

BY AUTHORITY

RESOLUTION NO. CR18-1268

COMMITTEE OF REFERENCE:

SERIES OF 2018

Land Use, Transportation & Infrastructure

A RESOLUTION

Granting a revocable permit to NewPath Networks, LLC, to encroach into the right-of-way at 1449 California Street.

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

Section 1. The City and County of Denver ("City") hereby grants to NewPath Networks, LLC and its successors and assigns ("Permittee"), a revocable permit to encroach into the right-of-way with one (1) small cell pole and facilities with a total height of 30 feet, a foundation of 6 feet x 6 feet, a pull box of 2 feet x 3 feet for utilities located at the base of the pole, and a connection to a power meter via a distributed power system utilizing existing coaxial cable for a total disturbance of 36 square feet ("Encroachments") at 1449 California Street in the following described area ("Encroachment Area"):

PARCEL DESCRIPTION ROW NO. 2018-ENCROACHMENT-0000040:

Starting at the intersection of California St and 14th St. 204 feet northeast of the curb along 14th Street, then 5 feet inward from back of curb.

Coordinates for the pole are 39.743832 N, -104.99409 W.

Section 2. 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 City's Public Works Permit Operations at 2000 West 3rd Avenue, 303-446-3759, 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, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado 80215, at 303-232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-922-1987 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 due to activities authorized

1 by the Permit. Should the relocation or replacement of any drainage facilities for water and sewage
2 of the City become necessary as determined by the City's Executive Director of Public Works
3 ("Executive Director"), in the Executive Director's sole and absolute discretion, Permittee shall pay
4 all cost and expense of the portion of the sewer affected by the permitted structure. The extent of
5 the affected portion to be replaced or relocated by Permittee shall be determined by the Executive
6 Director. Any and all replacement or repair of facilities of the Denver Water and/or drainage facilities
7 for water and sewage of the City attributed to the Permittee shall be made by the Denver Water
8 and/or the City at the sole expense of the Permittee. In the event Permittee's facilities are damaged
9 or destroyed due to the Denver Water or the City's repair, replacement and/or operation of its
10 facilities, repairs will be made by the Permittee at its sole expense. Permittee agrees to defend,
11 indemnify and save the City harmless and to repair or pay for the repair of any and all damages to
12 said sanitary sewer, or those damages resulting from the failure of the sewer to properly function as
13 a result of the permitted structure.

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

17 (f) All construction in, under, on or over the Encroachment Area shall be accomplished in
18 accordance with the Building Code of the City. Plans and specifications governing the construction
19 of the Encroachments shall be approved by the Executive Director and the Director of Building
20 Inspection Division prior to construction. Upon completion, a reproducible copy of the exact location
21 and dimensions of the Encroachments shall be filed with the Executive Director.

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

28 (h) Permittee shall pay all costs of construction and maintenance of the Encroachments.
29 Upon revocation of the permit or upon abandonment, Permittee shall pay all costs of removing the
30 Encroachments from the Encroachment Area and return the Encroachment Area to its original
31 condition under the supervision of the City Engineer.

32 (i) Permittee shall remove and replace any and all street/alley paving, sidewalks, and curb
33 and gutter, both inside the Encroachment Area and in the rights-of-way adjacent thereto, that

1 become broken, damaged or unsightly during the course of construction. In the future, Permittee
2 shall also remove, replace or repair any street/alley paving, sidewalks, and curb and gutter that
3 become broken or damaged when, in the opinion of the City Engineer, the damage has been caused
4 by the activity of the Permittee within the Encroachment Area. All repair work shall be accomplished
5 without cost to the City and under the supervision of the City Engineer.

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

8 (k) This revocable Permit shall not operate or be construed to abridge, limit or restrict the
9 City in exercising its right to make full use of the Encroachment Area and adjacent rights-of-way as
10 public thoroughfares nor shall it operate to restrict the utility companies in exercising their rights to
11 construct, remove, operate and maintain their facilities within the Encroachment Area and adjacent
12 rights-of-way.

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

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

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

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

4 (p) NewPath Networks, LLC is an affiliate of Crown Castle Fiber LLC.

5 **Section 3.** That the Permit hereby granted shall be revocable at any time that the Council
6 of the City and County of Denver shall determine that the public convenience and necessity or the
7 public health, safety or general welfare require such revocation, and the right to revoke the same is
8 hereby expressly reserved to the City; provided however, at a reasonable time prior to City Council
9 action upon such revocation or proposed revocation, opportunity shall be afforded to Permittee, its
10 successors and assigns, to be present at a hearing to be conducted by the City Council upon such
11 matters and thereat to present its views and opinions thereof and to present for consideration action
12 or actions alternative to the revocation of such Permit.

13 COMMITTEE APPROVAL DATE: November 6, 2018 by Consent

14 MAYOR-COUNCIL DATE: November 13, 2018

15 PASSED BY THE COUNCIL: _____

16 _____ - PRESIDENT

17 ATTEST: _____ - CLERK AND RECORDER,
18 EX-OFFICIO CLERK OF THE
19 CITY AND COUNTY OF DENVER

20 PREPARED BY: Bradley A. Beck, Assistant City Attorney DATE: November 21, 2018

21 Pursuant to section 13-12, D.R.M.C., this proposed resolution has been reviewed by the Office of
22 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
23 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to §
24 3.2.6 of the Charter.

25
26 Kristin M. Bronson, Denver City Attorney

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28 BY: _____, Assistant City Attorney DATE: _____