

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

1                   WHEREAS, Manh Tien and Thao Nguyen Do have submitted an application for  
2 a permit to use the public right-of-way for the construction of a retaining wall adjacent to their  
3 property located at 2620 Jacquelyn Drive; and

4                   WHEREAS, said applicants have submitted a site plan attached hereto, marked  
5 as Exhibit "A" and made a part of this resolution by reference, describing the requested use of  
6 the public right-of-way; and

7                   WHEREAS, said applicants have complied with all of the provisions of Chapter  
8 14.54 of the Lincoln Municipal Code pertaining to such use.

9                   NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of  
10 Lincoln, Nebraska:

11                   That the application aforesaid of Manh Tien and Thao Nguyen Do, hereinafter  
12 referred to as "Permittees" to use the public right-of-way for the construction of a retaining wall  
13 adjacent to the property located at 2620 Jacquelyn Drive be granted as a privilege only by virtue  
14 of and subject to strict compliance with the plot plan and the following terms and conditions, to  
15 wit:

16                   1.       That the permission herein granted is granted as a privilege only, and is  
17 subject to all the terms and conditions of Chapter 14.54 of the Lincoln Municipal Code including  
18 those provisions relating to the posting of a continuing bond in the amount of \$5,000, and the  
19 filing of a certificate of insurance with a minimum combined single limit of \$500,000.00  
20 aggregate for any one occurrence.

21                   2.       That said use shall be in full accordance with the aforesaid site plan and  
22 with all applicable City ordinances and regulations.

23                   3.       The Permittees, their heirs, successors or assigns shall save and keep  
24 the City free and harmless from any and all loss or damages or claims for damages arising  
25 from or out of the use of the public way requested herein.

1                   4.       That all work done under the authority of this resolution shall be subject  
2 to the inspection and approval of the Director of Public Works of the City of Lincoln.

3                   5.       This permit may be revoked by resolution of the City Council and after  
4 giving of five days written notice to the Permittees by the City Clerk, for the following reasons:  
5 (a) failure of the Permittees to pay the compensation required within ten days after the date  
6 payment is due; (b) failure or neglect of the Permittees to comply with the provisions of Chapter  
7 14.54 of the Lincoln Municipal Code, or any other provisions of the Lincoln Municipal Code or  
8 the provisions of the permit; (c) failure to use the space for which the permit was granted for a  
9 continuous period of at least six months or (d) upon a determination by the City that the space  
10 for which the permit was granted is needed for public use.

11                               Upon revocation of a permit, the Permittees shall forthwith remove or  
12 abandon the space for which the permit was granted, together with the removal of any structure  
13 at their own cost and expense and return that space to the City of Lincoln, free and clear of all  
14 structures or encroachments of any type, at no expense to the City. If the requested removal or  
15 abandonment has not been completed within six months after revocation of the permit, the City  
16 Council may cause such removal or abandonment to be so done and the cost of such work  
17 shall become a lien against the property of the Permittees.

18                   6.       Permittees shall pay, as rental fee for the space occupied, an amount  
19 equal to ten percent of the square foot value, as last fixed by the Board of Equalization, of the  
20 lot directly abutting on the use, multiplied by the square footage of the use of space.

21                               Said rental payments shall be made to the City Treasurer and shall be  
22 due and payable on the 1st day of October of each year; provided however, the amount of the  
23 initial payment required hereunder shall be pro-rated from the date when the permit is issued to  
24 the 1st day of October of the next year and payments shall be due and payable on October 1st  
25 thereafter. Rent shall become delinquent on the 1st day of December of each year and such  
26 delinquent rent shall bear interest at the rate of one percent per month until paid and if such

1 rent is not paid for six months or more after such delinquent date, a penalty of five percent shall  
2 be added thereto in addition to said interest.

3 7. The use of the public way herein granted and the terms and conditions of  
4 this resolution shall be binding and obligatory upon the above-named Permittees, their  
5 successors and assigns.

6 8. That within thirty (30) days from the adoption of this resolution, and  
7 before commencing any construction under the provisions hereof, the above-named Permittees  
8 shall file an unqualified written acceptance of all the terms and conditions of this resolution with  
9 the City Clerk. Failure to do so will be considered a rejection hereof and all privileges and  
10 authorities hereunder granted shall thereupon ipso facto terminate.

Introduced by:

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Approved as to Form and Legality:

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City Attorney

Staff Review Completed:

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Administrative Assistant