

RESOLUTION NO. 1993

**A RESOLUTION OF THE CITY COUNCIL OF GOLDEN,
COLORADO, APPROVING AN INTERGOVERNMENTAL
AGREEMENT BETWEEN THE CITY OF GOLDEN AND THE
FAIRMOUNT FIRE PROTECTION DISTRICT PERTAINING TO
FIRE PROTECTION SERVICES TO THE "COORS
TECHNOLOGICAL CENTER" AREA OF THE CITY AND TO THE
MILLER-COORS BREWERY**

WHEREAS, Section 15.6 of Golden's Home Rule Charter permits Golden to enter into agreements with other governmental entities for the furnishing of services; and

WHEREAS, Section 29-1-203 of the Colorado Revised Statutes permits local governments to cooperate and contract with each other to provide any lawfully authorized function or service; and

WHEREAS, the area of the City of Golden commonly known as the Coors Technological Center/Wild Plum Farm Subdivision receives fire protection services from both the City of Golden, and the Fairmount Fire Protection District; and

WHEREAS, a statutory proceeding to exclude the Coors Technological Center/Wild Plum Farm Subdivision properties from the Fairmount Fire Protection District is currently pending in the Jefferson County District Court; and

WHEREAS, a portion of the Miller-Coors Brewery that is adjacent to both the City of Golden and the Fairmount Fire Protection District is not within a fire protection district, but has historically contracted for fire protection from the City of Golden; and

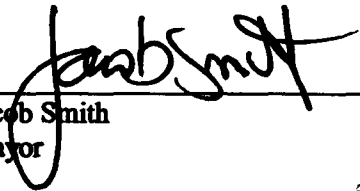
WHEREAS, the City of Golden and the Fairmount Fire Protection District wish to agree on the manner by which fire protection services will be provided to the Coors Technological Center/Wild Plum Farm Subdivision, and the portion of the unprotected portion of Miller-Coors Brewery, should the owner of that property wish to continue to contract for fire protection services; and

WHEREAS, the City of Golden and the Fairmount Fire Protection District have negotiated an intergovernmental agreement addressing cooperation with respect to fire protection and emergency services in those areas, which agreement would resolve the issues in the pending exclusion proceedings.

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

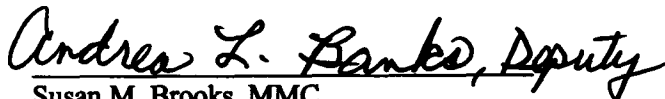
1. The "Intergovernmental Agreement (Fire Protection, Emergency Services, and Training)" between the City of Golden and the Fairmount Fire Protection District, in the form substantially as attached hereto as Exhibit A, is approved. The Mayor is authorized to execute the agreement on behalf of the City.
2. Upon execution of the Intergovernmental Agreement attached hereto as Exhibit A, the City Attorney is directed to take such steps as are necessary to dismiss the proceeding in the Jefferson County District Court, Case No: 2008-CV 4150, pertaining to the exclusion of the Coors Technological Center properties from the Fairmount Fire Protection District.

Adopted this 24th day of September, 2009.



Jacob Smith
Mayor

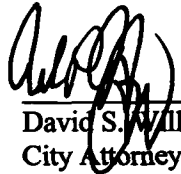
ATTEST:



Susan M. Brooks, MMC
City Clerk



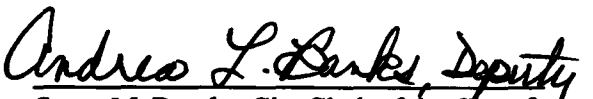
APPROVED AS TO FORM:



David S. Williamson
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 business meeting thereof held on the 24th day of September, A.D., 2009.



ATTEST: 

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

WILLIAMSON & HAYASHI, LLC
ATTORNEYS AT LAW
1650 38TH STREET
SUITE 103 WEST
BOULDER, COLORADO 80301

DAVID S. WILLIAMSON
WILLIAM P. HAYASHI
MARY LYNN BENHAM

Telephone: 303-443-3100
Fax: 303-443-7835

October 21, 2009

Susan Brooks, City Clerk
Andrea Banks, Deputy Clerk
City of Golden
911 Tenth Street
Golden, CO 80401

Re: Golden/Fairmount Fire Protection District Exclusion Settlement Agreement

Dear Susan and Andrea:

Enclosed with this letter is the **original** of the fully executed Intergovernmental Agreement in connection with the above-referenced matter.

Please place these documents in safe keeping for future reference.

Yours very truly,

WILLIAMSON AND HAYASHI, LLC.



David S. Williamson

DSW/jr

Petrock & Fendel, P.C.

Attorneys

James J. Petrock
Frederick A. Fendel, III
Matthew S. Doznanovic
Bradford R. Benning
Kara N. Godbehere
Carmen S. Hall, Of Counsel

Gary J. Crosby, Paralegal

700 17th Street, Suite 1800
Denver, Colorado 80202

303-534-0702
303-534-0310 Fax

www.petrockfendel.com

October 15, 2009

David S. Williamson, Esq.
WILLIAMSON & HAYASHI, LLC
Attorneys at Law
1650 38th Street
Suite 103 West
Boulder, CO 80301

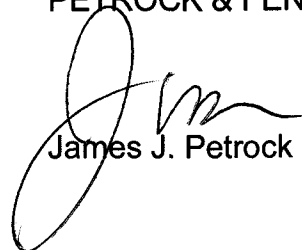
Re: City of Golden/Fairmount Fire Precision District Exclusion Proceedings

Dear Dave:

Enclosed is the fully executed Intergovernmental Agreement (Fire Protection, Emergency Services, and Training), for your records. Thanks for all your help in putting this together.

Very truly yours,

PETROCK & FENDEL, PC



James J. Petrock

JJP/rm
Encl

INTERGOVERNMENTAL AGREEMENT

(Fire Protection, Emergency Services, and Training)

THIS INTERGOVERNMENTAL AGREEMENT, hereinafter the "Agreement" is entered into by and between the **City of Golden**, Colorado, a Colorado Municipal Corporation, ("Golden"), and the **Fairmount Fire Protection District**, a special district existing pursuant to the provision of Title 32, Colorado Revised Statutes, ("FFPD"), on the last date written below. Golden and FFPD may be referred to collectively herein as the "Parties."

RECITALS

- A. C.R.S. § 29-1-203 permits local governments to cooperate and contract with another to provide any lawfully authorized function or service, including the sharing of costs and joint exercise of services; and
- B. Section 15.6 of Golden's Home Rule Charter permits Golden to enter into contracts or agreements with other governmental entities for the furnishing of services; and
- C. Golden operates a full service fire department and provides fire and emergency services within the city and in certain areas adjacent to the city; and
- D. FFPD provides fire protection and emergency services within its district; and
- E. Golden, by Ordinance 1431, dated December 10, 1998, annexed certain properties commonly known as the Coors Technology Center/Wild Plum Farm Subdivision ("Coors Tech"), roughly bordered by Easley Road to the west, W. 50th Avenue to the north, McIntyre Street to the east, and W. 44th Avenue to the south, as shown in Exhibit A, and more particularly described in Exhibit B; and
- F. Coors Tech was part of the FFPD at the time of annexation and remains within the FFPD; and
- G. Coors Tech currently receives fire protection and emergency services from both Golden and FFPD; and
- H. Coors Tech real property owners are assessed real property taxes by FFPD. The 2009 mill levy is 8.427 mills. Of this amount, 6.987 mills is for District operations and the balance, 1.44 mills, is for debt service on \$3,300,000.00 General Obligation Bonds, Series 2006 ("Current Bonded Indebtedness"), and
- I. An Annexation Agreement, pertaining to the Coors Tech annexation, dated December 10, 1998, between Golden and the owners of real property in Coors Tech, addressed the payment of property taxes by reason of inclusion of the Coors Tech properties in the FFPD; and

- J. Golden and FFPD recognize that the rising cost of fire protection and emergency services, combined with the terms of the Annexation Agreement, are causing an increasing financial burden on the affected property owners in Golden; and
- K. The Miller-Coors Brewery and related facilities are roughly bordered by the City of Golden to the West, FFPD to the north, FFPD and West Metro Fire District to the east, and South Table Mountain to the south, as depicted on Exhibit A; and with the exception of a small portion of the Miller Coors Brewery located in the City of Golden, the east half (more or less) of the Miller Coors property located within FFPD, and a single parcel at the east end of the property located in the West Metro Fire Protection District, the Miller Coors Brewery is not within the City of Golden, FFPD, or any other fire protection district.
- L. For over 15 years, Golden has contracted with Miller-Coors (or its predecessors) to provide fire protection services for that portion of the Miller-Coors Brewery that is not within the City of Golden, FFPD, or any other fire protection district (the "Unprotected Brewery Property"); the current contract terminates on September 30, 2009; and
- M. Both Golden and FFPD recognize that a fire or other emergency at the Miller-Coors Brewery could impact the health, safety and welfare of citizens in Golden and FFPD through obvious dangers of proximate fire hazards, as well as impacts on the local workforce and revenues given that Miller-Coors Brewery is a significant employer in the area; and
- N. Golden and FFPD are, and for some time have been, parties, to a mutual aid agreement, pursuant to which both fire departments would, upon request, provide fire and emergency services in the service area of the other when circumstances warrant; and
- O. By cooperatively providing services to Coors Tech and Miller-Coors Brewery and sharing revenues generated from these properties, FFPD and Golden can provide better and more efficient fire protection and emergency services to citizens at a more reasonable cost to affected property owners.

NOW, THEREFORE, in consideration of the covenants and promises herein contained, the Parties agree as follows:

1. **TERM.** The term of this Agreement shall commence from the date the last party signs this Agreement and terminate on December 31, 2020, unless terminated earlier, as provided below.

2. **FIRE PROTECTION AND EMERGENCY SERVICES.**

A. Commencing on January 1, 2010, Golden and FFPD will jointly provide fire protection services, emergency services, and associated training to Coors Tech and, subject to

multiple fiscal year obligation as described by Article X section 20 of the Colorado Constitution by either party. If either party fails to appropriate revenues in any year for payment of expenses contemplated by this Agreement, this contract shall terminate.

5. **INTEGRATION AND AMENDMENT.** This Agreement represents the entire agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties. If any other provision of the Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect.

6. **WAIVER OF BREACH.** A waiver by any party to the Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.

7. **GOVERNING LAW AND VENUE.** This Agreement shall be governed by the laws of the State of Colorado. Venue for any action arising under this Agreement or for the enforcement of this Agreement shall be in the District Court for Jefferson County, Colorado.

8. **GOVERNMENTAL IMMUNITIES.**

- a. The parties hereto intend that nothing herein shall be deemed or construed as a waiver by either party of any rights, limitations, or protections afforded to them under the Colorado Governmental Immunity Act (Section 24-10-101, C.R.S., et seq.) or otherwise available at law or equity.
- b. The parties agree that in the event any claim or suit is brought against either or both parties by any third party as a result of the operation of this Agreement, both parties will cooperate with each other, and with the insuring entities of both parties, in defending such claim or suit.

9. **SEVERABILITY.** If any term, section or other provision of this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such term, section or other provision shall not affect any of the remaining provisions of this Agreement if the remaining provisions can be enforced to carry out the general intent of this Agreement.

10. **SUCCESSORS.** This Agreement shall be binding upon and inure to the benefit of any governmental successor in interest to FFPD or Golden.

successful negotiation of a contract, to the Unprotected Brewery Property. The actual operational, response and training details, procedures and criteria shall be provided for in a separate "Response & Training Agreement" to be agreed upon by respective fire chiefs of the Parties.

B. Golden will continue as the primary contracting agency with Miller-Coors for fire protection, emergency and training services to the Unprotected Brewery Property. Golden, in consultation with FFPD, shall attempt to negotiate a long-term contract to serve that property, at rates that take into consideration the cost of services that would be paid if the Unprotected Brewery Property were within the City of Golden or a fire protection district. Golden will administer the contract.

3. REVENUE SHARING.

A. Golden and FFPD will share equally the gross revenues from any contract entered into pertaining to the provision of fire, emergency and training services to the Miller-Coors Brewery.

B. FFPD will pay to Golden an amount equal to one-half (1/2) of all FFPD real property taxes generated from the properties in Coors Tech that are not pledged and used to pay Current Bonded Indebtedness of the FFPD (i.e., the amount of property taxes from the Coors Tech property pledged and used to pay FFPD bonded indebtedness currently based on a 2009 mill levy of 1.44 mills, but may be subject to adjustment by FFPD in future years based upon the assessed valuation of properties within the FFPD. The foregoing notwithstanding, in the event that the FFPD increases its property tax during the term of this Agreement other than for an adjustment to the levy required to pay the Current Bonded Indebtedness, the amount payable to Golden hereunder shall increase by an amount equal to 100% of the incremental FFPD property tax revenues from the Coors Tech properties generated by such increase

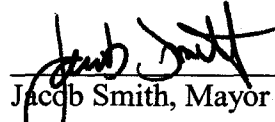
C. On October 1 of each year for the term hereof, the revenue sharing payments due from each party as identified in A and B above for that year shall be calculated and in lieu of making payments to each other the party with the higher revenue payment obligation shall issue a check to the other party for the difference. For the last year of this Agreement, revenue sharing payments shall be prorated for the partial year.

4. **EXCLUSION PROCEEDINGS.** There is presently pending in the Jefferson County, Colorado District Court a proceeding to exclude the Coors Tech properties from the FFPD (Case No. 2008 CV 4150). The Parties acknowledge that this Agreement will, for the time being, address the concerns raised by such proceeding. Accordingly, Golden and FFPD will jointly request the District court to dismiss such proceedings, with the Parties to be responsible for their own costs and expenses.

5. **NO MULTIPLE FISCAL YEAR OBLIGATION / NONAPPROPRIATION.** Any and all obligations of Golden and FFPD under and pursuant to this Agreement that require funding are subject to prior annual appropriations of monies expressly made by the parties legislative bodies for the purposes of this Agreement. Nothing herein shall be construed as a

11. **COUNTERPART EXECUTION.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

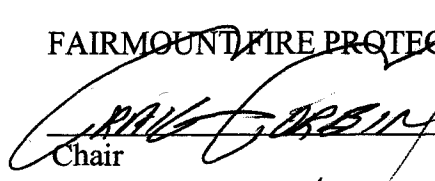
CITY OF GOLDEN



Jacob Smith, Mayor
10/1/09

Date

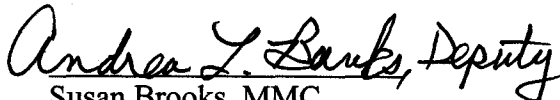
FAIRMOUNT FIRE PROTECTION DISTRICT



Chair
10/14/09


Date

ATTEST:




Andrea L. Banks, Deputy
Susan Brooks, MMC,
City Clerk

ATTEST:



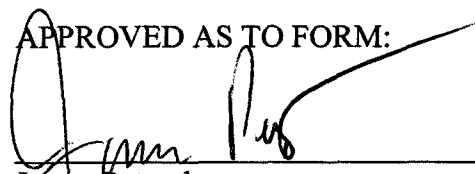
Robert L. White
Secretary

APPROVED AS TO FORM:



David S. Williamson
City Attorney

APPROVED AS TO FORM:



James Petrock
FFPD Attorney

EXHIBIT B

LEGAL DESCRIPTION

All of COORS TECHNOLOGY CENTER REPLAT A, a Subdivision recorded in Plat Book 107 at Pages 4 through 11, Reception No. 91085343, of the records of Jefferson County, Colorado, and portions of the SW1/4 of Section 13, the SE1/4 of Section 14, the NE1/4 and the SE1/4 of Section 23 and the NW1/4 and the SW1/4 of Section 24, all in T3S, R70W of the 6th P.M., County of Jefferson, State of Colorado, described as follows:

Commencing at the N1/4 Corner of said Section 24, from which the Center of said Section 24 bears S00°08'55"W, thence N89°46'57"W, 50.00 feet to the East line of said COORS TECHNOLOGY CENTER REPLAT A and the TRUE POINT OF BEGINNING;

The following courses and distances are along the Easterly, Northerly and Westerly lines of said COORS TECHNOLOGY CENTER REPLAT A:

Thence N00°17'02"E, 1085.36 feet to a point of curve to the left;

Thence Northwesterly, 46.85 feet along the arc of said curve to a point tangent, said arc having a radius of 30.00 feet, a central angle of 89°28'30" and being subtended by a chord that bears N44°27'13"W, 42.23 feet;

Thence N89°11'28"W, 695.67 feet;

Thence S00°36'45"W, 208.00 feet;

Thence N89°11'28"W, 208.00 feet;

Legal Description (Continued)

Thence N00°36'45"E, 208.00 feet;

Thence N89°11'28"W, 298.66 feet;

Thence N00°36'38"E, 42.55 feet;

Thence N89°23'25"W, 37.68 feet;

Thence N00°32'03"E, 47.19 feet;

Thence N65°01'37"W, 71.05 feet;

Thence Northwesterly, 304.50 feet along the arc of a curve concave to the Southwest, said arc having a radius of 717.73 feet, a central angle of 24°18'29" and being subtended by a chord that bears N77°14'25"W, 302.22 feet;

Thence N00°32'03"E, 6.50 feet;

Thence N89°23'25"W, 341.74 feet;

Thence S01°18'57"W, 77.06 feet;

Thence S12°37'33"W, 81.28 feet to a point of curve to the left;

Thence Southerly, 182.59 feet along the arc of said curve to a point tangent, said arc having a radius of 332.50 feet, a central angle of 31°27'47" and being subtended by a chord that bears S03°06'20"E, 180.30 feet;

Thence S18°50'14"E, 143.47 feet;

Thence S05°22'07"E, 28.31 feet to the North line extended Easterly of Tract J in said COORS TECHNOLOGY CENTER REPLAT A;

Thence, leaving a Westerly line of said COORS TECHNOLOGY CENTER REPLAT A, N89°12'59"W, 663.08 feet along the North line extended Easterly and along the North line of said Tract J to the Northwest Corner thereof;

The following courses and distances are along EASTERLY, Northerly, Westerly and Southerly lines of said COORS TECHNOLOGY CENTER REPLAT A:

Thence N00°47'01"E, 481.38 feet;

Legal Description (Continued)

Thence N89°10'48"W, 342.95 feet;
Thence N89°10'53"W, 177.85 feet;
Thence S00°47'01"W, 619.30 feet;
Thence N89°58'33"E, 520.85 feet;
Thence S00°47'01"W, 684.75 feet;
Thence S89°56'42"W, 1408.62 feet;
Thence S08°12'42"W, 30.31 feet;
Thence N89°56'42"E, 290.00 feet;
Thence S08°12'42"W, 300.00 feet;
Thence S89°56'42"W, 0.35 feet;
Thence S08°12'42"W, 441.31 feet;
Thence S89°56'42"W, 317.63 feet;
Thence S14°39'23"W, 136.58 feet;
Thence S11°07'49"W, 15.73 feet;
Thence S02°17'00"W, 99.78 feet;
Thence S06°42'00"W, 70.30 feet;
Thence S08°16'00"W, 74.55 feet;
Thence S12°30'00"W, 155.02 feet;
Thence S15°16'00"W, 29.01 feet;
Thence S89°31'04"W, 2.50 feet;
Thence S08°41'00"W, 16.87 feet;
Thence S11°11'08"W, 454.02 feet;
Thence S12°08'45"W, 308.83 feet;
Thence S14°11'31"W, 276.18 feet;

Legal Description (Continued)

Thence S20°07'14"W, 233.43 feet;

Thence S11°11'15"W, 63.97 feet;

Thence N89°05'30"E, 248.55 feet;

Thence S00°54'30"E, 158.00 feet;

Thence S18°28'18"E, 147.62 feet;

Thence S00°26'55"W, 5.45 feet;

Thence S89°33'05"E, 338.67 feet;

Thence N01°52'20"E, 10.00 feet;

Thence S88°07'40"E, 36.00 feet to a point of curve to the right;

Thence Southerly, 156.03 feet along the arc of said curve to a point of reverse curve, said arc having a radius of 55.00 feet, a central angle of 162°32'33" and being subtended by a chord that bears S06°51'24"E, 108.73 feet;

Thence Southwesterly, 44.31 feet along the arc of said reverse curve to a point tangent, said arc having a radius of 35.00 feet, a central angle of 72°32'33" and being subtended by a chord that bears S38°08'36"W, 41.41 feet;

Thence S01°52'20"W, 687.70 feet;

Thence S10°43'12"W, 122.49 feet to the most Southerly Corner of Tract E in said COORS TECHNOLOGY CENTER REPLAT A;

Thence, leaving the Westerly line of said COORS TECHNOLOGY CENTER REPLAT A, S39°30'37"W, 15.00 feet along the Southeasterly line extended Southwesterly of said Tract E to the Westerly line extended Northerly of Parcel 4 in said COORS TECHNOLOGY CENTER REPLAT A;

Thence S01°52'20"W, 122.82 feet along the Westerly line extended Northerly and along the Westerly line of said Parcel 4;

Thence N39°30'37"E, 4.91 feet along the Westerly line of said Parcel 4;

Thence S01°52'20"W, 53.87 feet along the Westerly line of said Parcel 4;

Legal Description (Continued)

Thence N88°07'40"W, 50.00 feet to the most Northerly Corner of Tract D in said COORS TECHNOLOGY CENTER REPLAT A;

Thence S36°22'20"W, 252.33 feet along the Northwesterly line of said Tract D;

Thence S46°41'56"W, 62.82 feet along the Northwesterly line of said Tract D to the most Westerly Corner thereof;

Thence N74°32'30"E, 373.15 feet along the Southeasterly line and along the Southeasterly line extended Northeasterly of said Tract D and along the Southeasterly line of said Parcel 4;

Thence N59°44'48"E, 1100.18 feet along the Southeasterly line of said COORS TECHNOLOGY CENTER REPLAT A to a point of curve to right;

Thence Northeasterly, 583.26 feet along the Southeasterly line of said COORS TECHNOLOGY CENTER REPLAT A and along the arc of said curve to a point tangent, said arc having a radius of 3345.95 feet, a central angle of 9°59'15" and being subtended by a chord that bears N64°44'25"E, 582.52 feet;

Thence N69°44'03"E, 2529.41 feet along the Southeasterly line and along the Southeasterly line extended Northeasterly of said COORS TECHNOLOGY CENTER REPLAT A;

Thence N01°19'13"E, 72.32 feet;

Thence N05°51'33"E, 140.62 feet;

Thence N00°08'55"E, 129.44 feet;

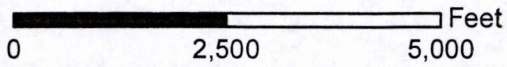
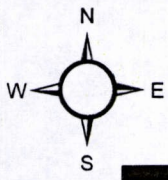
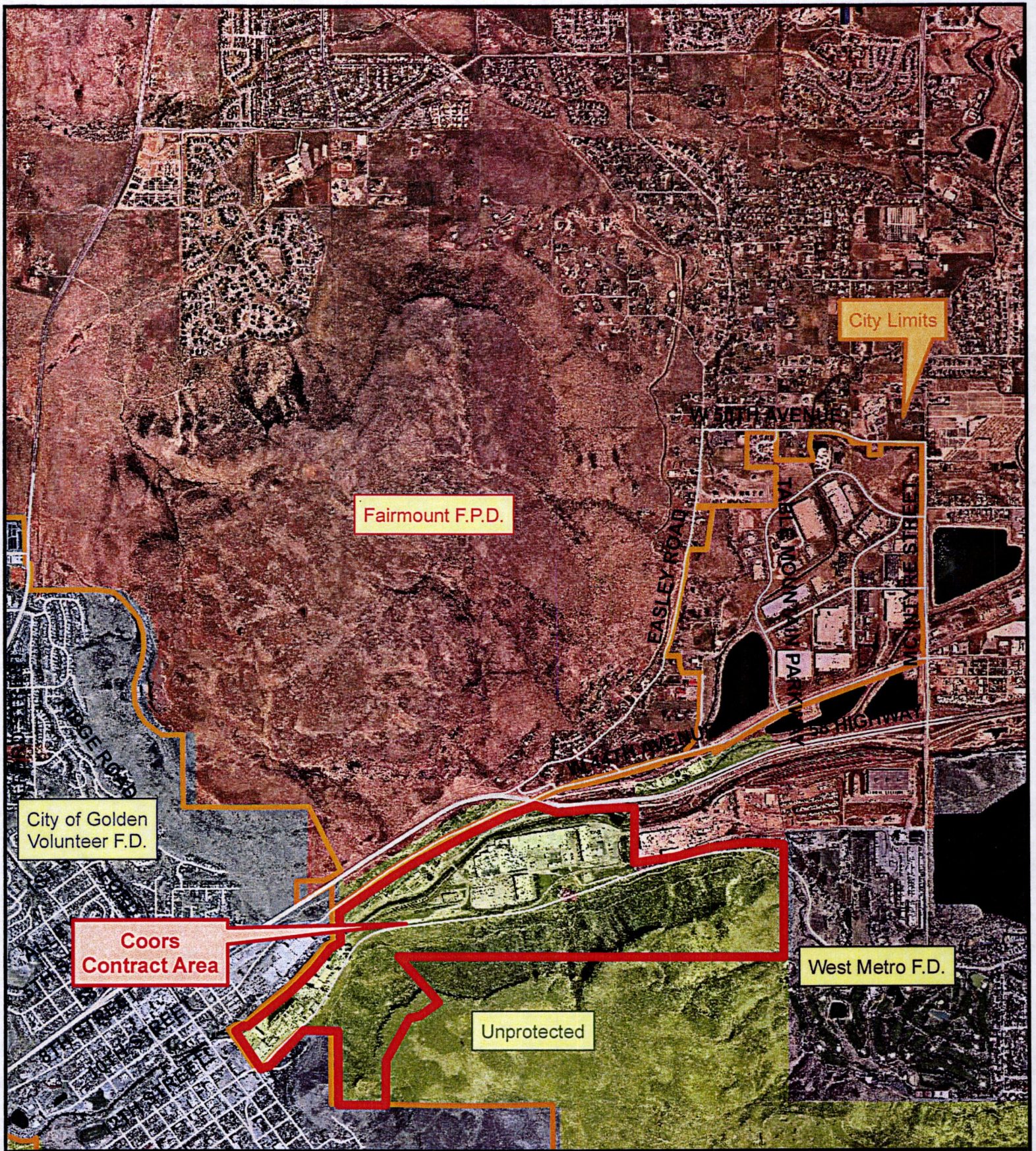
Thence N02°08'31"W, 121.93 feet;

Thence N16°53'30"W, 113.05 feet to the Southeast Corner of said COORS TECHNOLOGY CENTER REPLAT A;

Thence N00°08'55"E, 1766.12 feet along the East line of said COORS TECHNOLOGY CENTER REPLAT A;

Thence S89°51'05"E, 15.00 feet along the Easterly line of said COORS TECHNOLOGY CENTER REPLAT A;

Thence N00°08'55"E, 180.06 feet along the East line of said COORS TECHNOLOGY CENTER REPLAT A to the TRUE POINT OF BEGINNING.



Fire District Boundaries

Exhibit A

INTERGOVERNMENTAL AGREEMENT
(Fire Protection, Emergency Services, and Training)

THIS INTERGOVERNMENTAL AGREEMENT, hereinafter the "Agreement" is entered into by and between the **City of Golden**, Colorado, a Colorado Municipal Corporation, ("Golden"), and the **Fairmount Fire Protection District**, a special district existing pursuant to the provision of Title 32, Colorado Revised Statutes, ("FFPD"), on the last date written below. Golden and FFPD may be referred to collectively herein as the "Parties."

RECITALS

- A. C.R.S. § 29-1-203 permits local governments to cooperate and contract with another to provide any lawfully authorized function or service, including the sharing of costs and joint exercise of services; and
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- D. FFPD provides fire protection and emergency services within its district; and
- E. Golden, by Ordinance No. 1431, dated December 10, 1998, annexed certain properties commonly known as the Coors Technology Center/Wild Plum Farm Subdivision ("Coors Tech"), roughly bordered by Easley Road to the west, W. 50th Avenue to the north, McIntyre Street to the east, and W. 44th Avenue to the south, as shown in Exhibit A, and more particularly described in Exhibit B; and
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- K. The Miller-Coors Brewery and related facilities are roughly bordered by the City of Golden to the West, FFPD to the north, FFPD and West Metro Fire District to the east, and South Table Mountain to the south, as depicted on Exhibit A; and with the exception of a small portion of the Miller Coors Brewery located in the City of Golden, the east half (more or less) of the Miller Coors property located within FFPD, and a single parcel at the east end of the property located in the West Metro Fire Protection District, the Miller Coors Brewery is not within the City of Golden, FFPD, or any other fire protection district.
- L. For over 15 years, Golden has contracted with Miller-Coors (or its predecessors) to provide fire protection services for that portion of the Miller-Coors Brewery that is not within the City of Golden, FFPD, or any other fire protection district (the "Unprotected Brewery Property"); the current contract terminates on September 30, 2009; and
- M. Both Golden and FFPD recognize that a fire or other emergency at the Miller-Coors Brewery could impact the health, safety and welfare of citizens in Golden and FFPD through obvious dangers of proximate fire hazards, as well as impacts on the local workforce and revenues given that Miller-Coors Brewery is a significant employer in the area; and
- N. Golden and FFPD are, and for some time have been, parties, to a mutual aid agreement, pursuant to which both fire departments would, upon request, provide fire and emergency services in the service area of the other when circumstances warrant; and
- O. By cooperatively providing services to Coors Tech and Miller-Coors Brewery and sharing revenues generated from these properties, FFPD and Golden can provide better and more efficient fire protection and emergency services to citizens at a more reasonable cost to affected property owners.

NOW, THEREFORE, in consideration of the covenants and promises herein contained, the Parties agree as follows:

1. **TERM.** The term of this Agreement shall commence from the date the last party signs this Agreement and terminate on December 31, 2020, unless terminated earlier, as provided below.

2. **FIRE PROTECTION AND EMERGENCY SERVICES.**

A. Commencing on January 1, 2010, Golden and FFPD will jointly provide fire protection services, emergency services, and associated training to Coors Tech and, subject to successful negotiation of a contract, to the Unprotected Brewery Property. The actual operational, response and training details, procedures and criteria shall be provided for in a separate "Response & Training Agreement" to be agreed upon by respective fire chiefs of the Parties.

B. Golden will continue as the primary contracting agency with Miller-Coors for fire protection, emergency and training services to the Unprotected Brewery Property. Golden, in consultation with FFPD, shall attempt to negotiate a long-term contract to serve that property, at rates that take into consideration the cost of services that would be paid if the Unprotected Brewery Property were within the City of Golden or a fire protection district. Golden will administer the contract.

3. REVENUE SHARING.

A. Golden and FFPD will share equally the gross revenues from any contract entered into pertaining to the provision of fire, emergency and training services to the Miller-Coors Brewery.

B. FFPD will pay to Golden an amount equal to one-half (1/2) of all FFPD real property taxes generated from the properties in Coors Tech that are not pledged and used to pay Current Bonded Indebtedness of the FFPD (i.e., the amount of property taxes from the Coors Tech property pledged and used to pay FFPD bonded indebtedness currently based on a 2009 mill levy of 1.44 mills , but may be subject to adjustment by FFPD in future years based upon the assessed valuation of properties within the FFPD. The foregoing notwithstanding, in the event that the FFPD increases its property tax during the term of this Agreement other than for an adjustment to the levy required to pay the Current Bonded Indebtedness, the amount payable to Golden hereunder shall increase by an amount equal to 100% of the incremental FFPD property tax revenues from the Coors Tech properties generated by such increase

C. On October 1 of each year for the term hereof, the revenue sharing payments due from each party as identified in A and B above for that year shall be calculated and in lieu of making payments to each other the party with the higher revenue payment obligation shall issue a check to the other party for the difference. For the last year of this Agreement, revenue sharing payments shall be prorated for the partial year.

4. EXCLUSION PROCEEDINGS. There is presently pending in the Jefferson County, Colorado District Court a proceeding to exclude the Coors Tech properties from the FFPD (Case No. 2008 CV 4150). The Parties acknowledge that this Agreement will, for the time being, address the concerns raised by such proceeding. Accordingly, Golden and FFPD will jointly request the District court to dismiss such proceedings, with the Parties to be responsible for their own costs and expenses.

5. NO MULTIPLE FISCAL YEAR OBLIGATION / NONAPPROPRIATION. Any and all obligations of Golden and FFPD under and pursuant to this Agreement that require funding are subject to prior annual appropriations of monies expressly made by the parties legislative bodies for the purposes of this Agreement. Nothing herein shall be construed as a multiple fiscal year obligation as described by Article X section 20 of the Colorado Constitution by either party. If either party fails to appropriate revenues in any year for payment of expenses contemplated by this Agreement, this contract shall terminate.

5. INTEGRATION AND AMENDMENT. This Agreement represents the entire agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties. If any other provision of the Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect.

6. **WAIVER OF BREACH.** A waiver by any party to the Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.

7. **GOVERNING LAW AND VENUE.** This Agreement shall be governed by the laws of the State of Colorado. Venue for any action arising under this Agreement or for the enforcement of this Agreement shall be in the District Court for Jefferson County, Colorado.

8. **GOVERNMENTAL IMMUNITIES.**

- a. The parties hereto intend that nothing herein shall be deemed or construed as a waiver by either party of any rights, limitations, or protections afforded to them under the Colorado Governmental Immunity Act (Section 24-10-101, C.R.S., et seq.) or otherwise available at law or equity.
- b. The parties agree that in the event any claim or suit is brought against either or both parties by any third party as a result of the operation of this Agreement, both parties will cooperate with each other, and with the insuring entities of both parties, in defending such claim or suit.

9. **SEVERABILITY.** If any term, section or other provision of this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such term, section or other provision shall not affect any of the remaining provisions of this Agreement if the remaining provisions can be enforced to carry out the general intent of this Agreement.

10. **SUCCESSORS.** This Agreement shall be binding upon and inure to the benefit of any governmental successor in interest to FFPD or Golden.

11. **COUNTERPART EXECUTION.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

CITY OF GOLDEN

FAIRMOUNT FIRE PROTECTION DISTRICT

Jacob Smith, Mayor

Chair

Date

Date

ATTEST:

ATTEST:

Susan Brooks, City Clerk
City Clerk

Secretary

APPROVED AS TO FORM:

David S. Williamson
City Attorney

APPROVED AS TO FORM:

James Petrock
FFPD Attorney

EXHIBIT

B

LEGAL DESCRIPTION

All of COORS TECHNOLOGY CENTER REPLAT A, a Subdivision recorded in Plat Book 107 at Pages 4 through 11, Reception No. 91085343, of the records of Jefferson County, Colorado, and portions of the SW1/4 of Section 13, the SE1/4 of Section 14, the NE1/4 and the SE1/4 of Section 23 and the NW1/4 and the SW1/4 of Section 24, all in T3S, R70W of the 6th P.M., County of Jefferson, State of Colorado, described as follows:

Commencing at the N1/4 Corner of said Section 24, from which the Center of said Section 24 bears S00°08'55"W, thence N89°46'57"W, 50.00 feet to the East line of said COORS TECHNOLOGY CENTER REPLAT A and the TRUE POINT OF BEGINNING;

The following courses and distances are along the Easterly, Northerly and Westerly lines of said COORS TECHNOLOGY CENTER REPLAT A:

Thence N00°17'02"E, 1085.36 feet to a point of curve to the left;

Thence Northwesterly, 46.85 feet along the arc of said curve to a point tangent, said arc having a radius of 30.00 feet, a central angle of 89°28'30" and being subtended by a chord that bears N44°27'13"W, 42.23 feet;

Thence N89°11'28"W, 695.67 feet;

Thence S00°36'45"W, 208.00 feet;

Thence N89°11'28"W, 208.00 feet;

Legal Description (Continued)

Thence N00°36'45"E, 208.00 feet;

Thence N89°11'28"W, 298.66 feet;

Thence N00°36'38"E, 42.55 feet;

Thence N89°23'25"W, 37.68 feet;

Thence N00°32'03"E, 47.19 feet;

Thence N65°01'37"W, 71.05 feet;

Thence Northwesterly, 304.50 feet along the arc of a curve concave to the Southwest, said arc having a radius of 717.73 feet, a central angle of 24°18'29" and being subtended by a chord that bears N77°14'25"W, 302.22 feet;

Thence N00°32'03"E, 6.50 feet;

Thence N89°23'25"W, 341.74 feet;

Thence S01°18'57"W, 77.06 feet;

Thence S12°37'33"W, 81.28 feet to a point of curve to the left;

Thence Southerly, 182.59 feet along the arc of said curve to a point tangent, said arc having a radius of 332.50 feet, a central angle of 31°27'47" and being subtended by a chord that bears S03°06'20"E, 180.30 feet;

Thence S18°50'14"E, 143.47 feet;

Thence S05°22'07"E, 28.31 feet to the North line extended Easterly of Tract J in said COORS TECHNOLOGY CENTER REPLAT A;

Thence, leaving a Westerly line of said COORS TECHNOLOGY CENTER REPLAT A, N89°12'59"W, 663.08 feet along the North line extended Easterly and along the North line of said Tract J to the Northwest Corner thereof;

The following courses and distances are along EASTERLY, Northerly, Westerly and Southerly lines of said COORS TECHNOLOGY CENTER REPLAT A:

Thence N00°47'01"E, 481.38 feet;

Legal Description (Continued)

Thence N89°10'48"W, 342.95 feet;
Thence N89°10'53"W, 177.85 feet;
Thence S00°47'01"W, 619.30 feet;
Thence N89°58'33"E, 520.85 feet;
Thence S00°47'01"W, 684.75 feet;
Thence S89°56'42"W, 1408.62 feet;
Thence S08°12'42"W, 30.31 feet;
Thence N89°56'42"E, 290.00 feet;
Thence S08°12'42"W, 300.00 feet;
Thence S89°56'42"W, 0.35 feet;
Thence S08°12'42"W, 441.31 feet;
Thence S89°56'42"W, 317.63 feet;
Thence S14°39'23"W, 136.58 feet;
Thence S11°07'49"W, 15.73 feet;
Thence S02°17'00"W, 99.78 feet;
Thence S06°42'00"W, 70.30 feet;
Thence S08°16'00"W, 74.55 feet;
Thence S12°30'00"W, 155.02 feet;
Thence S15°16'00"W, 29.01 feet;
Thence S89°31'04"W, 2.50 feet;
Thence S08°41'00"W, 16.87 feet;
Thence S11°11'08"W, 454.02 feet;
Thence S12°08'45"W, 308.83 feet;
Thence S14°11'31"W, 276.18 feet;

Legal Description (Continued)

Thence S20°07'14"W, 233.43 feet;

Thence S11°11'15"W, 63.97 feet;

Thence N89°05'30"E, 248.55 feet;

Thence S00°54'30"E, 158.00 feet;

Thence S18°28'18"E, 147.62 feet;

Thence S00°26'55"W, 5.45 feet;

Thence S89°33'05"E, 338.67 feet;

Thence N01°52'20"E, 10.00 feet;

Thence S88°07'40"E, 36.00 feet to a point of curve to the right;

Thence Southerly, 156.03 feet along the arc of said curve to a point of reverse curve, said arc having a radius of 55.00 feet, a central angle of 162°32'33" and being subtended by a chord that bears S06°51'24"E, 108.73 feet;

Thence Southwesterly, 44.31 feet along the arc of said reverse curve to a point tangent, said arc having a radius of 35.00 feet, a central angle of 72°32'33" and being subtended by a chord that bears S38°08'36"W, 41.41 feet;

Thence S01°52'20"W, 687.70 feet;

Thence S10°43'12"W, 122.49 feet to the most Southerly Corner of Tract E in said COORS TECHNOLOGY CENTER REPLAT A;

Thence, leaving the Westerly line of said COORS TECHNOLOGY CENTER REPLAT A, S39°30'37"W, 15.00 feet along the Southeasterly line extended Southwesterly of said Tract E to the Westerly line extended Northerly of Parcel 4 in said COORS TECHNOLOGY CENTER REPLAT A;

Thence S01°52'20"W, 122.82 feet along the Westerly line extended Northerly and along the Westerly line of said Parcel 4;

Thence N39°30'37"E, 4.91 feet along the Westerly line of said Parcel 4;

Thence S01°52'20"W, 53.87 feet along the Westerly line of said Parcel 4;

Legal Description (Continued)

Thence N88°07'40"W, 50.00 feet to the most Northerly Corner of Tract D in said COORS TECHNOLOGY CENTER REPLAT A;

Thence S36°22'20"W, 252.33 feet along the Northwesterly line of said Tract D;

Thence S46°41'56"W, 62.82 feet along the Northwesterly line of said Tract D to the most Westerly Corner thereof;

Thence N74°32'30"E, 373.15 feet along the Southeasterly line and along the Southeasterly line extended Northeasterly of said Tract D and along the Southeasterly line of said Parcel 4;

Thence N59°44'48"E, 1100.18 feet along the Southeasterly line of said COORS TECHNOLOGY CENTER REPLAT A to a point of curve to right;

Thence Northeasterly, 583.26 feet along the Southeasterly line of said COORS TECHNOLOGY CENTER REPLAT A and along the arc of said curve to a point tangent, said arc having a radius of 3345.95 feet, a central angle of 9°59'15" and being subtended by a chord that bears N64°44'25"E, 582.52 feet;

Thence N69°44'03"E, 2529.41 feet along the Southeasterly line and along the Southeasterly line extended Northeasterly of said COORS TECHNOLOGY CENTER REPLAT A;

Thence N01°19'13"E, 72.32 feet;

Thence N05°51'33"E, 140.62 feet;

Thence N00°08'55"E, 129.44 feet;

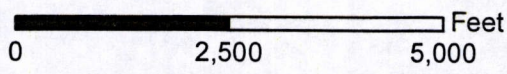
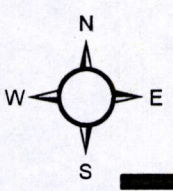
Thence N02°08'31"W, 121.93 feet;

Thence N16°53'30"W, 113.05 feet to the Southeast Corner of said COORS TECHNOLOGY CENTER REPLAT A;

Thence N00°08'55"E, 1766.12 feet along the East line of said COORS TECHNOLOGY CENTER REPLAT A;

Thence S89°51'05"E, 15.00 feet along the Easterly line of said COORS TECHNOLOGY CENTER REPLAT A;

Thence N00°08'55"E, 180.06 feet along the East line of said COORS TECHNOLOGY CENTER REPLAT A to the TRUE POINT OF BEGINNING.



Fire District Boundaries