

**ORDINANCE NO. 2017-052**

**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 INCREASE THE AMOUNT OF EQUIPMENT ON THE TOWER; PROVIDING FOR RECORDATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on May 8, 2008, the City of Coconut Creek (“City”) approved Ordinance No. 2008-019, authorizing the Mayor to execute a lease agreement (“Agreement”) between the City and T-Mobile South, LLC (“T-Mobile”) to lease a portion of City-owned land located at the City’s Winston Park, 5201 NW 49<sup>th</sup> Avenue, Coconut Creek, Florida, more fully described in the agreement, for the purpose of constructing and maintaining a communications tower (“Tower”) and related equipment; and

**WHEREAS**, on November 13, 2008, the City approved Ordinance No. 2008-038, authorizing the Mayor to execute the First Amendment to the Agreement (“First Amendment”), which provided for a modification to the exhibits to the agreement; and

**WHEREAS**, on July 14, 2016, the City approved Ordinance No. 2016-29, authorizing the Mayor to execute the Second Amendment to the Agreement (“Second Amendment”), which provided for modifications and increases to the amount of equipment on the tower in exchange for increased rent payments to the City; and

**WHEREAS**, T-Mobile desires to amend the agreement a third time (“Third Amendment”) to modify and increase the amount of T-Mobile’s equipment on the tower, which will not increase T-Mobile’s loading factor on the tower; 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.

**Section 2:** That the City Commission has reviewed and hereby approves that certain Third Amendment to the Agreement dated May 8, 2008, the First Amendment dated November 13, 2008, and the Second Amendment dated July 14, 2016, attached hereto and made a part hereof as Exhibit “A,” by and between the City and T-Mobile South, LLC, providing for the modification and increase of the amount of T-Mobile’s equipment on the tower, and hereby authorizes the Mayor to execute said Third Amendment to the original Lease Agreement on behalf of the City. The legal description of the land, the original Lease Agreement, the First Amendment, and the Second Amendment are attached hereto and made a part hereof as Exhibit “B,” Exhibit “C,” Exhibit “D,” and Exhibit “E,” respectively.

**Section 3:** That the term of the original Lease Agreement is for a period of ten (10) years from May 8, 2008, with two (2) 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: Recordation.** 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, and Exhibit “C,” which contains the original Lease Agreement dated May 8, 2008, Exhibit “D”, which contains the First Amendment dated November 13, 2008, and Exhibit “E,” which contains the Second Amendment dated July 14, 2016, are not to be recorded.

**Section 5: 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 6: 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 7: Effective Date.** That this ordinance shall become effective upon its passage on second and final reading.

**PASSED FIRST READING THIS 14<sup>TH</sup> DAY OF DECEMBER, 2017.**

**PASSED SECOND READING THIS 11<sup>TH</sup> DAY OF JANUARY, 2018.**

\_\_\_\_\_  
Rebecca A. Tooley, Mayor

Attest:

\_\_\_\_\_  
Leslie Wallace May, City Clerk

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