

ORDINANCE NO. 2013-51

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA CONSENTING TO THE SECOND RENEWAL REQUESTED BY T-MOBILE USA TOWER LLC, A SUCCESSOR IN INTEREST TO OMNIPOINT HOLDINGS, INC., OF THE GROUND LEASE FOR A WIRELESS COMMUNICATIONS FACILITY LOCATED AT BABCOCK PARK FOR A PERIOD OF FIVE YEARS, COMMENCING ON JUNE 20, 2013 AND ENDING ON JUNE 19, 2018, PROVIDING FOR AN ANNUAL RENTAL OF \$37,361.94, WITH A 5% ANNUAL INCREASE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Hialeah, Fla., Ordinance 03-54 (June 19, 2003), the City leased a wireless communications facility, a 95-foot high monopole tower, located at Babcock Park, for five years to Omnipoint Holdings, Inc., the predecessor in interest to T-Mobile South, LLC, with four successive five-year renewals, for an annual base rental of \$25,000, with a 4% annual rental increase; and

WHEREAS, pursuant to Hialeah, Fla., Ordinance 08-40 (May 14, 2008), the City granted a first renewal to T-Mobile South LLC, formerly known as Omnipoint Holdings, Inc., for the then annual rent of \$31,937.14, with a renegotiated 5% annual rental increase; and

WHEREAS, upon request of T-Mobile USA Tower LLC, as successor in interest to Omnipoint Holdings, Inc., for a second renewal, the City finds it in its best interest to consent to the second renewal, extending the ground lease for an additional five years through June 19, 2018.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The Mayor and the City Council of the City of Hialeah, Florida hereby consent to the first renewal requested by T-Mobile South, LLC, formerly known as Omnipoint Holdings, Inc., of the ground lease for a wireless communications facility located at Babcock

Park for a period of five years, commencing on June 20, 2008 and ending on June 19, 2013, providing for an annual rental of \$37,361.94, with a 5% annual rental increase.

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty described above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Severability Clause.

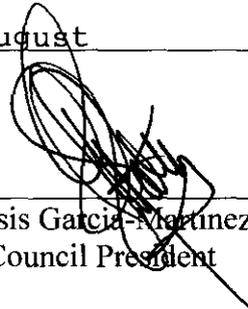
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 5: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is

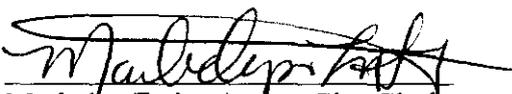
withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 27 day of August, 2013.

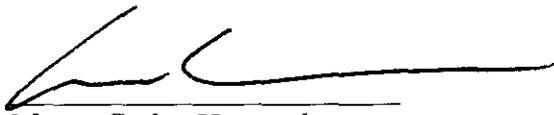


Isis Garcia-Martinez
Council President

Attest: Approved on this 27 day of Dec, 2013.

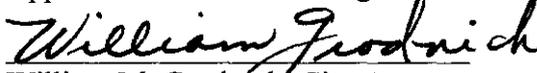


Marbelys Fatjo, Acting City Clerk



Mayor Carlos Hernandez

Approved as to form and legal sufficiency:



William M. Grodnick, City Attorney

s:\wmg\legislat\ord\ordinance 2013\mobilesecondrenewalwirelesstowerleasebabcockpark.docx

Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente, Garcia-Martinez, Gonzalez, Hernandez and Lozano voting "Yes".