

**RESOLUTION NO. 23-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ST. LUCIE, FLORIDA, APPROVING ARTWORK SUBMITTED BY SANSONE GROUP, LLC, IN CONNECTION WITH THE APPROVAL OF AN ALTERNATIVE EQUIVALENT PROPOSAL FOR PUBLIC ART FOR A PROJECT KNOWN AS “TREE OF AMERICAN DREAMS”; PROVIDING FOR CONFLICTS; PROVIDING FOR SERVABILITY; AND PROVIDING AN EFFECTIVE DATE (P21-222).**

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**WHEREAS**, Chapter 162 of the City’s Code of Ordinances requires certain public art requirements to be met when certain new improvements are constructed; and

**WHEREAS**, Section 162.08 of the City’s Code of Ordinances allows a developer to elect one of four assessment methods to comply with the City’s public art requirements: on-site artwork; contribution to fund; on-site artwork and contribution to fund; or submittal of an alternative equivalent proposal; and

**WHEREAS**, under the alternative equivalent proposal option, a developer can apply to combine the public art assessment associated with multiple projects into one larger work of art in lieu of several small works of art and submit a proposal for freely accessible work of art on City public right-of-way, on property owned by other public agencies, or on another property under the control or ownership of the developer; and

**WHEREAS**, the developer must demonstrate that the cost of the proposal will equal the cost of the public art assessment otherwise required under Section 162.08 and not create unbudgeted costs for the City; and

**WHEREAS**, pursuant to Section 162.08(d), the City may approve an alternative equivalent proposal if it finds that: (A) the alternative equivalent proposal will further the purposes of City’s art in public places program and the proposed location of the alternative equivalent proposal is in reasonable proximity to the location of the site(s) generating the work of art requirement, in order to avoid clustering of all public art in one location (B) the cost of the proposal will be equal to or greater than the cost of the public art assessment that would otherwise be required under Subsection 162.08(2)(a)—(c); and (C) the developer has established to the satisfaction of the City that the alternative equivalent proposal will create freely accessible public art in the City to an

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equal or greater extent than installation of the public art on the individual project site or a contribution to the Fund; and

**WHEREAS**, in approving a proposal, the City may impose reasonable conditions of approval requiring the developer to enter into agreements with the City or other public agencies or private parties in order to memorialize the legal obligations of all parties involved with the alternative equivalent proposal; and

**WHEREAS**, Sansone Group, LLC, has submitted an application for an alternative equivalent proposal and artwork under section 162.08(d) of the City’s Code of Ordinances to fulfill the public art requirements for six projects identified under Exhibit “A” and within the Legacy Park area of the Southern Grove DRI for a public art project to be known as “TREE of AMERICAN DREAMS” and comprised of a bronzed tree with eight branches and topped by an American Eagle that will be located at the northeast corner of the intersection of SW Anthony F. Sansone Sr Boulevard and Becker Road on property legally described as Southern Grove Plat No. 33, WMT-1, and within the Legacy Park area of the Southern Grove DRI; and

**WHEREAS**, the proposed public art project will have a total height of approximately 14 feet as further described and depicted in attached Exhibit “B”; and

**WHEREAS**, Sansone Group, LLC, is requesting the “TREE of AMERICAN DREAMS” Sculpture with an estimated value of \$600,000 be used to meet the Public Art Requirement for the six projects identified on attached Exhibit “A”; and

**WHEREAS**, Exhibit “A” hereto identifies the approved projects the Sansone Group, LLC, seeks to apply to the value of the “TREE of AMERICAN DREAMS” Sculpture in order to meet the Public Art Requirements associated with each project (“Identified Projects”); and

**WHEREAS**, the Southern Grove CDD No. 5, is the current owner of the proposed project site within the Legacy Park area of the Southern Grove DRI where the “TREE of AMERICAN DREAMS” Sculpture will be located (Southern Grove Plat No. 33, WMT-1) and a license agreement between the Sansone Group, LLC, and the Southern Grove CDD No. 5 that addresses access, ownership, maintenance, operations, and other requirements will be a required condition of approval; and

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**WHEREAS**, on September 19, 2022, the Public Art Advisory Board held a hearing and completed its review of the Proposed Alternative Equivalent Proposal for compliance with Chapter 162 of the City’s Code of Ordinances; and

**WHEREAS**, the Public Art Advisory Board found the Alternative Equivalent Proposal and “TREE of AMERICAN DREAMS” Sculpture to be consistent with Chapter 162 of the City’s Code of Ordinances and recommended that the City Council approve the Proposed Alternative Equivalent Proposal; and

**WHEREAS**, the City Council held a hearing on February 27, 2023, to consider the Proposed Alternative Equivalent Proposal; and

**WHEREAS**, the City Council has considered the Proposed Alternative Equivalent Proposal and all evidence and testimony submitted into the record relating to the Proposed Alternative Equivalent Proposal and has determined that the approval of the Proposed Alternative Equivalent Proposal is consistent with Chapter 162 of the City’s Code of Ordinances subject to the conditions set forth in Section 2 of this Resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF PORT ST. LUCIE, FLORIDA:**

Section 1. Ratification of Recitals. The foregoing recitals are hereby ratified and confirmed as true and correct and are hereby made a part of this Resolution.

Section 2. That the City Council accepts the recommendation of the Public Art Advisory Board and hereby approves the Proposed Alternative Equivalent Proposal subject to the following conditions:

1. A site plan application for the proposed “TREE of AMERICAN DREAMS” sculpture be submitted for City Council approval within 90 days of Council approval of the Proposed Alternative Equivalent Proposal.
2. A license agreement between the Southern Grove CDD No. 5 and the Sansone Group, LLC, that addresses the requirements of Sections 162.09 through 162.11 of the City of Port St. Lucie Code of Ordinances be submitted as part of site plan approval. The license agreement must be finalized within 120 days of City Council approval of the site plan. No permits

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shall issue to facilitate the site plan until the license agreement is approved by the City and executed by the relevant parties.

3. The license agreement, and any additional agreement(s) between the Sansone Group, LLC, and the Southern Grove 5 CDD related to the “TREE of AMERICAN DREAMS” sculpture must be submitted to the City for review and approval prior to the finalization of such agreement(s) to ensure conformance with Section 162.08(d) of the Code.
4. A restrictive covenant in accordance with Section 162.10 of the Code is required is to ensure retention and maintenance of the “TREE of AMERICAN DREAMS” Sculpture. The restrictive covenant must be recorded within ten (10) days of the issuance of the certificate of completion of the “TREE of AMERICAN DREAMS” sculpture. Any such restrictive covenant must be approved by the City prior to execution and recordation.
5. Only the Identified Projects shall be eligible to meet their Public Art Requirements through the value of the “TREE of AMERICAN DREAMS” Sculpture as shown in attached Exhibit “A”.
6. The Sansone Group, LLC, will not be entitled to utilize any value of the “TREE of AMERICAN DREAMS” Sculpture to fulfill the Identified Projects Public Art Requirements until:
  - a. A detailed cost estimate of the value of the “TREE of AMERICAN DREAMS” Sculpture is provided to the City in order to determine the value of the sculpture - only components of the sculpture specifically defined as “*Art, artwork or work of art*” pursuant to section 162.02 of the Code may comprise the elements utilized to estimate the valuation of the “TREE of AMERICAN DREAMS” Sculpture (“Estimated Value”); and
  - b. A surety, in a form acceptable to the City, is posted in favor of the City in the amount of the Estimated Value within 60 days of City Council approval of the Alternative Equivalent Proposal. The intent of the surety is to ensure that the City has a remedy in the event that: (i) “TREE of AMERICAN DREAMS” is not fabricated and installed, or (ii) the Actual Value of the “TREE of AMERICAN DREAMS”

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Sculpture is less than the Public Art Requirements associated with the Identified Projects attached as Exhibit “A”, and there is a funding deficit.

- 7. Sansone Group, LLC, shall provide the City will the actual cost of the “TREE of AMERICAN DREAMS” Sculpture within thirty (30) days of the issuance of the certificate of completion of the “TREE of AMERICAN DREAMS” Sculpture (“Actual Value”) - only components of the sculpture specifically defined as “*Art, artwork or work of art*” pursuant to section 162.02 of the Code may comprise the elements utilized to determine the actual valuation of the “TREE of AMERICAN DREAMS” Sculpture.
- 8. The final completion date for the “TREE of AMERICAN DREAMS” sculpture is February 27, 2025. If the sculpture is not installed by the February 27, 2025 deadline, then the City is entitled to seek reimbursement from the Surety to meet the Public Art Requirements for the six projects identified on attached Exhibit “A”.

Section 3. Conflicts. If any Resolution, or parts of any Resolution, are in conflict herewith, this Resolution shall control to the extent of the conflicting provisions.

Section 4. Severability. The provisions of this Resolution are intended to be severable. If any part of this Resolution is determined to be void or is declared illegal, invalid, or unconstitutional by a Court of competent jurisdiction, the remainder of this Resolution shall remain in full force and effect.

Section 5. Effective Date. This Resolution shall become effective immediately upon adoption.

**PASSED AND ADOPTED** by the City Council of the City of Port St. Lucie, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2023.

CITY COUNCIL  
CITY OF PORT ST. LUCIE

By: \_\_\_\_\_  
Shannon M. Martin, Mayor

ATTEST:

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Sally Walsh, City Clerk

APPROVED AS TO FORM:

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James D. Stokes, City Attorney