

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

28 **1695 East Mexico Avenue DN90XS280L**

29 Coordinates: 39.685792, -104.967211

30 Assigned Address: 1695 East Mexico Avenue

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

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 3<sup>rd</sup> 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: July 23, 2018

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 BY: , Assistant City Attorney DATE: Jul 18, 2018