

RESOLUTION NO. 1434

A RESOLUTION OF THE GOLDEN CITY COUNCIL  
AUTHORIZING APPROVAL OF A FIRE SERVICES  
AGREEMENT WITH THE COORS BREWING COMPANY

WHEREAS, the City of Golden has an excellent, well equipped, and well trained fire department;  
and


WHEREAS, the Coors Brewing Company property is partly within the Golden City limits and  
partly outside the City limits; and

WHEREAS, it is the desire of Coors to procure and Golden to supply fire protection and related  
services for the Coors property laying adjacent to and outside the boundaries of the City of Golden.

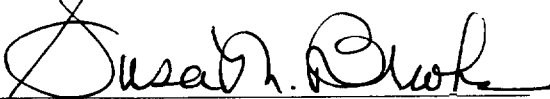
THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GOLDEN,  
COLORADO THAT:

Section 1. The City Manager is authorized to sign and execute the attached Fire Protection  
Service Agreement.

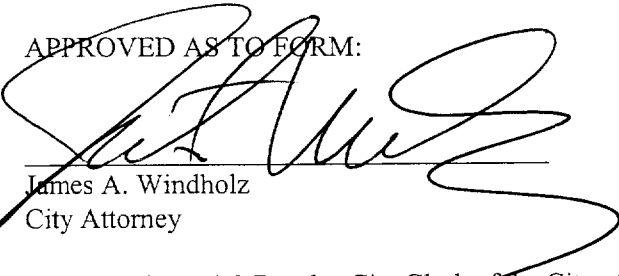
Adopted this 9<sup>th</sup> day of October, 2003.

  
\_\_\_\_\_  
Charles J. Baroch  
Mayor

ATTEST:

  
\_\_\_\_\_  
Susan M. Brooks, MMC  
City Clerk

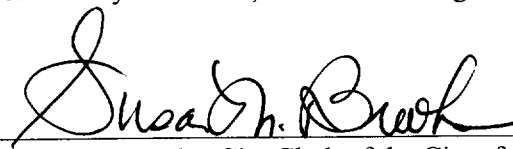
APPROVED AS TO FORM:

  
\_\_\_\_\_  
James A. Windholz  
City Attorney

I, Susan M. Brooks, City Clerk of the City of Golden, Colorado, do hereby certify that the foregoing is  
a true copy of a certain Resolution adopted by the City Council of the City of Golden, Colorado at a regular  
meeting thereof held on the 9<sup>th</sup> day of October, A.D., 2003.

(SEAL)

ATTEST:

  
\_\_\_\_\_  
Susan M. Brooks, City Clerk of the City of  
Golden, Colorado

# FIRE PROTECTION SERVICE AGREEMENT

This Fire Protection Service Agreement is made this 1<sup>st</sup> day of August 2003 by and between COORS BREWING COMPANY (“COORS”), a Colorado corporation with its principal place of business in Golden, Colorado, and the CITY OF GOLDEN, (“GOLDEN”), a Colorado home rule municipality located in Golden, Colorado.

## RECITALS

COORS owns improved real property, part of which is located within the boundaries of the City of Golden and furnished with fire protection services by GOLDEN, and part of which lays contiguous to the boundaries of the City of Golden, which is not subject to fire protection services by GOLDEN.

It is the desire of COORS to procure, and GOLDEN to supply, fire protection and related services for the property laying adjacent to and outside the boundaries of the City of Golden.

COORS and GOLDEN both agree and acknowledge that the services to be provided by GOLDEN under this Agreement shall be the responsibility of the Golden Fire Department (“GFD”), which may involve the assistance of other municipalities or agencies to ensure appropriate response. COORS and GOLDEN agree and acknowledge that COORS and GOLDEN, including the GFD shall cooperate with one another so as to enable the services to be effectively performed.

## 1.0 TERM

This Agreement shall become effective on October 1, 2003 and shall remain in effect for five years until September 30, 2008, after which the Agreement shall, unless either party provides the other with notice of intent to terminate by March 31, 2008, be continued for another five-year period from October 1, 2008 through July 31, 2013.

## 2.0 STATEMENT OF WORK

GOLDEN shall provide or ensure the provision of fire fighting apparatus and fire fighting personnel for the purpose of extinguishing fires, responding to alarms, non-fire emergencies, hazmat emergencies, rescues, salvage, overhaul plus all other fire protection and emergency/hazmat services as set forth in Exhibit A, “Statement of Work”, attached hereto, and made a part of this Agreement, to the properties set forth in the areas shown in green (GOLDEN Service Area) and yellow (Contract Service Area) in Exhibit B, attached hereto and made a part of this Agreement. GOLDEN shall specifically provide COORS services in accordance with 29 C.F.R. 1910.146(k) regarding emergency rescue services from confined spaces and consistent with NFPA 1670 and 1006.

## 3.0 CONSIDERATION

3.1 In consideration of the services provided by GOLDEN under this Agreement, COORS agrees to pay an annual fee of \$269,000.00 beginning October 1, 2003. COORS may pay such amount either by monthly payments of \$22,416.67 payable as stated below in Section 3.2 or a lump sum discounted payment of \$252,860.00 due by November 15th of each year, provided however that whichever method is selected in the first year of the Agreement or renewal must remain in effect for the duration of the Agreement. The fees referenced above are the only fees GOLDEN will charge to COORS pursuant to this Agreement.

3.2 Except as otherwise expressly provided herein, all expenses incurred by GOLDEN in connection with the Statement of Work shall be the sole responsibility of GOLDEN. For GOLDEN's invoices that are received by COORS by the last day of the month, COORS shall pay GOLDEN for those invoices on the 15th day (or the next business day if the 15<sup>th</sup> day is not a business day) of the month that immediately follows. Invoices shall be mailed to: Coors Brewing Company, Disbursements Department, PO Box 889, CE 346, Golden, CO 80402-0889.

#### **4.0 INDEPENDENT CONTRACTOR**

GOLDEN is acting as an independent contractor unrelated to COORS or its subsidiaries or affiliates. GOLDEN shall be solely responsible for the supervision, control and direction of its employees, servants, agents or subcontractors performing work under this Agreement, including the GFD. GOLDEN shall be responsible for paying its employees, agents, servants, subcontractors for withholding and all required filings and payments for income taxes, unemployment taxes and social security taxes; and for all benefit payments and programs, if any. Nothing in this Agreement is intended to create a relationship, expressed or implied, of employer-employee or principal-agent or master-servant between COORS and GOLDEN or its employees, agents, servants, subcontractors. GOLDEN shall not incur any expense or obligation or make any representations or warranties to third parties binding upon or in the name of COORS or of any COORS' subsidiaries or affiliates. In providing such services, GOLDEN shall retain complete control, direction and authority over all personnel and equipment of GOLDEN while providing such services, including direction and authority over the GFD.

#### **5.0 PRIORITY OF SERVICES**

GOLDEN agrees to provide COORS the services specified herein subject to the same duties, obligations and priorities as GOLDEN provides to properties located within the City of Golden.

#### **6.0 TERMINATION**

Either party may terminate this Agreement at anytime, with or without cause, upon one hundred eighty (180) days written notice to the other party, said notice to be sent to the persons at the addresses in Section 7.0 of this Agreement. In the event of termination, GOLDEN shall, within thirty (30) days return to COORS, on a prorated basis, any monies previously paid by COORS for the period of time in which services will not be provided. COORS will pay any unpaid amounts owing to GOLDEN for the period of time in which services are provided within thirty (30) days following termination.

#### **7.0 NOTICES**

All notices, amendments, time extensions, requests for changes, renewal and any other contractual correspondence, including exchange of signed copies of this Agreement, shall be directed to:

City of Golden  
911- 10<sup>th</sup> Street  
Golden, CO 80401

Attention: Mike C. Bestor  
City Manager  
Telephone: 303-384-8010

Coors Brewing Company  
Strategic Sourcing Department  
Golden, CO 80401

Attention: Steve Rasor  
Sr. Purchasing Agent  
Telephone: 303-277-5883

## **8.0 ASSIGNMENT AND SUBCONTRACTING**

GOLDEN shall not assign or subcontract any of its rights or obligations hereunder without the prior written consent of COORS. Any attempt to do so without such consent shall be null and void and shall give COORS the right to cancel and terminate this Agreement. In the event consent is properly given, the provisions of this Agreement shall bind and benefit the parties hereto and their successors and assigns.

## **9.0 GOVERNING LAW AND VENUE**

This Agreement shall be deemed to have been made and accepted in Jefferson County, Colorado, and the laws of the State of Colorado shall govern any interpretations or constructions of the Agreement, except as federal law may apply. Any action pertaining to this Agreement shall be commenced and prosecuted in the courts of Jefferson County, Colorado, and each party submits to the jurisdiction of said courts and waives the right to change venue, except as federal law may apply.

## **10.0 AUTHORITY**

GOLDEN represents and warrants that it has the authority to enter into and perform under this Agreement and to make all representations, warranties and grants as set forth herein.

COORS represents and warrants that it has the full authority to enter into and perform under this Agreement on behalf of itself and its companies, subsidiaries and affiliates, and to make all representations, warranties and grants as set forth herein.

## **11.0 WAIVER**

The failure of either party in any one or more instance(s) to insist upon strict performance of any of the terms and conditions of the Agreement, or to exercise any right herein conferred, shall not be construed as a waiver or relinquishment of that right, or of the right to assert or rely upon the terms and conditions of this Agreement. Any express waiver shall be made in writing, be properly executed by the waiving party and shall be delivered as provided in Section 7.0.

## **12.0 GOVERNMENTAL IMMUNITY**

The parties hereto understand and agree that GOLDEN, its officers, officials and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101, *et seq.*, C.R.S., as amended, or otherwise available by law to GOLDEN, its officers, officials or its employees.

## **13.0 SEVERABILITY**

It is agreed that the invalidity or unenforceability of any section, paragraph or provision of this Agreement shall not affect the validity or enforceability of any one or more of the other sections, paragraphs or provisions.

## 14.0 INTEGRATION OF UNDERSTANDING

This document contains the complete Agreement between the parties and shall, as of the effective date hereof, supersede all agreements between the parties pertaining to the same subject matter. No waiver, modification or amendment of this Agreement or of any term or provision shall be valid unless in writing and executed by the parties hereof.

## 15.0 REPRESENTATIONS, WARRANTIES AND COVENANTS

GOLDEN hereby covenants, represents and warrants to COORS that:

- A. GOLDEN has, shall maintain, or shall retain the experience, equipment, and trained personnel necessary to perform the types of services required by this Agreement;
- B. GOLDEN will obtain all releases, licenses, permits, or other authorizations necessary to fulfill its obligations under this Agreement;
- C. With respect to this Agreement, GOLDEN shall ensure that the GFD (i) complies with any and all applicable federal, state, local, or agency laws, regulations, rules, ordinances, or other directives, and (ii) obtain all releases, licenses, permits, or other authorizations required by any governmental body or authority;
- D. GOLDEN shall instruct its agents performing work in connection with this Agreement and GOLDEN Employees (collectively, the "GOLDEN Parties") to, where practicable, contact COORS' Designated Representative identified below in Section 17C prior to commencing work, regarding safety policies/procedures, potential hazards, and/or hazardous materials in the work area..

## 16, INSURANCE

During the performance of its obligations under this Agreement, GOLDEN shall maintain General Liability Insurance, Automobile Liability Insurance and statutory Workman's Compensation Insurance in such amounts as required by state law and shall provide proof of such coverage to COORS.

## 17. BREACH; REMEDIES; TERMINATION

A. Breach. The occurrence of any one or more of the following events shall constitute a breach and default of this Agreement:

1. Failure by either party to observe or perform any of the obligations, covenants, conditions, representations or warranties required of it pursuant to this Agreement, where such failure is not remedied within thirty (30) days written notice of such to a party.
2. Failure by COORS to make any payment due as required by this Agreement and such breach continues for a period of thirty (30) days after written notice thereof from GOLDEN.

B. Remedies. In the event of a breach by either party, the other party shall have, in addition to any other remedies available by this Agreement or at law or equity, the following remedies:

1. The right to contract with an alternative service provider. and
2. The right to terminate this Agreement upon written notice to the breaching party.

**18. MISCELLANEOUS**

A. Survivability. All covenants, indemnities, guarantees, representations and warranties of the parties arising prior to the expiration of this Agreement (whether by completion or earlier termination) shall survive such expiration.

B. Counterparts. This Agreement may be executed simultaneously in two or more counterparts which, when taken together, shall be deemed an original and constitute one and the same document. The signature of any party to the counterpart shall be deemed a signature to the Agreement, and may be appended to, any other counterpart. Facsimile transmission of executed signature pages shall be sufficient to bind the executing party.”

C. Designated Representative. The COORS Designated Representative for this Agreement is Kent Patton, Coors Brewing Company, PO Box 4030 – CC160, Golden, CO 80401, 303-277-7225.

**IN WITNESS WHEREOF**, COORS and GOLDEN have executed this Agreement as of the mutual date of execution written below their signatures.

**CITY OF GOLDEN,**  
a Colorado municipality

**COORS BREWING COMPANY,**  
a Colorado corporation

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

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

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

## EXHIBIT A

### FIRE PROTECTION SERVICE AGREEMENT STATEMENT OF WORK

#### BASIC SERVICES TO BE PROVIDED

##### GOLDEN will:

- **Respond to all incidences of fire, non-fire, and hazmat emergencies on COORS properties outside the Golden city limits.**
- GOLDEN shall assume incident command and direct incident response according to its command protocols. COORS shall provide GOLDEN's Incident Commander any required technical expertise or structural information.
- **Provide technical plan review for new construction, special occupancies, acceptance testing, and annual inspection verification of all fire protection systems.**
- **Meet with COORS quarterly to:**
  - **Discuss fire protection, dispatch, and security issues.**
  - Review Statement of Work and, if necessary, incorporate information, including, but not limited to: site plans, utility lines, shut offs, roads, fire hydrants and fire protection system standpipes.

##### COORS will :

- **Provide a security response program to notify GFD of services needed and lead/direct GFD to incident scene.**
- **Provide OSHA-mandated Workplace Hazard and Awareness training two (2) times per year for GFD personnel.**
- **Establish an incident command system to assist GFD with each incident.**
- **Provide technical data and support with each hazmat incident.**
- **Provide hazardous material information as required by SARA Title III.**

#### ADDITIONAL DELIVERABLES

1. Building Inspections: Golden Fire Department will provide the initial inspection of buildings in the contract area on a three-year rotational basis. These duties shall require approximately 150 hours per year.

2. Golden Fire Department personnel shall conduct an annual drill (evacuation/fire drill) in the North Office Building, Brewery Office Complex and the Engineering Center Building.

3. Golden Fire Department shall participate in Coors' safety days by inspecting children's car seats and providing general fire prevention/educational information. Coors should provide the Golden Fire Department's Public Education Coordinator ample prior notice of the scheduled safety days.

4. The Golden Fire Department offers Hazmat Operations level training twice a year on the regular training schedule. Coors may send 5 personnel to each class at no cost except for payment of the state test fee. Each class shall be 24 hours in length and are usually scheduled for Friday evening, all day Saturday and all day Sunday.

5. Golden Fire Department shall conduct technical rescue training on confined space twice a year at Coors for Coors employees and Golden Fire Department's technical rescue team. This training shall benefit both parties.

6. Golden Fire Department shall conduct SCBA training for Coors employees twice a year for 35 employees for each class. This training shall consist of a four-hour class that includes hands-on experience. Coors shall be responsible for providing their own SCBA's.

7. Fire Extinguisher classes provided by the Fire Prevention Bureau shall be twice a year with 24 employees in each class. This shall be a four-hour hands-on class. Coors shall be responsible for furnishing their own extinguishers and a location to burn a small outdoor fire.

8. Golden Fire Department as of August 1, 2003 has 6 EMS in-service training classes with Lutheran Medical Center each year. These are three-hour classes and are taught evenings on the second Tuesday every other month. Continuing Education hours are given to maintain certifications of 36 hours in a three-year period. Ten Coors employees may attend each class.

9. Five Coors employees may participate in each of the two annual EMS 1<sup>st</sup> Responder classes. There shall be no cost to Coors except for the state test fee.

10. Golden Fire Department shall on an annual basis conduct quarterly fire/rescue/multi-causality drills a year at Coors. This is for Coors employees and Golden Fire Department firefighter training. These drills shall be 2-3 hours in duration.

11. Golden Fire Department shall conduct one annual Disaster Drill at Coors utilizing mutual aid agencies, Jeffco Hazmat and AMR ambulance. This is a four-hour drill.



SECOND INTERIM AGREEMENT FOR FIRE PROTECTION SERVICE

RECITALS

WHEREAS, effective April 23, 2003, the City of Golden and Coors Brewing Company agreed to continue to be bound by the terms and conditions set forth in the parties Fire Protection Service Agreement, CC27287B, until July 31, 2003 and

WHEREAS, the parties were to use the interim period to finalize a revised fire protection service agreement which has not yet been completed; and

WHEREAS, the parties now seek additional time to finalize the revised agreement reasonably believe one can be completed by September 30, 2003.

AGREEMENT

Effective August 1, 2003, the City of Golden and Coors Brewing Company agree that until September 30, 2003, they shall be bound by the terms and conditions set forth in the parties Fire Protection Service Agreement, CC27287B, except that the City of Golden's monthly fee shall be \$22,416.67.

The parties further agree to use the interim period to negotiate in good faith to finalize a revised fire protection services agreement.

COORS BREWING COMPANY

CITY OF GOLDEN



Steve Rasor  
Senior Purchasing Agent



Michael C. Bestor  
City Manager

Date: 8/27/03

Date: 08/11/03