

RESOLUTION NO. A-_____

SPECIAL PERMIT NO. 1846

1 WHEREAS, U.S. West Wireless, L.L.C. has submitted an application
 2 designated as Special Permit No. 1846 for authority to construct a 78' tall wireless
 3 telecommunications tower and a waiver of the landscaping requirements on property
 4 located at North 9th and "W" Streets, and legally described to wit:

5 A portion of the "W" Street right-of-way vacated by Ordinance
 6 11702 that lies east of the 9th Street right-of-way and is
 7 adjacent to Lot 7, Block 7, North Lincoln Addition and adjacent
 8 to the Burlington Northern Railroad right-of-way, in the
 9 Northeast Quarter of Section 23, Township 10 North, Range 6
 10 East, Lincoln, Lancaster County, Nebraska, more specifically
 11 described as :

12 Referring to the southwest corner of said triangle portion of
 13 vacated "W" Street; thence northeasterly north 52 degrees 59
 14 minutes 23 seconds east, 18.32 feet to the point of beginning;
 15 thence northerly north 01 degrees 54 minutes 31 seconds
 16 west, 11 feet; thence northeasterly north 52 degrees 59
 17 minutes 23 seconds east, 15 feet; thence southeasterly south
 18 37 degrees 00 minutes 37 seconds east, 9 feet; thence
 19 southwesterly south 52 degrees 59 minutes 23 seconds west,
 20 21.33 feet to the point of beginning;

21 WHEREAS, the real property adjacent to the area included within the site
 22 plan for this telecommunications tower will not be adversely affected; and

23 WHEREAS, said site plan together with the terms and conditions hereinafter
 24 set forth are consistent with the intent and purpose of Title 27 of the Lincoln Municipal
 25 Code to promote the public health, safety, and general welfare.

26 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of
 27 Lincoln, Nebraska:

1 That the application of U.S. West Wireless, L.L.C., hereinafter referred to as
2 "Permittee", to construct a 78' tall wireless telecommunications tower, on the property
3 legally described above, be and the same is hereby granted under the provisions of
4 Section 27.63.225 of the Lincoln Municipal Code upon condition that construction and
5 operation of said wireless telecommunications tower be in strict compliance with said
6 application, the site plan, and the following additional express terms, conditions, and
7 requirements:

8 1. This permit approves a 78' tall wireless communications facility for a
9 period of 15 years.

10 2. The requirement of Section 27.68.110(g) of the Lincoln Municipal
11 Code for a fall zone is hereby waived.

12 3. The requirement of the Design Standards for landscaping is hereby
13 waived provided that the landscaping is provided in a different location.

14 4. Before receiving building permits the Permittee must provide evidence
15 to the Planning Department office for review and approval that the proposed tower meets
16 all FAA, state, and local aviation requirements.

17 5. Before operating this personal wireless facility all development and
18 construction must conform to the approved plans.

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

22 7. All privately-owned improvements, including landscaping, must be
23 permanently maintained by the owner.

1 8. The site plan approved by the permit shall be the basis for all
2 interpretations of setbacks, yards, locations of buildings, location of parking and circulation
3 elements, and similar matters.

4 9. The terms, conditions, and requirements of this resolution shall be
5 binding and obligatory upon the Permittee, its successors, and assigns. The building
6 official shall report violations to the City Council which may revoke the special permit or
7 take such other action as may be necessary to gain compliance.

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

11 11. The Permittee agrees that the Permittee, its successors and assigns,
12 shall at its sole cost and expense, indemnify and hold harmless the City, its officers,
13 officials, boards, commissions, agents, representatives, and employees against any and
14 all claims, suits, losses, expenses, causes of actions, proceedings, and judgments for
15 damage arising out of, resulting from or alleged to arise out of or result from the
16 construction, operation, repair, maintenance, or removal of the provider's facilities.
17 Indemnified expenses shall include, but not be limited to, all out-of-pocket expenses, such
18 as costs of suit and defense and reasonable attorney fees, and shall also include the
19 reasonable value of any services rendered by the City Attorney's office and any employees
20 of the City and any consultants retained by the City.

21 12. The Permittee shall sign and return the City's letter of acceptance to
22 the City Clerk within 30 days following approval of the special permit, provided, however,
23 said 30-day period may be extended up to six months by administrative amendment. The

1 City Clerk shall file a copy of the resolution approving the special permit and the letter of
2 acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the
3 Permittee.

Introduced by:

Approved as to Form & Legality:

City Attorney

Staff Review Completed:

Administrative Assistant