

RESOLUTION OF THE CITY COUNCIL

No. 369

Approved June 30, 1997

Resolution authorizing His Honor, the Mayor, to execute documents with Sprint Spectrum, L.P., relative to lease of a portion of the roof located at Hope High School on Hope Street in the City of Providence for a sum of twenty-eight hundred (\$2,800.00) dollars per month plus other terms and conditions as imposed by the Property Committee, the City Council and His Honor, the Mayor for a term of five (5) years, according to the terms and conditions of Exhibit A.

This lease is further conditioned upon construction being completed on or before the beginning of the school year, to the extent possible.

IN CITY COUNCIL
JUN 19 1997
READ AND PASSED
Emilio V. Fargnoli
PRES.
Michael L. Clement
CLERK

APPROVED
JUN 30 1997
Vincent A. Cianci
MAYOR

3 1991

THE COMMITTEE ON
CITY PROPERTY
Approves Passage of
The Within Resolution

Richard A. Perrin
JUN 3 1991 Clerk

Exhibit A*

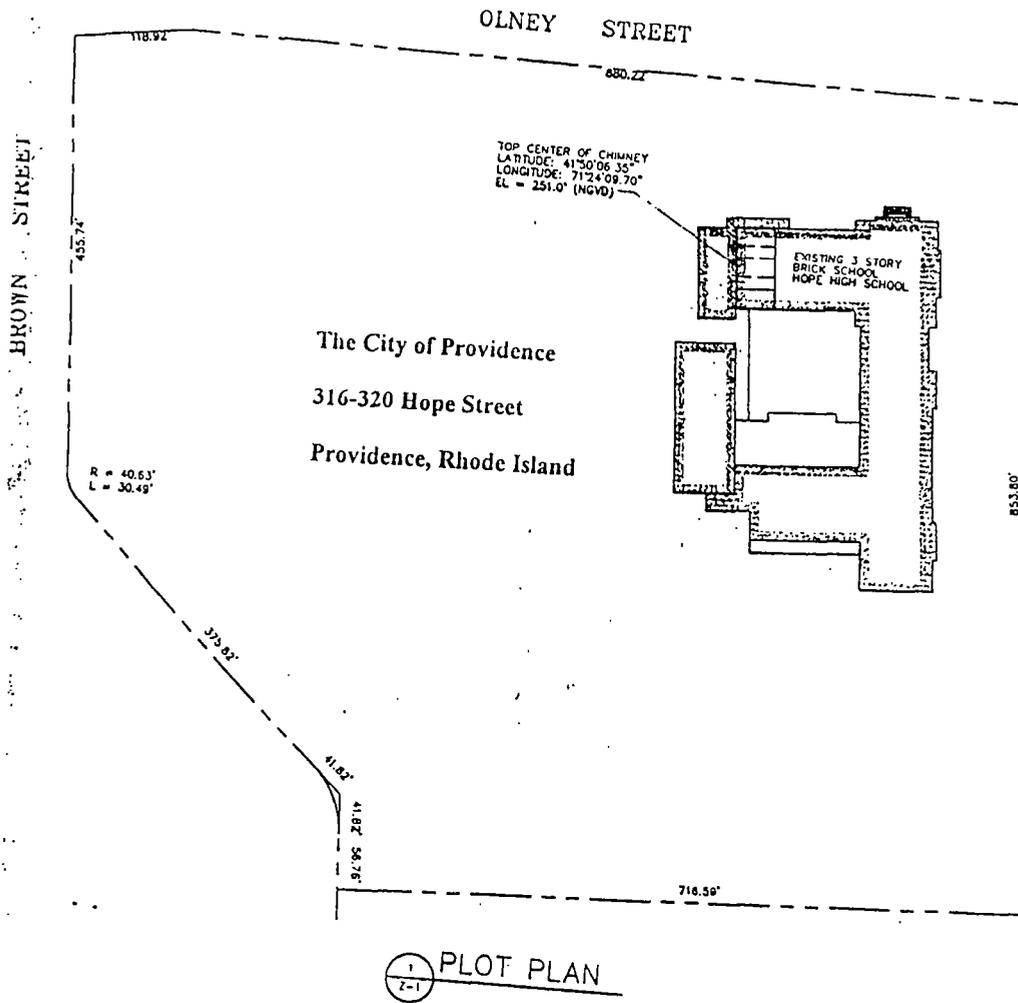
Site situated in the City of Providence, County of Providence, State of RI commonly described as follows:

For a more particular description of the Site see also Exhibit A1 attached hereto

Legal Description :

The site is known as 324 Hope Street. The site is also referred to as Lot 215 on the City of Providence Assessor's Map Number 9.

Sketch of Site:



Owner's Initials: _____

SSLP Initials: _____

Note: Owner and SSLP may, at SSLP's option, replace this Exhibit with an exhibit setting forth the legal description of the property on which the Site is located and/or an as-built drawing depicting the Site.

[Use this Exhibit A for PCS Site Agreement, Memorandum of PCS Site Agreement, Option Agreement and Memorandum of Option Agreement.]

1. Premises and Use. The City of Providence leases to Sprint Spectrum L.P., a Delaware limited partnership ("SSLP"), the site described below:

[Check appropriate box(es)]

- Land consisting of approximately _____ square feet upon which SSLP will construct its equipment base station and antenna structure;
- Building interior space consisting of approximately _____ square feet;
- Building exterior space for attachment of antennas;
- Building exterior space for placement of base station equipment;
- Tower antenna space between the ___ foot and ___ foot level on the Tower;
- Space required for cable runs to connect PCS equipment and antennas, in the location(s) shown on Exhibit A, together with a non-exclusive easement for reasonable access thereto and to the appropriate, in the discretion of SSLP, source of electric and telephone facilities (collectively, the "Site"). The Site will be used by SSLP for the purpose of installing, removing, replacing, modifying, maintaining and operating, at its expense, a personal communications service system facility ("PCS"), including, without limitation, antenna equipment, cable wiring, related fixtures and, if applicable to the Site, an antenna structure. SSLP will use the Site in a manner which will not unreasonably disturb the occupancy of the City of Providence's other tenants. SSLP will have access to the Site twenty-four (24) hours per day, seven (7) days per week.

2. Term. The term of this Agreement (the "Initial Term") is five years, commencing on the date ("Commencement Date") both SSLP and the City of Providence have executed this Agreement. This Agreement will be automatically renewed for four additional terms (each a "Renewal Term") of five years each, unless SSLP provides the City of Providence notice of intention not to renew not less than 90 days prior to the expiration of the Initial Term or any Renewal Term.

3. Rent. Until the earlier of (a) the date which is thirty (30) days after the issuance of a building permit for installation of the PCS, or (b) the first day of the month following commencement of physical preparation of the Site (hereinafter referred to as the "Rent Commencement Date"), the rent will be \$100.00, the receipt of which the City of Providence acknowledges. Beginning on the Rent Commencement Date, the City of Providence hereby directs SSLP, and SSLP hereby agrees: (i) to pay rent to the City of Providence in equal monthly installments of \$1,800.00 ("Monthly Payment 1") and to pay additional rent to the City of Providence in equal monthly installments of \$1,000.00 ("Monthly Payment 2", together with Monthly Payment 1 hereinafter referred to as the "Cash Payments"); and (ii) to credit the City of Providence's invoice(s) from SSLP for wireless communication services associated with the Telephones (defined below) a total aggregate amount not to exceed \$500.00 each calendar month (the "Monthly Credit", together with the Cash Payments hereinafter referred to as "Rent"), partial months to be pro rated, in advance. In addition to the first installment of monthly Rent due on the Rent Commencement Date, and as additional consideration for the execution of this Agreement, the City of Providence hereby directs SSLP, and SSLP hereby agrees, to pay to the City of Providence a one-time rental premium consisting of \$10,000.00 and to convey to the City of Providence twelve (12) Sprint PCS telephones (the "Telephones"). The Rent due hereunder will be increased on each anniversary of the Rent Commencement Date to an amount equal to the monthly installment of Rent payable during the preceding year increased by an amount equal to the change in the CPI during such year. "CPI" means the Consumer Price Index-U.S. City Averages for Urban Wage Earners and Clerical Workers (1982-84=100) published by the United States Department of Labor, Bureau of Labor Statistics (or a reasonably equivalent index if such index is discontinued). In no event will the amount of the monthly installment of Rent due hereunder following such adjustment be less than the amount of such installment during the preceding twelve (12) month period.

4. Title and Quiet Possession. The City of Providence represents and agrees (a) that it is the owner; (b) that it has the right to enter into this Agreement; (c) that the person signing this Agreement has the authority to sign; (d) that SSLP is entitled to access to the Site at all times and to the quiet possession of the Site throughout the Initial Term and each Renewal Term so long as SSLP is not in default beyond the expiration of any cure period; and (e) that the City of Providence will not have unsupervised access to the Site or to the PCS equipment.

5. Assignment/Subletting. SSLP will not assign or transfer this Agreement or sublet all or any portion of the Site without the prior written consent of the City of Providence; provided, however, SSLP may assign or sublet without the City of Providence's prior written consent to any party controlling, controlled by or under common control with SSLP or to any party which acquires substantially all of the assets of SSLP.

6. Notices. All notices must be in writing and are effective only when deposited in the U.S. mail, certified and postage prepaid, or when sent via

overnight delivery, to the address set forth below, or as otherwise required law.

7. Improvements. SSLP may, at its expense, make such improvements to the Site as it deems necessary from time to time for the operation of the PCS system. The City of Providence agrees to cooperate with SSLP with respect to obtaining any required zoning approvals for the Site and such improvements. Upon termination or expiration of this Agreement, SSLP will remove its equipment and improvements and will restore the Site substantially to the condition existing on the Commencement Date, except for ordinary wear and tear and casualty loss.

8. Compliance with Laws. The City of Providence represents that the City of Providence's property (including the Site), and all improvements located thereon, are in substantial compliance with building, life/safety, disability and other laws, codes and regulations of applicable governmental authority. SSLP will substantially comply with all applicable laws relating to possession and use of the Site.

9. Interference. SSLP will resolve technical interference problems with other equipment located at the Site on the Commencement Date or any equipment that becomes attached to the Site at any future date when SSLP desires to add additional equipment to the Site. Likewise, the City of Providence will not permit or suffer the installation of any future equipment which (a) results in technical interference problems with SSLP's then existing equipment or encroaches onto the Site.

10. Utilities. The City of Providence represents that utilities adequate for SSLP's use of the Site are available. SSLP will pay for all utilities used by it at the Site. The City of Providence will cooperate with SSLP in SSLP's efforts to obtain utilities from any location provided by the City of Providence or a servicing utility, including signing any easement or other instrument reasonably required by the utility company.

11. Termination. SSLP may terminate this Agreement at any time by notifying the City of Providence without further liability if SSLP does not obtain the permits or other approvals (collectively, "approval") required from a governmental authority or any easements required from any third party to operate the PCS system, or if any such approval is canceled, expires or withdrawn or terminated, or if the City of Providence fails to have proper ownership of the Site or authority to enter into this Agreement, or if SSLP, for any other reason, in its sole discretion, determines that it will be unable to use the Site. Upon termination, all prepaid rent will be retained by the City of Providence unless such termination is due to the City of Providence's failure of proper ownership or authority, or such termination is a result of the City of Providence's default.

12. Default. If either party is in default under this Agreement for a period of (a) 10 days following receipt of notice from the non-defaulting party with respect to a default which may be cured solely by the payment of money, or (b) 30 days following receipt of notice from the non-defaulting party with respect to a default which may not be cured solely by the payment of money, then, in either event, the non-defaulting party may pursue any remedies available to it against the defaulting party under applicable law, including, but not limited to, the right to terminate this Agreement. If the non-monetary default may not reasonably be cured within a 30 day period, this Agreement may not be terminated if the defaulting party commences action to cure the default within such 30 day period and proceeds with due diligence to fully cure the default.

13. Indemnity. SSLP agrees to indemnify and hold the City of Providence harmless from any and all costs (including reasonable attorneys' fees) for claims of liability or loss which arise out of the use and/or occupancy of the Site by SSLP. This indemnity does not apply to any claims arising from the sole negligence or intentional misconduct of the City of Providence.

14. Hazardous Substances. The City of Providence represents that it has no knowledge of any substance, chemical or waste, oil or hazardous material (collectively, "Hazardous Substance") on the Site or any adjacent real estate owned by the City of Providence (collectively, "Premises") that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. The City of Providence shall assess and remediate (if necessary) in compliance with all applicable laws and hereby indemnifies SSLP and holds SSLP harmless from any and all costs (including reasonable attorneys' fees) and claims of liability or loss which arise out of the presence of any Hazardous Substance on or migrating from the Premises at any time, other than those Hazardous Substances which were first released by SSLP upon the Premise. SSLP will not introduce or use any Hazardous Substance on the Site in violation of any applicable law. SSLP will assess and remediate (if necessary) in compliance with all applicable laws and hereby indemnifies the City of Providence and holds the City of Providence harmless from any and all costs (including reasonable attorneys' fees) and claims of liability or loss which arise out of the release of any Hazardous Substance by SSLP upon the Premise.

The foregoing indemnifications shall survive any termination of this Agreement and shall be in addition to any other rights which the City of Providence or SSLP may have under applicable law.

15. Subordination and Non-Disturbance. This Agreement is subordinate to any mortgage or deed of trust now of record against the Site. However, promptly after the Agreement is fully executed, the City of Providence will use diligent efforts to obtain a non-disturbance agreement reasonably acceptable to SSLP from the holder of any such mortgage or deed of trust.

16. Taxes. SSLP will be responsible for payment of all personal property or other taxes attributable to the improvements to the Site made by SSLP and/or to SSLP's use of the communications facility on the Site.

17. Insurance. SSLP will procure and maintain commercial general liability insurance, with limits of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage liability, with a certificate of insurance to be furnished to the City of Providence within 30 days of written request. Such policy will provide that cancellation will not occur without at least 15 days prior written notice to the City of Providence.

18. Maintenance. SSLP will be responsible for repairing and maintaining the PCS system and any other improvements installed by SSLP at the Site in a proper operating and reasonably safe condition.

19. Miscellaneous. (a) This Agreement applies to and binds the heirs, successors, executors, administrators and assigns of the parties to this Agreement; (b) This Agreement is governed by the laws of the State in which the Site is located; (c) If requested by SSLP, the City of Providence agrees promptly to execute and deliver to SSLP a recordable Memorandum of this Agreement in the form of Exhibit B; (d) This Agreement (including the Exhibits) constitutes the entire agreement between the parties and supersedes all prior written and verbal agreements, representations, promises or understandings between the parties. Any amendments to this Agreement must be in writing and executed by both parties; and (e) If any provision of this Agreement is invalid or unenforceable with respect to any party, the remainder of this Agreement or the application of such provision to persons other than those as to whom it is held invalid or unenforceable, will not be affected and each provision of this Agreement will be valid and enforceable to the fullest extent permitted by law.

The following Exhibits are attached to and made a part of this Agreement: Exhibit A, B and _____.

Attach Exhibit A - Site Description and Exhibit B - Memorandum of PCS Site Agreement

THE CITY OF PROVIDENCE

By: _____

Name: Vincent A. Cianci, Jr.

Its: Mayor

S.S./Tax No.: _____

Address: 100 Fountain Street

Providence, Rhode Island 02903

Date: _____

SPRINT SPECTRUM L.P., a Delaware limited partnership

By: _____

Name: John Williamson

Its: MTA Director

Address: 201 Edgewater Drive, Suite 225

Wakefield, MA 01880

Date: _____