

**ORDINANCE NO. 2018-042**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE THE THIRD AMENDMENT TO THE LEASE AGREEMENT BY AND BETWEEN THE CITY OF COCONUT CREEK AND T-MOBILE SOUTH LLC WHICH PROVIDES FOR THE CONTINUED LEASING OF CITY LAND FOR A COMMUNICATIONS TOWER AND A MODIFICATION TO REMOVE THE EXISTING GENERATOR AND INSTALL A NEW 25 KILOWATT GENERATOR WITHIN THE EXISTING SPACE; PROVIDING FOR RECORDATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, T-Mobile South, LLC, as successor-in-interest to Omnipoint Holdings, Inc. ("T-Mobile"), has an existing Space Lease Agreement with the City dated December 9, 2004 ("Lease"), to lease a portion of city-owned land located at 5555 Regency Lakes Boulevard, Coconut Creek, Florida from the City of Coconut Creek ("City") for the purpose of constructing and maintaining a communications tower and related equipment; and

**WHEREAS**, on April 24, 2008, the City approved Ordinance No. 2008-018, authorizing the Mayor to execute the First Amendment to the Agreement ("First Amendment"), which provided for modification of equipment on the existing tower and an increase in monthly rent in the amount of Two Hundred Sixty-two Dollars and 50/00 (\$262.50) for total annual rent payment of Thirty-Five Thousand Eight Hundred Fourteen Dollars and 00/100 (\$35,814.00); and

**WHEREAS**, on February 26, 2015, the City approved Ordinance No. 2015-004, authorizing the Mayor to execute the Second Amendment to the Agreement ("Second Amendment"), which provided for removal and replace of equipment on the existing tower; and

**WHEREAS**, currently, T-Mobile desires to amend the Agreement for the third time (“Third Amendment”) to remove the existing generator and install a new 25 kilowatt generator within the existing space; and

**WHEREAS**, the City Commission of the City of Coconut Creek, Florida, finds and determines it to be in the best interests of the residents of the City to enter into such Third Amendment to the Agreement.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA:**

**Section 1: Ratification.** That the foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance. All Exhibits attached hereto are incorporated herein and made a specific part of this ordinance.

**Section 2:** That the City Commission has reviewed and hereby approves that certain Third Amendment to the Space Lease Agreement dated December 4, 2004, the First Amendment dated April 24, 2008, and the Second Amendment dated February 26, 2015, attached hereto and made a part hereof as Exhibit “A,” by and between the City and T-Mobile South, LLC, providing for removal of the existing generator and the installation of a new 25 kilowatt generator within the existing space, and hereby authorizes the Mayor to execute said Third Amendment to the original Space Lease Agreement on behalf of the City. A legal description of the land is attached hereto and made a part hereof as Exhibit “B.” The original Space Lease Agreement, the First Amendment, and the Second Amendment are attached hereto and made a part hereof as Exhibit “C,” Exhibit “D,” and Exhibit “E,” respectively.

**Section 3:** That the term of the original lease Agreement was for a period of ten (10) years from December 9, 2004, with four (4) automatic five (5) year renewals (unless T-Mobile South, LLC advises the City of its intent not to renew at least six (6) months prior to the end of the then current term).

**Section 4:** That a copy of this ordinance, along with Exhibit “B,” the legal description of the land hereby leased, is to be recorded in the public records of Broward County, Florida. Exhibit “A,” which is the Third Amendment to the original lease Agreement attached to this ordinance, Exhibit “C,” which is the original Space Lease Agreement dated December 9, 2004, Exhibit “D,” which contains the First Amendment dated April 24, 2008, Exhibit “E,” which contains the Second Amendment dated February 26, 2015, are not to be recorded.

**Section 5: Conflicts.** That all ordinances or parts of ordinances, all City Code sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this ordinance are hereby repealed to the extent of such conflict.

**Section 6: Severability.** That should any section or provision of this ordinance or any portion thereof, any paragraph, sentence, clause or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part hereof other than the part declared invalid.

**Section 7: Effective Date.** That this ordinance shall become effective upon its passage on second and final reading.

**PASSED FIRST READING THIS 13<sup>TH</sup> DAY OF DECEMBER, 2018.**

**PASSED SECOND READING THIS 24<sup>TH</sup> DAY OF JANUARY, 2019.**

\_\_\_\_\_  
Joshua Rydell, Mayor

Attest:

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Leslie Wallace May, City Clerk

	<u>1<sup>st</sup></u>	<u>2<sup>nd</sup></u>
Rydell	<u>Aye</u>	<u>Aye</u>
Welch	<u>Aye</u>	<u>Absent</u>
Tooley	<u>Aye</u>	<u>Aye</u>
Sarbone	<u>Aye</u>	<u>Aye</u>
Belvedere	<u>Aye</u>	<u>Aye</u>