

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, SETTING A PUBLIC HEARING TO CONSIDER GRANTING WAIVERS OF CERTAIN DEVELOPMENT REGULATIONS, BY A 5/7TH VOTE OF THE CITY COMMISSION, AFTER PUBLIC HEARING, PURSUANT TO SECTION 142-425(D), OF THE CITY'S LAND DEVELOPMENT REGULATIONS (LDR), FOR THE POCKET PARK LOCATED AT 2001 NORTH BAY ROAD, AT THE INTERSECTION OF THE SUNSET HARBOUR, LOWER NORTH BAY ROAD AND SUNSET ISLANDS NEIGHBORHOODS; IN ORDER TO WAIVE LDR SECTIONS 142-425(A), PERTAINING TO THE SETBACK REQUIREMENTS, IN ORDER TO CONSTRUCT THE ELECTRICAL SERVICE PANEL FOR THE PARK.**

**WHEREAS**, on April 26, 2017, the City Commission adopted Resolution 2017-29814 accepting the recommendation of the Finance and Citywide Projects Committee to add the creation of a pocket park on 20th Street and Sunset Drive (the "Pocket Park") to the Fiscal Year 2018 Capital Budget, subject to funding; and

**WHEREAS**, on February 14, 2018, the City Commission adopted the Third Amendment to Capital Budget for Fiscal Year 2017/18, allocating funding for the project; and

**WHEREAS**, the park provides a playground of approximately 4,000 square feet, with equipment for children in the 2-5 age range and the 5-12 age range, with colorful play surfaces with mounds, as well as a masonry wall along the north east property line to enclose the site, providing separation from the adjacent residential property, the playground is shaded through the installation of three shade sails and two smaller canopies at the picnic areas and numerous shade trees; and

**WHEREAS**, on May 8, 2019, City Commission accepted the recommendation of the City Manager and approved and authorized the City Manager to execute a work order with Team Contracting Inc., for the construction of a new Pocket Park at 20th Street and Sunset Drive, utilizing the competitively bid Sourcewell cooperative contract (formerly known as National Joint Powers Alliance (NJPA)); and

**WHEREAS**, the construction of the project has been completed; the park received a Temporary Certificate of Occupancy on January 16, 2020 and is currently open to use by residents. Approval for the Final Certificate of Occupancy is subject to the final approvals by the Planning and Building departments; and

**WHEREAS**, in order to receive a final approval from the Planning Department for the park, it will be necessary to obtain a waiver of Section 142-425 (a), of the City of Miami Beach Land Development Regulations as shown in Exhibit A; and

**WHEREAS**, the Land Development Regulations Section 142-425 (a), require that the minimum setback requirements for parcel with designated GU zoning, shall be determined by the average of the requirements contained in the surrounding Zoning Districts; and

**WHEREAS**, the surrounding districts are CD-2, RS-3 and RS-4, based on the lot configuration and original lot platting, the side of the parcel facing North Bay Road was determined to be a front yard, as per CMB Code Sections 142-307(a) / CD-2, and 142-106(1) / RS, the minimum average front required yard pedestal setback was determined to be 10' – 0"; and

**WHEREAS**, the location of the electrical panel at 10'-0" setback from the property line, placed the panel in the middle of the water retention swale area that surrounds the entire site. In this location, the panel becomes an impediment in the middle of the very limited grass area intended for free play by the children; and

**WHEREAS**, placing the panel at 6'-6" from the property line, closer to the installed perimeter fence, and at an area of the site outside of the water retention area, will require a waiver of the development regulations, shrubs installed around the panel will screen the view of the panel from outside the property; and

**WHEREAS**, the waiver requested would allow for Electrical Panel setback from front property line, the Land Development Regulations Sections 142-307(a) / CD-2, and 142-106(1) / RS-3 and RS-4, requires a minimum front setback of 10'-0", the proposed electrical panel has been installed, with a 6'-6" setback from the front property line (3'-6" into the required setback).; and

**WHEREAS**, the Pocket Park is currently zoned Government Use (GU), open to the general public and, pursuant to Section 142-425(d) of the City Land Development Regulations, the City Commission may waive by five sevenths vote (5/7ths), following a duly noticed public hearing advertised in the newspaper at least fifteen (15) days prior to the hearing, development regulations "pertaining to governmental owned or leased buildings, uses and sites which are wholly used by, open and accessible to the general public, or used by not-for-profit, educational, or cultural organizations, or for convention center hotels, or convention center hotel accessory garages, or city utilized parking lots, provided they are continually used for such purposes"; and

**WHEREAS**, the Administration has requested that the City Commission approve the Resolution and schedule a public hearing to consider the waiver of certain development regulations pursuant to City Code Section 142-425(d), for the Pocket Park, which is located at 2001 North Bay Road, at the intersection of the Sunset Harbour, lower North Bay Road and Sunset Islands Neighborhoods; and

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA** that the Mayor and City Commission hereby set a public hearing to consider granting a waiver of certain development regulations, by a 5/7th vote of the City Commission, after public hearing, pursuant to section 142-425(d), of the City's Land Development Regulations (IDR), for the Pocket Park located at 2001 North Bay Road, at the intersection of the Sunset Harbour, lower North Bay Road and Sunset Islands Neighborhoods; in order to waive IDR sections 142-425(a), pertaining to the setback requirements, in order to construct the electrical service panel for the park.

**PASSED and ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Dan Gelber, Mayor

**ATTEST:**

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Rafael E. Granado, City Clerk