

RESOLUTION NO. A-\_\_\_\_\_

SPECIAL PERMIT NO. 1903

1           WHEREAS, Qwest Wireless, L.L.C. has submitted an application  
 2 designated as Special Permit No. 1903 for authority to construct a 68' tall wireless  
 3 communications facility on property located at S. 37th and High Streets, and legally  
 4 described to wit:

5                   Lot 224, I.T. located in the Northeast Quarter of Section 6,  
 6                   Township 9 North, Range 7 East of the 6th P.M., Lancaster  
 7                   County, Nebraska;

8           WHEREAS, the Lincoln City-Lancaster County Planning Commission has  
 9 held a public hearing on said application and by Resolution No. PC-00667 has  
 10 conditionally approved Special Permit No. 1903; and

11           WHEREAS, Mohamed Dahab and Debra Dahab have appealed the  
 12 action of the Lincoln City-Lancaster County Planning Commission approving Special  
 13 Permit No. 1903; and

14           WHEREAS, the City Council of the City of Lincoln, Nebraska has held a  
 15 public hearing thereon and finds that the community as a whole, the surrounding  
 16 neighborhood, and the real property adjacent to the area included within the site plan  
 17 for this wireless communications facility will not be adversely affected by granting such  
 18 a permit; and

19           WHEREAS, said site plan together with the terms and conditions  
 20 hereinafter set forth are consistent with the comprehensive plan of the City of Lincoln  
 21 and with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the  
 22 public health, safety, and general welfare.

1                   NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of  
2 Lincoln, Nebraska:

3                   That the application of Qwest Wireless, L.L.C., hereinafter referred to as  
4 "Permittee", to construct a 68' tall wireless communications facility be and the same is  
5 hereby granted under the provisions of Section 27.63.720 of the Lincoln Municipal  
6 Code upon condition that construction of said wireless communications facility be  
7 constructed in strict compliance with said application, the site plan, and the following  
8 additional express terms, conditions, and requirements:

9                   1.       This permit approves a 68' tall wireless communications facility for  
10 a period of 15 years.

11                   2.       Before receiving building permits:

12                   a.       The Permittee must provide structural engineering  
13                   calculations for the monopole and the pier for its foundation  
14                   sealed by a Nebraska Professional Engineer.

15                   b.       Permittee must post a surety, approved by the City Attorney,  
16                   in the minimum amount necessary to guarantee the removal  
17                   of the facilities. The surety may not be revoked or  
18                   terminated during the term of the permit.

19                   3.       Before operating this personal wireless facility, all development and  
20 construction must conform to the approved plans.

21                   4.       The personal wireless service provider shall comply at all times with  
22 the current applicable FCC and FAA standards and regulations, and any of those of  
23 other agencies of the federal government with authority to regulate towers and  
24 antennas.

1           5.     The tower shall be inspected and maintained in accordance with  
2 the applicable standards for towers that are published by the Electronic Industries  
3 Association, as amended from time to time. At the time of this Special Permit, those  
4 standards were contained in the TIA/EIA-222-F. The facility operator shall conduct  
5 safety inspections in accordance with the EIA and FCC Standards and within 60 days of  
6 the inspection, file a report with the Department of Building and Safety.

7           6.     All privately-owned improvements, including landscaping, must be  
8 permanently maintained by the Permittee.

9           7.     The site plan approved by this permit shall be the basis for all  
10 interpretations of setbacks, yards, locations of buildings, location of parking and  
11 circulation elements, and similar matters.

12          8.     The terms, conditions, and requirements of this resolution shall be  
13 binding and obligatory upon the Permittee and the Permittee's successors and assigns.  
14 The building official shall report violations to the City Council which may revoke the  
15 special permit or take such other action as may be necessary to gain compliance.

16          9.     The Permittee shall, within 10 days of written demand, reimburse  
17 the City for all direct and indirect costs and expenses as provided in Section 27.68.090  
18 in connection with the issuance and review of this permit.

19          10.    As part of this approval, the Permittee agrees that the Permittee, its  
20 successors and assigns shall, at its sole cost and expense, indemnify and hold  
21 harmless the City, its officers, officials, boards, commissions, agents, representatives,  
22 and employees against any and all claims, suits, losses, expenses, causes of actions,  
23 proceedings, and judgments for damage arising out of, resulting from, or alleged to

1 arise out of or result from the construction, operation, repair, maintenance or removal of  
2 the provider's facilities. Indemnified expenses shall include, but not be limited to, all  
3 out-of-pocket expenses, such as costs or suit and defense and reasonable attorney  
4 fees, and shall also include the reasonable value of any services rendered by the City  
5 Attorney's office and any employees of the City and any consultants retained by the  
6 City.

7           11     The Permittee shall sign and return the City's letter of acceptance  
8 to the City Clerk within 30 days following approval of the special permit, provided,  
9 however, said 30-day period may be extended up to six months by administrative  
10 amendment. The City Clerk shall file a copy of the resolution approving the special  
11 permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be  
12 paid in advance by the Permittee.

Introduced by:

\_\_\_\_\_

Approved as to Form & Legality:

\_\_\_\_\_  
City Attorney

Staff Review Completed:

\_\_\_\_\_  
Administrative Assistant

Approved this \_\_\_ day of \_\_\_\_\_, 2001:

\_\_\_\_\_  
Mayor