

**BROADBAND RADIO SERVICE
LONG-TERM *DE FACTO* TRANSFER LEASE AGREEMENT**

THIS Broadband Radio Service Long-Term *De Facto* Transfer Lease Agreement (the "**Agreement**") is entered into as of May ____, 2007 (the "**Effective Date**"), by and between the School Board of Palm Beach County, Florida (the "**School Board**") and WBSWP Licensing Corporation, a subsidiary of Sprint Nextel Corporation ("**Sprint**"). The School Board and Licensee are each sometimes referred to as "**Party**" and collectively as "**Parties.**"

WHEREAS, the Federal Communications Commission ("**FCC**") has licensed the School Board to operate Educational Broadband Service ("**EBS**") channels E1-E4 under call sign KHU90;

WHEREAS, the FCC has licensed Sprint to operate Broadband Radio Service ("**BRS**") channels E1-E4 under call sign WMI841;

WHEREAS, KHU90 and WMI841 are licensed at the same transmit location in Boynton Beach, Florida, which subsequently became the center point of both stations' protected service area ("**PSA**");

WHEREAS, KHU90 and WMI841 are subject to transition to different channels pursuant to Sections 27.1230 through 27.1239 of the FCC's rules (the "**Transition**") and all references to "channels" in this Agreement shall refer to the channels assigned to the School Board and Sprint pursuant to Section 27.5(i)(1) of the FCC's rules prior to the Transition and Section 27.5(i)(2) of the FCC's rules after the Transition;

WHEREAS, the School Board and Sprint have reached agreement on how to divide the channels under which Sprint will retain channels E1, E2 and E3 throughout the PSA under call sign WMI841 and the School Board will retain channel E4 throughout the PSA under call sign KHU90 (the "**Channel Agreement**");

WHEREAS, to effectuate the division of the channels, Sprint will file an application on FCC Form 601 (or follow such other procedures as the FCC may direct) requesting deletion of channel E4 from WMI841, and the School Board will file an application on FCC Form 601 (or follow such other procedures as the FCC may direct) requesting deletion of channels E1, E2 and E3 from KHU90, with both Parties informing the FCC that their applications are contingent on the grant of each other's application (the "**Applications**");

WHEREAS, the School Board desires to use channels E1, E2, and E3 under call sign WMI841 (the "**Channels**") for the distribution of educational programming, and in return for the benefits received under the Channel Agreement, Sprint has agreed to allow the School Board to use the Channels pursuant to the terms and conditions set forth below (the "**Leasing Arrangement**").

NOW THEREFORE, in consideration of the premises and covenants set forth in this Agreement, and for good and valuable consideration, the sufficiency of which is acknowledged by the Parties' signatures, the Parties agree as follows:

- 1. Term.** The Leasing Arrangement shall take effect upon the date the FCC grants the Applications and will end on the date that a post transition notification is filed with the FCC for Basic Trading Area No. 469 in the West Palm Beach-Boca Raton, Florida area pursuant to Section 27.1235 of the FCC's rules (the "**Term**").
- 2. Renewal of License and Extension.** If the license for the Channels (the "**License**") expires during the Term, this Agreement will also expire at such time unless the License is renewed and FCC authorization for the Leasing Arrangement is extended. Sprint will timely file a renewal application for the License, in conjunction with a request for an extension of the FCC authorization for the Leasing Arrangement, to the date that covers the Term of this Agreement.
- 3. Use of Channels.** During the Term, the School Board or Broward County, its sublessee, will have the exclusive right to use all of the capacity on the Channels for any lawful educational or non-profit purpose. The School Board or Broward County, at its own expense, shall provide: (a) all equipment as may be necessary or appropriate for the operation of the Channels; (b) administrative, legal, accounting, insurance, purchasing, clerical and such other general services as may be necessary to the administration of the Channels; (c) operational, engineering, maintenance, repair and such other technical services as may be necessary to the operation of the Channels and (d) any other assets that may be necessary in order to operate the Channels in accordance with applicable FCC regulations. The Parties acknowledge and agree that any equipment provided by the School Board or Broward County for the operation of the Channels, and any modifications, additions thereto or replacements thereof supplied by the School Board or Broward County, shall be owned or controlled by the School Board or Broward County.
- 4. Expenses.** During the Term, the School Board shall pay for all expenses and costs of its deployment and operation of the Channels, including, but not limited to, any and all federal, state and local taxes related to the equipment the School Board uses to operate the Channels, any taxes associated with providing service on the Channels, site rental, maintenance, utilities, customer billing and collections, regulatory fees associated with the units operating on the Channels, and all other recurring and nonrecurring costs or expenses incurred by the School Board with respect to the Channels.
- 5. Application for Approval.** Within ten (10) days following the Effective Date, the Parties will prepare and file with the FCC, with each Party bearing their respective expenses, all forms and related exhibits, certifications and other documents necessary to obtain the FCC's consent to this Agreement for the Leasing Arrangement and satisfy the FCC's requirements for long term *de facto* lease approval as set forth in 47 C.F.R. § 1.9030(e) ("**FCC Long Term Lease Application**"). The Parties will cooperate with each other, and do all things reasonably necessary to timely submit, prosecute and defend the FCC Long Term Lease Application.
- 6. Information Sharing.** The Parties will promptly provide each other with all correspondence, notices, and filings to or from the FCC that relate to the Channels, including all Transition correspondence. The Parties will promptly inform each other of any material FCC

rule violations with respect to the Channels about which either Party becomes aware after the Effective Date.

7. Assignment and Sublease. Except as provided in this Section 7, the School Board may not sell, assign, lease, or sublease any of its rights and/or obligations under this Agreement without the prior written consent of Sprint, such consent not to be unreasonably withheld, conditioned or delayed. The School Board may sublease any or all of the Channels to the School Board of Broward County, Florida ("**Broward County**") for any or all of the Term, and Sprint hereby consents to such sublease, subject to (i) compliance with applicable FCC rules, (ii) Broward County's agreement to use the Channel(s) only for lawful educational and non-profit purposes, and (iii) the terms and conditions of such sublease shall be subordinate to this Agreement. The Parties will cooperate in good faith in the preparation, submission and prosecution of any applications, amendments, petitions, requests for waiver, and other documents necessary to secure the FCC approval, if necessary, to permit Broward County's use of the Channel(s) including written consent, apart from this Agreement, to the Broward County sublease.

8. Termination. This Agreement will terminate automatically upon the earlier of: (a) a Final Order (as hereinafter defined) denying the FCC Long Term Lease Application or a Final Order from the FCC denying any request for extension of the Term; (b) a Final Order denying the renewal of the License or upon expiration of the License without a timely-filed request for renewal; (c) a Final Order revoking, terminating or canceling the License; or (d) the end of the Term as defined in Section 1. This Agreement may be terminated by either Party upon material breach of, or default under, any representation, warranty, covenant, agreement or obligation under this Agreement by the other Party; provided, however, that the breaching Party shall be provided with notice of such material breach or default by the non-breaching Party of the alleged grounds for the breach or default and allowed a thirty (30) day period for cure following such notice; and provided, further, that if the breaching party proceeds with reasonable diligence during such thirty (30) day period and is unable, because of circumstances beyond its control or because of the nature of the breach or default, to cure the breach or default within such applicable time period, the time for cure shall be extended, but in no event beyond one hundred eighty (180) days after receipt of notice from the non-breaching Party. The Parties will notify the FCC of the termination of this Agreement within ten (10) calendar days following the termination. "Final Order" means an order of any governmental entity having jurisdiction over the subject matter which is effective, which is not subject to any petition for reconsideration, petition to deny or informal objection, application for review, notice of appeal, petition for writ of *certiorari* or request for stay and for which the time for any party to seek such relief or for the governmental entity to grant such relief *sua sponte* has expired.

9. Effect of Termination. Upon the termination of this Agreement, each Party hereto shall pay all of its own fees and expenses related to this Agreement and the transactions contemplated herein, the School Board shall immediately vacate the Channels, and the Parties shall have no further liability hereunder except by reason of any breach of this Agreement or of any representation, warranty or covenant contained herein occurring prior to the date of such termination. Any termination of this Agreement, however effected, shall not release either Party from (a) any liability or other consequences arising from any breach or violation by any such Party of the terms of this Agreement prior to the effective time of such termination or (b) such

general or procedural provisions which may be relevant to any attempt to enforce the obligations or duties hereunder, which provisions shall survive any termination of this Agreement until such obligations or duties shall have been performed or discharged in full.

10. Confidentiality. The terms of this Agreement that are not otherwise required to be disclosed to the FCC will be governed by the terms of the Mutual Nondisclosure Agreement executed by the Parties on February 17, 2007; provided however, that Sprint acknowledges that it shall not be a violation of the terms of the Mutual Nondisclosure Agreement for the School Board and staff to discuss the terms of this Agreement and related matters openly at any public meetings held by the School Board.

11. Assumption of Liabilities. Neither Party is assuming or will be responsible for any of the other's liabilities or obligations except as required by the FCC or as specifically provided in this Agreement. Furthermore, neither Party shall be liable to the other Party for any special, incidental or consequential damages whether or not they were foreseeable or whether such Party has informed the other Party of their potential. Each Party shall each bear their own legal, accounting and brokerage expenses in connection with this Agreement.

12. FCC-MANDATED LEASING AND SECONDARY MARKET PROVISIONS

(a) Subject to obtaining FCC consent to the FCC Long Term Lease Application, the Parties expressly acknowledge that this Agreement is designed to transfer *de facto*, but not *de jure*, control of the Channels to the School Board in accordance with Sections 1.9010 and 1.9030 of FCC rules. The Parties acknowledge and agree that this Agreement: (i) does not and will not vest in the School Board, or constitute, create or have the effect of constituting or creating, *de jure* control, direct or indirect, over the Channels, which ownership or *de jure* control remains exclusively and at all times in Sprint; and (ii) does not and will not constitute the transfer, assignment, or disposition in any manner, voluntary or involuntary, directly or indirectly, of the Channels or the license associated with the Channels or the transfer of control of Sprint within the meaning of Section 310(d) of the Communications Act other than for spectrum leasing purposes. During the Term, the School Board will not take any action inconsistent with or contrary to Sprint's *de jure* control, as that term is construed by the FCC.

(b) Sprint and the School Board are familiar with FCC rules affecting spectrum leasing, the Communications Act of 1934, as amended ("**Communications Act**"), the Code of Federal Regulations, and all other applicable FCC rules, and agree to comply with all applicable laws. During the Term, the School Board is primarily responsible for complying with the Communications Act and applicable FCC rules with respect to the Channels, and Sprint is relieved of primary and direct responsibility for ensuring that operations on the Channels comply with the Communications Act and FCC rules. Such responsibility shall obligate the School Board to interact with the FCC regarding the License and Channels, take all actions necessary and appropriate to keep the License for the Channels in force during the Term, and cause the preparation and submission to the FCC or any other relevant authority all reports, applications, filings or other documents requested by the FCC or which are necessary to keep the License in force and in good standing during the Term (except for applications for renewal of the License, which must be filed by Sprint). The School Board shall not seek to alter or modify the License in

any way, unless Sprint consents to such alteration or modification. Any alteration or modification of the License undertaken pursuant to this Section will be completed by Sprint, and the School Board shall reimburse Sprint for reasonable expenses incurred in completing the alteration or modification. The School Board shall promptly provide Sprint with copies of all written communication and notify Sprint of all oral communication with the FCC relating directly to the License or the Channels (it being understood that the School Board's communication with the FCC relating to BRS or EBS licenses in general shall not be required to be provided to Sprint). Sprint shall remain responsible for (i) complying with FCC rules with regard to Sprint's use of other channels associated with WMI841, and (ii) complying with other FCC rules that specifically apply to licensees in long term *de facto* leasing arrangements. Sprint shall remain responsible for its own FCC rule violations and any ongoing violations or other egregious behavior pertaining to use of the Channels about which it is aware.

(c) The School Board shall maintain on file all information relating to the License and Channels that must be maintained pursuant to FCC rules;

(d) The School Board shall ensure that all applicable FCC regulations are met with respect to construction and operation of the Channels during the Term and of the system deploying the Channels;

(e) The School Board shall ensure compliance with all E911 obligations applicable to the School Board's operations under the License or the Channels, and the School Board shall be specifically liable to and indemnify Sprint for any and all costs to Sprint that are any way whatsoever related to the School Board's failure to meet such applicable E911 obligations;

(f) The School Board shall be subject to the same license use and frequency operation restrictions and rules under the License as Sprint, including, but not limited to restrictions and rules pertaining to operation, interference, and safety;

(g) The School Board shall demonstrate to the FCC that it meets all applicable eligibility and qualifications requirements at the time of submission of the FCC Long Term Lease Application and will remain in compliance with such requirements throughout the Term;

(h) Neither the School Board nor Sprint will represent itself as the legal representative of the other before the FCC or any entity, but will cooperate with each other with respect to FCC matters concerning the Channels.

(i) The School Board will comply with applicable secondary markets leasing rules, currently set forth in Section 1.9000 et seq. of FCC rules. The School Board acknowledges that this Agreement may be revoked, cancelled or terminated by Sprint or by the FCC if the School Board materially fails to comply with FCC rules or other applicable laws. If the FCC license for the Channels is revoked, cancelled, terminated or otherwise ceases to be in effect, the School Board understands that it will have no continuing authority or right to use the Channels unless otherwise authorized by the FCC.

(j) The Agreement is not an assignment, sale or transfer of the FCC license associated with the Channels. During the Term, the School Board will not hold itself out to the public as the holder of the license associated with the Channels.

(k) To the extent an assignment is allowed under Section 7 above, this Agreement and the Leasing Arrangement shall not be assigned to any entity that is ineligible or unqualified to enter into a spectrum leasing arrangement under the rules set forth in 47 CFR § 1.901, *et seq.* Sprint will not consent to an assignment of the Agreement or any capacity on the Channels unless such assignment complies with applicable FCC rules.

(l) Sprint and the School Board will each retain a copy of the Agreement and make it available upon request by the FCC in accordance with the confidentiality provisions of the Mutual Nondisclosure Agreement executed by the Parties on February 17, 2007.

13. Covenants. During the Term, the School Board (a) except as specifically permitted and referenced in this Agreement, shall not attempt to modify the License, enter into any agreement relating to the License, or encumber the License in any way; and (b) shall take no action contrary to those permitted, or fail to take any action required, by applicable rules and regulations of the FCC which would jeopardize the License or the rights of Sprint under the License or this Agreement. The School Board shall, within the time periods specified by the FCC or FCC rules that occur during the Term, construct and operate the Channels and will comply in all respects with any "substantial service" or other performance requirements imposed by the FCC or FCC rules that become due during the Term with respect to any of the Channels taking into effect any Final Order which extends such applicable time period and which is effective prior to the expiration of any applicable previously specified time period.

14. Representations and Warranties. Each Party represents and warrants to the other that:

(a) it is duly organized, validly existing and in good standing under the laws of the state of its formation, and has full power and authority to carry out all the transactions contemplated by this Agreement;

(b) it has taken all requisite organizational action to approve the execution, delivery and performance of this Agreement;

(c) this Agreement constitutes a legal, valid and binding obligation enforceable against such Party in accordance with its terms, subject only to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and general equitable principles regardless of whether such enforceability is considered in a proceeding at law or in equity; and

(d) neither the execution nor the delivery of this Agreement nor the performance of the transactions contemplated by it will conflict with, or result in any violation or default under, any term of the articles or certificate of incorporation, organizational documents, or by-laws of such Party, or any agreement, mortgage, indenture, license, permit, lease or other instrument, judgment, decree, order, law or regulation by which the Party or its assets are bound.

15. Indemnification.

(a) Sprint's Duty to Indemnify. Sprint will defend, indemnify and hold the School Board and each of its affiliates and their respective partners, members, officers, directors, employees, agents, representatives, successors and assigns harmless from and against any and all liabilities, losses, damages and costs, including reasonable attorney's fees, to the extent resulting from, arising out of, or in any way connected with claims by a third party directly resulting from any breach by Sprint of any warranty, representation, agreement or obligation contained in this Agreement.

(b) School Board's Duty to Indemnify. Subject to the limitations of Section 768.28 Florida Statutes, the School Board will defend, indemnify and hold Sprint and each of its affiliates and their respective partners, members, officers, directors, employees, agents, representatives, successors and assigns harmless from and against any and all liabilities, losses, damages and costs, including reasonable attorney's fees, to the extent resulting from, arising out of, or in any way connected with claims by a third party directly resulting from any breach by the School Board of any warranty, representation, agreement or obligation contained in this Agreement.

(c) Claims. In any circumstance in which a Party ("Indemnifying Party") is required by the provisions of this Agreement to indemnify the other Party ("Indemnified Party") with respect to any claim by a third party:

(i) the Indemnified Party will give prompt and reasonably detailed written notice of the circumstances to the Indemnifying Party (including, without limitation, the amount of such claim, or if the amount is not yet liquidated or otherwise determinable, the Indemnified Party's reasonable, good faith estimate thereof); provided, however, that no delay in giving notice will relieve the Indemnifying Party of its obligations unless the delay results in actual prejudice and then only to the extent of the actual prejudice;

(ii) the Indemnified Party will not make any admission or make or accept any offer of settlement or compromise or consent to entry of any judgment (other than a dismissal on the merits with prejudice without costs) or findings of fact without the prior written consent of the Indemnifying Party, which consent will not be unreasonably withheld, delayed or conditioned;

(iii) unless the counsel selected is reasonably objected to by the Indemnified Party, the Indemnifying Party will be entitled to direct and may assume the defense of any action and select counsel or additional co-counsel for such purpose, at its cost and expense;

(iv) after the Indemnifying Party assumes the defense of any action pursuant to clause (iii) of this Subsection, the Indemnifying Party will have no liability for any attorney's fees that are incurred by the Indemnified Party;

(v) the Indemnified Party will reasonably cooperate with the Indemnifying Party and counsel in the defense of any action, and will provide documents and information and access to witnesses upon reasonable request; and

(vi) after receiving the Indemnified Party's prior written consent, the Indemnifying Party may consent to the entry of a judgment or enter into any settlement, compromise or discharge of any action that by its terms (A) includes injunctive relief or other non-monetary relief that affects the Indemnified Party, (B) does not release the Indemnified Party completely in connection with the action, or (C) would otherwise adversely affect the Indemnified Party in any material respect.

(d) **Survival.** This Section 15 will survive for one (1) year following the expiration or termination of this Agreement; provided, however, that this Section 15 will not terminate with respect to any bona fide claim as to which the Party to be indemnified has, before the expiration or termination of this Agreement and of such one (1) year period, delivered proper notice in accordance with this Section 15.

16. Notices. Any notice required to be given by one Party to the other under this Agreement will be delivered in writing using facsimile, email, or a reliable national express overnight delivery service and will be effective upon receipt. All notices will be delivered to the Parties at the following addresses:

(a) **Sprint:**

Nextel Spectrum Acquisition Corp.
c/o Sprint Nextel Corporation
Legal Department
2001 Edmund Halley Drive
Reston, Virginia 20191
Attention: Spectrum Transactions
Telephone: 703-433-4000
Fax: 703-592-7370

With a copy to:

c/o Sprint Nextel Corporation
Attn: Vice President of Spectrum Development
2001 Edmund Halley Drive
Reston, Virginia 20191
Telephone: 703-433-4471
Fax: 703-433-4414

(b) **Licensee:**

The School District of Palm Beach County
Attn: Blair Littlejohn, III
3318 Forest Hill Boulevard
West Palm Beach, Florida 33406
Telephone: 561-357-7651

Fax: 561-357-7647
Email: littlejohn@palmbeach.k12.fl.us

With a copy to:

Dr. Judith Garcia
Manager
The Education Network
School District of Palm Beach County
505 Congress Avenue
Boynton Beach, FL 33426
Telephone: 561-738-2901
Fax: 561-738-2901
Email: garciaj@palmbeach.k12.fl.us

and

Edwin N. Lavergne
Fish & Richardson P.C.
1425 K Street, N.W.
11th Floor
Washington, DC 20005
Telephone: 202-626-6359
Fax: 202-783-2331
Email: lavergne@fr.com

Either Party may change its addresses for receipt of notice by giving notice of such change to the other Party as provided in this Section 16.

17. MISCELLANEOUS

(a) **Force Majeure.** Neither Party will be liable for any nonperformance under this Agreement due to causes beyond its reasonable control that could not have been reasonably anticipated by the non-performing Party and that cannot be reasonably avoided or overcome (each such cause being a "Force Majeure Event"); provided that the non-performing party gives the other Party prompt notice of such cause, and in any event, within fifteen (15) calendar days of its discovery and such nonperformance will be excused only during the period when the Force Majeure Event occurs, continues to exist and cannot be reasonably overcome.

(b) **Independent Parties.** None of the provisions of this Agreement will be deemed to constitute a partnership, joint venture, or any other such relationship between the Parties, and neither Party will have any authority to bind the other in any manner. Neither Party will hold itself out as having any right, authority or agency to act on behalf of the other Party in any capacity or in any manner, except as may be specifically authorized in this Agreement.

(c) **Specific Performance.** The Parties recognize that the subject matter of this Agreement is unique and that this Agreement may not provide an adequate remedy at law.

Accordingly, the Parties agree that each will be entitled to seek injunctive relief and specific enforcement of this Agreement in a court of equity without proof of specific monetary damages, but without waiving any right thereto, in the event of breach of this Agreement by the other Party, and each Party waives the defense in any action or proceeding brought to enforce this Agreement that there exists an adequate remedy at law.

(d) **Applicable Law.** The validity, construction and performance of this Agreement will be governed by and construed in accordance with FCC rules and the internal laws of the State of Florida without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any jurisdiction other than the State of Florida.

(e) **Severability.** If any provision of this Agreement is found to be illegal, invalid or unenforceable, such provision will be enforced to the maximum extent permissible so as to effect the intent of the Parties, and the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired, unless continued enforcement of the provisions frustrates the intent of the Parties.

(f) **No Waiver.** No delay or failure by either Party in exercising any right under this Agreement, and no partial or single exercise of that right, will constitute a waiver of that or any other right. Failure to enforce any right under this Agreement will not be deemed a waiver of future enforcement of that or any other right.

(g) **Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but which collectively will constitute one and the same instrument. Original signatures transmitted by facsimile or email will be effective to create such counterparts.

(h) **Headings.** The headings and captions used in this Agreement are for convenience only and are not to be considered in construing or interpreting this Agreement.

(i) **Construction.** The Parties and their respective counsel have negotiated this Agreement. This Agreement will be interpreted in accordance with its terms and without any strict construction in favor of or against either Party based on draftsmanship of the Agreement or otherwise.

(j) **Cooperation.** The Parties will take such further action and execute such further assurances, documents and certificates as either Party may reasonably request to effectuate the purposes of this Agreement.

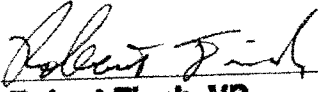
(k) **Amendment.** This Agreement may not be changed, modified or altered except by written agreement of the Parties.

(l) **Advice of Counsel.** The Parties represent and warrant that they have read and fully understood the terms of this Agreement, that the terms of this Agreement and its consequences have been completely explained to them by their respective legal counsel, and they are freely and voluntarily signing this Agreement.

[SIGNATURE PAGE FOLLOWS]

AGREED TO:

WBSWP Licensing Corporation,
a subsidiary of Sprint Nextel Corporation

By: 
Name: **Robert Finch, VP**
Title: **Authorized Signatory**

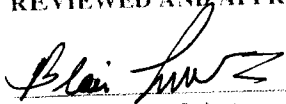
THE SCHOOL BOARD OF
PALM BEACH COUNTY, FLORIDA

By: _____
Name: William G. Graham, Chairman

By: _____
Name: Arthur C. Johnson, Ph.D., Superintendent

Board Approval Date: _____

REVIEWED AND APPROVED AS TO LEGAL FORM


School Board Attorney

Date: 5/21/07