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*Carol Adams*  
DODGE COUNTY  
REGISTER OF DEEDS  
COMPUTER GENERATED # 4050

**EASEMENT AGREEMENT**

THIS EASEMENT AGREEMENT (this "Agreement") is made this 9<sup>th</sup> day of August, 2001 (the "Effective Date") by City of Fremont, Nebraska, a municipal corporation, whose address is 400 E. Military Avenue, Fremont, Nebraska 68025, ("Grantor") for the benefit of Qwest Wireless, L.L.C., a Delaware limited liability company, whose address is 1860 Lincoln St., Fourteenth Floor, Denver, Colorado, 80295, and to its affiliates, parent corporations, subsidiaries, successors, assigns, licensees and agents ("Qwest").

**RECITALS**

A. Grantor is the fee owner of certain real property located in the City of Fremont, Dodge County, State of Nebraska, as more particularly described on Exhibit A attached hereto and incorporated herein by reference (the "Total Property").

B. Qwest has requested, and Grantor has agreed to grant and convey to Qwest, an easement over, across, under and through a portion of the Total Property more particularly described on Exhibit B attached hereto (the "Easement Tract"), together with access thereto, for the installation, construction, operation, maintenance, repair, replacement, or removal of telecommunications equipment, including, without limitation, poles, towers, cables, antennas, wires, switching equipment, and other telecommunications equipment of any nature, including any necessary appurtenances and electric and telephone utility service.

**WITNESSETH:**

NOW, THEREFORE, in consideration of [REDACTED] and the mutual promises hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**AGREEMENT**

1. Grant of Easement. Grantor hereby grants and conveys to Qwest an easement over, across, under, and through the Easement Tract, together with a non-exclusive easement and right of way over, across, under, and through those portions of the Total Property as are reasonably necessary for Qwest to access the Easement Tract (the "Access Route"), for the installation, construction, operation, maintenance, repair, reconstruction, replacement, or removal of telecommunications equipment, including, without limitation, poles, towers, cables, antennas, wires, switching equipment, and other telecommunications equipment of any nature, including any necessary appurtenances and electric and telephone utility service (collectively, the "Easement"). The Access Route is shown on Exhibit B attached hereto.

2. Term. The Easement will be effective for a period of fifteen (15) years commencing on the date this Agreement is recorded and expiring on the date that is fifteen (15) full calendar years after the date this Agreement is recorded.
3. Removal of Vegetation. Qwest has the right to cut, remove, dispose of and clear and keep cleared all trees, shrubs and other vegetation and obstructions on the Easement Tract or the Total Property that interferes with the operation of Qwest's equipment.
4. Measurable Interference. Grantor acknowledges that Qwest's use of the Easement Tract for its operation of telecommunications equipment requires no measurable electronic interference ("Measurable Interference") by third parties in the vicinity. Accordingly, Grantor will not construct or install nor permit the construction or installation by third parties of improvements or equipment on the Total Property or other land owned by Grantor located in the vicinity of the Easement Tract that interferes with the operation of Qwest's equipment. If Qwest discovers a Measurable Interference that affects the Easement granted herein, Qwest will give written notice to Grantor and Grantor will use its best efforts to cure the Measurable Interference. If Grantor fails to cure the Measurable Interference within 30 business days, Qwest may, at its option, terminate this Agreement, and hold Grantor responsible for all damages, including but not limited to relocation costs. If Qwest terminates this Agreement as set forth herein, then Grantor shall reimburse Qwest a proportionate amount of any prepaid consideration; such amount shall be determined by multiplying the total amount of consideration Qwest paid to Grantor by a fraction (the numerator of which is the number of months remaining in the term of this Agreement and the denominator of which is the total term of this Agreement, as expressed in months.)
5. Maintenance of Access Route. Grantor shall, at its sole cost and expense, maintain the Access Route in good condition and repair, including but not limited to paving, resurfacing, striping, snow removal, repair and maintenance of drainage from the Access Route, and the costs of any permits required by state, federal, or local laws or regulations to use and maintain the Access Route.
6. Grantor's Indemnity. Grantor shall indemnify, defend, and hold Qwest harmless from and against any and all claims, damages, costs or expenses arising out of or related to (i) the use of the Easement Tract and/or the Total Property by Grantor, its agents, employees, contractors, licensees, and invitees; (ii) Grantor's interference with Qwest's use and enjoyment of the Easement Tract and/or the Access Route; (iii) the maintenance or repair of the Access Route; (iv) any negligent or willful act or omission of Grantor; or (v) the failure of Grantor to comply with the terms of this Agreement.
7. Limitation on Liability. Notwithstanding anything to the contrary in this agreement, neither Grantor nor Qwest shall be liable to any person or entity for indirect, consequential or punitive damages for any matter arising hereunder.
8. Grantor's Retained Rights. Grantor reserves the right of ownership, use, and occupancy of the Easement Tract insofar as said ownership, use, and occupancy does not impair the rights granted to Qwest in this Agreement. However, Grantor shall not use or occupy the Easement Tract, the Access Route or the Total Property in any manner that impairs the rights granted to Qwest in this Agreement. Without limiting the foregoing, it is understood and agreed by Grantor that no building, structure, or other improvements of any kind may be placed by Grantor on the Easement Tract or the Access Route; provided, however, that Grantor may install asphalt paving and curbing, cement surface sidewalks and curbs, sod, and other landscaping on the Easement Tract or the Access Route (the "Improvements"), so long as the same do not interfere with Qwest's use of the Easement Tract or the Access Route. Any such Improvements on the Easement Tract or the Access Route shall not be installed until Grantor has obtained Grantee's prior written consent, which consent shall not be unreasonably withheld or delayed.
9. Ownership. Grantor warrants that it is the fee simple owner of the Easement Tract and that it has the right to grant the Easement herein and will warrant and defend title to the property against all claims.
10. Binding Effect. The rights, obligations, conditions and provisions of this Agreement will inure to the benefit of and be binding upon the heirs, executors, administrators, successors and assigns of the respective parties hereto. The Easement will run with the land as to all property benefited or burdened, including any division or partition of such property.

11. End of Term. Upon termination of this Agreement, Qwest shall, at its sole expense and upon written request from Grantor given within five days after the expiration of this Agreement, remove all of Qwest's telecommunications equipment and restore the Easement Tract to substantially its original condition. Notwithstanding the foregoing, Qwest may, at its option, remove any telecommunications equipment from the Easement Tract at any time prior to the termination of this Agreement.

12. Assignment. Qwest may assign, apportion, sell, convey or otherwise transfer all or any part of this Agreement and the Easement granted herein to any Affiliate (as defined below), without Grantor's approval. As used herein, "Affiliate" means any corporation or entity which controls, is controlled by, or is under common control with, Qwest, or any corporation or entity which results from a merger or consolidation with Qwest or with any entity that controls Qwest. No transfer or assignment of stock of Qwest, or any controlling interest in Qwest, whether by sale, merger, exchange or other means, shall constitute an assignment of this

13. Dispute. Any claim, controversy or dispute between the parties will be resolved by binding arbitration in accordance with the Federal Arbitration Act, 9 U.S.C. Sections 1-16, not state law. The arbitration will be conducted by a retired judge or practicing attorney under the rules of the American Arbitration Association. The arbitrator's decision will be final and may be entered in any court having jurisdiction. Each party is responsible for its own costs. The arbitration will be conducted in the county where the Easement Tract is located.

14. FCC Rules. Grantor acknowledges that Qwest, as a licensee under the rules and regulations of the Federal Communications Commission, is subject to certain federal requirements. Grantor will cooperate in good faith with Qwest in its efforts to comply with applicable federal requirements.

15. Relinquishment. In the event that Qwest, in its sole discretion, determines that QWEST no longer needs the Easement, Qwest may terminate this Agreement upon written notice to Grantor. Upon termination of this Agreement, the parties will be released from all duties, obligations, liabilities and responsibilities under this Agreement, except for those obligations which, by their terms, survive the termination of this Agreement.

16. Applicable Law. This Agreement shall be interpreted and enforced according to the laws of the state in which the Easement Tract is located.

17. Environmental. Grantor warrants and represents that, to its actual knowledge, neither the Total Property nor the Easement Tract contains any Hazardous Materials in any quantity that violates environmental law. Grantor will not use or conduct operations on or at the Easement Tract or the Total Property, or manufacture, store, sell, use, dispose of, release, or discharge Hazardous Materials on or at the Easement Tract or the Total Property, in any manner which violates environmental law or which causes there to be any liability under environmental law. Grantor will indemnify and hold Qwest harmless from and against any and all liability, claims, suits, actions, proceedings, damages, costs, and expenses, including, without limitation, attorneys' fees and costs, imposed upon or incurred by Qwest arising out of or in connection with a misrepresentation by Grantor of Grantor's representation set forth in this section, or a breach of the provisions of this section. "Hazardous Materials" means asbestos or any hazardous substance, waste or materials defined in any federal, state or local environmental or safety law or regulation including, but not limited to, CERCLA. Qwest will be solely responsible for and will defend, indemnify and hold Grantor, 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 Easement Tract or the Total Property associated with Qwest's use of Hazardous Materials on, at or under the Easement Tract or the Total Property. The obligations of this Section will survive the termination of this Agreement.

18. Condemnation. In the event of any exercise of eminent domain or condemnation with respect to the Easement Tract or the access route thereto, Grantor shall be entitled to receive the total award paid or payable as a result of such taking attributable to the value of the portion of the Easement Tract or the Total Property so taken. Notwithstanding the foregoing, Qwest shall be entitled to any separate award paid or payable to Qwest that is attributable to the value of the Easement, the value of the unexpired term of this Agreement, and moving expenses incurred as a result of such taking.

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above set forth.

GRANTOR:

City of Fremont, Nebraska  
a municipal corporation

By: [Signature]  
Name: Donald B. Edwards  
Its: Mayor

Tax ID: 97-6006192

STATE OF Nebraska )  
COUNTY OF Dodge ) ss.

The foregoing instrument was acknowledged before me this 21<sup>st</sup> of June, 2001, by Donald B. Edwards as the Mayor of City of Fremont, NE.

WITNESS my hand and official seal.

My commission expires: 5-30-02



[Signature]  
Notary Public

32796

**EXHIBIT A**

**Legal Description of the Total Property**

**LEGAL DESCRIPTION PARENT PARCEL:**

A part of Tax Lot 119, located in the Northeast Quarter of the Northwest Quarter of Section 24, Township 17 North, Range 8 East, of the 6<sup>th</sup> Principal Meridian, as recorded in Deed Book 139, at Page 307, in the City of Fremont, Dodge County, Nebraska.

**PID (Property Identification Number):** Tax- exempt government owned property.

**Also known as:** Memorial Field, 1600 E. Military Avenue, Fremont, Nebraska 68025

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**Exhibit B****Site Description****Legal Description Lease Site (Easement Tract):**

That part of Tax Lot 119, in the Northeast Quarter of the Northwest Quarter of Section 24, Township 17 North, Range 8 East, of the Principal Meridian, as recorded in Deed Book 139, at Page 307, in the City of Fremont, Dodge County, Nebraska, being more particularly described as follows:

Referring to a point of intersection of the centerline of Lincoln Avenue and 9<sup>th</sup> Street, a PK nail found; thence southerly S 00°11'47" W, on the centerline of Lincoln Avenue, 129.00 feet; thence easterly N 89° 58'59" E, 691.54 feet; thence southerly S 00°01'01" E, 58.12 feet to the Point of Beginning for the described Lease Site; thence easterly S 81°34'08" E, 20.00 feet; thence southerly S 08°25'52" W, 15.00 feet; thence westerly N 81°34'08" W, 20.00 feet; thence northerly N 08°25'52" E, 15.00 feet, to the Point of Beginning for the described Lease Site.

Containing a total calculated area of 300 sq. ft., more or less.

**Legal Description Access Easement:**

An Access Easement 12 feet in width, located in that part of Tax Lot 119, in the Northeast Quarter of the Northwest Quarter of Section 24, Township 17 North, Range 8 East, of the 6<sup>th</sup> Principal Meridian, as recorded in Deed Book 139, at Page 307, in the City of Fremont, Dodge County, Nebraska, and the Southeast Quarter of the Southwest Quarter of Section 13, Township 17 North, Range 8 East of the 6<sup>th</sup> Principal Meridian, Dodge County, Nebraska, the centerline being more particularly described as follows:

Referring to the Northeast corner of said Lease Site; thence easterly S 81°34'08" E, 6.00 feet, to the Point of Beginning for the centerline of the described easement; thence northerly N 09°28'42" E, 34.44 feet; thence westerly N 80°40'07" W, 678.89 feet, to a point on the easterly Right-of-Way line of Lincoln Avenue, said point being the Point of Termination for the centerline of the described easement.

**Legal Description Utility Easement:**

Two Utility Easements 8 feet in width, located in that part of Tax Lot 119, in the Northeast Quarter of the Northwest Quarter of Section 24, Township 17 North, Range 8 East, of the 6<sup>th</sup> Principal Meridian, as recorded in Deed Book 139, at Page 307, in the City of Fremont, Dodge County, Nebraska, and the Southeast Quarter of the Southwest Quarter of Section 13, Township 17 North Range 8 East of the 6<sup>th</sup> Principal Meridian, Dodge County, Nebraska, the centerline being more particularly described as follows:

Beginning at the Northwest corner of said lease Site; thence northwesterly N 41°11'48" W, 128.68 feet, to the Point of Termination for the centerline of the described easement,

and

Referring to the Southeast corner of said Lease Site; thence westerly N 81°34'08" W, 8.28 feet to the Point of Beginning for the centerline of the described easement; thence southerly S 08°25'52" W, 8.31 feet to the Point of Termination for the centerline of the described easement.

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REV	DATE	BY	CHK	DESCRIPTION

Exhibit B

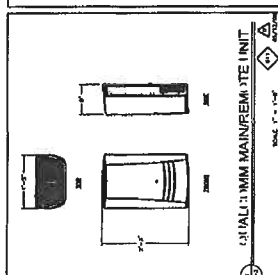
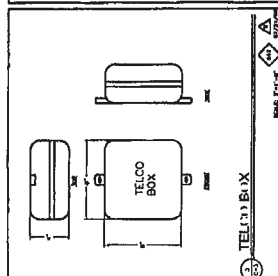
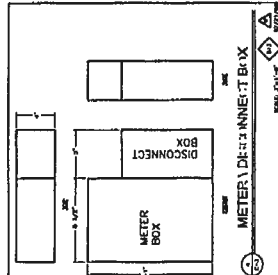


NO. 1242	DATE	BY	CHK	DESCRIPTION

TITLE: QWEST WIRELESS FIELD  
 DATE: 04-11-05  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]  
 PROJECT: [Name]  
 SHEET NO.: [Number]  
 TOTAL SHEETS: [Number]

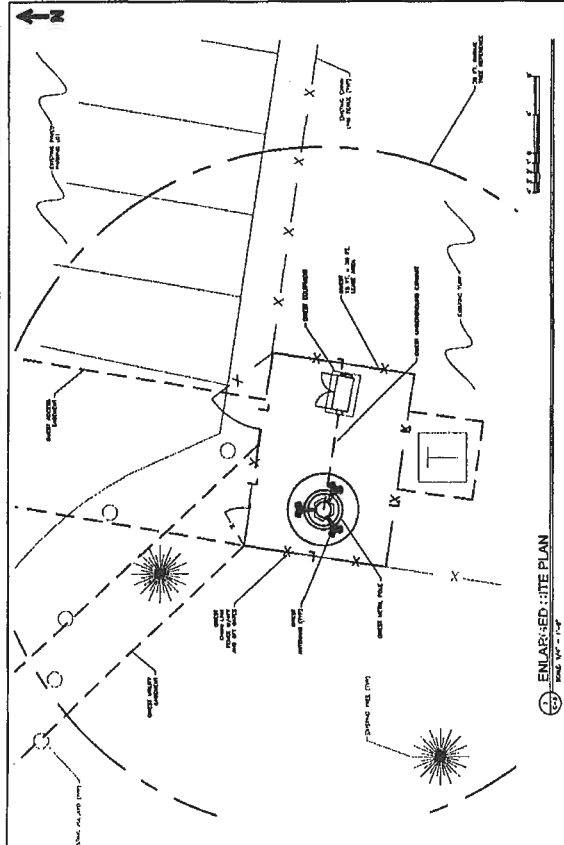
DETAILS &  
 ENLARGED SITE PLAN

SCALE: 1" = 400'  
 DRAWN: [Date]  
 CHECKED: [Date]



**NOTES:**

1. ALL WORK SHALL BE INSTALLED IN ACCORDANCE WITH THE QWEST WIRELESS STANDARDS AND SPECIFICATIONS.
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AND STATE AUTHORITIES.
3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AND STATE AUTHORITIES.
4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AND STATE AUTHORITIES.
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10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AND STATE AUTHORITIES.




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ADDENDUM TO EASEMENT AGREEMENT

THE ATTACHED EASEMENT AGREEMENT ("Agreement) made and entered into this 9th day of August, 2001 by and between City of Fremont, a Nebraska municipal corporation ("Grantor") and Qwest Wireless, L.L.C., a Delaware limited liability company, ("Grantee") of which this Addendum is made a part, is hereby amended and supplemented as follows:

- 1. Paragraph 3, Removal of Vegetation. Delete the words "or the Total Property" after the words "Easement Tract."
- 2. Paragraph 6(i), Grantor's Indemnity. Delete the words "and/or the Total Property" after the words "Easement Tract"; delete the word invitees" after the word "licensee."
- 3. Paragraph 17, Environmental, shall be modified by inserting the following after the fourth sentence of the paragraph:

"Grantee shall obtain, at its expense, a phase one Environmental Assessment of the Easement Tract. A copy of the subsequent report shall be provided to Grantor."

The execution of this Addendum by the parties hereto incorporates herein said addendum as part of the Easement Agreement.

Grantor:

City of Fremont, a Nebraska municipal Corporation  
 By: [Signature]  
 Its: Mayor  
97-6006192  
 Federal Tax ID or Social Security Number

Grantee:

Qwest Wireless, L.L.C., a Delaware limited liability company  
 By: [Signature]  
 Its: Senior Vice President Operations & Engineering

STATE OF NEBRASKA )  
 COUNTY OF Dodge ) ss.

The foregoing instrument was acknowledged before me this 27th of June, 2001, by Donald B. Edwards as the Mayor of City of Fremont, NE

WITNESS my hand and official seal.



[Signature]  
 Notary Public

My commission expires: 5-30-02

STATE OF COLORADO )  
 COUNTY OF Arapahoe ) ss.

The foregoing instrument was acknowledged before me this 9th of August, 2001, by Stephen W. Morgan as the Senior V.P. Operations & Engineering of Qwest Wireless LLC

WITNESS my hand and official seal.

[Signature]  
 Notary Public

My commission expires: June 18, 2005