



COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

March 1, 2014

Honorable Members
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

**Re: Erie Community College Request for Authorization to Terminate
Wireless Lease Agreement with Nextel WIP Lease Corp.**

Dear Honorable Legislators:

Please find attached a memorandum and resolution from Erie Community College seeking your Honorable Body's authorization to terminate a lease agreement with Nextel WIP Lease Corporation concerning a wireless telephone tower at ECC's South Campus.

If your Honorable Body requires further information or has any questions, please contact William Reuter, Chief Administrative and Financial Officer of Erie Community College.

Sincerely,

Mark C. Poloncarz, Esq.
Erie County Executive

MCP/mc
Enclosure

cc: Jack Quinn, President, Erie Community College

MEMORANDUM

To: Honorable Members of the Erie County Legislature
From: William D Reuter, Chief Administrative and Financial Officer – Erie
Community College
Re: Erie Community College Request for Authorization to Terminate Wireless
Lease Agreement with Nextel WIP Lease Corp.
Date: March 1, 2014

Summary

It is recommended that the Erie County Legislature authorize the County Executive to terminate an existing cell tower lease agreement with Nextel WIP Lease Corp. at Erie Community College, South Campus. The recent merger of Nextel and Sprint has resulted in the duplication of service capability in the local area and the decommissioning of leases by the merged company. The termination shall take place effective August 31, 2016 and Nextel shall pay Erie Community college \$7,250 as a termination fee in addition to rents due under the agreement through August 31, 2016. Nextel will remove its cables, antennae, radios and back up batteries from the cell tower.

Fiscal Implications

The existing lease with Nextel WIP Lease Corp. was for a term of five years with one five year renewal term, having commenced September 1, 2006, with rent of \$24,500.00 annually. Nextel will continue to make yearly rental payments through the end of the term, expiring on August 31, 2016.

Reasons For Recommendation

Nextel WIP Lease Corp. would like to terminate its South Campus cell tower lease with Erie County to eliminate duplicate service capability in the local area and has the right to do so as per the lease agreement with Erie County. Nextel has offered a \$7,250 termination fee to do so, and rents will continue to be paid annually as required by the agreement.

Background Information

In 1996 Erie County adopted its Policy and Procedures for Placing Commercial Antennas on County Properties in recognition of the expanding wireless communications industry. Under its policy and procedures, the County encouraged its departments and agencies to make available County Government buildings and lands for the citing of mobile services antennas, further stating that the re-use of existing towers and co-location of antennas on towers, County buildings or lands, is in the public interest and must be achieved whenever possible if the community is to avoid proliferation of tall communication towers. Industry consolidation has eliminated the need for this lease going forward.

Consequences of Negative Action

The lease agreement provides Nextel the opportunity to terminate the lease at August 31, 2016 at their sole determination. Nextel is simply exercising its right to do so. A negative action is of no consequence and would likely not result in any change to the decision to terminate made by Nextel.

Steps Following Approval

Certified copies of this resolution shall be forwarded to the County Executive, President of Erie Community College, the County Division of Budget, Management and Finance, the County Comptroller and the Department of Law.

**RESOLUTION SUBMITTED BY
ERIE COMMUNITY COLLEGE**

RE: Erie Community College Request for Authorization to Terminate Wireless Lease Agreement with Nextel WIP Lease Corp.

WHEREAS, Erie Community College has an existing agreement for the lease of space on the South Campus cell tower with Nextel WIP Lease Corp. for their purposes of transmission and reception of communication systems; and

WHEREAS, the merger of Sprint and Nextel has resulted in a duplication of service capability in the area such that Nextel wishes to terminate the Erie Community College South campus cell tower lease effective at 11:59 p.m. on August 31, 2016 as permitted by the agreement; and

WHEREAS, Nextel shall compensate Erie Community College with a one-time \$7,250 termination fee and remove its antennas, cables, radios and back-up batteries.

NOW THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby approves this termination agreement with Nextel WIP Lease Corp. for the lease of space at the Erie Community College South Campus Cell Tower; and be it further

RESOLVED, that a copy of this resolution be forwarded to the Erie County Executive, the President of Erie Community College, and the Chairman of the ECC Board of Trustees.