

RESOLUTION NO. 2014- 329

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND AUTHORIZING THE CHAIR, OR DESIGNEE, TO EXECUTE A TEMPORARY ACCESS EASEMENT TO A COMMUNICATIONS TOWER SITE LOCATED OFF PALM VALLEY ROAD

RECITALS

WHEREAS, the Dynan Group, Inc. (“Applicant”) has submitted an application to the St. Johns County Growth Management Department for construction of an unmanned wireless communication facility to be located at Preservation Trail Nocatee near Palm Valley Road (*see* TOWER 2014-00002); and

WHEREAS, section 6.08.12.S of the St. Johns County Land Development Code (“Code”) provides that approval of such applications shall be conditioned upon the County’s receipt of a valid easement, in favor of the County, to allow for access and removal of the facility in the event that it is abandoned; and

WHEREAS, the Applicant has submitted a Temporary Access Easement (attached hereto as Exhibit “A” and incorporated herein by reference), in favor of the County, as required under section 6.08.12.S of the Code.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of St. Johns County, Florida, as follows:

Section 1. The above Recitals are incorporated by reference into the body of this Resolution and such Recitals are adopted as findings of fact.

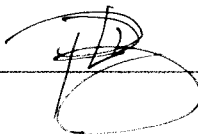
Section 2. The Board of County Commissioners hereby approves the terms of the attached Temporary Access Easement and authorizes the Chair, or designee, to execute a temporary access easement in substantially the same form and format on behalf of the County.

Section 3. To the extent that there are typographical and/or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

Section 4. The Clerk is instructed to record the Temporary Access Easement in the Public Records of St. Johns County, Florida.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida this 18th day of November, 2014.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By:  _____
Chair

ATTEST: Cheryl Strickland, Clerk

By: 
Deputy Clerk

RENDITION DATE 11/21/14



EXHIBIT "A" TO RESOLUTION

Prepared by:

St. Johns County
Land Management Systems
Sheri Lewis
500 San Sebastian View
St. Augustine, FL 32084

TEMPORARY ACCESS EASEMENT

This Temporary Access Easement (the "Easement") made this 23rd day of October, 2014, by and between **PONTE VEDRA TOWER DEVELOPMENT, LLC** whose address is 4314 Pablo Oaks Court, Jacksonville, FL 32224, "Grantor", to **ST. JOHNS COUNTY**, a political subdivision of the State of Florida, whose address is 500 San Sebastian View, St. Augustine, Florida 32084, "Grantee", its licensees, agents, successors and assigns, with the consent of **NEXTOWER DEVELOPMENT GROUP, LLC**. This Easement grants a non-exclusive right of way access easement for the purpose of ingress and egress by Grantee, Grantee's agents or assigns, at any and all time, to and from the leased premises (the "PROPERTY") which is more particularly described as herein in Exhibit "A" attached hereto and made a part hereof.

WITNESSETH:

WHEREAS, Grantor, as Landlord, has entered into an Lease Agreement, referred to hereinafter as "Agreement", dated June 5, 2014, granting to **NEXTOWER DEVELOPMENT GROUP, LLC**, as "Tenant", a leasehold interest in the Leased Premises; and

WHEREAS, the Agreement contemplates the construction of a telecommunications facility on the Leased Premises; and

WHEREAS, Section 6.08.12 of the St. Johns County Land Development Code (the "Zoning Ordinance") requires the dismantling and removal of telecommunications facilities after abandonment; and

WHEREAS, Section 6.08.12 (S) of the Zoning Ordinance requires a thirty foot (30') easement for access to the Leased Premises for removal of an abandoned telecommunications facility not complying with Section 6.08.12(N) (providing for time periods for removal of an abandoned telecommunications facility); and

NOW, THEREFORE, Grantor, for and in consideration of the sum of Ten and No/Dollars (\$10.00) and other good and valuable consideration to them in hand paid by Grantee, the receipt and sufficiency of which is hereby acknowledged, hereby grants to the Grantee, its successors and assigns, a non-exclusive easement over the lands of Grantor more particularly described on Exhibit "A" attached hereto (the "PROPERTY") for ingress and egress to the Leased Premises only for the purpose of removing the Tenant's telecommunications facilities if said telecommunications facilities are in violation of Section 6.08.12(N) of the Zoning Ordinance, with the right, privilege, and authority of Grantee, its successors and assigns, to enter on to the Leased Premises and to

remove the telecommunications facilities therefrom in accordance with and subject to the requirements of Section 6.08.12(N) of the Zoning Ordinance.

The Grantor warrants to Grantee that it has good and indefeasible fee simple title to the Easement Area and the authority to enter into this easement.

The Easement shall terminate automatically upon removal of the Tenant's telecommunications facilities from the Leased Premises, whether removed by the Tenant, Grantor or Grantee. At the request of the Grantor, Grantee shall execute a recordable document evidencing such termination. If Grantee shall fail to execute such a document within thirty (30) days of Grantor's request, Grantor may record an affidavit certifying that the telecommunications facilities have been removed and that this Easement has been terminated.

Grantor reserves the right at its expense to relocate the Easement Area at any time and from time to time to permit convenient use of Grantor's property, provided that the relocated easement shall provide the Grantee substantially the same ingress and egress rights herein granted. Any such relocated easement shall be evidenced by an amendment to the Easement executed by Grantor and Grantee herein.

IN WITNESS WHEREOF, party of the first part has executed this Termination on the day and year first above written.

Signed, sealed and delivered
In the presence of:

GRANTOR

Print Witness name _____

PONTE VEDRA TOWER DEVELOPMENT, LLC

By: _____

Print Name: Christopher Pilinko

Title: Vice President

Print Witness name _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, _____, its _____ who is personally known to me.

Signed, sealed and delivered
In the presence of:

CONSENTING PARTY

Print Witness name _____

By: _____

Print Name: _____

Title: _____

Print Witness name _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2007, by _____ who is personally known to me.

Signed, sealed and delivered
in the presence of:

ST. JOHNS COUNTY, FLORIDA

Print Name: _____

By: _____

Michael D. Wanchick
County Administrator

Print Name _____

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Michael D. Wanchick, County Administrator who is personally known to me.

Notary Public
My commission expires: _____

EXHIBIT "A"

PROPERTY

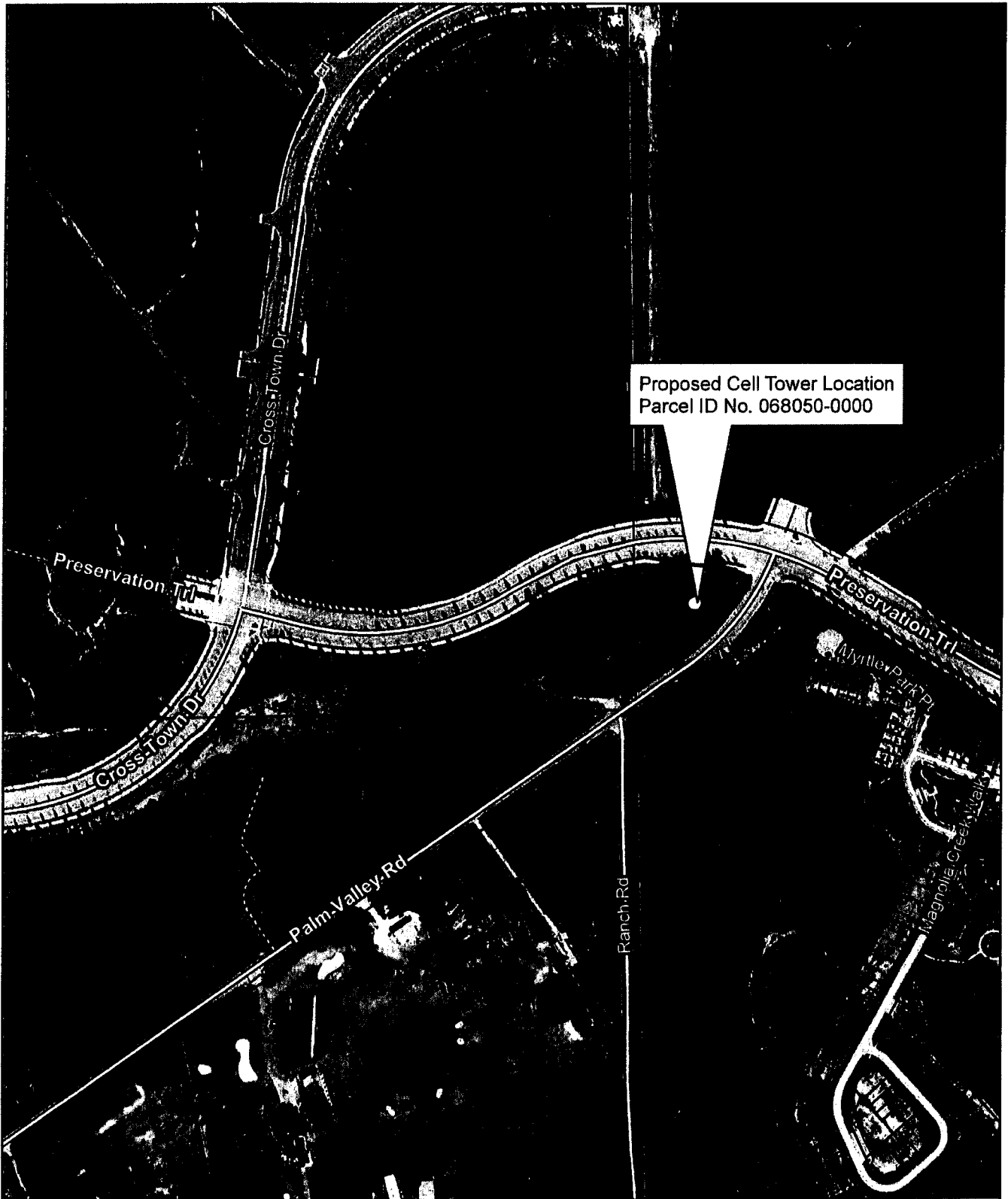
Cell Tower Site

A portion of Section 31, Township 4 South, Range 29 East, St. Johns County, Florida, also being a portion of those lands described and recorded in Official Records Book 1462, page 711 of the Public Records of said county, being more particularly described as follows:

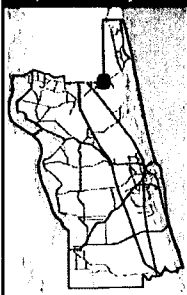
For a Point of Reference, commence at the Southeast corner of Section 36, Township 4 South, Range 28 East, Duval County, Florida; thence North $01^{\circ}06'12''$ West, along the Easterly line of said Section 36, a distance of 81.33 feet to a point lying on the Northwesterly right of way line of Palm Valley Road, a 100 foot right of way as presently established, said point also being the Southwest corner of that 125 Foot Electric Easement as described and recorded in Official Records Book 569, page 242 of said Public Records; thence North $55^{\circ}19'25''$ East, departing said Easterly line and along said Northwesterly right of way line and along the Southerly line of said 125 Foot Electric Easement, a distance of 133.13 feet to the point of curvature of a curve concave Northwesterly having a radius of 650.00 feet, said point lying on the Southerly right of way line of Preservation Trail, a variable width right of way as depicted on Map Book 58, pages 37 through 41 of said Public Records; thence Northeasterly, continuing along said Southerly line and along said Southerly right of way line and along the arc of said curve, through a central angle of $01^{\circ}30'10''$, an arc length of 17.05 feet to the Southeast corner of said 125 Foot Electric Easement and the Point of Beginning, said arc being subtended by a chord bearing and distance of North $54^{\circ}34'20''$ East, 17.05 feet.


From said Point of Beginning, thence North $01^{\circ}06'12''$ West, departing said Southerly right of way line and along the Easterly line of said 125 Foot Electric Easement, a distance of 247.55 feet to a point on a curve concave Southerly having a radius of 806.00 feet, said point lying on said Southerly right of way line of Preservation Trail; thence Easterly departing said Easterly line, along said Southerly right of way line and along the arc of said curve, through a central angle of $11^{\circ}42'56''$, an arc length of 164.81 feet to a point on said curve, said arc being subtended by a chord bearing and distance of South $84^{\circ}51'38''$ East, 164.52 feet; thence South $24^{\circ}22'55''$ East, continuing along said Southerly right of way line, 41.76 feet to a point on a curve concave Northwesterly having a radius of 650.00 feet; thence Southwesterly continuing along said Southerly right of way line and along the arc of said curve, through a central angle of $23^{\circ}19'00''$, an arc length of 264.52 feet to the Point of Beginning, said arc being subtended by a chord bearing and distance of South $42^{\circ}09'44''$ West, 262.70 feet.

Containing 0.64 acres, more or less.



Proposed Cell Tower Location
Parcel ID No. 068050-0000




 2013 Aerial Imagery
 0 200 400
 Feet
 October 23, 2014

Temporary Access
 Agreement
*Proposed Cell
 Tower Location*

Land Management
 Systems
 Real Estate
 Division
 (904) 209-0764
 Disclaimer:
 This map is for reference use only.
 Data provided are derived from multiple
 sources with varying levels of accuracy.
 The St. Johns County Real Estate
 Division disclaims all responsibility
 for the accuracy or completeness
 of the data shown hereon.

