

**ATTN: CITY TREASURER**  
**Annual Rental: \$no additional amount**

02R-226

Introduce: 10-7-02

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

1           WHEREAS, Galaxy Network Services has submitted an application for a  
2 permit to use the public right-of-way along the south side of "O" Street from a point 290  
3 feet east of Wedgewood Drive west 910 feet to an existing vault just west of 70th Street  
4 for the purpose of installing fiber optic cable to accommodate the "O" Street widening  
5 project; and

6           WHEREAS, said applicant has submitted a letter of application and a site  
7 plan which are attached hereto, marked as Exhibit "A" and Exhibit "B" respectively, and  
8 made a part of this resolution by reference, to use the public right-of-way as above  
9 described; and

10           WHEREAS, said applicant has complied with all of the provisions of  
11 Chapter 14.53 of the Lincoln Municipal Code pertaining to such use.

12           NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of  
13 Lincoln, Nebraska:

14           That the aforesaid application of Galaxy Network Services, hereinafter  
15 referred to as Permittee, to use the public right-of-way along "O" Street from a point 290  
16 feet east of Wedgewood Drive west 910 feet to an existing vault just west of 70th Street  
17 as shown on Exhibit "B", for the purpose of installing fiber optic cable be granted as a  
18 privilege only by virtue of and subject to strict compliance with the site plan, the letter of  
19 application, and the following terms and conditions, to wit:

1           1.       That the permission herein granted is subject to all the terms and  
2 conditions of Chapter 14.53 of the Lincoln Municipal Code including those provisions  
3 relating to the posting of a continuing bond in the amount of \$5,000 and the filing of a  
4 certificate of insurance evidencing a commercial or comprehensive general liability  
5 policy, or an acceptable substitute policy form, with a minimum combined single limit of  
6 \$500,000 aggregate for any one occurrence and naming the City as additional insured.

7           2.       The work shall be constructed in accordance with plans and  
8 specifications approved by the Department of Public Works and Utilities. The cable,  
9 where it is underground, shall be laid to a minimum depth of 3½ feet from the top of the  
10 cable to the surface of the ground. All land surfaces and all pavement shall be restored  
11 to their original condition after the work is completed on each segment of the project.  
12 "As built" drawings shall be furnished to the City by the Permittee to show the precise  
13 locations, depths, and nature of all materials installed in accordance with the permit.  
14 The City shall have the right at any time when, in its judgment, it becomes necessary or  
15 advisable to require a change of location of said cable as a matter of safety, or on  
16 account of change of grade, resurfacing, repair, reconstruction of any street, alley,  
17 sidewalk, or other public ground, or the construction of any structure thereon, or for any  
18 other reason, all of which shall be done at the cost and expense of the Permittee in a  
19 good and workmanlike manner.

20           3.       The Permittee shall pay to the City an annual rental for the use and  
21 occupancy of the space beneath said public street occupied by such use which rental  
22 shall be 5 percent of the annual gross revenues derived from the usage of such

1 permitted cable. Gross revenues shall be defined in the same manner as provided in  
2 Section 5.16.040.

3 Said rental payments shall be made to the City Treasurer and shall  
4 be due and payable on the 1st day of October of each year; provided however, the  
5 amount of the initial payment required hereunder shall be pro-rated from the date when  
6 the permit is issued to the 1st day of October of the next year and payments shall be  
7 due and payable on October 1st thereafter. Rent shall become delinquent on the 1st  
8 day of December of each year and such delinquent rent shall bear interest at the rate of  
9 one percent per month until paid and if such rent is not paid for six months or more  
10 after such delinquent date, a penalty of five percent shall be added thereto in addition  
11 to said interest.

12 4. The use of the public way herein granted and the terms and  
13 conditions of this resolution shall be binding and obligatory upon the above-named  
14 Permittee, its successors and assigns.

15 5. Any additions, changes, modifications, amendments of the uses  
16 permitted herein shall require a new permit or other authorization.

17 6. That within 30 days from the adoption of this resolution, and before  
18 commencing any construction under the provisions hereof, the above-named Permittee  
19 shall file an unqualified written acceptance of all the terms and conditions of this  
20 resolution with the City Clerk. Failure to do so will be considered a rejection hereof and  
21 all privileges and authorities hereunder granted shall thereupon automatically terminate.

1                   The Permittee shall, within thirty days after written demand, reimburse the  
2 City for all direct and indirect costs and expenses, as provided in Section 14.53.070, in  
3 connection with the issuance and review of this permit.

4                   The Permittee shall sign and return the City's letter of acceptance to the  
5 City Clerk prior to commencing any work in the public right-of-way.

Introduced by:

\_\_\_\_\_

Approved as to Form and Legality:

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

Approved this \_\_\_\_ day of \_\_\_\_\_, 2002:

\_\_\_\_\_  
Mayor