

ORDINANCE NO. 2016-26

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE THE SECOND AMENDMENT TO THE LEASE AGREEMENT BY AND BETWEEN THE CITY OF COCONUT CREEK AND METROPCS FLORIDA, LLC, WHICH PROVIDES FOR THE CONTINUED LEASING OF CITY LAND FOR A COMMUNICATIONS TOWER AND A MODIFICATION TO THE LOCATION OF EQUIPMENT ON THE TOWER AT SABAL PINES PARK; PROVIDING FOR RECORDATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on August 10, 2006, the City of Coconut Creek (“City”) approved Ordinance No. 2006-025, authorizing the Mayor to execute a lease agreement (“Agreement”) between the City and MetroPCS Florida, LLC (“Metro”) to lease a portion of City-owned land located at the City’s Sabal Pines Park, 5005 NW 39th Avenue, Coconut Creek, FL, more fully described in the Agreement, for the purpose of constructing and maintaining a communications tower (“Tower”) and related equipment; and

WHEREAS, on February 12, 2015, the City approved Ordinance No. 2015-002, authorizing the Mayor to execute the First Amendment to the Agreement (“First Amendment”), which permitted Metro to modify and increase the equipment on the Tower in exchange for increased rent payments to the City; and

WHEREAS, Metro desires to amend the Agreement a second time to permit it to install new infrastructure upon the Tower and relocate the City-owned equipment to a new location higher up on the Tower; and

WHEREAS, Metro has agreed to relocate and install the City’s equipment at its sole expense in exchange for the City agreeing to an abatement of fifty percent (50%) of the monthly rent payable under the Agreement up to a maximum amount not to exceed Forty-Five Thousand, Four Hundred Fifty Dollars (\$45,450.00); 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 a

second amendment to the Agreement, providing for Metro to relocate and install a new platform for the City's equipment at a higher location on the Tower.

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

Section 1: That the City Commission has reviewed and hereby approves that certain Second Amendment to the original lease Agreement dated August 10, 2006 and the First Amendment dated February 12, 2015, attached hereto and made a part hereof as Exhibit "A," by and between the City and MetroPCS, LLC, providing for the relocation and installation of City-owned equipment on the City-owned land and communications tower, a legal description of which is hereby attached hereto and made a part hereof as Exhibit "B," and hereby authorizes the Mayor to execute said Second Amendment to the original lease Agreement on behalf of the City. The original lease Agreement and the First Amendment is attached hereto and made a part hereof as Exhibit "C" and "D," respectively.

Section 2: That the term of the original lease Agreement was for a period of ten (10) years from August 10, 2006 with two (2) automatic five (5) year renewals (unless MetroPCS, LLC advises the City of its intent not to renew at least six (6) months prior to the end of the then current term). The rent payment as provided in the First Amendment remains unchanged at a rate of Fifty-Two Thousand, Five Hundred Forty Nine Dollars and Eighty Cents (\$52,549.80) per year. The Second Amendment to the original lease Agreement provides for extension of the term as well as a rent abatement of fifty percent (50%) of the monthly rent up to a maximum amount not to exceed Forty-Five Thousand, Four Hundred Fifty Dollars (\$45,450.00).

Section 3: 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 Second Amendment to the original lease Agreement attached to this Ordinance, Exhibit "C," which contains the original lease Agreement dated August 10, 2006, and Exhibit "D," which contains the First Amendment dated February 12, 2015, are not to be recorded.

Section 4: That in the event any provision or application of this Ordinance shall be held to be invalid by a court of competent jurisdiction, it is the legislative intent that the other provisions and applications hereof shall not be thereby affected.

Section 5: That all ordinances or parts of ordinances in conflict herewith are to the extent of said conflict, hereby repealed.

Section 6: That this Ordinance shall become effective immediately upon its passage on second and final reading.

PASSED FIRST READING THIS 23rd DAY OF June, 2016.

PASSED SECOND READING THIS 14th DAY OF July, 2016.

Mikkie Belvedere, Mayor

Attest:

Leslie Wallace May, MMC
City Clerk

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