

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

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, ON SECOND AND FINAL READING OF THIS RESOLUTION AND FOLLOWING A DULY NOTICED PUBLIC HEARING, THE GRANTING OF A WAIVER OF CERTAIN DEVELOPMENT REGULATIONS, BY A 5/7TH VOTE OF THE CITY COMMISSION, PURSUANT TO CITY CODE SECTION 142-425(D), 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 THE SETBACK REQUIREMENT SET FORTH IN CITY CODE SECTION 142-425(A), 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 availability; 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 Pocket Park project; and

**WHEREAS**, the Pocket 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; additionally, 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 the Pocket Park, utilizing the competitively bid Sourcewell cooperative contract (formerly known as National Joint Powers Alliance (NJPA)); and

**WHEREAS**, the construction of the Pocket Park 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 final Planning Department approval for the Pocket Park, a waiver of City Code Section 142-425 (a) is required (as shown in Exhibit A); and

**WHEREAS**, City Code Section 142-425 (a) provides that the minimum setback requirements for a parcel with a GU zoning designation, 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; and

**WHEREAS**, based on the lot configuration, the side of the parcel facing North Bay Road has been determined to be a front yard, pursuant to City Code Sections 142-307(a), and 142-106(1). Accordingly, the minimum required front yard pedestal setback is 10' – 0"; and

**WHEREAS**, the installation of the electrical panel at a 10'-0" setback from the property line would have placed the panel in the middle of the water retention swale area that surrounds the entire site, which would encroach upon the limited grass area intended for free play by 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, requires a waiver of the development regulations; and

**WHEREAS**, in order to mitigate the impact of installing the panel within the required setback, shrubs installed around the panel will screen the view of the panel from outside the property; and

**WHEREAS**, the waiver requested would allow the proposed electrical panel to be installed at a 6'-6" setback from the front property line (i.e 3'-6" into the required setback); and

**WHEREAS**, the Pocket Park is currently zoned Government Use (GU), and open to the general public; accordingly, and, pursuant to Section 142-425(d) of the City's 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**, on February 12, 2020, the Mayor and City Commission approved Resolution No. 2020-31155, setting a public hearing to consider granting 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.

**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 approve, on second and final reading of this Resolution and following a duly noticed Public Hearing, the granting of a waiver of certain development regulations, by a 5/7th vote of the City Commission, pursuant to City Code Section 142-425(D), 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 the setback requirement set forth in City Code Section 142-425(A), in order to construct the electrical service panel for the park.

PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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

**ATTEST:**

\_\_\_\_\_  
Rafael E. Granado, City Clerk

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

*Jal Gut*  
City Attorney

3-18-20  
Date

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