

1 BY AUTHORITY

2 RESOLUTION NO. CR13-0203  
3 SERIES OF 2013

COMMITTEE OF REFERENCE:  
Land Use, Transportation & Infrastructure

4  
5 A RESOLUTION

6 **Granting a revocable permit to Proximo Distillers, LLC to encroach into the**  
7 **right-of-way at 215 South Santa Fe Drive.**

8  
9 **NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY AND COUNTY**  
10 **OF DENVER:**

11 **Section 1.** The City and County of Denver hereby grants to Proximo Distillers, LLC and  
12 its successors and assigns ("Permittee"), a revocable permit to encroach into the right-of-way with  
13 a portion of a brick building ("Encroachments") at 215 South Santa Fe Drive in the following  
14 described area ("Encroachment Area"):

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16 **PARCEL DESCRIPTION ROW 2012-0507-02-001**

A PORTION OF SOUTH SANTA FE DRIVE PER RIGHT OF WAY DEDICATION AS RECORDED IN THE CITY AND COUNTY OF DENVER UNDER RECEPTION NUMBER 2009085403, ALSO BEING A PORTION OF THE SOUTHEAST ONE-QUARTER OF SECTION 9, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH P.M., CITY AND COUNTY OF DENVER, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE SOUTHWESTERLY RIGHT OF WAY OF SOUTH SANTA FE DRIVE, AS DEDICATED UNDER RECEPTION NUMBER 2009085403, THENCE SOUTHEASTERLY ALONG SAID SOUTHWESTERLY RIGHT OF WAY, S 20°38'41" E A DISTANCE OF 31.59 FEET TO A POINT ON THE NORTHERLY LINE OF AN EXISTING BUILDING, SAID POINT ALSO BEING THE POINT OF BEGINNING FOR THIS DESCRIPTION; THENCE ALONG SAID NORTHERLY BUILDING LINE N 69°16'11" E A DISTANCE OF 2.92 FEET, THENCE ALONG THE EASTERLY BUILDING LINE S 20°44'03" E A DISTANCE OF 49.96 FEET; THENCE ALONG THE SOUTHERLY BUILDING LINE, S 69°16'36" W A DISTANCE OF 3.00 FEET TO A POINT ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF SOUTH SANTA FE DRIVE AS DEDICATED UNDER RECEPTION NUMBER 2009085403; THENCE N 20°38'41" W ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE A DISTANCE OF 49.96 FEET TO THE POINT OF BEGINNING, CONTAINING 147.8 SQ.FT.

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

20 (a) Permittee shall obtain a street occupancy permit from Public Works Permit  
21 Operations at 2000 West 3<sup>rd</sup> Avenue, 303-446-3759, prior to commencing construction.

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

24 (c) If the Permittee intends to install any underground facilities in or near a public road,  
25 street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification  
26 Association of Owners and Operators of Underground Facilities by contacting the Utility

1 Notification Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado  
2 80215, at 303-232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-  
3 922-1987 to locate underground facilities prior to commencing any work under this permit.

4 (d) Permittee is fully responsible for any and all damages incurred to facilities of the  
5 Water Department and/or drainage facilities for water and sewage of the City and County of  
6 Denver due to activities authorized by the permit. Should the relocation or replacement of any  
7 drainage facilities for water and sewage of the City and County of Denver become necessary as  
8 determined by the Manager of Public Works, in the Manager's sole and absolute discretion,  
9 Permittee shall pay all cost and expense of the portion of the sewer affected by the permitted  
10 structure. The extent of the affected portion to be replaced or relocated by Permittee shall be  
11 determined by the Manager of Public Works. Any and all replacement or repair of facilities of the  
12 Water Department and/or drainage facilities for water and sewage of the City and County of  
13 Denver attributed to the Permittee shall be made by the Water Department and/or the City and  
14 County of Denver at the sole expense of the Permittee. In the event Permittee's facilities are  
15 damaged or destroyed due to the Water Department's or the City and County of Denver's repair,  
16 replacement and/or operation of its facilities, repairs will be made by the Permittee at its sole  
17 expense. Permittee agrees to defend, indemnify and save the City harmless and to repair or pay  
18 for the repair of any and all damages to said sanitary sewer, or those damages resulting from the  
19 failure of the sewer to properly function as a result of the permitted structure.

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

23 (f) All construction in, under, on or over the Encroachment Area shall be accomplished  
24 in accordance with the Building Code of the City and County of Denver. Plans and Specifications  
25 governing the construction of the Encroachments shall be approved by the Manager of Public  
26 Works and the Director of Building Inspection Division prior to construction. Upon completion, a  
27 reproducible copy of the exact location and dimensions of the Encroachments shall be filed with  
28 the Manager of Public Works.

29 (g) The sidewalk and street/alley over the Encroachment Area shall be capable of  
30 withstanding an HS-20 loading in accordance with the latest AASHTO Specifications. The  
31 installations within the Encroachment Area shall be constructed so that the paved section of the  
32 street/alley can be widened without requiring additional structural modifications. The sidewalk

1 shall be constructed so that it can be removed and replaced without affecting structures within the  
2 Encroachment Area.

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

7 (i) Permittee shall remove and replace any and all street/alley paving, sidewalks, and  
8 curb and gutter, both inside the Encroachment Area and in the rights-of-way adjacent thereto, that  
9 become broken, damaged or unsightly during the course of construction. In the future, Permittee  
10 shall also remove, replace or repair any street/alley paving, sidewalks, and curb and gutter that  
11 become broken or damaged when, in the opinion of the City Engineer, the damage has been  
12 caused by the activity of the Permittee within the Encroachment Area. All repair work shall be  
13 accomplished without cost to the City and under the supervision of the City Engineer.

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

16 (k) This revocable permit shall not operate or be construed to abridge, limit or restrict  
17 the City and County of Denver in exercising its right to make full use of the Encroachment Area  
18 and adjacent rights-of-way as public thoroughfares nor shall it operate to restrict the utility  
19 companies in exercising their rights to construct, remove, operate and maintain their facilities  
20 within the Encroachment Area and adjacent rights-of-way.

21 (l) During the existence of the Encroachments and this permit, Permittee, its  
22 successors and assigns, at its expense, and without cost to the City and County of Denver, shall  
23 procure and maintain a single limit comprehensive general liability insurance policy with a limit of  
24 not less than \$500,000.00. All coverages are to be arranged on an occurrence basis and include  
25 coverage for those hazards normally identified as X.C.U. during construction. The insurance  
26 coverage required herein constitutes a minimum requirement and such enumeration shall in no  
27 way be deemed to limit or lessen the liability of the Permittee, its successors or assigns, under the  
28 terms of this permit. All insurance coverage required herein shall be written in a form and by a  
29 company or companies approved by the Risk Manager of the City and County of Denver and  
30 authorized to do business in the State of Colorado. A certified copy of all such insurance policies  
31 shall be filed with the Manager of Public Works, and each such policy shall contain a statement  
32 therein or endorsement thereon that it will not be canceled or materially changed without written  
33 notice, by registered mail, to the Manager of Public Works at least thirty (30) days prior to the

1 effective date of the cancellation or material change. All such insurance policies shall be  
2 specifically endorsed to include all liability assumed by the Permittee hereunder and shall name  
3 the City and County of Denver as an additional insured.

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

9 (n) The right to revoke this permit is expressly reserved to the City and County of  
10 Denver.

11 (o) Permittee shall agree to indemnify and always save the City and County of Denver  
12 harmless from all costs, claims or damages arising, either directly or indirectly, out of the rights  
13 and privileges granted by this permit.

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

23 COMMITTEE APPROVAL DATE: March 28, 2013 [by consent]

24 MAYOR-COUNCIL DATE: April 2, 2013

25 PASSED BY THE COUNCIL: \_\_\_\_\_, 2013

26 \_\_\_\_\_ - PRESIDENT

27 ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
28 EX-OFFICIO CLERK OF THE  
29 CITY AND COUNTY OF DENVER

30  
31 PREPARED BY: Brent A. Eisen, Assistant City Attorney DATE: April 4, 2013  
32 Pursuant to section 13-12, D.R.M.C., this proposed resolution has been reviewed by the office of  
33 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed  
34 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to §  
35 3.2.6 of the Charter.

36  
37 Douglas J. Friednash, Denver City Attorney

1 BY: \_\_\_\_\_, Assistant City Attorney DATE: \_\_\_\_\_, 2013