

Site: USWW UTE PASS  
BUN: 877034

## FIRST AMENDMENT TO OPTION AND SITE LEASE AGREEMENT

**THIS FIRST AMENDMENT TO OPTION AND SITE LEASE AGREEMENT** (this "Amendment") is made effective this 23 day of AUGUST, 2017, by and between **DEAN SMISCHNY A/K/A G.D. SMISCHNY** ("Landlord"), having a mailing address of 825 5th Street SE, Pelican Rapids, Minnesota 56572, and **STC FIVE LLC**, a Delaware limited liability company ("Tenant"), by and through its Attorney-in-Fact, Global Signal Acquisitions II LLC, a Delaware limited liability company, with a mailing address of 2000 Corporate Drive, Canonsburg, Pennsylvania 15317.

### RECITALS:

WHEREAS, Landlord and Tenant are the current parties under that certain Option and Site Lease Agreement dated as of October 10, 1997 (the "Original Lease"), as supplemented by that certain Addendum to Option and Site Lease Agreement (the "Addendum"), as further supplemented by that certain Consent to Assignment (the "Consent"), originally by and between U S West Communications Wireless Group, a division of U S West Communications, Inc., a Colorado corporation ("USW"), as tenant, and Cecil Smischny and G.D. Smischny (together, the "Smischnys"), as landlord (collectively, the "Lease"), whereby USW leased certain real property from the Smischnys, together with access and utility easements, that is more particularly described in the Lease (the "Leased Premises"), which is located on a portion of Landlord's property that is more particularly described on Exhibit "A" ("Landlord's Property");

WHEREAS, the Lease was assigned by Qwest Wireless, L.L.C., a Delaware limited liability company, successor in interest to USW, to Sprint Spectrum L.P., a Delaware limited liability company ("SSLP"), pursuant to that certain Assignment and Assumption Agreement dated May 14, 2004, a memorandum of which was recorded on July 15, 2004, as Document No. 204118430 in the public records of El Paso County, Colorado (the "Public Records");

WHEREAS, Tenant is the successor in interest under the Lease to SSLP;

WHEREAS, Landlord is the fee owner of Landlord's Property pursuant to that certain Quit Claim Deed recorded on July 3, 2012, as Document No. 212075629 in the Public Records;

WHEREAS, the Lease as assigned is referred to herein as the "Agreement";

WHEREAS, the Leased Premises may be used for the purpose of installing, removing, replacing, modifying, maintaining and operating a communications facility, including, without limitation, antenna equipment, cable wiring, backup power sources (including generators and fuel storage tanks), related fixtures and, if applicable to the Leased Premises, an antenna structure;

WHEREAS, the Agreement has an original term (including all Renewal Terms) that will expire on March 13, 2022 (the "Original Term"), and Landlord and Tenant desire to amend the terms of the Agreement to provide for additional terms beyond the Original Term; and

WHEREAS, Landlord and Tenant desire to further amend the Agreement on the terms and conditions contained herein.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree as follows:

1. Defined Terms. Any capitalized terms not defined herein shall have the meanings ascribed to them in the Agreement.

2. Modified, Deleted or Replaced Sections or Sentences.

(a) Section 4 of the Original Lease (Term) and all provisions in the Addendum that modify Section 4 of the Original Lease are hereby deleted in their entirety and substituted with the following language in lieu thereof:

"4. Term. The initial term of the Lease shall be for a term of five (5) years (the "Lease Term"), and shall commence on March 14, 1997. Lessee shall have the right to renew the Lease Term for ten (10) additional, five (5) year terms (each, a "Renewal Term"). Each Renewal Term shall automatically renew unless Lessee provides Lessor with written notice of its intention not to renew the Lease at least one hundred eighty (180) days prior to the expiration of the current Renewal Term. The term of this Lease, including all Renewal Terms, if exercised, will expire on March 13, 2052."

(b) Section 5 of the Original Lease (Rent) and Section 2 of the Consent are hereby deleted in their entirety and substituted with the following language in lieu thereof:

"The parties hereby acknowledge and agree that Cricket Communications Inc. ("Cricket") is currently a subtenant upon the Site. For so long as Cricket occupies the Site as a subtenant, Lessee shall pay rent to Lessor as follows: Each month during the initial Lease Term Lessee shall pay [REDACTED] ("Lease Payment") to Lessor as rent. Rent for each Renewal Term shall be paid as follows:

|                              |                  |
|------------------------------|------------------|
| Renewal Term 1 – Years 6-10  | [REDACTED] month |
| Renewal Term 2 – Years 11-15 | [REDACTED] month |
| Renewal Term 3 – Years 16-20 | [REDACTED] month |

|                               |                   |
|-------------------------------|-------------------|
| Renewal Term 4 – Years 21-25  | [REDACTED] month  |
| Renewal Term 5 – Years 26-30  | [REDACTED] month  |
| Renewal Term 6 – Years 31-35  | [REDACTED] month  |
| Renewal Term 7 – Years 36-40  | [REDACTED] month  |
| Renewal Term 8 – Years 41-45  | [REDACTED] month  |
| Renewal Term 9 – Years 46-50  | [REDACTED] month  |
| Renewal Term 10 – Years 51-55 | [REDACTED] /month |

In the event that Cricket no longer occupies the Site as a subtenant, Lessee shall pay rent to Lessor as follows:

|                               |                  |
|-------------------------------|------------------|
| Renewal Term 4 – Years 21-25  | [REDACTED] month |
| Renewal Term 5 – Years 26-30  | [REDACTED] month |
| Renewal Term 6 – Years 31-35  | [REDACTED] month |
| Renewal Term 7 – Years 36-40  | [REDACTED] month |
| Renewal Term 8 – Years 41-45  | [REDACTED] month |
| Renewal Term 9 – Years 46-50  | [REDACTED] month |
| Renewal Term 10 – Years 51-55 | [REDACTED] month |

Rent shall be payable in advance to Lessor on or before the first day of each calendar month. In addition, Lessee shall pay, as additional rent, any increase in real property taxes levied against the Site, which are directly attributable to Lessee's use of the Site, and Lessor agrees to furnish proof of such increase to Lessee."

(c) Section 10 of the Original Lease (Assignment and Subleasing) and all provisions in the Addendum that modify Section 10 of the Original Lease, are hereby deleted in their entirety and substituted with the following language in lieu thereof:

"Lessee shall have the right to sublease or license use of the Site without the consent or approval of Lessor. Lessee and its sublessees and/or licensees have the right to modify, alter, add, replace, remove and maintain wireless communications facilities located within the Leased Premises without the consent or approval of Lessor. Lessee may assign this Lease without the approval or consent of Lessor, but will give notice to Lessor of any lease assignment, and all changes to the wireless communications facilities will comply with the provisions of the Lease."

3. Future Sublease Fee. If, after full execution of this Amendment, Tenant enters into any future sublease or license with a Broadband Tenant not already a subtenant on the Leased

Premises (each, a "Future Broadband Sublease"). Tenant shall pay to Landlord a monthly fee for such Future Broadband Sublease equal to [REDACTED] ("Future Broadband Sublease Fee"). The first payment of the Future Broadband Sublease Fee shall be due on the first day of the month following the commencement date of the applicable Future Broadband Sublease, and each subsequent payment shall be due on the first day of each month thereafter. Thereafter, the Future Broadband Sublease Fee shall escalate at the rate of [REDACTED] effective as of the first day of each Renewal Term. If any Future Broadband Sublease expires or terminates for any reason, Tenant shall no longer be obligated to pay a Future Broadband Sublease Fee for such Future Broadband Sublease. Notwithstanding anything in this Section to the contrary, Landlord shall not be entitled to a Future Broadband Sublease Fee for any sublease or license to any subtenant of Tenant or any successors and/or assignees of such subtenant who commenced use of the Leased Premises or executed a sublease or license prior to the effective date of this Amendment. As used herein, "Broadband Tenant" shall mean any subtenant which is a Commercial Mobile Radio Service ("CMRS") provider (as defined in 47 C.F.R. §20.3) engaged primarily in the business of providing wireless telephony services to its customers. In the event that wireless telephony services are provided by an alternate technology in the future, and a subtenant using such alternative technology collocates within the Leased Premises, this Section shall apply, and the Future Broadband Sublease Fee shall be paid to Landlord. Notwithstanding the foregoing, Tenant shall not pay the Future Broadband Sublease Fee for any of the following subtenant categories: government entities, public service providers, and two-way radio transmitters. The parties acknowledge that Tenant is contemplating a sublease or license of the Leased Premises to Verizon Wireless. Provided that Verizon Wireless does in fact install its equipment on the Leased Premises pursuant to a sublease or license agreement with Tenant, then Tenant will pay to Landlord the Future Broadband Sublease Fee in accordance with the terms of this Section. Verizon Wireless's rights and obligation under such sublease or license will be limited to those granted to Tenant under the Agreement.

4. Right of First Refusal. If Landlord receives an offer to purchase fee title, an easement, a lease, a license, or any other interest in the Leased Premises, or Landlord's interest in the Agreement, or an option for any of the foregoing, Landlord shall provide written notice to Tenant of said offer, and Tenant shall have a right of first refusal to acquire such interest on the same terms and conditions in the offer, excluding any terms or conditions which are (i) not imposed in good faith or (ii) directly or indirectly designed to defeat or undermine Tenant's possessory or economic interest in the Leased Premises. The right of first refusal under this Section shall not apply to offers that Landlord may receive from Landlord's spouse, parents, grandparents, siblings, children, grandchildren, spouses of any of the foregoing, or to a grantor trust of Landlord for the benefit of any of the foregoing. Landlord's notice shall include the prospective buyer's name, the purchase price and/or other consideration being offered, the other terms and conditions of the offer, the due diligence period, and the proposed closing date. If the Landlord's notice shall provide for a due diligence period of less than sixty (60) days, then the due diligence period shall be extended to be sixty (60) days from exercise of the right of first refusal and closing shall occur no earlier than fifteen (15) days thereafter. If Tenant does not exercise its right of first refusal by written notice to Landlord given within thirty (30) days, Landlord may convey the property as described in the Landlord's notice. If Tenant declines to exercise its right of first refusal, then the Agreement shall continue in full force and effect and Tenant's right of first refusal shall survive any such

conveyance. Tenant shall have the right, at its sole discretion, to assign the right of first refusal to any person or entity, either separate from an assignment of the Agreement or as part of an assignment of the Agreement. Such assignment may occur either prior to or after Tenant's receipt of Landlord's notice and the assignment shall be effective upon written notice to Landlord.

5. Governmental Approvals. If requested by Tenant, Landlord will execute, at Tenant's sole cost and expense, all documents required by any governmental authority in connection with any development of, or construction on, the Leased Premises, including documents necessary to petition the appropriate public bodies for certificates, permits, licenses and other approvals deemed necessary by Tenant in Tenant's absolute discretion to utilize the Leased Premises for the purpose of constructing, maintaining and operating communications facilities, including, without limitation, tower structures, antenna support structures, cabinets, meter boards, buildings, antennas, cables, equipment and uses incidental thereto. Landlord agrees to be named applicant if requested by Tenant. In furtherance of the foregoing, Landlord hereby appoints Tenant as Landlord's attorney-in-fact to execute all land use applications, permits, licenses and other approvals on Landlord's behalf.

6. Signing Bonus. In consideration of Landlord's execution of this Amendment, Tenant agrees to pay Landlord the sum of [REDACTED] as a one-time payment (the "Bonus"), payable within sixty (60) days after the full execution of this Amendment and the memorandum of amendment. In the event that this Amendment and any applicable memorandum of amendment are not executed (and notarized, where applicable) by both Landlord and Tenant for any reason, Tenant shall have no obligation to pay the Bonus to Landlord.

7. Notice. The parties agree and acknowledge that all notices provided to Tenant pursuant to the Agreement shall be sent to the following address:

STC Five LLC  
c/o Crown Castle USA Inc.  
Attn: Legal – Real Estate Department  
2000 Corporate Drive  
Canonsburg, Pennsylvania 15317

8. Representations, Warranties and Covenants of Landlord. Landlord represents, warrants and covenants to Tenant as follows:

(a) Landlord is duly authorized to and has the full power and authority to enter into this Amendment and to perform all of Landlord's obligations under the Agreement as amended hereby.

(b) Except as expressly identified in this Amendment, Landlord owns the Leased Premises free and clear of any mortgage, deed of trust, or other lien secured by any legal or beneficial interest in the Leased Premises, or any right of any individual, entity or governmental authority arising under an option, right of first refusal, lease, license, easement or other instrument

other than any rights of Tenant arising under the Agreement as amended hereby and the rights of utility providers under recorded easements.

(c) Upon Tenant's request, Landlord shall discharge and cause to be released (or, if approved by Tenant, subordinated to Tenant's rights under the Agreement as amended hereby) any mortgage, deed of trust, lien or other encumbrance that may now or hereafter exist against the Leased Premises.

(d) Upon Tenant's request, Landlord shall cure any defect in Landlord's title to the Leased Premises which in the reasonable opinion of Tenant has or may have an adverse effect on Tenant's use or possession of the Leased Premises.

(e) Tenant is not currently in default under the Agreement, and to Landlord's knowledge, no event or condition has occurred or presently exists which, with notice or the passage of time or both, would constitute a default by Tenant under the Agreement.

(f) Landlord agrees to execute and deliver such further documents and provide such further assurances as may be requested by Tenant to effect any release or cure referred to in this Section, carry out and evidence the full intent and purpose of the parties under the Agreement as amended hereby, and ensure Tenant's continuous and uninterrupted use, possession and quiet enjoyment of the Leased Premises under the Agreement as amended hereby.

9. Counterparts. This Amendment may be executed in multiple counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one and the same agreement.


10. Remainder of Agreement Unaffected. In all other respects, the remainder of the Agreement and all amendments thereto shall remain in full force and effect. Any portion of the Agreement and all amendments thereto that are inconsistent with this Amendment are hereby amended to be consistent.

11. Letter Agreement. This Amendment supersedes that certain Letter Agreement by and between Landlord, Cecil D. Smischny, and Tenant dated as of May 26, 2017 (the "May 2017 Letter Agreement"), and in the case of any conflict or inconsistency between the terms and conditions contained in the May 2017 Letter Agreement and the terms and conditions contained in this Amendment, the terms and conditions of this Amendment shall govern and control. In the event Landlord (as defined in this Amendment) includes any individual or entity that was not a party to the May 2017 Letter Agreement, such individual or entity agrees to be bound by the Landlord's (as defined in the May 2017 Letter Agreement) obligations, representations, and warranties set forth in the May 2017 Letter Agreement.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Amendment as of the date first written above.

**LANDLORD:**



**DEAN SMISCHNY A/K/A G.D. SMISCHNY**

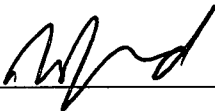
[TENANT'S SIGNATURE PAGE TO FOLLOW]



**TENANT:**

**STC FIVE LLC,**  
a Delaware limited liability company

By: Global Signal Acquisitions II LLC,  
a Delaware limited liability company,  
Its: Attorney-in-Fact

By:  \_\_\_\_\_

Name: Matthew Norwood  
Senior Transaction Manager

Title: \_\_\_\_\_

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF LANDLORD'S PROPERTY**

Land situated in El Paso County, Colorado, more particularly described as follows:

The following definitions will apply to this document:

"Section 9" shall mean Section 9, Township 13S, Range 68W of the 6th P.M., El Paso County Colorado.

"Survey" shall mean that certain Land Survey Plat of the Smischny properties in Sections 4 and 9, T 13S, R 68W of the 6th P.M. El Paso County, Colorado, Recorded with the El Paso County Clerk and Recording Dept. on 5 April 2004, in Book DPST of the County Surveyors Land Survey Plats/Right-of-way Surveys at Page 83040, 83090 under Reception Number 204900045, Survey performed by Teller County Land Surveying.

Parcel #1: NW 1/4 NW 1/4 NW 1/4 in Section 9, as shown on Page 1 of the above referenced Survey, minus the property recorded in Book 6510 Page 531 in the El Paso County Clerk and Recorder office that lies within NW 1/4 NW 1/4 NW 1/4 of Section 9.

Parcel #2: 5.2714+- Acres parcel in SW 1/4 NW 1/4 NW 1/4 of Section 9 as shown on Page 1 of the above referenced Survey, including the triangular piece that lies northeast of the northeastern boundary of the parcel recorded in Book 6510 Page 531 in the El Paso County Clerk and Recorder office having 0.0792+- Acres.

Parcel #3: The 1.1418+- Acres recorded in Book 1462 Pages 619-621 in the El Paso County Clerk and Recorder office and shown on Page 1 of the above referenced Survey.

Tax Parcel Identification Number: 83092-00-031

Common Address: Lucky 4 Terrace, Green Mountain Falls, Colorado 80819

### SITE SUBLEASE ACKNOWLEDGMENT

This Site Sublease Acknowledgment is made to the Master Co-Development Agreement between U S West Communications Wireless Group, a division of U S West Communications, Inc., a Colorado corporation ("Sublessor") and Sprint Spectrum L.P. ("Subtenant") dated March 14, 1997. Capitalized terms used in this SSA have the same meaning as such terms in the Master Co-Development Agreement unless otherwise indicated.

1. Site Name and Number: (Ute Pass) CSP-207
2. Site Address: Lucky Four Ranch, West Highway 24, Green Mountain Falls, Colorado
3. Site Legal Description: See Exhibit 1.
4. Site Latitude and Longitude: Latitude: 38 56' 19" Longitude: 105 00' 22"
5. Commencement Date: Upon commencement of construction.
6. Rent: Initial Term [REDACTED] per month:  
Renewal Term 1- Year 6-10 [REDACTED] Month  
Renewal Term 2- Year 11-15 [REDACTED] Month  
Renewal Term 3- Year 16-20 [REDACTED] Month  
Renewal Term 4- Year 21-25 [REDACTED] Month
7. Term: Five (5) years.
8. Renewal Options: Four (4) additional Terms of five (5) years each.
9. ☐ The Site is owned by Sublessor  
☒ The Site is leased by Sublessor. A copy of the Lease is attached to this SSA. See Exhibit 2.
10. Sublessor contact for emergencies: Regional Real Estate Manager [REDACTED] or after Business Hours [REDACTED]
11. Subtenant contact for emergencies: Property Manager [REDACTED] or after Business Hours [REDACTED]
12. Description of Facility: Exhibit 3.
13. Special provisions: Not applicable.
14. Site Access Provisions: Not applicable.

15. Special Site Conditions:

(a) Maintenance Provisions- Standard Site with tower maintenance.

**U S WEST Communications, Inc.,**  
a Colorado corporation

By: Shirley Jattler 10/17/97  
Its: Attorney-in-Fact

**US WEST Communications Wireless Group,**  
a division of US WEST Communications, Inc.

By: Michael J. [Signature]  
Its: FINANCE DIRECTOR

**SPRINT SPECTRUM L.P.,**  
a Delaware limited partnership

By: David L. Jones  
Its: Director, Engineering & Network Operations  
Name: David L. Jones

Site Name: Ute Pass

Site Number: CSP-207

### CONSENT TO ASSIGNMENT

This Consent to Assignment with respect to the Option and Site Lease Agreement dated August 26, 1997 is made this 10th day of October, 1997 by and between Cecil Smischny and G. D. Smischny ("Lessor") and U S WEST COMMUNICATIONS WIRELESS GROUP, a division of U S WEST Communications, Inc., a Colorado corporation ("Lessee").

### RECITALS:

- A. Lessor and Lessee are parties to that certain Option and Site Lease Agreement which is dated October 6, 1997 and which is referred to herein as the "Agreement".
- B. Lessee has requested Lessor's consent to permit Sprint Spectrum, L.P., a Delaware limited partnership ("Sublessee") to install communication transmitting and receiving antennas and related equipment on the same monopole which Lessee has the right to construct under the terms of the Agreement.
- C. Lessor is willing to consent to those additional antennas to be located on the monopole subject to the terms and conditions hereof.

Now, therefore, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

1. Lessor hereby consents to Lessee's subleasing of the Site to Sublessee for the express purpose of permitting Sublessee to install communications transmitting and receiving antennas on the monopole provided under the terms of the Agreement. Notwithstanding this consent to sublease, Lessee shall remain fully responsible and liable to Lessor under the terms of the Agreement for all obligations and liabilities of the Lessee thereunder, and shall indemnify Lessor against and hold Lessor harmless from any and all claims, actions, liabilities, losses or damages arising from or related to the negligent acts or omissions of Lessee's sublessees and Sublessee.
2. In the event U S WEST secures a Collocation Agreement with Sublessee, Section 5 of the Agreement, Rent, shall be amended, effective as of the date of fully-executed Collocation Agreement, to read as follows:

- (a) Each month during the Initial Lease Term, Lessee shall pay [REDACTED] ("Lease Payment") to Lessor as Rent. Said rent shall constitute rent payments from each carrier, i.e. [REDACTED] per month per carrier, with escalation increases to be applied equally for each carrier. Said rent shall be payable in advance to Lessor on or before the first day of each calendar month. Each additional Lease Renewal Term shall be paid as follows:

|                            |                  |
|----------------------------|------------------|
| Renewal Term 1- Year 6-10  | [REDACTED] Month |
| Renewal Term 2- Year 11-15 | [REDACTED] Month |
| Renewal Term 3- Year 16-20 | [REDACTED] Month |
| Renewal Term 4- Year 21-25 | [REDACTED] Month |

- (b) Lessee shall pay, as additional rent, any increase in real property taxes levied against the Site, which is directly attributable to Lessee's use of the Site, and Lessor agrees to furnish proof of such increase to Lessee.

Page 1 of 2 *[Signature]*

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OCT 10 '97 11:00

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PAGE. 11

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PAGE. 02

Site Name: Ute PassSite Number: CSP-207

(c) The Rent amounts herein are contingent upon both Lessee and Sublessee occupying the Site and shall be effective only for the period of time for which both parties maintain occupancy of the Site. In the event Sublessee does not occupy the Site for the full 25-year Lease Term, Rent shall revert to the terms set forth in Section 5 of the Option and Site Lease Agreement between Lessor and Lessee, and Addendum thereto, for the remaining period during which Lessee is the only occupant of the Site.

3. Exhibit A, is amended to be 20' x 40' area. A revised Exhibit A is attached hereto.
4. In the event the Agreement between Lessor and Lessee is terminated for any reason, Sublessee shall succeed to the interest of Lessee under the Agreement. Owner and Sublessee agree to be bound to one another under all of the terms, covenants and conditions of the Agreement; accordingly, from and after such event, Lessor and Sublessee shall have the same remedies against one another for the breach of any agreement contained in the Agreement as Lessee and Owner had before Sublessee succeeded to the interest of Lessee. Lessee shall not be liable to Lessor or Sublessee for any damages arising out of events occurring subsequent to the date Sublessee succeeds to the interest of Lessee under the Agreement.
5. Except as expressly modified herein, all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS THEREOF, the parties have executed this Consent to Assignment on the date first above written.

LESSOR:

Cecil Smischay

By: Cecil Smischay  
Its: \_\_\_\_\_

G. D. Smischay

By: G. D. Smischay  
Its: \_\_\_\_\_

LESSEE:

US WEST Communications, Inc.  
A Colorado corporationBy: Shirley Satter  
Its: Attorney-in-FactUS WEST Communications, Wireless Group  
a division of US WEST Communications, Inc.By: Michael J. ...  
Its: FIN. DIRECTORPage 2 of 2 OK

\*\* TOTAL PAGE. 012 \*\*

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OCT 10 '97 11:00

10/06/97 MON 11:27 [TX/RX NO 5451] @012

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PAGE. 03

REF: CSP-207C Legal description of lease parcel

The legal description of the lease parcel for PCS site CSP-207C is as follows:

A portion of the Northwest Quarter of Section 9, Township 13 South, Range 68 West of the 6<sup>th</sup> Principal Meridian, El Paso County, Colorado, described as follows, to-wit: From the Southwest corner of the Northwest Quarter of the said Section 9, run North 1590.6 feet on the West line of the said Northwest Quarter, thence angle right 90° 00' and run East 290.6 feet to the point of beginning; thence North 40.0 feet; thence East 20.0 feet; thence South 40.0 feet; thence West 20.0 feet to the point of beginning.

**EXHIBIT 1**

PAGE 002 0002

OPTION AND SITE LEASE AGREEMENT

THIS OPTION AND SITE LEASE AGREEMENT (this "Agreement") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 1997 ("Date of Agreement") by and between Cecil Smischay and G.D. Smischay, individuals, ("Lessor") and U S WEST COMMUNICATIONS WIRELESS GROUP, a division of U S WEST Communications, Inc., a Colorado corporation ("Lessee") whose address is 1999 Broadway, Tenth Floor, Denver, Colorado 80202.

WHEREAS, Lessor is the owner of certain real property located on Lucky Four Ranch, Green Mountain Falls, Colorado ("Property"); and

WHEREAS, Lessee desires to obtain an option on the Property for the purpose of occupying and installing its Communication Facilities as more specifically set forth below.

WHEREFORE, Lessor and Lessee agree as follows:

1. **Consideration.** Lessor for and in consideration of this Agreement and mutual considerations and the sum of \_\_\_\_\_ the receipt and sufficiency of which are hereby acknowledged, does hereby grant and convey unto Lessee, its successors, assigns and agents an Option to lease the Property for the Permitted Use as set forth in paragraph three below.

2. **Option.** The option to lease Lessor's Property may be exercised by Lessee at any time within the first 4 months of the Date of Agreement ("Option Period") by providing Lessor with written notice of Lessee's intent. Lessor agrees that Lessee may extend the Option Period by two additional months by providing Lessor with written notice prior to the expiration of the original Option Period and by paying Lessor, at the time Lessee requests the extension, a sum of \_\_\_\_\_.

3. **Permitted Use.** The location on Lessor's Property which Lessee is occupying and installing its facilities shall be referred to as the "site," more particularly described on Exhibit A.

a. Lessee shall have the right, at its expense, to install, construct, reconstruct and maintain on the Site communication facilities including, without limitation, radio and other storage structures and other improvements relating thereto (collectively the "Communication Facilities"). Lessee shall have the right to modify, supplement, replace, upgrade or relocate the Communication Facilities on the Site at any time during the term of the lease so long as said relocation, replacement or upgrade is made for the purpose of improving the operation of its Communication Facilities.

b. Lessee shall be entitled to reasonable access to the Site 24 hours a day, seven days per week, and shall have all additional rights of access, ingress and egress to and from each Site, provided, however, except in the case of an emergency, Lessee shall notify Lessor in advance of Lessee's proposed construction, maintenance or repair activities to be performed on the Site in order to coordinate said activities with Lessor's operations.

c. Lessee shall pay any incremental additional utility charges to the Site incurred as a result of Lessee's Permitted Use. Lessee shall have the right, at its expense, to install or improve utilities within or on the Property to service this Site.

4. **Term.** This Lease, if executed, shall be for a term of five years ("Lease Term"), and shall commence on the date that Lessee places its written notice to Lessor of its intent to exercise its right to lease the Property. Lessee shall have a right to renew the Lease Term for additional terms at five year terms each (each being a "Renewal Term"). Term will automatically renew unless Lessee notifies Lessor by written notice, return receipt requested, of Lessee's intent not to renew term.

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EXHIBIT 2

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5. Rent

a. Each month during the initial Lease Term Lessee shall pay "[REDACTED]" ("Lease Payment") to Lessor as rent. Said rent shall be payable upon commencement of this Lease. Each additional Lease Renewal Term shall be paid as follows:

|                             |                  |
|-----------------------------|------------------|
| Renewal Term 1 - Year 6-10  | [REDACTED] month |
| Renewal Term 2 - Year 11-15 | [REDACTED] month |
| Renewal Term 3 - Year 16-20 | [REDACTED] month |
| Renewal Term 4 - Year 21-25 | [REDACTED] month |

b. Lessee shall pay, as additional rent, any increase in real property taxes levied against the Site, which are directly attributable to Lessee's use of the Site, and Lessor agrees to furnish proof of such increase to Lessee.

6. Due Diligence. During the Option Period and any option extension, Lessee, its agents, engineers or contractors shall have the right to enter upon Lessor's Property to inspect, examine, sample and conduct all engineering tests or studies of the Site, to apply for and obtain all licenses and permits required for the Lessee's Permitted Use from all applicable governmental or regulatory entities, and otherwise do those things on the Site that, in the opinion of Lessee, are necessary to determine the physical condition of the Site, Lessor's title to the Site and the feasibility or suitability of the Site for Lessee's Permitted Use, all at Lessee's expense. Lessee shall not be liable to Lessor or any third party on account of any pre-existing defect or condition on or with respect to the Site, whether or not such defect or condition is disclosed by Lessee's inspection, although Lessee shall be responsible for any damage, loss or destruction to the Site as a result of the actions of its employees, representatives or agents during the due diligence activities.

7. Interference

a. Lessee shall not use the Site in any way that interferes with the existing use by (i) Lessor or (ii) tenants or licensees of Lessor holding rights to such Site on the date of this Agreement ("Existing Tenants").

b. Lessor agrees that it shall not use, nor shall it permit its tenants, lessees, employees, invitees or agents to use, any portion of the Site in any way which would interfere with the operation of Lessee, provided that continued use by Lessor or Existing Tenants in the same manner as existed at the time the Lease was executed shall not constitute interference with Lessee's operations.

8. Environmental Matters

a. Lessee will be solely responsible for and will defend, indemnify and hold Lessor, its agents and employees harmless from and against any and all direct claims, costs and liabilities, including reasonable attorneys' fees and costs, arising out of or in connection with the cleanup or restoration of the property associated with the Lessee's use of Hazardous Materials.

b. Lessor will be solely responsible for and will defend, indemnify and hold Lessee, its agents and employees harmless from and against any and all direct claims, costs and liabilities, including reasonable attorneys' fees and costs, arising out of or in connection with the removal, cleanup or restoration of the property with respect to Hazardous Materials from any and all sources other than those Hazardous Materials introduced to the property by Lessee.

c. "Hazardous Materials" means asbestos or any hazardous substance, waste or materials as defined in any federal, state or local environmental or safety law or regulation including, but not limited to, CERCLA.

Page 2 of 5 Civil Discovery  
*[Signature]*

MON 11:00 FAX 316 682 4807 KINKO'S  
d. The obligations of this Section 8 shall survive the expiration or other termination of this Agreement.

9. Insurance/Indemnification/Eminent Domain. Lessee shall maintain at its expense commercial general liability insurance covering actions by Lessee providing for a limit of not less than \$1,000,000.00 single limits, bodily injury and/or property damage combined, for damages arising out of bodily injuries to or death of all persons and for damages to or destruction of property, including the loss of use thereof. Coverage shall include independent contractor's protection, premises-operations, products/completed operations and contractual liability with respect to the liability assumed by Lessee hereunder. Lessor and Lessee shall look solely to insurance for loss due to any property damage which is covered by insurance and neither party's insurance company shall be subrogated to a claim against the other party. Each party shall indemnify and defend the other against loss from their negligent acts and the negligent acts of their employees, agents, licensees and invitees. The parties shall share in a condemnation award in proportion to their interest in the Property taken.

10. Assignment and Subleasing.

a. Upon Lessor's written consent, which shall not be unreasonably withheld, Lessee may assign this Lease, in part or in whole, including its right to renew, to any person or business entity which is licensed by the Federal Communications Commission.

b. Lessee may sublet and assign this Lease, or portion thereof, and its other rights hereunder to any person or business entity which is a parent, subsidiary or affiliate of Lessee without Lessor's consent.

c. Upon notification to Lessor of any assignment, Lessee shall be relieved of all performance, liabilities and obligations under this Option and Site Lease Agreement.

d. In the event Lessor elects to permit another communications user the right to use any of Lessor's Property, Lessor agrees to notify Lessee thirty (30) days prior to the issuance of such authority for the purpose of determining whether the third party communications user will interfere with Lessee's use or intended use of the Site. Should Lessee notify Lessor in writing that the third party communications user will interfere with Lessee's operations, then Lessor agrees not to permit the third party communications user the right to use the Site. Lessee's consent shall not be unreasonably withheld.

11. Termination. This Option and Site Lease Agreement may be terminated as follows:

a. By Lessor if Lessee fails to cure a default for payment of amounts due hereunder within thirty (30) days after Lessee's receipt of written notice of default from Lessor;

b. by the non-defaulting party if the other party defaults (other than a default described under Section 11(a) above) and fails to cure such default within sixty (60) days after written notice of such default is received by the defaulting party from the non-defaulting party; provided, however, that if such default is capable of being cured, the Lease may not be terminated so long as the defaulting party commences appropriate curative action within such sixty (60) day period and thereafter diligently prosecutes such cure to completion as promptly as possible;

c. by Lessee upon sixty (60) days prior written notice.

12. Successors and Assigns. This Agreement shall run with the Property and shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives and assigns.

13. Representation and Warranties. Each party represents and warrants to the other that (i) it has full right, power and authority to execute this Option and Site Lease Agreement and has the power to grant all rights hereunder; (ii) its execution and performance of this Agreement will not violate any laws, ordinances, covenants or the provisions of any mortgage, lease or other agreement binding on said party; and (iii) the execution and delivery

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of this Agreement, and the performance of its obligations hereunder, have been duly authorized by all necessary personnel or corporate officers and do not violate any provisions of law or the party's certificate of incorporation or bylaws or any other arrangement, provision of law or court order or decree.

14. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered, or mailed by certified mail, return receipt requested, to the following addresses:

If to Lessor, to:

Dean Smischny  
6621 S. High Street  
Littleton, CO 80121

With a copy to:

Cecil Smischny, P.O. Box 401 *CL*  
10005 Lucky Four Road  
Green Mountain Falls, CO 80819

If to Lessee, to:

U S WEST Communications, Inc.  
c/o U S WEST Business Resources, Inc.  
188 Inverness Drive West, Suite 420  
Englewood, Colorado 80112  
Attention: PSL Manager/PCS Real Estate

with a copy to:

U S WEST Communications Wireless Group  
12121 Grant Street, #201  
Thornton, Colorado 80241

Attention: Regional Real Estate Manager

15. Miscellaneous.

a. This Option and Site Lease Agreement shall constitute the entire agreement and understanding of the parties with respect to the Property that is the subject matter hereof and supersedes all offers, negotiations and other agreements with respect thereto. There are no representations or understandings of any kind not set forth herein. Any amendment to this Agreement must be in writing and executed by both parties.

b. Any claim, controversy or dispute arising out of this Agreement shall be settled by arbitration in accordance with the applicable rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The arbitration shall be conducted in the county where the Property is located. There shall be no discovery other than the exchange of information which is provided to the arbitrator by the parties. The arbitrator shall have the authority only to award compensatory damages and shall not have authority to award punitive damages or other noncompensatory damages; the parties hereby waive all rights to and claims for monetary awards other than compensatory damages.

c. Either party hereto that is represented in this transaction by a broker, agent or commission salesperson (a "Representative") shall be fully and exclusively responsible for the payment of any fee, commission or other compensation owing to such Representative, and shall indemnify and hold the other party harmless from

*Page 4/5 CL*

and against any claim to a fee, commission or other compensation asserted by such Representative, including reasonable attorneys' fees and costs incurred in defending such claim.

d. If any term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect.

e. By executing this Agreement, the parties are not establishing any joint undertaking, joint venture or partnership. Each party shall be deemed an independent contractor and shall act solely for its own account.

The parties have entered into this Agreement as of the date first stated above.

LESSOR:

By: 

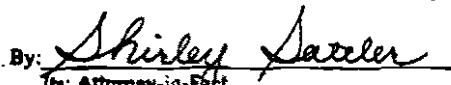
G. D. Smischay, SSN                     

By: 

Cecil Smischay, SSN                     

LESSEE:

U S WEST COMMUNICATIONS, INC.

By: 

Its: Attorney-in-Fact

U S WEST COMMUNICATIONS WIRELESS GROUP,  
a division of U S WEST COMMUNICATIONS, INC.

By: 

Its: V.P. OPERATIONS & ENGINEERING

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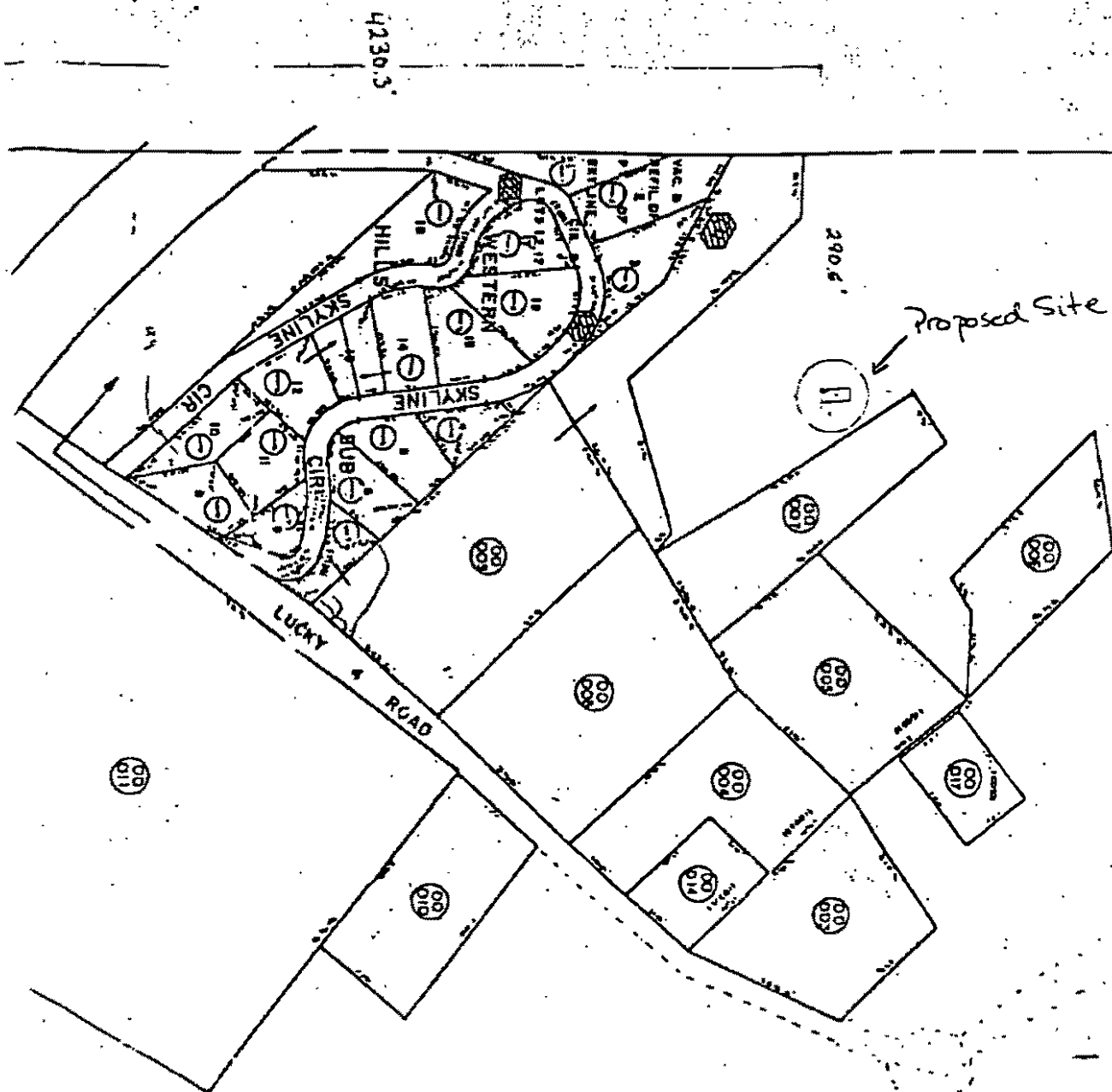
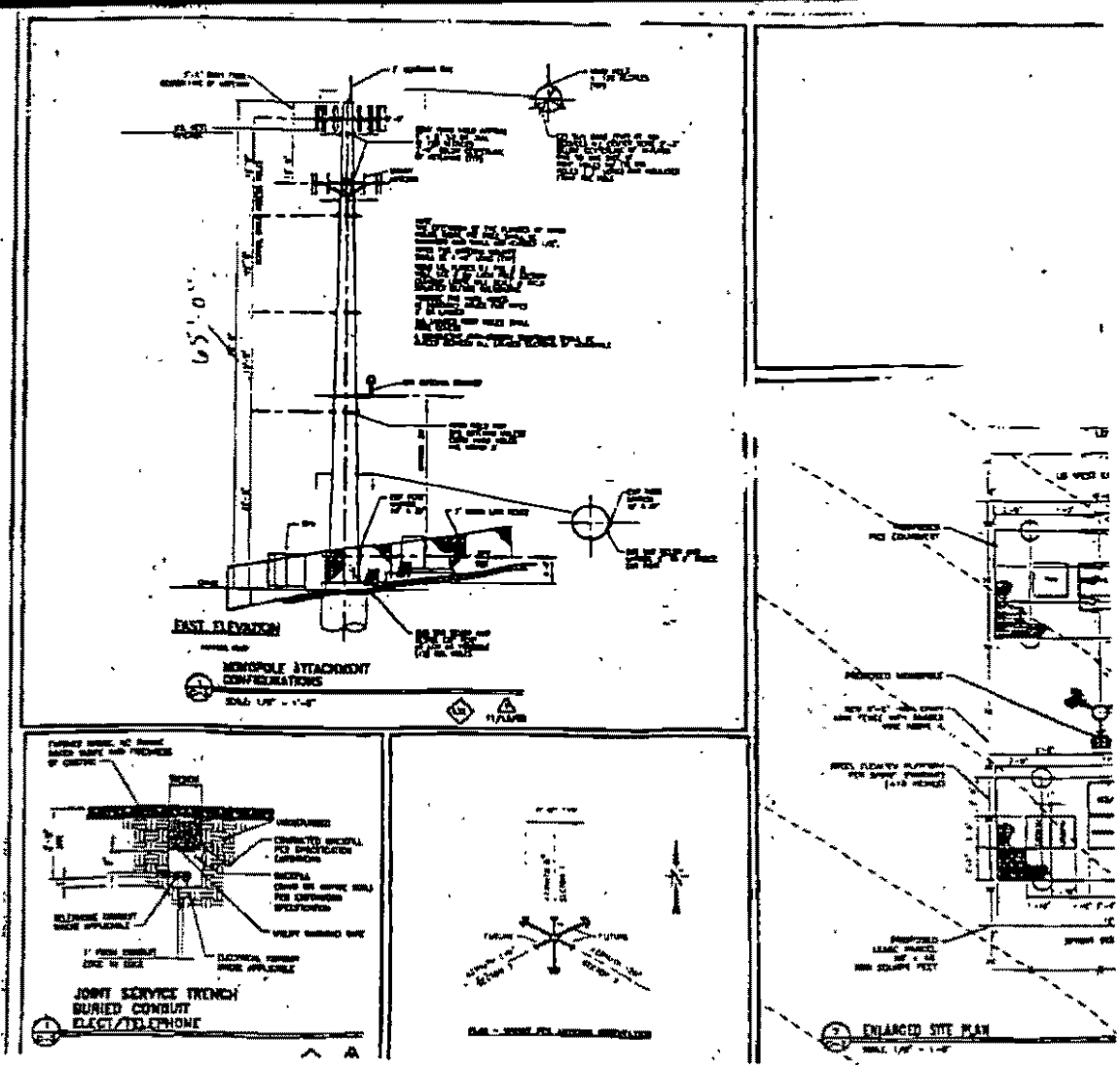


Exhibit A

FRONT A Page 1 of 21  
 Duplexed Site



### ADDENDUM TO OPTION AND SITE LEASE AGREEMENT

The attached Option and Site Lease Agreement made and entered into this 10<sup>th</sup> day of October, 1997, by and between Cecil Smischny and G. D. Smischny ("Lessor") and U S WEST Communications Wireless Group, a division of U S WEST Communications, Inc., a Colorado Corporation, ("Lessee") of which this Addendum is made a part, is hereby amended and supplemented as follows:

Witnesseth:

3. Permitted Use. [Add the following sentence to the end of subparagraph (a) as follows:] Lessee must provide to Lessor a detailed description of the elements contained within the "Communication Facilities" prior to their introduction onto the site. These elements must have the written consent of Lessor prior to construction of the Site. In addition, Lessee must submit for approval to Lessor any modification of the original design should Lessee decide to re-design the site after it is constructed. Lessor shall have a minimum of ten (10) days to review and approve said design modifications.
4. Term. [Add the following sentence to the end of paragraph 4.] Notification of the Lessee's intent not to renew term must be provided in writing 180 days prior to the end of term.
7. Interference. Add the following sentence to the end of subparagraph (b):} Upon termination of this lease for any reason by either party, the Lessee shall be responsible for the removal of all equipment associated with the "Communication Facilities" and the included easements, as well as complete restoration of the area to its near original condition. During this period of time, Lessee agrees to provide monetary compensation to the Lessor at the lease rate in effect at the time of termination until the Site is restored.
10. Assignment and Subleasing. [Add the following sentence to the end of subparagraph (a)]: The assignees of the lease are bound to all the conditions of the original lease holder.
10. Assignment and Subleasing. [Amend subparagraph (c) to read as follows]: Upon notification to Lessor of any assignment, Lessee shall be relieved of all performance, liabilities and obligations under this Option and Site Lease Agreement, concerning only the items assigned.
- 10 Assignment and Subleasing. [Add the following subparagraph (e)]:
  - (e) Lessee has indicated to Lessor, and as more particularly depicted on Exhibit A attached hereto, that another carrier, particularly Sprint Spectrum L.P., has intentions to collocate on Lessee's Site. It is understood and agreed to by the parties that when such collocation occurs, the rent on this Site payable to Lessor shall double in its amount, i.e., the initial lease rate shall change from [REDACTED] to [REDACTED] and so forth.
11. Termination. [Add the following sentence to the end of subparagraph (b)]: Upon default or termination of this lease by Lessee, Lessee shall be held liable for Lessee's portion of the rent [not Sprint Spectrum's portion] for the remainder of the year following termination of this lease.

*DS*  
*GR*

IN WITNESS WHEREOF, the parties hereto have executed this instrument by proper persons thereunto duly authorized so to do on the day and year first herein above written.

LESSOR:

Cecil Smischny  
Cecil Smischny

G. D. Smischny  
G. D. Smischny

LESSEE:

U S WEST COMMUNICATIONS, INC.

By: Shirley Sattler  
Its: Attorney-in-Fact

U S WEST COMMUNICATIONS WIRELESS  
GROUP, a division of U S WEST  
COMMUNICATIONS, INC.

By: John H. Sommer  
Its: V.P. OPERATIONS & ENGINEERING

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