

1 **BY AUTHORITY**

2 RESOLUTION NO. CR18-0728
3 SERIES OF 2018

COMMITTEE OF REFERENCE:
Land Use, Transportation & Infrastructure

4 **A RESOLUTION**

5 **Granting a revocable permit to Zayo Group, LLC, to encroach into the right-of-**
6 **way at 1695 East Mexico Avenue, 31 West Harvard Avenue and 1678 West Evans**
7 **Avenue.**

8 **BE IT RESOLVED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

9 **Section 1.** The City and County of Denver (“City”) hereby grants to Zayo Group, LLC and
10 its successors and assigns (“Permittee”), a revocable permit to encroach into the right-of-way as
11 follows:

12 A small cell pole and facilities to include a pole of 21 feet, 6½ inches and the antenna on top
13 of the pole at 8 feet, 6½ inches, with a total height of 30 feet, 1 inch. The other items associated
14 with the pole and antenna are: a foundation of 6 feet x 6 feet, 100 feet 6 inches of electrical line with
15 conduit, an underground fiber vault for fiber optic cable, and an integrated meter with disconnect at
16 1695 East Mexico Avenue;

17 A small cell pole and facilities to include a pole of 21 feet, 6½ inches and the antenna on top
18 of the pole at 8 feet, 6½ inches, with a total height of 30 feet, 1 inch. The other items associated
19 with the pole and antenna are: a foundation of 3 feet in diameter, 73 feet 10 inches of electrical line
20 with conduit, an underground fiber vault for fiber optic cable, and an integrated meter with disconnect
21 at 31 West Harvard Avenue; and

22 A small cell pole and facilities to include a pole of 21 feet, 6 ½ inches and the antenna on top
23 of the pole at 8 feet 6 ½ inches, with a total height of 30 feet, 1 inch. The other items associated
24 with the pole and antenna are: a foundation of 3 feet in diameter, 413 feet 6 inches of electrical line
25 with conduit, an underground fiber vault for fiber optic cable, and an integrated meter with disconnect
26 at 1678 West Evans Avenue, in the following described areas (“Encroachment Areas”):

27
28 **PARCEL DESCRIPTION ROW NO. 2018-ENCROACHMENT-0000020:**

29
30 **1695 East Mexico Avenue DN90XS280L**

31 Coordinates: 39.685792, -104.967211

32 Assigned Address: 1695 East Mexico Avenue

33 Location: Center of pole approximately 28’ west of the western point of curb curvature at the
34 NW corner of East Mexico Ave & Buchtel Blvd, and 7’ 6” from back of curb on East Mexico
35 Ave.

1 Adjacent Parcel ID: 0523424009000
2 Adjacent Parcel Address: 1685 East Mexico Avenue

3
4 **31 West Harvard Avenue DN90XSN05L**

5 Coordinates: 39.671333, -104.988089
6 Assigned Address: 31 West Harvard Avenue
7 Location: Center of pole approximately 98' west of the western point of curb curvature at the
8 NW corner of West Harvard Ave & South Broadway, and 2' from back of curb on West
9 Harvard Ave.

10 Adjacent Parcel ID: 0527506032000
11 Adjacent Parcel Address: 2493 South Broadway

12
13 **1678 West Evans Avenue DN90XSN07L**

14 Coordinates: 39.678489, -105.007103
15 Address: 1678 West Evans Avenue
16 Location: Center of pole approximately 422' east of the eastern point of curb curvature at
17 the SE corner of the intersection of South Raritan St & West Evans Ave, and 9' 10' from
18 back of curb on West Evans Ave.

19 Adjacent Parcel ID: 0528200012000
20 Adjacent Parcel Address: 1610 W. Evans Avenue

21
22 **Section 2.** The revocable permit ("Permit") granted by this Resolution is expressly granted
23 upon and subject to each and all of the following terms and conditions:

24 (a) Permittee shall obtain a street occupancy permit from City's Public Works Permit
25 Operations at 2000 West 3rd Avenue, 303-446-3759, prior to commencing construction.

26 (b) Permittee shall be responsible for obtaining all other permits and shall pay all costs
27 that are necessary for installation and construction of items permitted herein.

28 (c) If the Permittee intends to install any underground facilities in or near a public road,
29 street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification
30 Association of Owners and Operators of Underground Facilities by contacting the Utility Notification
31 Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado 80215, at 303-
32 232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-922-1987 to locate
33 underground facilities prior to commencing any work under this Permit.

34 (d) Permittee is fully responsible for any and all damages incurred to facilities of the Water
35 Department and/or drainage facilities for water and sewage of the City due to activities authorized
36 by the Permit. Should the relocation or replacement of any drainage facilities for water and sewage
37 of the City become necessary as determined by the City's Executive Director of Public Works
38 ("Executive Director"), in the Executive Director's sole and absolute discretion, Permittee shall pay
39 all cost and expense of the portion of the sewer affected by the permitted structure. The extent of
40 the affected portion to be replaced or relocated by Permittee shall be determined by the Executive

1 Director. Any and all replacement or repair of facilities of the Denver Water and/or drainage facilities
2 for water and sewage of the City attributed to the Permittee shall be made by the Denver Water
3 and/or the City at the sole expense of the Permittee. In the event Permittee's facilities are damaged
4 or destroyed due to the Denver Water or the City's repair, replacement and/or operation of its
5 facilities, repairs will be made by the Permittee at its sole expense. Permittee agrees to defend,
6 indemnify and save the City harmless and to repair or pay for the repair of any and all damages to
7 said sanitary sewer, or those damages resulting from the failure of the sewer to properly function as
8 a result of the permitted structure.

9 (e) Permittee shall comply with all requirements of affected utility companies and pay for
10 all costs of removal, relocation, replacement or rearrangement of utility company facilities. Existing
11 telephone facilities shall not be utilized, obstructed or disturbed.

12 (f) All construction in, under, on or over the Encroachment Areas shall be accomplished
13 in accordance with the Building Code of the City. Plans and specifications governing the construction
14 of the Encroachments shall be approved by the Executive Director and the Director of Building
15 Inspection Division prior to construction. Upon completion, a reproducible copy of the exact location
16 and dimensions of the Encroachments shall be filed with the Executive Director.

17 (g) The sidewalk and street/alley over the Encroachment Areas shall be capable of
18 withstanding an HS-20 loading in accordance with the latest AASHTO Specifications. The
19 installations within the Encroachment Areas shall be constructed so that the paved section of the
20 street/alley can be widened without requiring additional structural modifications. The sidewalk shall
21 be constructed so that it can be removed and replaced without affecting structures within the
22 Encroachment Areas.

23 (h) Permittee shall pay all costs of construction and maintenance of the Encroachments.
24 Upon revocation of the permit or upon abandonment, Permittee shall pay all costs of removing the
25 Encroachments from the Encroachment Areas and return the Encroachment Areas to its original
26 condition under the supervision of the City Engineer.

27 (i) Permittee shall remove and replace any and all street/alley paving, sidewalks, and curb
28 and gutter, both inside the Encroachment Areas and in the rights-of-way adjacent thereto, that
29 become broken, damaged or unsightly during the course of construction. In the future, Permittee
30 shall also remove, replace or repair any street/alley paving, sidewalks, and curb and gutter that
31 become broken or damaged when, in the opinion of the City Engineer, the damage has been caused
32 by the activity of the Permittee within the Encroachment Areas. All repair work shall be accomplished
33 without cost to the City and under the supervision of the City Engineer.

1 (j) The City reserves the right to make an inspection of the Encroachments contained
2 within the Encroachment Areas. An annual fee, subject to change, of \$200.00 shall be assessed.

3 (k) This revocable Permit shall not operate or be construed to abridge, limit or restrict the
4 City in exercising its right to make full use of the Encroachment Areas and adjacent rights-of-way as
5 public thoroughfares nor shall it operate to restrict the utility companies in exercising their rights to
6 construct, remove, operate and maintain their facilities within the Encroachment Areas and adjacent
7 rights-of-way.

8 (l) During the existence of the Encroachments and this Permit, Permittee, its successors
9 and assigns, at its expense, and without cost to the City, shall procure and maintain a single limit
10 comprehensive general liability insurance policy with a limit of not less than \$500,000.00. All
11 coverages are to be arranged on an occurrence basis and include coverage for those hazards
12 normally identified as X.C.U. during construction. The insurance coverage required herein
13 constitutes a minimum requirement and such enumeration shall in no way be deemed to limit or
14 lessen the liability of the Permittee, its successors or assigns, under the terms of this Permit. All
15 insurance coverage required herein shall be written in a form and by a company or companies
16 approved by the Risk Manager of the City and authorized to do business in the State of Colorado.
17 A certified copy of all such insurance policies shall be filed with the Executive Director, and each
18 such policy shall contain a statement therein or endorsement thereon that it will not be canceled or
19 materially changed without written notice, by registered mail, to the Executive Director at least thirty
20 (30) days prior to the effective date of the cancellation or material change. All such insurance policies
21 shall be specifically endorsed to include all liability assumed by the Permittee hereunder and shall
22 name the City as an additional insured.

23 (m) Permittee shall comply with the provisions of Article IV (Prohibition of Discrimination in
24 Employment, Housing and Commercial Space, Public Accommodations, Educational Institutions
25 and Health and Welfare Services) of Chapter 28 (Human Rights) of the Revised Municipal Code of
26 the City and County of Denver. The failure to comply with any such provision shall be a proper basis
27 for revocation of this Permit.

28 (n) The right to revoke this Permit is expressly reserved to the City.

29 (o) Permittee shall agree to indemnify and always save the City harmless from all costs,
30 claims or damages arising, either directly or indirectly, out of the rights and privileges granted by this
31 Permit.

32 **Section 3.** That the Permit hereby granted shall be revocable at any time that the Council
33 of the City and County of Denver shall determine that the public convenience and necessity or the

1 public health, safety or general welfare require such revocation, and the right to revoke the same is
2 hereby expressly reserved to the City; provided however, at a reasonable time prior to City Council
3 action upon such revocation or proposed revocation, opportunity shall be afforded to Permittee, its
4 successors and assigns, to be present at a hearing to be conducted by the City Council upon such
5 matters and thereat to present its views and opinions thereof and to present for consideration action
6 or actions alternative to the revocation of such Permit.

7 COMMITTEE APPROVAL DATE: July 10, 2018 by Consent

8 MAYOR-COUNCIL DATE: July 17, 2018

9 PASSED BY THE COUNCIL: _____

10 _____ - PRESIDENT

11 ATTEST: _____ - CLERK AND RECORDER,
12 EX-OFFICIO CLERK OF THE
13 CITY AND COUNTY OF DENVER

14 PREPARED BY: Brent A. Eisen, Assistant City Attorney DATE: July 19, 2018

15 Pursuant to section 13-12, D.R.M.C., this proposed resolution has been reviewed by the Office of
16 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
17 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to §
18 3.2.6 of the Charter.

19
20 Kristin M. Bronson, Denver City Attorney

21
22 BY: _____, Assistant City Attorney DATE: _____