



RESOLUTION

concerning

LEASE OF A PORTION OF  
THE RADIO TOWER AND EQUIPMENT SHELTER  
AT  
WESTERN CONNECTICUT STATE UNIVERSITY  
TO  
NEXTEL COMMUNICATIONS, INC.

July 28, 2006

- WHEREAS, Section 4b-38 of the Connecticut General Statutes provides that the Board of Trustees of the Connecticut State University System may lease land or buildings, and facilities under its control and supervision when such land, buildings or facilities are otherwise not used or needed for use by the constituent unit and such action seems desirable to produce income or is otherwise in the public interest; and
- WHEREAS, On February 15, 1996, Western Connecticut State University entered into a lease agreement with Nextel Communications, Inc. ("Nextel"), for a term commencing on October 21, 1996, and expiring on October 20, 2026, whereby the University leased a portion of its premises to Nextel for the installation of a radio tower and an equipment shelter for antennas and related equipment; and
- WHEREAS, The University determined that the leased premises were not needed for use by the University; and
- WHEREAS, The lease agreement produces income for the University; and
- WHEREAS, The lease agreement stipulates that use of the leased premises is contingent upon Nextel's meeting all applicable federal, state and local laws, regulations and policies; therefore be it
- RESOLVED, That the Board of Trustees of the Connecticut State University retroactively approves and ratifies the lease agreement by and between Nextel Communications, Inc. and Western Connecticut State University for the construction of a radio tower and equipment shelter for communications equipment.

A Certified True Copy:

David G. Carter, Sr., Chancellor

**ITEM**

Lease of a portion of the radio tower and equipment shelter at Western Connecticut State University to Nextel Communications, Inc.

**BACKGROUND**

The Board of Trustees under its statutory authority – Section 4b-38 – “...may lease land or buildings, or both, and facilities under the control and supervision of such board when such land, buildings or facilities are otherwise not used or needed for use by the constituent unit and such action seems desirable to produce income or is otherwise in the public interest, provided the treasurer has determined that such action will not affect the status of any tax-exempt obligations issued or to be issued by the State of Connecticut....”

**ANALYSIS**

Nextel Communications, Inc. has requested permission from Western Connecticut State University to amend their existing lease that permitted the installation and use of the radio tower and equipment shelter to house their equipment. The existing lease, which was entered into in February, 1996, was not brought to the Board of Trustees at that time; therefore, ratification of the existing lease is requested, as well as approval of the amendment.

The lease allowed for the installation and maintenance of wires, cable, conduits and pipes associated with antenna structures, installation of a one hundred (100) foot tower and a 10’x 30’ equipment shelter. The lease allows Western the right to install antennas within a prescribed area on the tower structure.

Nextel has requested the ability to install a new pad mounted generator in the same location as the existing equipment shelter. They intend to remove the existing shelter and install a larger shelter to accommodate the new generator. They have agreed to obtain all the appropriate permits in conjunction with this installation.

The initial term of the lease was for thirty (30) years from receipt of Connecticut Siting Council approval (which was received on October 21, 1996) with a one-time payment of \$191,000 in lieu of an annual rental payment, due upon completion of the radio tower. In the event of default of material covenant or term, the lessor may terminate the lease after a 60-day period, if the lessee does not cure the default after a thirty day written notice period. The lease may also be terminated if the lessee does not obtain the appropriate license or permit to operate the equipment, if the FCC undertakes an action due to the fault of the lessee, if lessee determines that the premises or tower have become unacceptable under the lessee’s design and engineering specifications, or if during any renewal term the lessee’s communication system requirements have changed.

The lease agreement stipulates that Nextel’s ability to use the property is contingent upon meeting all obligations of compliance with any and all environmental laws, including

**STAFF REPORT****FINANCE AND ADMINISTRATION COMMITTEE**

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permits, regulations, guidelines, standards, or policies of all local, state and federal agencies. The original agreement was reviewed by the Office of the State Treasurer to ensure that it did not affect the State's tax-exempt status. In addition, the CSU Assistant Attorney General also reviewed and approved the lease. The new amendment will also require the approval of the State Treasurer and Attorney General.

**CHANCELLOR'S RECOMMENDATION**

Ratify the lease of space at Western Connecticut State University to Nextel Communications, Inc. for the installation of a radio tower and equipment shelter and approve an amendment to enlarge the equipment shelter and install a new emergency generator.