



Denver Public Works  
Engineering Regulatory & Analytics  
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www.denvergov.org/PWERA

## REQUEST FOR RESOLUTION FOR TIER III ENCROACHMENT PERMIT

\*\*\*\*\*See notes below\*\*\*\*\*

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

**FROM:** Matt Bryner  
Director  
Public Works, Right of Way Services

**ROW NO.:** 2018-ENCROACHMENT-0000040

**DATE:** November 19, 2018

**SUBJECT:** Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to NewPath Networks, LLC , their successors and assigns, to encroach into the right-of-way with one (1) small cell pole and facilities at 1449 California St.

**The small cell pole and facilities located at 1449 California St. will include a pole and facilities with a total height of 30-feet. The other items associated with the pole and antenna are: 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.**

**\*NOTE\*** Please see Section P for additional comments to be included in permit.

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

This office has investigated the request from Pinnacle Consulting, Inc, dated April 10, 2018, on behalf of NewPath Networks, LLC for the granting of the above-subject permit.

This matter has been checked by this office and has been coordinated with Asset Management; Colorado Department of Transportation (if required); Comcast Corporation; Commission For People With Disabilities; Councilman Albus Brooks – District 9; CPD: Building & Construction Services, Planning Services, and Zoning & Development Review; Denver Water Board; Environmental Services (if required); Fire Department; Metro Wastewater Reclamation District; Office of Emergency Management; Office of Telecommunications; Parks and Recreation; Public Works: City Engineer, DES Construction Engineering, DES Engineering, DES Survey, IPP Infrastructure Engineering, and Street Maintenance; Qwest Corporation; Regional Transportation District; and Xcel Energy, all of whom have returned our questionnaires indicating their agreement.

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 NewPath Networks, LLC, their successors and assigns, to encroach with one (1) small cell pole and facilities into 1449 California St.

## **INSERT LOCATION DESCRIPTION ROW**

Please see the location description attached

### **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 Public Works 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, 12600 West Colfax Ave, 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 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 Public Works, 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 Public Works. 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 of the Encroachments shall be approved by the Manager of Public Works 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 Public Works.

- (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 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 Public Works, 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 Public Works 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) NewPath Networks LLC is affiliated with the company Crown Castle.

A map of the area is attached hereto.

MB: vw

cc: Asset Management, Steve Wirth  
City Council Office, Zach Rothmier  
Councilman Albus Brooks and Aides  
Department of Law, Karen Aviles  
Department of Law, Bradley Beck  
Department of Law, Deanne Durfee  
Department of Law, Caroline Martin  
Public Works, Alba Castro  
Public Works, Sarah Stanek  
Project File

Property Owner:  
NewPath Networks, LLC  
Affiliated with Crown  
Castle  
2000 Corporate Drive  
Canonsburg, PA 15317

Agent:  
Pinnacle Consulting, Inc  
c/o Jenny Hamblin  
3 Inverness Dr. East, STE 200  
Englewood, CO 80112

**ORDINANCE/RESOLUTION REQUEST**

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

Date of Request: **October 22, 2018**

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 Encroachment

**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.)

Pinnacle Consulting, Inc requests for a Resolution granting a revocable permit, subject to certain terms and conditions, to NewPath Networks, LLC, their successors and assigns, to encroach into the right-of-way with one (1) small cell pole and facilities at 1449 California St.

**The small cell pole and facilities located at 1449 California St. will include a pole and facilities with a total height of 30-feet. The other items associated with the pole and antenna are: a foundation of 6-foot x 6-foot, a pull box of 2-foot x 3-foot 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.**

**3. Requesting Agency:** Public Works; Engineering & Regulatory Dept.

**4. Contact Person:**

Contact person with knowledge of proposed ordinance/resolution	Contact person to present item at Mayor-Council and Council
Name: Brittany Pirtle	Name: Sarah Stanek
Email: Brittany.Pirtle@denvergov.org	Email: Sarah.Stanek@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 NewPath Networks, LLC, their successors and assigns, to encroach into the right-of-way with one (1) small cell pole and facilities at 1449 California St.

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NewPath Networks LLC is affiliated with the company Crown Castle

**6. City Attorney assigned to this request (if applicable):** Bradley Beck

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

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

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

7. **City Council District:** District 9; Councilman Albus Brooks

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

### **Key Contract Terms**

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

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

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

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

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

**What is an Encroachment:** A privately owned improvement that is located in, or project over or under the public Right-of-Way.

**Project Title:** 2018-ENCROACHMENT-0000040 Tier III NewPath Pinnacle Group 1

**Business name:** NewPath Networks, LLC

**Description of Encroachment:** Proposing to install one (1) small cell pole and associated facilities at 1449 California St.

Pinnacle Consulting, Inc requests for a Resolution granting a revocable permit, subject to certain terms and conditions, to NewPath Networks, an affiliate of Crown Castle, their successors and assigns, to encroach into the right-of-way with one (1) small cell pole and facilities at 1449 California St.

The small cell pole and facilities located at 1449 California St. will include a pole and facilities with a total height of 30-feet. The other items associated with the pole and antenna are: 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.

**Explanation of why the Public Right of Way must be utilized for a private improvement:** The purpose of this site is for densification of the existing network coverage areas. The increasing demand for high speed data exceeds the capacity of the current macro sites. The principles of small cell design, allows for an increased capacity over a much smaller area. With an effective coverage radius between 300-600 feet, it is essential that this equipment be place as close to the end user as possible. The use of structures in the ROW provides an ideal location to this end. Additionally, this equipment needs utility services (fiber and power) to support this equipment. Locating in the ROW allows for a minimized impact to the city's streetscape by eliminating the need for lateral utility runs (overhead or underground) to connect this equipment with the utility infrastructure. Most utility runs are located at the edge of the ROW, outside the edge of the roadway. Locating anywhere other than the ROW, would require connecting utility lines to be run. The additional disruption to the ground is mitigated through locating the sites in the same ROW as the utility lines.

**Duration of the Encroachment:** Permanent

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

**Additional Information:** NewPath Networks LLC is affiliated with Crown Castle



Location Map:



## Location Description

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

Coordinates: 39.743832 N, -104.99409 W