

ORDINANCE NO. 2018-040

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE THE FIRST 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 AN EQUIPMENT MODIFICATION ON THE TOWER AT THE CITY'S GOVERNMENT CENTER; PROVIDING FOR RECORDATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on February 26, 2015, the City of Coconut Creek ("City") approved Ordinance No. 2015-003, 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 4800 West Copans Road, Coconut Creek, FL 33063 ("Government Center") for the purpose of constructing and maintaining a communications tower ("Tower") and related equipment; and

WHEREAS, currently, T-Mobile desires to amend the Agreement for the first time ("First Amendment") to provide for an equipment modification on the tower (equipment is listed on to Exhibit D-1 of the First Amendment); 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 First 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 First Amendment to the Agreement 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 the equipment modification on the tower of the City's Government Center and hereby authorizes the Mayor to execute said First Amendment to the original lease Agreement on behalf of the City. The original lease is attached hereto and made a part hereof as Exhibit "C" (equipment is listed on Exhibit D-1 of the First Amendment; a legal description of the land is attached hereto and made a part hereof as Exhibit "B").

Section 3: That the term of the original lease Agreement was for a period of ten (10) years from February 26, 2015, 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 First Amendment to the original lease Agreement attached to this ordinance and Exhibit "C," which contains the original lease Agreement 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 13TH DAY OF DECEMBER, 2018.

PASSED SECOND READING THIS 24TH DAY OF JANUARY, 2019.

Joshua Rydell, Mayor

Attest:

Leslie Wallace May, City Clerk

	<u>1st</u>	<u>2nd</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>

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kah
12/17/2018