

**PROPOSED**

RESOLUTION NO. 2019-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, DECLARING THAT SIGNIFICANT LEGAL RIGHTS WILL BE COMPROMISED WITHOUT IMMEDIATE LEGAL ACTION BEFORE COMPLIANCE WITH THE CONFLICT RESOLUTION TIMELINES PRESCRIBED IN CHAPTER 164, FLORIDA STATUTES; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Broward County (the "County") is undertaking an extensive upgrade of the public safety regional communications system in order to improve the system's capacity to facilitate critical radio communications for first responders and other public safety officials;

WHEREAS, the upgrade of the radio communications system, including construction of additional radio communication towers, is critical and time-sensitive in light of the fact that critical components of the system have reached end-of-life, meaning technical expertise and spare parts necessary to resolve issues will not be guaranteed, and maintenance and support will be provided only on a "best efforts" basis;

WHEREAS, based upon extensive coverage analyses and in coordination with vendors, consultants, and other industry professionals, the County has identified the most appropriate locations for additional communication towers that must be sited and built to support the upgraded communications system, and one of those locations is certain County-owned property within West Lake Park, 1200 Sheridan Street, Hollywood, Florida;

WHEREAS, on August 21, 2018, the County submitted an application to the Planning and Development Board of the City of Hollywood (the "City") for site plan approval for the proposed communication tower and associated compound ("Site Plan Application"), and upon review the City Planning Administrator recommended the City

1 Planning and Zoning Board forward a recommendation of approval to the City  
2 Commission with only minor conditions related to unity of title and certain tree mitigation;

3 WHEREAS, on September 6, 2018, the City Planning and Development Board  
4 recommended the City Commission deny the Site Plan Application despite the lack of any  
5 factual or legal basis for such denial and contrary to the recommendation of approval by  
6 the City Planning Administrator;

7 WHEREAS, County staff has invested substantial time and resources at the  
8 request of the City Commission to consider other alternative sites and to evaluate the  
9 feasibility of the City's preferred location, during which time the City failed to proceed with  
10 the properly completed Site Plan Application;

11 WHEREAS, pursuant to Section 365.172(13)(d), Florida Statutes, the Site Plan  
12 Application was properly completed and pending in excess of the statutory time limit of  
13 ninety (90) business days, and the Site Plan Application is therefore deemed  
14 "automatically approved" and the County "may proceed with the placement of the facilities  
15 without interference or penalty";

16 WHEREAS, on June 5, 2019, the City Commission denied the Site Plan  
17 Application, and in so doing relied upon factually incorrect information including an  
18 inapplicable or otherwise immaterial conservation easement, considered facts outside the  
19 scope of the permissible considerations under the operative City regulations, and failed  
20 to afford the Site Plan Application the required quasi-judicial process, and the  
21 jurisdictional deadlines for challenging the legal sufficiency of the City's action require  
22 prompt legal action that precludes completion of the usual Chapter 164 proceedings;

23 WHEREAS, the jurisdictional deadline to file an appropriate action to contest the  
24 City's denial of the Site Plan Application is thirty (30) days, and such action should assert

1 all claims and causes of action relating to the denial of the Site Plan Application in order  
2 to avoid any contention that such rights are waived or claims inappropriately split, thus  
3 requiring the County to assert all of its rights and requested remedies within the  
4 jurisdictional thirty (30) day deadline; and

5 WHEREAS, in any necessary litigation, the County hopes for a prompt judicial  
6 resolution on the actual merits, and seeks to avoid the City's continuing procedural  
7 argument that the Chapter 164 process was improperly commenced by the County,  
8 NOW, THEREFORE,

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10 BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF  
11 BROWARD COUNTY, FLORIDA:

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13 Section 1. The above-stated recitals are true and correct and incorporated  
14 herein by reference.

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16 Section 2. The County finds that significant legal rights will be compromised if a  
17 court proceeding does not take place before the provisions of Chapter 164 are fully  
18 complied with regarding the June 5, 2019, denial of the Site Plan Application by the City  
19 of Hollywood, and therefore authorizes the Office of the County Attorney to timely file any  
20 and all appropriate legal challenges to the denial of the Site Plan Application including  
21 any and all related claims that should reasonably be asserted therewith.

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1 Section 3. 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.

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9 Section 4. Effective Date.

10 This Resolution is effective upon adoption.

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12 ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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

**PROPOSED**

16  
17 By /s/ René D. Harrod 06/13/19  
René D. Harrod (date)  
18 Deputy County Attorney  
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22

23 RDH  
24 Site Plan Denial Reso  
06/13/19  
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