

RESOLUTION NO. A-_____

1 WHEREAS, Nebco, Inc. has submitted an application for a permit to use
2 the public right-of-way in Lincoln Mall between 11th and 12th Streets for the purpose of
3 installing two 4" conduit for fiber and communications as well as two 6" pipes for the
4 supply and return of heated/cooled water underneath Lincoln Mall to connect the
5 Landmark 3 Building to the building at 1111 Lincoln Mall; and

6 WHEREAS, said applicant has submitted a letter of application and a site
7 plan which are attached hereto, marked as Attachment "A" and Attachment "B"
8 respectively, and made a part of this resolution by reference, to use the public right-of-
9 way as above 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 Nebco, Inc., hereinafter referred to as
15 Permittee, to use the public right-of-way in Lincoln Mall as shown on Attachment "B", for
16 the purpose of installing underground two 4" conduit for fiber and communications as
17 well as two 6" pipes for the supply and return of heated/cooled water be granted as a
18 privilege only by virtue of and subject to substantial compliance with the site plan, the
19 letter of 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. That said use shall conform to the application, the site plan filed
8 therewith, and with all applicable City ordinances and regulations.

9 3. The Permittee, its successors or assigns shall save and keep the
10 City free and harmless from any and all loss or damages or claims for damages arising
11 from or out of the use of the public way requested herein.

12 4. The Permittee shall cause its contractor to call Diggers Hotline of
13 Nebraska prior to commencing any construction activity and identify the natural gas line,
14 water line and street light cables in Lincoln Mall on a site plan prior to boring.

15 5. The work shall be constructed in accordance with plans and
16 specifications approved by the Department of Public Works and Utilities. The cable,
17 where it is underground, shall be laid to a minimum depth of 3½ feet from the top of the
18 cable to the surface of the ground. All land surfaces and all pavement shall be restored
19 to their original condition after the work is completed on each segment of the project.
20 "As built" drawings shall be furnished to the City by the Permittee to show the precise
21 locations, depths, and nature of all materials installed in accordance with the permit.
22 The City shall have the right at any time when, in its judgment, it becomes necessary or
23 advisable, to require a change of location of said cable as a matter of safety, or on

1 account of change of grade, resurfacing, repair, reconstruction of any street, alley,
2 sidewalk, or other public ground, or the construction of any structure thereon, or for any
3 other reason, all of which shall be done at the cost and expense of the Permittee in a
4 good and workmanlike manner.

5 6. The Permittee shall pay to the City an annual rental for the use and
6 occupancy of the space beneath said public street occupied by such use which rental is
7 currently \$0.50 per lineal foot of space occupied underneath the public street, alley,
8 sidewalk, or other public ground. Such rental is based upon the number of conduits
9 being placed within the right-of-way.

10 All payments shall be made to the City Treasurer and shall be due and
11 payable on the 1st day of October of each year; provided, however, the amount of the
12 initial payment shall be prorated from the date of approval of this permit to the 1st day of
13 October, 2014 and payment shall be due and payable on October 1st thereafter.

14 Any such rent shall become delinquent on the 1st day of December of
15 each year and such delinquent rent shall bear interest at the rate of 1% per month until
16 paid and if such rent is not paid for six months or more after such delinquent date, a
17 penalty of 5% shall be added thereto in addition to said interest.

18 7. Any additions, changes, modifications, or amendments of the uses
19 permitted herein shall require a new permit or other authorization.

20 8. That all work done under the authority of this resolution shall be
21 subject to the inspection and approval of the Director of Public Works of the City of
22 Lincoln.

1 9. The terms and conditions of this resolution shall be binding and
2 obligatory upon the above-named Permittee, its successors and assigns.

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

Introduced by:

Approved as to Form and Legality:

City Attorney

Approved this ____ day of _____, 2014:

Mayor