

RESOLUTION NO. 1908

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

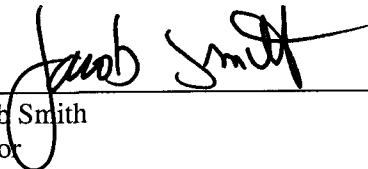
WHEREAS, The Coors Brewing Company property is partly within the Golden City limits and partly outside the City limits; and

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:

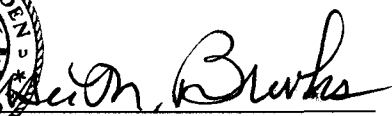
Section 1. The City Manager is authorized to sign and execute the attached Fire Protection Service Agreement.

Adopted this 25th day of September, 2008.



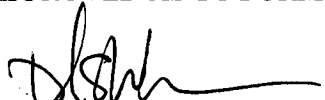
Jacob Smith
Mayor





Susan M. Brooks, MMC
City Clerk

APPROVED AS TO FORM:




David S Williamson
City Attorney

Resolution No. 1908
Page 2

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 25th day of September, A.D., 2008.



ATTEST:


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

FIRE PROTECTION SERVICE AGREEMENT

This Fire Protection Agreement is made effective as of the 29th day of September 2008 by and between MillerCoors LLC ("MillerCoors"), a Delaware limited liability company whose property is located in and around Golden, Colorado, and the City of Golden ("Golden"), a Colorado home rule municipality located in Jefferson County, Golden, Colorado.

RECITALS

A. MillerCoors 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.

B. It is the desire of MillerCoors 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.

C. MillerCoors 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. MillerCoors and Golden agree and acknowledge that MillerCoors and Golden, including the GFD, shall cooperate with one another so as to enable the services to be effectively performed.

1. TERM

This agreement shall become effective on October 1, 2008 and shall remain in effect until September 30, 2009.

2. 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 MillerCoors 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. CONSIDERATION

3.1 In Consideration of the services provided by Golden under this Agreement, MillerCoors agrees to pay an annual fee of \$245,000.00 due by November 15th 2008. The fees referenced above are the only fees Golden will charge to MillerCoors 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. MillerCoors shall pay Golden net 45 days from receipt of invoice. Invoice shall be mailed to: MillerCoors LLC, PO Box 16000, Aguadilla, PR. 00605 or e-mailed to GMBPO-USandCorporate.AccountsPayableProcessing@molsoncoors.com.

4.0 INDEPENDENT CONTRACTOR

Golden is acting as an independent contractor unrelated to MillerCoors 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, and 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 MillerCoors and Golden or its employees, agents, servants, or 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 MillerCoors or of any MillerCoors' 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 MillerCoors 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 MillerCoors, on a prorated

basis, any monies previously paid by MillerCoors for the period of time in which services will not be provided. MillerCoors 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- 10th Street
Golden, CO 80401
Attention: Mike C. Bestor
City Manager
Telephone:303-384-8010

MillerCoors LLC
Strategic Sourcing Department
Golden, CO 80401
Attention: Laurie Weber
Supply Manager
Telephone:(303) 277-3095

8.0 ASSIGNMENT AND SUBCONTRACTING

Golden shall not assign or subcontract any of its rights or obligations hereunder without the prior written consent of MillerCoors. Any attempt to do so without such consent shall be null and void and shall give MillerCoors 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

10.1 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.

10.2 MillerCoors represents and warrants that it has the 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, that 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 MillerCoors 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 an 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 MillerCoors' Designated Representative identified below in Section 18C prior to commencing work, regarding safety policies/procedures, potential hazards, and/or hazardous materials in the work area.

16.0 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 MillerCoors.

17.0 BREACH; REMEDIES; TERMINATION

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

A. 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 after written notice of such failure is delivered to a party.

B. Failure by MillerCoors 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.

17.2 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:

A. The right to contract with an alternative service provider; and

B. The right to terminate this Agreement upon written notice to the breaching party.

18.0 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 MillerCoors Designated Representative for this Agreement is Kent Patton, MillerCoors LLC, PO Box 4030-CC160, Golden, CO 80401, 303-277-7225.

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

City Of Golden,
a Colorado home rule municipality

MillerCoors LLC,
a Delaware limited liability company

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

**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 MillerCoors properties outside the Golden city limits.**

- Golden shall assume incident command and direct incident response according to its command protocols. MillerCoors 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, if requested.**
- **Meet with MillerCoors quarterly to:**
 1. Discuss fire protection, dispatch, and security issues.
 2. 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.

MillerCoors 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. The Golden Fire Department offers Hazmat Operations level training a minimum of once a year on the regular training schedule. MillerCoors may send five (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.

2. Golden Fire Department shall conduct technical rescue training on confined space twice a year at MillerCoors for MillerCoors employees and Golden Fire

Department's technical rescue team. This training shall benefit both parties.

3. Golden Fire Department shall conduct SCBA training for MillerCoors employees no more than twice a year for 35 employees for each class. This training shall consist of a four-hour class that includes hands-on experience. MillerCoors shall be responsible for providing their own SCBA's.

4. Five (5) MillerCoors employees may participate in annual EMS 1st Responder classes. There shall be no cost to MillerCoors except for the state test fee.

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

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

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RECITALS

A. MillerCoors 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.

B. It is the desire of MillerCoors 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.

C. MillerCoors 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. MillerCoors and Golden agree and acknowledge that MillerCoors and Golden, including the GFD, shall cooperate with one another so as to enable the services to be effectively performed.

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3. CONSIDERATION

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

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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 MillerCoors, on a prorated basis, any monies previously paid by MillerCoors for the period of time in which services will not be provided. MillerCoors will pay any unpaid amounts owing to Golden for the period of time in which services are provided within thirty (30) days following termination.

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

MillerCoors LLC
Strategic Sourcing Department
Golden, CO 80401
Attention: Laurie Weber
Supply Manager
Telephone:(303) 277-3095

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Golden shall not assign or subcontract any of its rights or obligations hereunder without the prior written consent of MillerCoors. Any attempt to do so without such consent shall be null and void and shall give MillerCoors 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.

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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.

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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 an 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 MillerCoors' Designated Representative identified below in Section 18C prior to commencing work, regarding safety policies/procedures, potential hazards, and/or hazardous materials in the work area.

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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 MillerCoors Designated Representative for this Agreement is Kent Patton, MillerCoors LLC, PO Box 4030-CC160, Golden, CO 80401, 303-277-7225.

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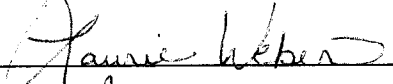
City Of Golden,
a Colorado home rule municipality

By: 

Title: CITY MANAGER

Date: 09/29/08

MillerCoors LLC,
a Delaware limited liability company

By: 

Title: Supply Manager

Date: 9/29/08

**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 MillerCoors properties outside the Golden city limits.**
- Golden shall assume incident command and direct incident response according to its command protocols. MillerCoors 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, if requested.**
- **Meet with MillerCoors quarterly to:**
 1. Discuss fire protection, dispatch, and security issues.
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MillerCoors will:

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- **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. The Golden Fire Department offers Hazmat Operations level training a minimum of once a year on the regular training schedule. MillerCoors may send five (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.

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

3. Golden Fire Department shall conduct SCBA training for MillerCoors employees no more than twice a year for 35 employees for each class. This training shall consist of a four-hour class that includes hands-on experience. MillerCoors shall be responsible for providing their own SCBA's.

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

FIRST AMENDMENT TO FIRE PROTECTION SERVICE AGREEMENT

WHEREAS, on or about September 25, 2008, the City of Golden ("Golden") and Miller Coors, LLC., ("Miller Coors") entered into a Fire Protection Service Agreement ("Agreement") whereby Golden would provide fire protection and related services for Miller Coors' property adjacent to and outside the boundaries of Golden; and

WHEREAS, such Agreement shall expire on September 30, 2009; and

WHEREAS, the parties desire to enter into negotiations regarding continuance of the Agreement subject to terms and conditions amenable to both; and

WHEREAS, Section 14.0 of the Agreement provides that the parties may amend the Agreement upon a writing executed by the parties; and

WHEREAS, the parties desire to continue the Agreement upon its same terms and conditions for an additional three month period of time.

NOW, THEREFORE, for good and valuable consideration, the parties agree as follows:

Section 1. The parties agree to extend the term of the Agreement for an additional three-month period, such that it shall expire on December 31, 2009.

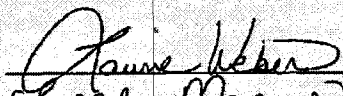
Section 2. In consideration of the continuance of fire protection and emergency services provided by Golden, Miller Coors agrees to pay a fee of \$61,249.50 due in full to Golden by October 15, 2009.

Section 3. All other terms and conditions of the Agreement shall remain in full force and effect.

CITY OF GOLDEN

MILLER COORS, LLC, a Delaware
limited liability company

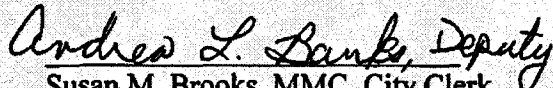
By: 
Michael C. Bestor, City Manager

By: 
Supply Manager

Date: October 1 2009

Date: October 1, 2009

ATTEST:


Susan M. Brooks, MMC, City Clerk

APPROVED AS TO FORM:


David S. Williamson, City Attorney

FIRST AMENDMENT TO FIRE PROTECTION SERVICE AGREEMENT

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NOW, THEREFORE, for good and valuable consideration, the parties agree as follows:

Section 1. The parties agree to extend the term of the Agreement for an additional three-month period, such that it shall expire on December 31, 2009.

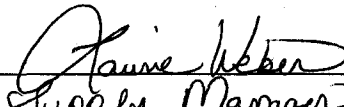
Section 2. In consideration of the continuance of fire protection and emergency services provided by Golden, Miller Coors agrees to pay a fee of \$61,249.50 due in full to Golden by October 15, 2009.

Section 3. All other terms and conditions of the Agreement shall remain in full force and effect.

CITY OF GOLDEN

MILLER COORS, LLC, a Delaware limited liability company

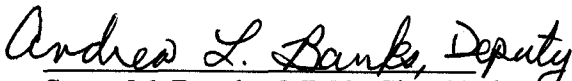
By: 
Michael C. Bestor, City Manager

By: 
Supply Manager

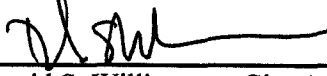
Date: October 1 2009

Date: October 1, 2009

ATTEST:


Susan M. Brooks, MMC, City Clerk

APPROVED AS TO FORM:


David S. Williamson, City Attorney