four (4) utility boxes of \$180 each 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.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Arroyo Grande does hereby accept a donation of time and materials and waiving of encroachment permit fees for Staff Project STF23-007, with the above findings and subject to the conditions as set forth in Exhibit “A”, attached hereto and incorporated herein by this reference:

1. **Recitals.** The above recitals are true and correct and are incorporated herein by reference.

2. **CEQA.** This action is exempt from review under the California Environmental Quality Act (CEQA) because it has been determined that the donation of time and materials for the painting of utility boxes, and the waiver of applicable encroachment permit fees, is categorically exempt from the California Environmental Quality Act (“CEQA”) under the Class 3 exemption, which applies to the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. (State CEQA Guidelines, § 15303.). This project falls within the Class 3 exemption because approval of the project would result in the donation of time and materials for the painting of existing utility boxes. This project is further exempted under State CEQA Guidelines,

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§ 15301 regarding existing facilities, where no new utility boxes will be constructed in connection with this project. In the alternative, if the application is denied, the item does not qualify as a “project” under CEQA, because it has no potential to result in either a direct, or reasonably foreseeable indirect, physical change in the environment. (State CEQA Guidelines, §§ 15060, subd. (b)(2)-(3), 15378.)

### 3. Donation of Time and Materials Findings.

- a) Relationship to the social, cultural, and historical identity of the area.  
*The donation of time and materials for the proposed project will have social and cultural impacts as it proposed designs that are tied to the social, historical, and cultural identity of the area with regards to the designs chosen.*
- b) Evaluation of artistic excellence;  
*Arroyo Grande Public Art met on August 11<sup>th</sup>, 2023, and selected the proposed designs. AGPA recommended the proposed designs due to the proposal's ability to improve the appearance of the existing utility boxes. The donation of time and materials will further the ability of the project to be completed.*
- c) Appropriateness of scale, form, material, content and design relative to the immediate neighborhood;  
*The donation of time and materials will facilitate the proposed artwork which is intended to replicate natural elements to help the artwork seamlessly fit into the surroundings of the public areas. The materials chosen are appropriate and are materials typically utilized for this type of application. The location of the utility boxes provides an enhancement of the built environment for the enjoyment of the art piece.*
- d) Appropriateness of proposed materials as regards to structural and surface integrity, protection against vandalism, public safety and weathering;  
*The donation of time and materials will facilitate the project, which includes materials selected that are commonly used in applications in public art projects. The quality of the materials selected are such that they will improve the surface integrity of the utility boxes and are meant to withstand natural weathering processes. The materials selected will not have adverse impacts on public safety due to their proper application.*
- e) Ease of maintenance;  
*The donation of time and materials will facilitate the project, which includes proposed materials that are intended to provide a durable, aesthetic finish that helps protect and extend the life of the utility boxes, while improving their aesthetic appearance.*
- f) Appropriateness of proposed method of installation and artwork and safety and structural factors involved in installation;

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*The donation of time and materials are for artwork that will be installed in accordance with the manufacturer's specifications and will not cause safety or structural issues during the installation.*

- g) Artist's experience in working on comparable projects.

*The donation of time and materials will go to artists that have extensive experience completing public art projects.*

**4. Waiver of Encroachment Fees Finding**

- a) 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
- b) The project will be of obvious public benefit because it provides beautification of existing public facilities through the application of public artwork.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the Council of the City of Arroyo Grande hereby accepts the donation of time and materials and waives encroachment permit fees for the Utility Box Painting project as described and shown in Exhibit "B" attached hereto and incorporated herein by this reference with the above findings and subject to the conditions of approval as set forth in Exhibit "A", 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 24<sup>th</sup> day of October 2023.

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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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**BILL ROBESON, INTERIM CITY MANAGER**

**APPROVED AS TO FORM:**

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**ISAAC ROSEN, CITY ATTORNEY**

**EXHIBIT "A"**  
**CONDITIONS OF APPROVAL**  
**UTILITY BOX PAINTING PROJECT**  
**CITYWIDE**

**CONDITIONS OF APPROVAL**

**Planning Division**

1. The applicant shall ascertain and comply with all Federal, State, County and City requirements as are applicable to this project.
2. The public art shall be installed in conformance with the site design on Exhibit "B" of this Resolution.
3. The applicant shall be responsible for obtaining an encroachment permit for all work within a public right-of-way.
4. The applicant shall agree to defend at his/her sole expense any action brought against the City, its present or former agents, officers, or employees because of the issuance of said approval, or in anyway relating to the implementation thereof, or in the alternative, to relinquish such approval. The applicant shall reimburse the City, its agents, officers, or employees, for any court costs and attorney's fees which the City, its agents, officers or employees may be required by a court to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action but such participation shall not relieve applicant of his/her obligations under this condition.

EXHIBIT B – UTILITY BOX PROJECT

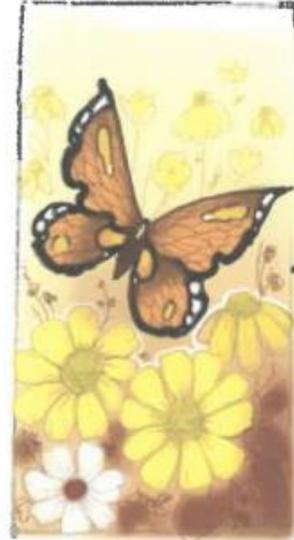
TOP

24"x33"



MOUNTED BOX

53"H, 22"W, 14"D



FRONT

33"W, 64"H

SIDE

24"W

BACK

33"W

SIDE

24"W



DESIGN TEMPLATE

TOP  
24"x33"



MOUNTED BOX  
53"H, 22"W, 14"D



FRONT  
33"W, 64"H



SIDE  
24"W



BACK  
33"W



SIDE  
24"W





TOP

24"x33"



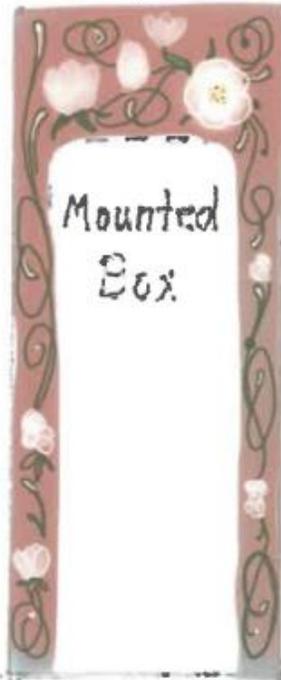
MOUNTED BOX

53"H, 22"W, 14"D



FRONT

33"W, 64"H



SIDE

24"W



BACK

33"W



SIDE

24"W

