

**GROUND LEASE**

This Lease is made and entered into as of the ~~28<sup>th</sup>~~<sup>APRIL</sup> day of ~~January~~, 2003, by and between City of McCleary, Washington, 100 S. 3<sup>rd</sup> St., McCleary, Washington 98557, hereinafter referred to as (hereinafter referred to as "Landlord"), and USCOC of Washington-4, Inc., a Delaware corporation, doing business as *U. S. Cellular®*, Attention: Real Estate, 8410 West Bryn Mawr Avenue, Suite 700, Chicago, Illinois 60631 (hereinafter referred to as "Tenant").

In consideration of the mutual promises, conditions, and other good and valuable consideration of the parties hereto, it is covenanted and agreed as follows:

1. Option to Lease. (a) Landlord hereby grants to Tenant an option ("the Option") to lease from Landlord the following described Leasehold Parcel:

Approximate dimensions: 70' by 70'

Approximate acreage: .057 acres

Location: a parcel of land of the above dimensions, located on the Landlord's property in the Northwest Quarter of Section 13, Township 18, Range 5 of the Willamette Meridian in the County of Gray's Harbor, State of Washington, parcel number 618051321004.

(collectively the "Leasehold Parcel") together with unrestricted access for Tenant's uses from the nearest public right-of-way along the Landlord's property. The exact location of the Leasehold Parcel will be determined by a legal survey.

(b) During the Option period and any extension thereof, and during the term of this Agreement, Tenant and its agents, engineers, surveyors and other representatives will have the right to enter upon the Leasehold Parcel to inspect, examine, conduct soil borings, drainage testing, material sampling, and other geological or engineering tests or studies of the Leasehold Parcel (collectively the "Tests"), to apply for and obtain licenses, permits, approvals, or other relief required of or deemed necessary or appropriate at Tenant's sole discretion for its use of the Premises and include without limitation applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits (collectively referred to as "Governmental Approvals"), and otherwise to do those things on or off the Leasehold Parcel that, in the opinion of Tenant, are necessary in Tenant's sole discretion to determine the physical condition of the Leasehold Parcel, the environmental history of the Leasehold Parcel, Landlord's title to the Leasehold Parcel, and the feasibility or suitability of the Leasehold Parcel for Tenant's Permitted Use, all at Tenant's expense. Tenant will not be liable to Landlord or any third party on account of any pre-existing defect or condition on or with respect to the Leasehold Parcel, whether or not such defect or condition is disclosed by Tenant's inspection. Any testing that would disturb

the surface of the site or impinge upon any improvements existing upon the site shall be submitted to Landlord in advance for approval. Such approval shall not be unreasonably withheld or delayed.

(c) In consideration of Landlord granting Tenant the Option, Tenant hereby agrees to pay Landlord the sum of \$ 800.00 upon execution of this Agreement. The Option will be for an initial term of TWELVE months (the "Initial Option Term") and may be renewed by Tenant for an additional six months upon written notification to Landlord and the payment of an additional \$800.00 no later than thirty (30) days prior to the expiration date of the Initial Option Term.

(d) During the Initial Option Term and any extension thereof, Tenant may exercise the Option by notifying Landlord in writing. If Tenant exercises the Option then Landlord leases the Leasehold Parcel to the Tenant subject to the following terms and conditions.

2. Grant of Easement Parcel(s). Landlord hereby grants to Tenant an Access easement 20 feet in width from the Leasehold Parcel to the nearest accessible public right-of-way and a Utility easement 10 feet in width to the nearest suitable utility company-approved service connection points. As further described in Exhibit "A" attached hereto and incorporated herein. Landlord agrees to make such direct grants of easement as the utility companies may require.

3. Grant of Easement Rights. To effect the purposes of this Lease, Landlord hereby grants to Tenant the following Easement Rights: (a) the right to clear vegetation, cut timber, and move earthen materials upon the Easement Parcels; (b) the right to improve an access road within the Access Easement Parcel; (c) the right to place utility lines and related infrastructure within the Utilities Easement Parcel; (d) the right to enter and temporarily rest upon Landlord's adjacent lands for the purposes of installing, repairing, replacing, and removing the leasehold improvements (the "Improvements") and any other personal property of Tenant upon the Leasehold Parcel and improving the Easement Parcels, including the right to bring in and use all necessary tools and machinery; and (e) the right of pedestrian and vehicular ingress and egress to and from the Leasehold Parcel at any time over and upon the Access Easement Parcel. The Leasehold Parcel and Easement Parcels are collectively referred to herein as the "Premises."

4. Survey / Site Plan. Tenant may, at Tenant's expense, cause a survey, site plan, and/or legal description of the Premises to be prepared, to further delineate and identify the land underlying the Premises, and to attach the same as exhibits to this Lease. In the exercise of its access rights, Tenant shall take such steps as to maintain control of access to the site, including closing and locking of any gates, which may be placed surrounding the site.

5. Use of the Premises. Tenant shall be entitled to use the Premises to construct, operate, modify as necessary, and maintain thereon a communications antenna tower (including aviation hazard lights when required), an access road, one or more equipment buildings, and a security fence, together with all necessary lines, anchors, connections, devices, and equipment for the transmission, reception, encryption, and translation of voice and data signals by means of radio frequency energy and landline carriage. Tenant shall have unlimited access to the site.

6. Term of Lease. In the event Tenant exercises the Option, the initial lease term will be five (5) years (the "Initial Term"), commencing upon the Commencement Date, as defined below. The Initial Term will terminate on the last day of the month in which the 5th annual anniversary of the Commencement Date occurred.

7. Option to Renew. The term of this lease shall automatically extend for up to three (3) additional terms of five (5) years each, upon a continuation of all the same provisions hereof, unless Tenant gives Landlord written notice of Tenant's intention to terminate the lease at least sixty (60) days before the expiration of the term then present at the time of such notice.

8. Option to Terminate. Tenant shall have the unilateral right to terminate this Lease at any time by giving written notice to Landlord of Tenant's exercise of this option and paying Landlord Six (6) months rent at the rate then in effect as liquidated damages.

9. Base Rent. Commencing on the date that Tenant commences construction (the "Commencement Date"), Tenant shall pay Base Rent to Landlord in the amount of \$800.00 per month, which shall be due when construction begins and then regularly thereafter on the first day of each calendar month. Landlord shall specify the name, address, and taxpayer identification number of a sole payee (or maximum two joint payees) who shall receive rent on behalf of the Landlord. Rent will be prorated for any partial month.

10. Adjusted Rent. On every one year anniversary of the commencement date of the term of this Lease, and throughout the duration hereof as renewed and extended, the Base Rent shall be adjusted in proportion to the cumulative change in the latest published Consumer Price Index compared to the same index as historically recorded for the month and year in which the term of this Lease commenced. "Consumer Price Index" shall mean the Consumer Price Index for All Urban Consumers, All Items, U.S. City Average, 1982-84 = 100, (U.S. Department of Labor, Bureau of Labor Statistics). If the said Index ceases to be published, then a reasonably comparable index shall be used.

11. Possession of Premises. Tenant shall not be entitled to take possession of the Premises and commence work to construct the Improvements until Tenant makes the first payment of rent.

12. Utilities. Tenant shall solely and independently be responsible for all costs of providing utilities to the Premises, including the separate metering, billing, and payment of utility services consumed by Tenant's operations.

13. Property Taxes.

(a) Tenant shall pay the personal property taxes levied against the Improvements and the real estate taxes levied against the land underlying the Leasehold Parcel. If the classification

of the land for tax purposes changes as a result of Tenant's commercial use, then Tenant shall be responsible for increases attributable to such commercial use. Increases in property values reflected in Landlord's property tax bill received after the first assessment date following Tenant's completion of construction shall be deemed to best indicate the impact attributable to Tenant.

(b) Although Tenant will be receiving a separate tax bill for its personal property, the parties assume that the Leasehold Parcel will not be eligible for a separate assessor's parcel number. Therefore, Tenant shall contribute to the payment of real estate taxes on the underlying land promptly following Landlord's demand therefor, provided that Tenant's proportionate share shall be computed as follows: Area of Leasehold Parcel, divided by area of total tract shown on tax bill, times total tax attributable to land only. The parties agree to cooperate in good faith to identify the portion of Landlord's property tax increases for which Tenant is fairly responsible, and Tenant agrees to subsidize such increases.

(c) Landlord's requests to Tenant for contribution or reimbursement of property taxes should be addressed to U. S. Cellular, P.O. Box 31369, Chicago, IL 60631-0369. A copy of Landlord's tax bill must accompany all requests. Tenant shall comply with requests for contribution by issuing a check for Tenant's proportionate share made payable to the tax collector. Tenant shall comply with requests for reimbursement by issuing a check to Landlord, provided that a paid tax receipt accompanies such request.

(d) Tenant shall have the right, but not the obligation, to pay Landlord's real estate taxes on the underlying land if the same become delinquent, to ensure that Tenant's leasehold interest does not become extinguished. Tenant shall be entitled to take a credit against rent for the portion of Landlord's taxes, which it was not Tenant's obligation to pay, as such amount shall reasonably be substantiated.

(e) Tenant agrees to pay any leasehold tax on the Leasehold Parcel imposed by Landlord.

14. Repairs. Tenant shall be responsible for all repairs of the Improvements, and may at its own expense alter or modify the Improvements to suit its needs consistent with the intended use of the Premises.

15. Mutual Indemnification

(a) Tenant agrees to indemnify, defend and hold Landlord harmless from and against any and all injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising directly out of the installation, use, maintenance, repair or removal of the Communication Facility or Tenant's breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Landlord, its employees, agents or independent contractors.

(b) Landlord agrees to indemnify, defend and hold Tenant harmless from and against any and all injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising directly out of the actions or failure to act of Landlord or its employees or agents, or Landlord's breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Tenant, its employees, agents or independent contractors.

(c) In the event of any failure or refusal to assume the duty of defense, the non-accepting party shall be liable to the tendering party for its reasonable legal fees and costs incurred in defending or resolving any such claim if a court of competent jurisdiction or arbitrator determines that the non-accepting party had a duty to accept the tender.

16. Insurance. Tenant shall continuously maintain in full force and effect a policy of commercial general liability insurance with limits of One Million Dollars covering Tenant's work and operations upon Landlord's lands. Landlord shall be named as an "Additional Insured".

17. Monetary Default. Tenant shall be in default of this Lease if Tenant fails to make a payment of rent when due and such failure continues for fifteen (15) days after Landlord notifies Tenant in writing of such failure.

18. Opportunity to Cure Non-Monetary Defaults. If Landlord or Tenant fails to comply with any non-monetary provision of this Lease which the other party claims to be a default hereof, the party making such claim shall serve written notice of such default upon the defaulting party, whereupon a grace period of 30 days shall commence to run during which the defaulting party shall undertake and diligently pursue a cure of the default. Such grace period shall automatically be extended for an additional 30 days, provided the defaulting party makes a good faith showing that efforts toward a cure are continuing.

19. Assignment of Lease by Tenant. Except as set forth hereafter, Tenant shall not assign or transfer its interest in this Lease without prior written approval of Landlord, which approval shall not be unreasonably withheld or delayed. Tenant may assign or otherwise transfer this Lease without Landlord's prior written consent to an entity controlling, controlled by, or under common control with Tenant or to an entity acquiring substantially all of Tenant's assets through merger, sale or otherwise. Any such assignment shall be subject to the terms and conditions of this Lease. Tenant shall notify Landlord in writing of the name and address of any assignee or collateral assignee.

20. Subleasing. Tenant shall have the unreserved and unqualified right to sublet tower, building, and ground space upon the Premises to subtenants without the necessity of obtaining Landlord's consent. Tenant agrees to provide Landlord with written notification of any sublease within 90 days of the execution of the sublease. Tenant agrees to pay Landlord twenty percent (20%) of all rents actually collected from subtenant and shall submit written proof the rent collected from the subtenant during the term of the sublease.

21. Execution of Other Instruments. Landlord agrees to execute, acknowledge, and deliver to Tenant other instruments respecting the Premises, as Tenant or Tenant's lender may reasonably request from time to time, provided that any such instruments are in furtherance of, and do not substantially expand, Tenant's rights and privileges herein established. Such instruments may include a memorandum of lease, which may be recorded in the county land records. Landlord also agrees to reasonably cooperate with Tenant's efforts to obtain all private and public consents related to Tenant's use of the Premises, as long as Landlord is not expected to bear the financial burden of any such efforts.

22. Removal of Improvements. The Improvements are agreed to be Tenant's personal property and shall never be considered fixtures to the real estate. Tenant shall at all times be authorized to remove the Improvements from the Premises. Upon the expiration or earlier termination of this Lease, Tenant shall, at Tenant's expense, remove any aboveground Improvements from the Premises and all remove, to a three-foot depth, all footings, foundations, and other below ground Improvements. Tenant shall also be entitled to abandon all underground utilities in place.

23. Quiet Enjoyment. Landlord covenants that Tenant shall have quiet and peaceable possession of the Premises throughout the Lease term as the same may be extended, and that Landlord will not intentionally disturb Tenant's enjoyment thereof as long as Tenant is not in default under this Lease.

24. Subordination. Tenant agrees to subordinate this Lease to any mortgage or trust deed which may hereafter be placed on the Premises, provided such mortgagee or trustee thereunder shall ensure to Tenant the right to possession of the Premises and other rights granted to Tenant herein so long as Tenant is not in default beyond any applicable grace or cure period, such assurance to be in form reasonably satisfactory to Tenant. If requested by Tenant, Landlord agrees to use Landlord's best efforts to assist Tenant in obtaining from any holder of a security interest in the land underlying the Premises a non-disturbance agreement in form reasonably satisfactory to Tenant.

25. Environmental Warranty. Landlord hereby represents and warrants to Tenant that Landlord has never generated, stored, handled, or disposed of any hazardous waste or hazardous substance upon the Leasehold Parcel, and that Landlord has no knowledge of such uses historically having been made of the Leasehold Parcel or such substances historically having been introduced thereon.

26. Environmental Compliance.

(a) Landlord and Tenant agree that each will be responsible for compliance with any and all environmental and industrial hygiene laws, including any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or

industrial hygiene condition or other matters as may now or at any time hereafter be in effect, that are now or were related to that party's activity conducted in or on the Property.

(b) Landlord and Tenant agree to hold harmless and indemnify the other from, and to assume all duties, responsibilities and liabilities at its sole cost and expense, (for payment of penalties, sanctions, forfeitures, losses, costs or damages) and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is related to (i) failure to comply with any environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or matters as may now or hereafter be in effect, or (ii) any environmental or industrial hygiene conditions that arise out of or are in any way related to the condition of the Property or activities conducted by the party thereon, unless the environmental conditions are caused by the other party.

(c) The indemnifications of this section specifically include reasonable costs, expenses and fees incurred in connection with any investigation of Property conditions or any clean-up, remediation, removal or restoration work required by any governmental authority. The provisions of this Paragraph 11 will survive the expiration or termination of this Agreement.

27. Notices. All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notice will be addressed as follows:

Tenant:  
U.S. Cellular  
Attention : Real Estate  
8410 West Bryn Mawr Avenue, Suite 700,  
Chicago, Illinois 60631

Landlord:  
City of McCleary  
Attention: Clerk-Treasurer  
100 S. 3<sup>rd</sup> Street, McCleary, Washington 98557:

Either party hereto may change the place for the giving of notice to it by thirty (30) days prior written notice to the other as provided herein.

28. Attorney's fees. In any action on this Lease at law or in equity, the prevailing party shall be entitled to recover the reasonable costs of its successful case, including reasonable attorney's fees and costs of appeal.

29. Binding Effect. All of the covenants, conditions, and provisions of this Lease shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

30. Entire Agreement. This Lease constitutes the entire agreement between the parties and supersedes any prior understandings or oral or written agreements between the parties respecting the within subject matter.

31. Modifications. This Lease may not be modified, except in writing signed by the party against whom such modification is sought to be enforced.

32. Non-binding until Full Execution. Both parties agree that this Lease is not binding on both parties until both parties execute the Lease.

33. Venue. This Lease shall be interpreted according to the laws of the State of Washington. Any litigation arising from this Lease, whether for breach, enforcement, or otherwise, shall be filed in the courts of Washington.

IN WITNESS WHEREOF, the parties hereto bind themselves to this Ground Lease as of the day and year first above written.

LANDLORD: City of McCleary

TENANT: USCOC of Washington-4 Inc.

By: Wallace Bentley

By: [Signature]

Printed: Wally Bentley

Printed: HICHEM GARNAOUI

Title: Mayor

Title: Vice President

FEIN: 91-6001459

STATE OF WASHINGTON

COUNTY OF GRAYS HARBOR

I, the undersigned, a notary public in and for the State and County aforesaid, do hereby certify that \_\_\_\_\_, \_\_\_\_\_, for the City of McCleary, Washington, known to me to be the same person whose name is subscribed to the foregoing Ground Lease, appeared before me this day in person and acknowledged that, pursuant to his authority, he signed the said Lease as his free and voluntary act on behalf of Gray's Harbor County, Washington, for the uses and purposes therein stated.

\_\_\_\_\_  
Notary Public for Washington  
My Commission Expires: \_\_\_\_\_

STATE OF ILLINOIS

COUNTY OF COOK

I, the undersigned, a notary public in and for the State and County aforesaid, do hereby certify that HICHEM GARNAOUI, VICE PRESIDENT, for U. S. Cellular, known to me to be the same person whose name is subscribed to the foregoing Ground Lease, appeared before me this day in person and acknowledged that, pursuant to his authority, he signed the said Lease as his free and voluntary act on behalf of Oregon RSA No. 3 Limited Partnership, for the uses and purposes therein stated.

Given under my hand and seal this 28<sup>th</sup> day of APRIL, 2003.

Donald L. Dicke  
\_\_\_\_\_  
Notary Public  
My commission expires 8/23/03

