

**RESOLUTION NO. 24-\_\_\_\_\_**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ST. LUCIE, FLORIDA, APPROVING ARTWORK SUBMITTED BY MIDWAY GLADES DEVELOPERS, LLC, IN CONNECTION WITH THE APPROVAL OF AN ALTERNATIVE EQUIVALENT PROPOSAL FOR PUBLIC ART FOR A PROJECT KNOWN AS “LADYBUG HIDEAWAY”; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE (P22-278).

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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 works 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 equal or

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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**, Midway Glades Developers, 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 projects within the LTC Ranch Development of Regional Impact (DRI) for a public art project to be known as "Ladybug Hideaway" and composed of two (2) phases, each consisting of six (6) clusters of 8', 10', and 12' giant blades or leaves of silver and green grass with 19 species of ladybugs appearing sporadically within, as further described and depicted in attached Exhibit "A"; and

**WHEREAS**, the project will be located south of the intersection of Midway Road and Wylder Parkway; and

**WHEREAS**, Phase 1 will be installed on the west side of Wylder Parkway and Phase 2 will be installed on the east side of Wylder Parkway with both phases mirroring one another; and

**WHEREAS**, Midway Glades Developers, LLC, is requesting the "Ladybug Hideaway" sculpture with an estimated value of \$1,611,141.96 be used to meet the public art requirements for Midway Glades Developers, LLC, and related projects in the LTC Ranch DRI; and

**WHEREAS**, Midway Glades Developers, LLC, seeks to apply to the value of the "Ladybug Hideaway" sculpture to fulfill public art requirements for upcoming projects as they get approved; and

**WHEREAS**, Midway Glades Developers, LLC, is under contract to purchase the project site(s) where the "Ladybug Hideaway" sculpture will be located, with an anticipated closing date of August 2024, 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 LTC Ranch DRI for continued maintenance and operations; and

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**WHEREAS**, on March 18, 2024, 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 "Ladybug Hideaway" 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 May 13, 2024, to consider the Proposed Alternative Equivalent Proposal; and

**WHEREAS**, the City Council has considered the 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 Alternative Equivalent Proposal subject to the following conditions:

1. A site plan application for the proposed "Ladybug Hideaway" sculpture (Phases 1 and 2) must be submitted for City Council approval within 180 days of Council approval of the Proposed Alternative Equivalent Proposal.
2. The Phase 2 "Ladybug Hideaway" sculpture shall be installed and receive a certificate of completion prior to the recording of the final residential subdivision plat or site plan approval that exceeds Phase 1's Actual Value, as defined in paragraph 9 below.
3. A license agreement(s), and any additional agreement(s), between Midway Glades Developers, 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

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approval prior to the finalization of such agreement(s) to ensure conformance with Section 162.08(d) of the Port St. Lucie City Code.

4. A restrictive covenant in accordance with Section 162.10 of the Code is required to ensure retention and maintenance of the “Ladybug Hideaway” sculpture. The restrictive covenant must be recorded within ten (10) days of the issuance of the certificate of completion for the “Ladybug Hideaway” sculpture. Any such restrictive covenant must be approved by the City prior to execution and recordation.
5. Projects within the area of the LTC Ranch DRI are only eligible to fulfill their public art requirements through the value of the "Ladybug Hideaway" sculpture if there is a remaining balance available.
6. The value of the "Ladybug Hideaway" sculpture shall only be used to satisfy the public art assessment for Midway Glades Developers, LLC, or their designee.
7. With respect to each Identified Project, Midway Glades Developers, LLC, will be required to submit to the City the project’s number and title, the project location, and the calculated public art assessment amount for that project; show how the calculated public art assessment amount is deducted from the Estimated Value or Actual Value (as applicable); and provide the remaining value for approval by the City (“Remaining Value”). The public art assessment for development projects will be calculated on a plat-by-plat and site plan basis. Total construction costs for the purposes of calculating the public art assessment will be based on the total construction costs for all property depicted on each plat included within the development project.
8. Within thirty (30) days of Council approval of the Proposed Alternative Equivalent Proposal, Midway Glades Developers, LLC, shall provide the City with the actual total construction cost of each recorded final plat and approved site plan within the LTC Ranch DRI to date. The construction costs for Wylder Parkway shall not be included in the actual total construction costs. The public art assessment amount shall be based on the actual total construction costs as indicated on the construction contract(s) for the subject improvements and shall be deducted from the Actual Value of the “Ladybug Hideaway” sculpture. The

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public art assessment shall be calculated with a valuation in an amount of one percent (1%) of the actual total construction costs.

9. Midway Glades Developers, LLC, will not be entitled to utilize any value of the “Ladybug Hideaway” sculpture to fulfill the Identified Projects’ public art requirements until:

a. A detailed cost estimate of the value of the “Ladybug Hideaway” 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 “Ladybug Hideaway” 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 “Ladybug Hideaway” sculpture is not fabricated and installed, or (ii) the Actual Value of the “Ladybug Hideaway” sculpture is less than the public art requirements associated with the development projects, and there is a funding deficit.

10. Midway Glades Developers, LLC, shall provide the City with the actual cost of the “Ladybug Hideaway” sculpture within thirty (30) days of the certificate of completion being issued for the “Ladybug Hideaway” 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 “Ladybug Hideaway” sculpture.

Section 3. The City Council of the City of Port St. Lucie hereby resolves that the Mayor and City Clerk of the City of Port St. Lucie, Florida, are hereby authorized to countersign the said plat so it may be properly recorded in the public records of St. Lucie County, Florida.

Section 4. 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 5. 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

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unconstitutional by a Court of competent jurisdiction, the remainder of this Resolution shall remain in full force and effect.

Section 6. 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 \_\_\_\_\_, 2024.

CITY COUNCIL  
CITY OF PORT ST. LUCIE

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

ATTEST:

\_\_\_\_\_  
Sally Walsh, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Richard Berrios, Interim City Attorney

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**Exhibit “A” – Proposed Ladybug Hideaway Sculpture Renderings**

*Figure 1:*



Figure 2:

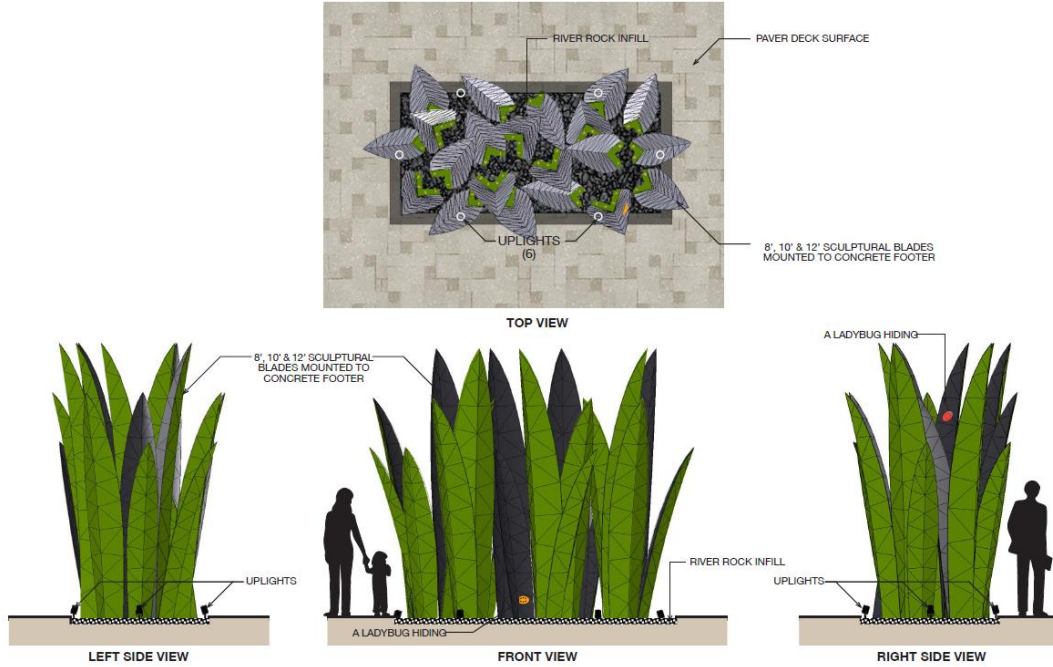
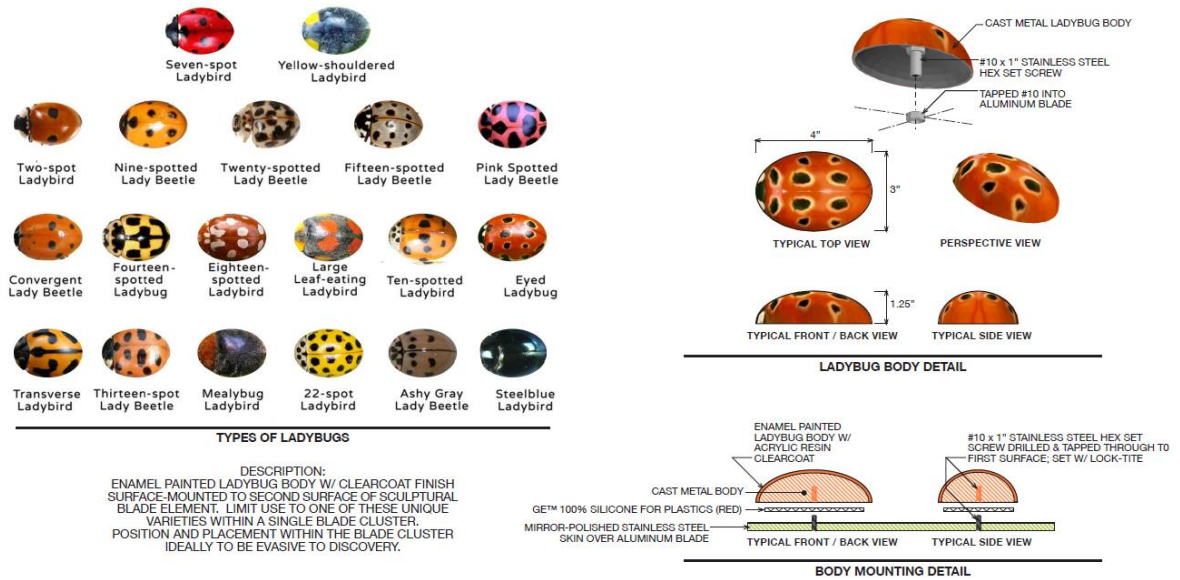


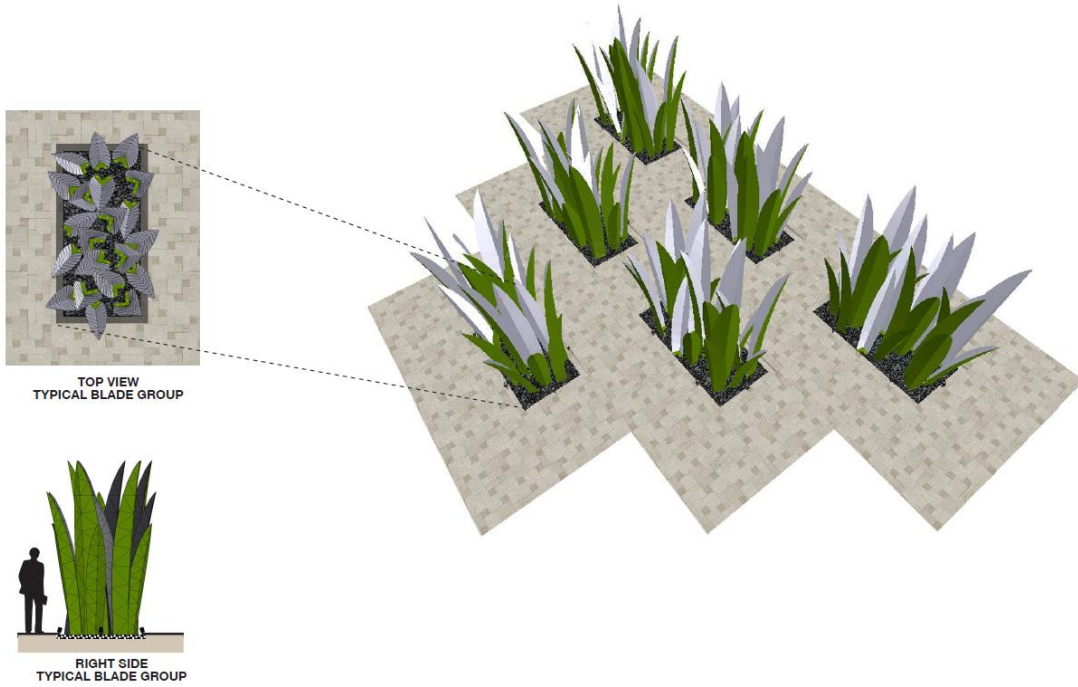
Figure 3:





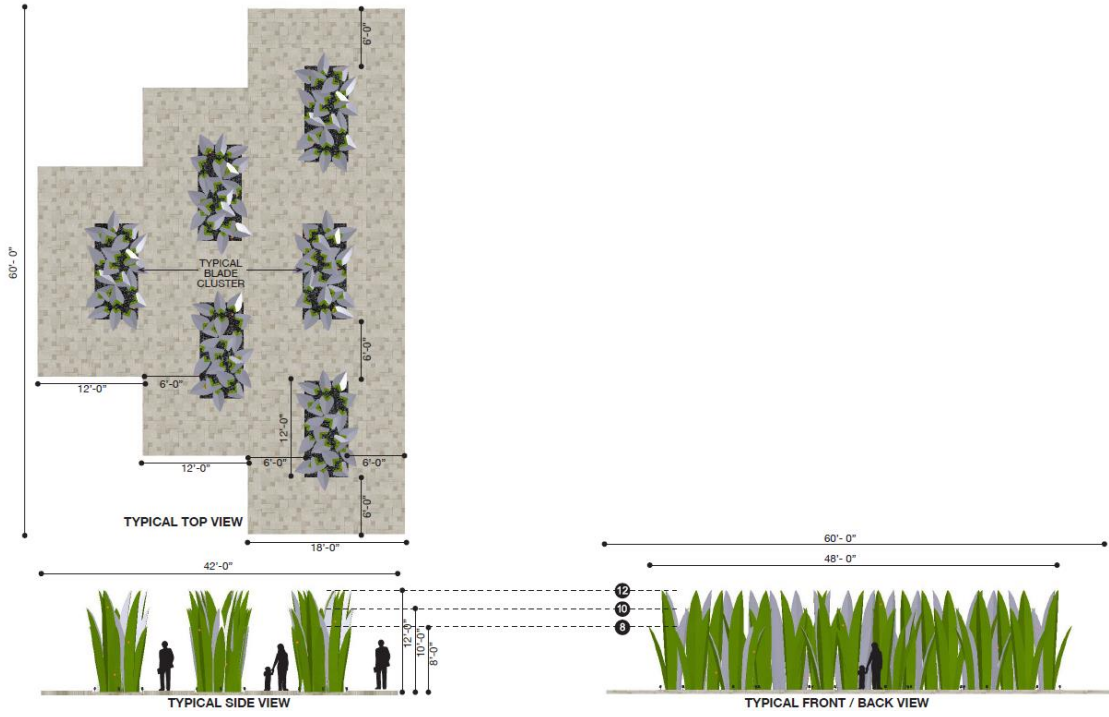
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Figure 4:



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Figure 5:



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Figure 6:

