

PROPOSED

RESOLUTION NO. 2019-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, DIRECTING THE COUNTY ADMINISTRATOR TO PUBLISH NOTICE OF PUBLIC HEARING TO BE HELD ON TUESDAY, MAY 7, 2019, AT 10:00 A.M. IN ROOM 422 OF BROWARD COUNTY GOVERNMENTAL CENTER, 115 SOUTH ANDREWS AVENUE, FORT LAUDERDALE, FLORIDA, TO CONSIDER A RESOLUTION APPROVING A MODIFICATION OF THAT CERTAIN DECLARATION OF RESTRICTIVE COVENANTS FOR WEST LAKE REGIONAL PARK; DIRECTING THE PARKS AND RECREATION DIVISION TO POST SIGNAGE AT WEST LAKE REGIONAL PARK IN ACCORDANCE WITH THE DECLARATION OF RESTRICTIVE COVENANTS; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Broward County ("County") owns certain real property located at 1200 Sheridan Street, Hollywood, Florida 33019, identified as folio numbers 5142-11-00-0010, 5142-11-00-0020, and 5142-11-00-0080, and known as West Lake Regional Park ("County Property");

WHEREAS, the use of the County Property is restricted by that certain Declaration of Restrictive Covenants, recorded July 18, 2007, as Instrument Number 107227098 in the Official Records of Broward County, Florida ("Declaration");

WHEREAS, in order to protect the health, safety, and welfare of County residents and visitors, and after careful consideration of other sites proffered as being potentially viable, the County seeks to use a portion of the County Property, as more particularly described in the sketch and legal description attached to and made a part of this Resolution as Attachment 1 ("Parcel"), in order to place a radio communication tower and

1 related communication equipment for the Project 25 Public Safety Radio System (the
2 “P25 System”);

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4 WHEREAS, the Declaration requires modification to release and remove the
5 restrictions imposed by the Declaration on the Parcel, thereby permitting the Parcel to be
6 used for the P25 System;

7
8 WHEREAS, the Declaration provides that “[n]o modification or termination of this
9 Declaration of Restrictive Covenants shall be permitted unless specifically approved by a
10 four-fifths vote of the entire Board of County Commissioners of Broward County, Florida
11 at a noticed public hearing. Notice of the proposed modification or termination shall be
12 given at least ten (10) days prior to the action by the Commission by publication in a
13 newspaper of general circulation in Broward County. In addition, at least ten (10) days
14 prior to the public hearing, the Parks and Recreation Division, or its successor division or
15 agency, shall post a sign visible from the street upon the property. The sign shall be in
16 accordance with applicable municipal regulations relating to signs and shall provide
17 pertinent information regarding the proposed modification or termination”; and

18
19 WHEREAS, in accordance with the Declaration, the Board of County
20 Commissioners of Broward County, Florida (“Board”), desires to hold a public hearing to
21 consider a resolution approving the proposed modification of the Declaration to release
22 and remove the restrictions imposed by the Declaration on the Parcel in order to permit
23 the County to use the Premises for the P25 System, which modification is more
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1 particularly described in the release attached to this Resolution as Attachment 2
2 (“Proposed Modification”), NOW, THEREFORE,

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4 BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF
5 BROWARD COUNTY, FLORIDA:

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7 Section 1. The recitals set forth in the preamble to this Resolution are true,
8 accurate, and incorporated by reference herein as though set forth in full hereunder.

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10 Section 2. The Board hereby authorizes and directs the County Administrator
11 to publish a notice of intent of the Board to consider a resolution approving the Proposed
12 Modification (“Notice”) at a public hearing on Tuesday, May 7, 2019, at 10:00 A.M., in
13 Room 422 of the Broward County Governmental Center, 115 South Andrews Avenue,
14 Fort Lauderdale, Florida 33301 (“Public Hearing”).

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16 Section 3. Such Notice shall be in the form of the attached Attachment 3 and
17 shall be made at least ten (10) days prior to the Public Hearing in a newspaper of general
18 circulation in Broward County.

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20 Section 4. The Board hereby directs the Parks and Recreation Division to post
21 signage at the Premises in accordance with the terms and conditions of the Declaration.

1 Section 5. Severability.

2 If any portion of this Resolution is determined by any court to be invalid, the invalid
3 portion will be stricken, and such striking will not affect the validity of the remainder of this
4 Resolution. If any court determines that this Resolution, in whole or in part, cannot be
5 legally applied to any individual, group, entity, property, or circumstance, such
6 determination will not affect the applicability of this Resolution to any other individual,
7 group, entity, property, or circumstance.

8
9 Section 6. Effective Date.

10 This Resolution is effective upon adoption.

11
12 ADOPTED this ____ day of _____, 2019.

13
14 Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

15
16 By /s/ Irma Qureshi 04/11/19
Irma Qureshi (date)
Assistant County Attorney

PROPOSED

17
18 By /s/ Maite Azcoitia 04/11/19
Maite Azcoitia (date)
Deputy County Attorney

19
20
21
22 IQ/mdw
23 Authorizing Public Hearing for W. Lake Park Reso.doc
04/11/19
24 Imanage file: 427853

ATTACHMENT 1

LEGAL DESCRIPTION AND SKETCH

**TO BE DISTRIBUTED UNDER SEPARATE COVER AS ADDITIONAL MATERIAL FOR
THE APRIL 16, 2019, COUNTY COMMISSION MEETING.**

ATTACHMENT 2

Return recorded copy to:
Broward County Facilities Management Division
Real Property Section
115 South Andrews Avenue, Room 501
Fort Lauderdale, Florida 33301

This document prepared by
and approved as to form by:
Irma Qureshi
Broward County Attorney's Office
115 South Andrews Avenue, Room 423
Fort Lauderdale, Florida 33301

Folio Numbers:
5142-11-00-0010
5142-11-00-0020
5142-11-00-0080

MODIFICATION OF THE DECLARATION OF RESTRICTIVE COVENANTS TO RELEASE A PORTION OF THE REAL PROPERTY COVERED THEREBY FROM THE STATED RESTRICTIVE COVENANTS

This MODIFICATION OF THE DECLARATION OF RESTRICTIVE COVENANTS TO RELEASE A PORTION OF THE REAL PROPERTY COVERED THEREBY FROM THE STATED RESTRICTIVE COVENANTS ("Release") is made this ____ day of _____, 2019 by BROWARD COUNTY, a political subdivision of the State of Florida, whose address is 115 South Andrews Avenue, Fort Lauderdale, Florida 33301 ("County").

RECITALS

A. The County owns that certain real property located at 1200 Sheridan Street, Hollywood, Florida 33019, identified as folio numbers 5142-11-00-0010, 5142-11-00-0020 and 5142-11-00-0080, and known as West Lake Regional Park ("County Property").

B. On or about December 12, 2006, the Board of County Commissioners of Broward County, Florida (the "Board"), approved that certain Declaration of Restrictive Covenants, recorded July 18, 2007, as Instrument Number 107227098 in the Official Records of Broward County, Florida ("Declaration"), which restricted the permitted uses on the County Property.

C. The County desires to use a portion of the County Property, as more particularly described in **Exhibit A** attached to and made a part of this Release ("Parcel"), to construct and operate an approximately three hundred twenty-five foot (325') tall self-supporting telecommunications tower, antennas, equipment shelter, free-standing generator, fuel tank, and other facilities necessary or useful to improve the public safety radio communication services in the areas serviced by the County ("Project").

D. The Project is not a permitted use under the Declaration affecting the Parcel and, as a result, the Declaration needs to be modified to release and remove the restrictions imposed by the Declaration on the Parcel.

E. The Declaration provides that “[n]o modification or termination of this Declaration of Restrictive Covenants shall be permitted unless specifically approved by a four-fifths vote of the entire Board of County Commissioners of Broward County, Florida at a noticed public hearing. Notice of the proposed modification or termination shall be given at least ten (10) days prior to the action by the Commission by publication in a newspaper of general circulation in Broward County. In addition, at least ten (10) days prior to the public hearing, the Parks and Recreation Division, or its successor division or agency, shall post a sign visible from the street upon the property. The sign shall be in accordance with applicable municipal regulations relating to signs and shall provide pertinent information regarding the proposed modification or termination.”

F. The Board, at a regular Commission meeting held on April 16, 2019, directed (i) the County Administrator to publish notice of the public hearing on May 7, 2019 (“May 7th hearing”), where the Board would consider a resolution approving a modification of the Declaration to release and remove the restrictions imposed by the Declaration on the Parcel; and (ii) the Parks and Recreation Division to post signage in accordance with the Declaration.

G. In accordance with the Declaration, the County Administrator published timely notice of the May 7th public hearing, and the Parks and Recreation Division posted timely and visible signage providing information regarding the May 7th hearing and this Release.

H. At the May 7th hearing, this Release was approved by a four-fifths vote of the entire Board.

RELEASE

1. Recitals. The recitals set forth above are true, accurate, and fully incorporated by reference herein.

2. Partial Release of the Declaration. The County hereby releases and removes all of the restrictions imposed by the Declaration on the Parcel in order to permit the development of the Project on the Parcel. Upon the recording of this Release in the Official Records of Broward County, Florida, the Declaration shall be of no further force or effect on the Parcel.

3. Limitations. This Release is limited to the Parcel described in **Exhibit A**, and the components of and in furtherance of the Project specified in this Release. The County is not waiving the Declaration or any other restriction therein for any other development or area in the County Property, except as expressly referenced herein.

4. Severability. In the event any part of this Release is found to be invalid by a court of competent jurisdiction, that part shall be severed from this Release and the balance of this Release shall remain in full force and effect.

IN WITNESS WHEREOF, this Release is executed by BROWARD COUNTY, through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the ____ day of _____, 2019.

(Official Seal)

ATTEST:

County Administrator and
ex officio Clerk of the
Board of County Commissioners
of Broward County, Florida

COUNTY

BROWARD COUNTY, by and through its
Board of County Commissioners

By: _____
Mayor

____ day of _____, 2019.

Approved as to form by
Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By: _____
Irma Qureshi (Date)
Assistant County Attorney

By: _____
Maite Azcoitia (Date)
Deputy County Attorney

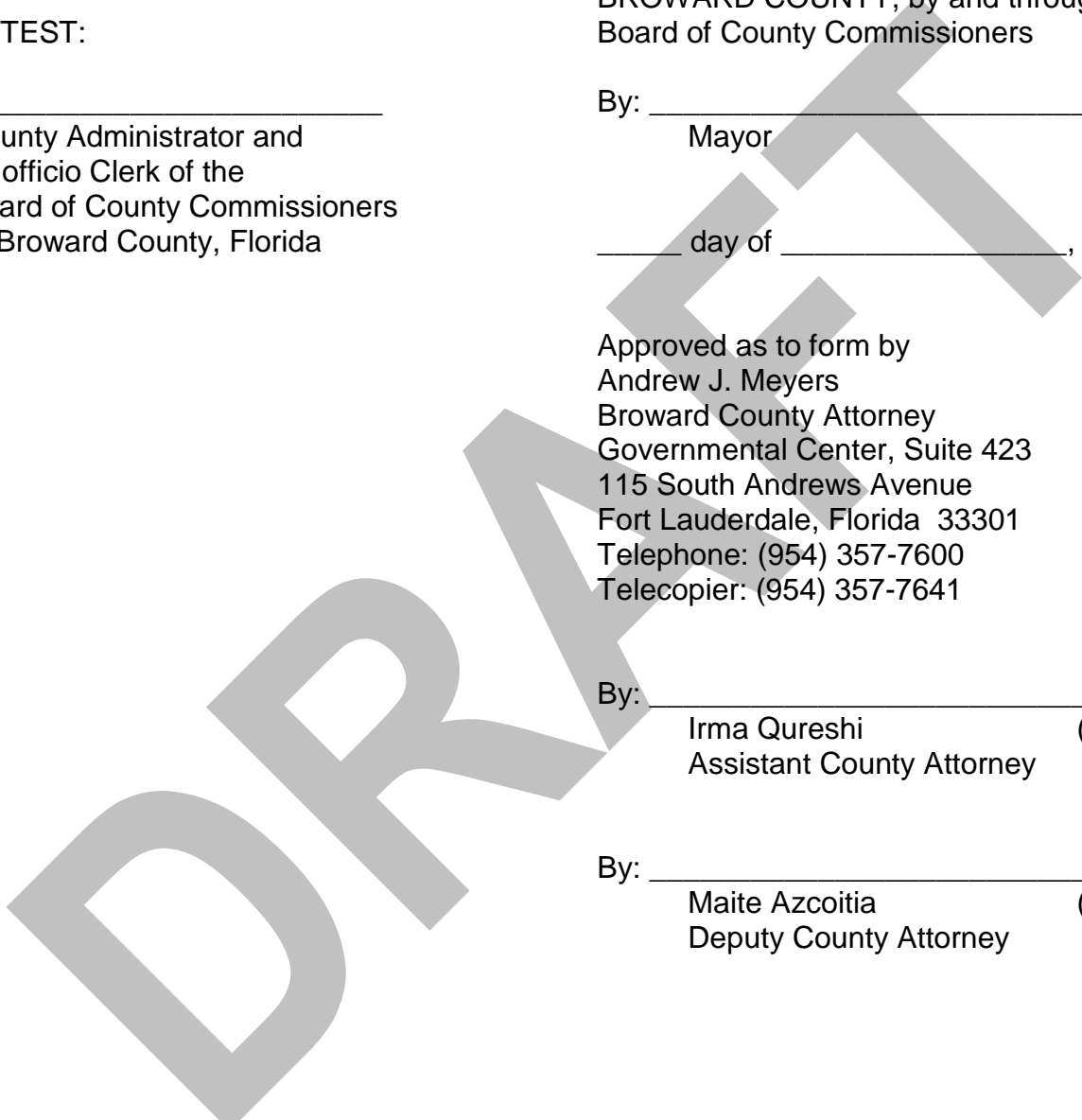


EXHIBIT A

LEGAL DESCRIPTION OF PARCEL

**TO BE DISTRIBUTED UNDER SEPARATE COVER AS ADDITIONAL MATERIAL FOR
THE APRIL 16, 2019, COUNTY COMMISSION MEETING.**

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ATTACHMENT 3

Notice of Public Hearing and Intent to Consider a Resolution
Approving a Modification of the Declaration of Restrictive Covenants for
West Lake Regional Park

Notice is hereby given by the Board of County Commissioners of Broward County, Florida, that said Board will hold a public hearing at 10:00 A.M. on Tuesday, May 7, 2019, in the Broward County Governmental Center, Room 422, 115 South Andrews Avenue, Fort Lauderdale, Florida 33301, to consider a Resolution approving a modification of the Declaration of Restrictive Covenants, recorded as Instrument Number 107227098 in the Official Records of Broward County, Florida ("Declaration"), to release and remove the restrictions imposed by the Declaration on a portion of West Lake Regional Park located at 1200 Sheridan Street, Hollywood, Florida 33019, which portion consists of approximately 0.1284 acres of land ("Parcel"), in order to permit the construction of an approximately three hundred twenty-five foot (325') tall self-supporting telecommunications tower, antennas, equipment shelter, free-standing generator, fuel tank, and other facilities necessary or useful to improve the public safety radio communication services in the areas serviced by the County. The full legal description of the Parcel is available for inspection at the Broward County Governmental Center, Real Property Section, 115 South Andrews Avenue, Room 501, Fort Lauderdale, Florida 33301. If due to a disability, you require auxiliary aids, accommodations, or alternative formats of materials to participate in a public hearing or meeting, contact Real Property Section at (954) 357-5535, or the Broward County Call Center TDD Line at (954) 370-3745. Please make any accommodation requests at least three days in advance of the public hearing.

Dated this _____ day of _____ 2019.

Mailing Instructions:

- A. Publish one (1) time: April 25, 2019
- B. Send two (2) proofs of publication to each of the following two (2) offices:

Gigi Barrasso
Real Property Section
115 S. Andrews Avenue, Room 501
Fort Lauderdale, Florida 33301

AND

Irma Qureshi
Office of the County Attorney
115 S. Andrews Avenue, Room 423
Fort Lauderdale, Florida 33301

- C. Send one (1) proof of publication and invoice to:

Board of County Commissioners
Accounting Division, Room 201
Governmental Center
115 S. Andrews Avenue
Fort Lauderdale, FL 33301