

ORDINANCE NO. 2024-032

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 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 39 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 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, on July 14, 2016, the City approved Ordinance No. 2016-026, authorizing the Mayor to execute the Second Amendment to the Agreement (“Second Amendment”), which permitted Metro to install new infrastructure upon the communications tower, relocate the City-owned equipment to a new location higher up on the tower, and provided for an extension of the term; and

WHEREAS, Metro desires to amend the Agreement a third time to modify the equipment on the Tower, which will not increase the loading factor on the tower, and add a generator for emergency power located within the Metro’s existing ground space.

The Third Amendment also clarifies the non-exclusive easement area, the Tenant's lease space on the tower at one hundred fifteen feet (115 ft.) above ground level, the non-exclusive utility easement, and changes the Agreement's term to automatically terminate at the end of the last renewal term (i.e. twenty-five (25) years from the commencement date of August 10, 2006); 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 Third Amendment to the Agreement ("Third Amendment").

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF COCONUT CREEK HEREBY ORDAINS:

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. The Third Amendment to the Lease Agreement between the City of Coconut Creek, Florida and Metro (Original Lease dated August 10, 2006) is attached hereto as "Exhibit 1," along with its attachments, and is incorporated herein and made a specific part of this ordinance.

Section 2: Amendment to Lease. That the City Commission hereby authorizes the Third Amendment to the Lease Agreement that modifies the antenna layout and provides other terms and conditions, as more specifically described in the Third Amendment to the Lease Agreement by and between the City of Coconut Creek and MetroPCS Florida, LLC, attached hereto as "Exhibit 1."

Section 3: Charter Requirement. That the Mayor is hereby authorized to execute said Third Amendment to the Lease Agreement on behalf of the City.

Section 4: Recordation. That upon execution by the City and MetroPCS Florida, LLC, the New Memorandum of Agreement in the form included as Exhibit C-1 to the Third Amendment shall be recorded by MetroPCS Florida, LLC in the Official Records of Broward County, Florida.

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 _____ DAY OF _____, 2024.

PASSED SECOND READING THIS _____ DAY OF _____, 2024.

Sandra L. Welch, Mayor

Attest:

Joseph J. Kavanagh, City Clerk

	<u>1st</u>	<u>2nd</u>
Welch	_____	_____
Railey	_____	_____
Rydell	_____	_____
Brodie	_____	_____
Wasserman	_____	_____