

RESOLUTION NO. 22-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ST. LUCIE, FLORIDA, APPROVING ARTWORK SUBMITTED BY MATTAMY PALM BEACH, LLC, IN CONNECTION WITH THE APPROVAL OF AN ALTERNATIVE EQUIVALENT PROPOSAL FOR PUBLIC ART FOR A PROJECT KNOWN AS “HEART TO HEART”; PROVIDING FOR CONFLICTS; PROVIDING FOR SERVABILITY; AND PROVIDING AN EFFECTIVE DATE (P22-109).

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, Mattamy Palm Beach, LLC, as the developer of the Tradition DRI, the Southern Grove DRI, and the Western Grove DRI, has submitted an application for an alternative equivalent proposal and artwork under section 162.08(d) of the City's Code of Ordinances for a public art project to be known as Heart in the Park and comprised of a heart-shaped mirrored stainless steel sculpture named "HEART to HEART" that will rise above a visitors center within a one acre parcel located at the Southwest corner of Village Parkway and Discovery Way (Telaro at Southern Grove Plat No. 2, Tract A); and

WHEREAS, the proposed public art project will have a total height of 73'-6" and include a 3'-6" raised public plaza, a 10' visitor's center, and a 60' "HEART to HEART" Sculpture as further described and depicted in attached Exhibit "A"; and

WHEREAS, Mattamy Palm Beach, LLC, is requesting the "HEART to HEART" Sculpture with an estimated value of \$4,500,000 be used to meet the Public Art Requirement for Mattamy related development projects within the Southern Grove DRI, the Tradition DRI, and the Western Grove DRI of which all three are contiguous; and

WHEREAS, Exhibit "B" hereto identifies the currently approved, proposed, and future projects Mattamy seeks to apply the value of the "HEART to HEART" Sculpture in order to meet the Public Art Requirements associated with each project ("Identified Projects"); and

WHEREAS, Mattamy Palm Beach, LLC, is the current owner of the proposed project site where the "HEART to HEART" Sculpture will be located (Telaro at Southern Grove Plat No. 2, Tract A) and in the application packet has stated that upon completion of construction the parcel and public art project will be conveyed to the appropriate Community Development District ("CDD") in Southern Grove for continued maintenance and operations; and

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WHEREAS, on May 16, 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 “HEART to HEART” 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 June 13, 2022, 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. Any agreement(s) between Mattamy Palm Beach, LLC, and other parties related to ownership, maintenance, and operation of the Proposed Alternative Equivalent Proposal 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.
2. A restrictive covenant in accordance with Section 162.10 of the Code is required is to ensure retention and maintenance of the “HEART to HEART” Sculpture. The restrictive covenant must be recorded within ten (10) days of the issuance of the certificate of occupancy for the Heart in the Park Project (P22-109). Any such restrictive covenant must

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be approved by the City prior to execution and recordation.

3. A shared access agreement and shared parking agreement with adjacent property owner(s) (Telaro at Southern Grove Plat 2, Commercial Tract A) is required to be approved as part of the approval of the associated Heart in the Park Site Plan (P22-109).
4. Only the Identified Projects shall be eligible to meet their Public Art Requirements through the value of the “HEART to HEART” Sculpture as shown in attached Exhibit “B”.
5. Mattamy will not be entitled to utilize any value of the “HEART to HEART” Sculpture to fulfill the Identified Projects Public Art Requirements until:
 - a. A detailed cost estimate of the value of the “HEART to HEART” 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 “HEART to HEART” 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. The intent of the surety is to ensure that the City has a remedy in the event that: (i) the “HEART to HEART” Sculpture is not fabricated and installed, or (ii) the Actual Value of the “HEART to HEART” Sculpture is less than the Public Art Requirements associated with the Identified Projects, and there is a funding deficit.
6. Mattamy shall provide the City will the actual cost of the HEART to HEART Sculpture within thirty (30) days of the certificate of occupancy being issued for the Heart in the Park Project (P22-109) (“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 “HEART to HEART” Sculpture.
7. With respect to each Identified Project, Mattamy will be required to submit to the City the project location, the calculated Public Art amount for that project, show how the calculated

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Public Art amount it is deducted from the Estimated Value or Actual Value (as applicable), and provide the remaining value for approval by the City (“Remaining Value”).

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 _____, 2022.

CITY COUNCIL
CITY OF PORT ST. LUCIE

By: _____
Shannon M. Martin, Mayor

ATTEST:

Sally Walsh, City Clerk

APPROVED AS TO FORM:

James D. Stokes, City Attorney