


**REQUEST FOR RESOLUTION FOR TIER III ENCROACHMENT PERMIT**

**TO:** Caroline Martin, City Attorney's Office

**FROM:** Matt Bryner, P.E.   
Director, Right of Way Services

**ROW NO.:** 2020-ENCROACHMENT-0000324

**DATE:** March 22, 2021

**SUBJECT:** Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to SQF, LLC, their successors and assigns, to encroach into the right-of-way with three (3) small cell poles and associated facilities at 635 S. Irving St., 4321 N. Malaya St., and 2170 31<sup>st</sup> St.

**The small cell pole and facilities at 635 S. Irving St., 4321 N. Malaya St., and 2170 31<sup>st</sup> St. include: one (1) Type 4 cellular antenna pole and facilities in accordance with Small Cell Infrastructure Design Guidelines.**

**It is requested that the above subject item be placed on the next available Mayor Council Agenda.**

This office has investigated the request from Colton Vaughan of Black & Veatch dated August 5, 2020, on behalf of SQF, LLC c/o Paul Slotemaker for the granting of the above-subject permit.

This matter has been checked by this office and has been coordinated with Asset Management; Real Estate; Colorado Department of Transportation; Comcast Corporation; Division of Disability Rights; Councilpersons Stacie Gilmore, Jamie Torres, and Candi CdeBaca; Community Planning and Development: Building & Construction Services, Planning Services, and Zoning & Development Review; Denver Water Board; Environmental Services; Fire Department; Metro Wastewater Reclamation District; Office of Emergency Management; Office of Telecommunications; Parks and Recreation; Forestry; Landmark; DOTI: City Engineer, DES Transportation and Wastewater, ER Transportation and Wastewater, Construction Engineering, Survey, TES Sign and Stripe, PDA Build Transportation, and Street Maintenance; CenturyLink Corporation; Regional Transportation District; and Xcel Energy, all of whom have indicated no objection for the proposed encroachment.

As a result of the investigations, it has been determined that there is no objection to the granting of the revocable permit.

Therefore, you are requested to initiate Council action for the granting of a revocable permit, subject to certain terms and conditions, to SQF, LLC, their successors and assigns, to encroach with three (3) small cell poles and facilities at 635 S. Irving St., 4321 N. Malaya St., and 2170 31<sup>st</sup> St.

**INSERT PARCEL DESCRIPTION ROW 2020-ENCROACHMENT-0000324-001 HERE**

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201 W Colfax Ave, Dept 507 | Denver, CO 80202  
[www.denvergov.org/dotj](http://www.denvergov.org/dotj)  
Phone: 720-865-3003

**STANDARD PROVISIONS**

The revocable permit (“Permit”) granted by this resolution is expressly granted upon and subject to each and all of the following terms and conditions:

- (a) Permittee shall obtain a street occupancy permit from DOTI Permit Operations at 2000 West 3<sup>rd</sup> Avenue, 303.446.3759, and prior to commencing construction.
- (b) Permittee shall be responsible for obtaining all other permits and shall pay all costs that are necessary for installation and construction of items permitted herein.
- (c) If the Permittee intends to install any underground facilities in or near a public road, street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification Association of Owners and Operators of Underground Facilities by contacting the Utility Notification Center of Colorado, 16361 Table Mountain Pkwy, Golden, Colorado, 80403 at 303.232.1991. Further, Permittee shall contact the Utility Notification Center, at 811 to locate underground facilities prior to commencing any work under this permit.
- (d) Permittee is fully responsible for any and all damages incurred to facilities of the Water Department and/or drainage facilities for water and sewage of the City and County of Denver due to activities authorized by the permit. Should the relocation or replacement of any drainage facilities for water and sewage of the City and County of Denver become necessary as determined by the Manager of DOTI, in the Manager’s sole and absolute discretion, Permittee shall pay all cost and expense of the portion of the sewer affected by the permitted structure. The extent of the affected portion to be replaced and relocated by Permittee shall be determined by the Manager of DOTI. Any and all replacement or repair of facilities of the Water Department and/or drainage facilities for water and sewage of the City and County of Denver attributed to the Permittee shall be made by the Water Department and/or the City and County of Denver at the sole expense of the Permittee. In the event Permittee’s facilities are damaged or destroyed due to the Water Department’s or the City and County of Denver’s repair, replacement and/or operation of its facilities, repairs will be made by Permittee at its sole expense. Permittee agrees to defend, indemnify and save the City harmless and to repair or pay for the repair of any and all damages to said sanitary sewer, or those damages resulting from the failure of the sewer to properly function as a result of the permitted structure.
- (e) Permittee shall comply with all requirements of affected utility companies and pay for all costs of removal, relocation, replacement or rearrangement of utility company facilities. Existing telephone facilities shall not be utilized, obstructed or disturbed.
- (f) All construction in, under, on or over the Encroachment Area shall be accomplished in accordance with the Building Code of the City and County of Denver. Plans and Specifications governing the construction

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of the Encroachments shall be approved by the Manager of DOTI and the Director of the Building Inspection Division prior to construction. Upon completion, a reproducible copy of the exact location and dimensions of the Encroachments shall be filed with the Manager of DOTI.

- (g) The sidewalk and street/alley over the Encroachment Area shall be capable of withstanding an HS-20 loading in accordance with the latest AASHTO Specifications. The installations within the Encroachment Area shall be constructed so that the paved section of the street/alley can be widened without requiring additional structural modifications. The sidewalk shall be constructed so that it can be removed and replaced without affecting structures within the Encroachment Area.
- (h) Permittee shall pay all costs of construction and maintenance of the Encroachment. Upon revocation of the permit or upon abandonment, Permittee shall pay all costs of removing the Encroachment from the Encroachment Area, and return the Encroachment Area to its original condition under the supervision of the City Engineer.
- (i) Permittee shall remove and replace any and all street/alley paving, sidewalks, and curb and gutter, both inside the Encroachment Area and in the rights-of-way adjacent thereto, that become broken, damaged or unsightly during the course of construction. In the future, Permittee shall also remove, replace or repair any street/alley paving, sidewalks, and curb and gutter that become broken or damaged when, in the opinion of the City Engineer, the damage has been caused by the activity of the Permittee within the Encroachment Area. All repair work shall be accomplished without cost to the City and under the supervision of the City Engineer.
- (j) The City reserves the right to make an inspection of the Encroachments contained within the Encroachment Area. An annual fee, subject to change, of \$200.00 shall be assessed.
- (k) This revocable permit shall not operate or be construed to abridge, limit or restrict the City and County of Denver in exercising its right to make full use of the Encroachment Area and adjacent rights-of-way as public thoroughfares nor shall it operate to restrict the utility companies in exercising their rights to construct, remove, operate and maintain their facilities within the Encroachment Area and adjacent rights-of-way.
- (l) During the existence of the Encroachments and this permit, Permittee, its successors and assigns, at its expense, and without cost to the City and County of Denver, shall procure and maintain a single limit comprehensive general liability insurance policy with a limit of not less than \$500,000.00. All coverage's are to be arranged on an occurrence basis and include coverage for those hazards normally identified as X.C.U. during construction. The insurance coverage required herein constitutes a minimum requirement and such enumeration shall in no way be deemed to limit or lessen the liability of the Permittee, its

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successors or assigns, under the terms of this permit. All insurance coverage required herein shall be written in a form and by a company or companies approved by the Risk Manager of the City and County of Denver and authorized to do business in the State of Colorado. A certified copy of all such insurance policies shall be filed with the Manager of DOTI, and each such policy shall contain a statement therein or endorsement thereon that it will not be canceled or materially changed without written notice, by registered mail, to the Manager of DOTI at least thirty (30) days prior to the effective date of the cancellation or material change. All such insurance policies shall be specifically endorsed to include all liability assumed by the Permittee hereunder and shall name the City and County of Denver as an additional insured.

- (m) Permittee shall comply with the provisions of Article IV (Prohibition of Discrimination in Employment, Housing and Commercial Space, Public Accommodations, Educational Institutions and Health and Welfare Services) of Chapter 28 (Human Rights) of the Revised Municipal Code of the City and County of Denver. The failure to comply with any such provision shall be a proper basis for revocation of this permit.
- (n) The right to revoke this permit is expressly reserved to the City and County of Denver.
- (o) Permittee shall agree to indemnify and always save the City and County of Denver harmless from all costs, claims or damages arising, either directly or indirectly, out of the rights and privileges granted by this permit.

**SPECIAL CONDITIONS FOR THIS PERMIT**

- (p) None

A map of the area is attached hereto.

MB: je

cc: Asset Management, Steve Wirth City Council Office, Zach Rothmier Councilperson and Aides Department of Law, Bradley Beck Department of Law, Deanne Durfee Department of Law, Maureen McGuire Department of Law, Martin Plate Department of Law, Caroline Martin DOTI, Alba Castro DOTI, Jason Gallardo Project File	Property Owner: Paul Slotemaker SQF, LLC 520 SW 6 <sup>th</sup> Ave Suite 1250 Portland, OR 97204	Agent: Colton Vaughan Black & Veatch 4600 S Syracuse St Suite 800 Denver, CO 80237
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# ORDINANCE/RESOLUTION REQUEST

Please email requests to Jason Gallardo  
at [Jason.Gallardo@denvergov.org](mailto:Jason.Gallardo@denvergov.org) by **12:00pm on Monday**. Contact her with questions.

Date of Request: March 22, 2021

Please mark one:  Bill Request or  Resolution Request

## 1. Type of Request:

- Contract/Grant Agreement     Intergovernmental Agreement (IGA)     Rezoning/Text Amendment  
 Dedication/Vacation     Appropriation/Supplemental     DRMC Change  
 Other: Tier III Resolution

## 2. Title: (Start with *approves, amends, dedicates*, etc., include name of company or contractor and indicate the type of request: grant acceptance, contract execution, contract amendment, municipal code change, supplemental request, etc.)

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## 3. Requesting Agency: Department of Transportation & Infrastructure, Engineering & Regulatory

## 4. Contact Person:

Contact person with knowledge of proposed ordinance/resolution	Contact person to present item at Mayor-Council and Council
Name: Jessica Eusebio	Name: Jason Gallardo
Email: Jessica.Eusebio@bestbuy.com	Email: Jason.Gallardo@denvergov.org

## 5. General description or background of proposed request. Attach executive summary if more space needed:

Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to SQF, LLC, their successors and assigns, to encroach into the right-of-way with three (3) small cell poles and associated facilities at 635 S. Irving St., 4321 N. Malaya St., and 2170 31<sup>st</sup> St.

## 6. City Attorney assigned to this request (if applicable): Martin Plate

## 7. City Council District: District 11, Stacie Gilmore; District 3, Jamie Torres; District 9, Candi CdeBaca

## 8. **\*\*For all contracts, fill out and submit accompanying Key Contract Terms worksheet\*\***

*To be completed by Mayor's Legislative Team:*

Resolution/Bill Number: \_\_\_\_\_

Date Entered: \_\_\_\_\_

## Key Contract Terms

Type of Contract: (e.g. Professional Services > \$500K; IGA/Grant Agreement, Sale or Lease of Real Property):

Vendor/Contractor Name:

Contract control number:

Location:

Is this a new contract?  Yes  No    Is this an Amendment?  Yes  No    If yes, how many? \_\_\_\_\_

Contract Term/Duration (for amended contracts, include existing term dates and amended dates):

Contract Amount (indicate existing amount, amended amount and new contract total):

<i>Current Contract Amount</i> (A)	<i>Additional Funds</i> (B)	<i>Total Contract Amount</i> (A+B)
<i>Current Contract Term</i>	<i>Added Time</i>	<i>New Ending Date</i>

Scope of work:

Was this contractor selected by competitive process?

If not, why not?

Has this contractor provided these services to the City before?  Yes  No

Source of funds:

Is this contract subject to:  W/MBE  DBE  SBE  XO101  ACDBE  N/A

WBE/MBE/DBE commitments (construction, design, Airport concession contracts):

Who are the subcontractors to this contract?

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*To be completed by Mayor's Legislative Team:*

Resolution/Bill Number: \_\_\_\_\_

Date Entered: \_\_\_\_\_

## TIER III ENCROACHMENT EXECUTIVE SUMMARY

**An Encroachment is a privately-owned improvement that is located in, or projects over or under the public Right-of-Way (ROW)**

**Project Title:** 2020-ENCROACHMENT-0000324, Tier III SQF, LLC Black & Veatch, 635 S. Irving St., 4321 N. Malaya St., and 2170 31<sup>st</sup> St.

**Business name:** SQF, LLC

**Description of Encroachment:** Proposing to install three (3) small cell poles and associated facilities at 635 S. Irving St., 4321 N. Malaya St., and 2170 31<sup>st</sup> St consistent with City and County of Denver Transportation Standards and Small Cell Infrastructure Design Guidelines.

**Background Information:** Through legislation enacted by State and Federal lawmakers, wireless infrastructure has been granted the right to install their small cell infrastructure in Denver public Rights-of-Way (ROW). According to these Federal and State laws, the City is legally required to allow Small Cells in the public ROW like any other utility and must approve completed applications for new sites. The City must allow them in any zoning district and cannot prohibit them in residential neighborhoods.

DOTI requires wireless companies to obtain a Tier III Encroachment Permit for their first group of small cell pole sites. SQF, LLC is proposing to install their first group – three (3) small cell sites with a pole and associated facilities at 635 S. Irving St., 4321 N. Malaya St., and 2170 31<sup>st</sup> St.

- 1. Location Description for Pole # COL07131F\_R03 (635 S Irving St):**  
Latitude: N 39.70533, Longitude: W -105.02989  
Location Description: The proposed wireless structure lying within the City and County of Denver Right of Way, Consists of a 49 sq. ft. disturbance. The center of structure is positioned 125' south of the north of the north west corner of W Gill Pl and S Irving St.
- 2. Location Description for Pole # COL07184F\_R02 (4321 N Malaya St.)**  
Latitude: N 39.77632, Longitude: W -104.74249  
Location Description: The proposed wireless structure lying within the City and County of Denver ROW, consists of a 49 sq. ft. disturbance. The center of structure is positioned 75' south of the south west intersection of Mitchell Pl and Malaya St.
- 3. Location Description for Pole # COL06996F\_R01 (2170 31st St.)**  
Latitude: N 39.769467, Longitude: W -104.987599

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## **TIER III ENCROACHMENT EXECUTIVE SUMMARY**

**An Encroachment is a privately-owned improvement that is located in, or projects over or under the public Right-of-Way (ROW)**

Location Description: The proposed wireless structure lying within the City and County of Denver ROW, consists of a 49 sq. ft. disturbance. The center of structure is positioned 75' south of the south west intersection of Mitchell Pl and Malaya St.

**Annual Fees:** \$200.00 per year per site.

**Additional Information:** DOTI small cell permit team and other impacted agencies reviewed the proposed locations to ensure compliance with permitting requirements, Transportation Standards, and Small Cell Infrastructure Design Guidelines, including notification to adjacent property owners by USPS certified mail verified as delivered. Staff reviews all small cell objections received for technical merit, and no objections were received for the application.

**Location Maps: Continued on following pages.**



## TIER III ENCROACHMENT EXECUTIVE SUMMARY

An Encroachment is a privately-owned improvement that is located in, or projects over or under the public Right-of-Way (ROW)

1. Pole # COL07131F\_R03 (635 S Irving St):

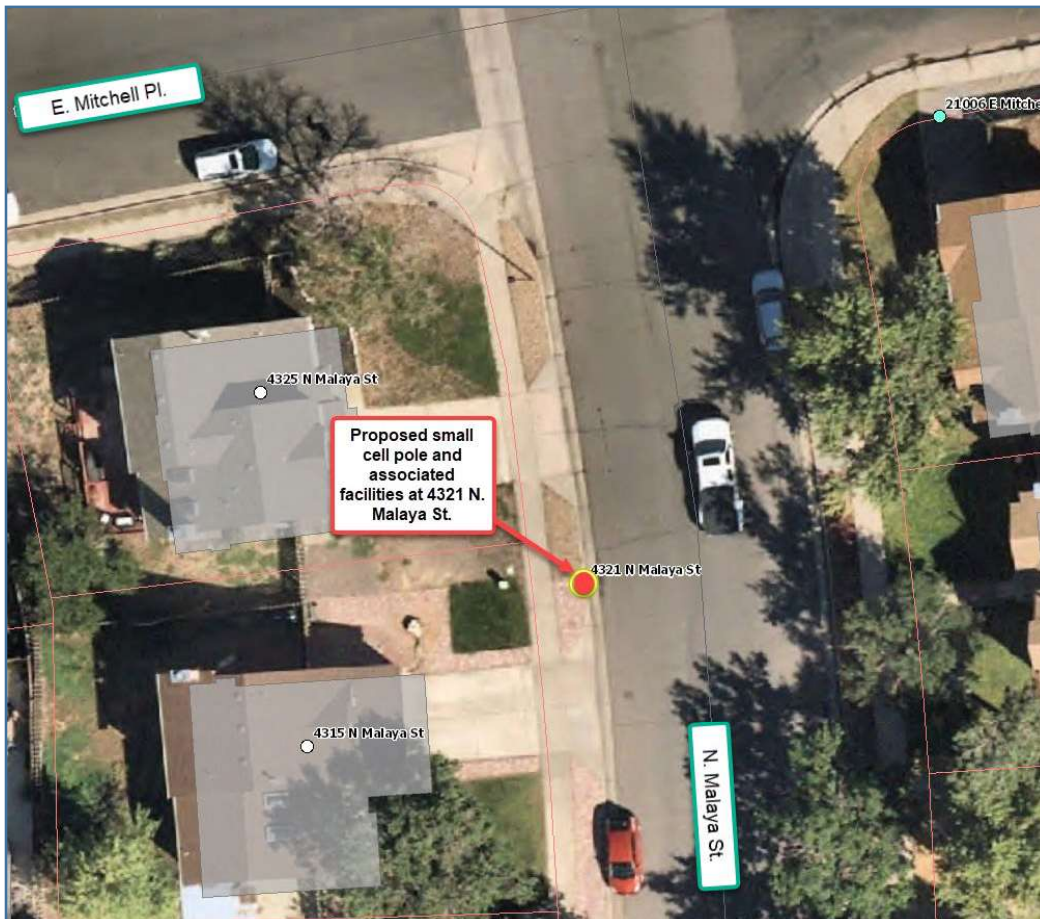


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### 2. Pole # COL07184F\_R02 (4321 N Malaya St.)



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## TIER III ENCROACHMENT EXECUTIVE SUMMARY

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### 3. Pole # COL06996F\_R01 (2170 31st St.)



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Tilson (BV) 2020 Tier III Pole Location

**1.** Location Description for Pole # COL07131F\_R03 (635 S Irving St):

Latitude: N 39.70533, Longitude: W -105.02989

Location Description: The proposed wireless structure lying within the City and County of Denver Right of Way, Consists of a 49 sq. ft. disturbance. The center of said disturbance is positioned 125' south of the north west corner of W Gill Pl and S Irving St.

**2.** Location Description for Pole # COL07184F\_R02 (4321 N Malaya St.)

Latitude: N 39.77632, Longitude: W -104.74249

Location Description: The proposed wireless structure lying within the City and County of Denver ROW, consists of a 49 sq. ft. disturbance. The center of said disturbance is positioned 75' south of the southwest intersection of Mitchell Pl and Malaya St.

**3.** Location Description for Pole # COL06996F\_R01 (2170 31st St.)

Latitude: N 39.769467, Longitude: W -104.987599

Location Description: The proposed wireless structure lying within the City and County of Denver ROW, consists of a 49 sq. ft. disturbance. The center of said disturbance is positioned approximately 190' northwest intersection of 31<sup>st</sup> St and Weston St.