

RESOLUTION NO. 2258

**A RESOLUTION OF THE GOLDEN CITY COUNCIL
APPROVING LEASE OF WATER TO THE CITY OF
THORNTON**

WHEREAS, the City of Thornton anticipates needing additional water supplies during all or a portion of 2013; and

WHEREAS, the City of Golden is the owner of Guanella Reservoir decreed in Case No. 82CW469 and augmented by sources described in Case Nos. 82CW469, 83CW361, 87CW298 and 02CW379, and

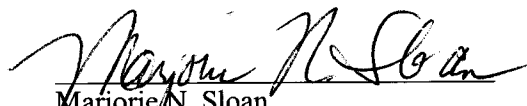
WHEREAS, the City of Golden is willing to lease on a short-term basis, water stored at Guanella Reservoir as 92CW1117.

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

City Council hereby approves the lease with the City of Thornton in essentially the same form as the copy of such lease accompanying this resolution.


Adopted the 18th day of April, 2013.




Marjorie N. Sloan
Mayor


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 rescheduled regular business meeting thereof held on the 18th day of April, 2013.



ATTEST:

A handwritten signature in cursive script, appearing to read "Susan M. Brooks", is written over a horizontal line.

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

AGREEMENT FOR SHORT-TERM LEASE OF WATER

This Agreement for Short-Term Lease of Water ("Lease Agreement") is entered into this _____ day of April, 2013, by and between the City of Golden ("Golden"), and City of Thornton ("Lessee") (collectively referred to as "Parties").

WHEREAS, Lessee anticipates needing additional water supplies during all or a portion of 2013; and

WHEREAS, Golden is the owner of Guanella Reservoir decreed in Case No. 82CW469, as augmented by sources described in Case Nos. 82CW469, 83CW361, 87CW298 and 02CW379, and is willing to lease on a short-term basis to Lessee, water stored in Guanella Reservoir pursuant to the decree in 96CW1117 (referred to herein as "Stored 96CW1117 Water").

NOW, THEREFORE, in consideration of the forgoing recitals, and in consideration of the promises, payments and agreements hereinafter set forth, the adequacy and sufficiency of which are hereby acknowledged, the Parties agree as follows:

- Lease Water.** Golden hereby leases to Lessee and Lessee hereby leases from Golden up to 200 acre-feet of Golden's stored 96CW1117 Water, subject to the other terms of this Lease Agreement (the "Lease Water"). Use of the Lease Water is limited to beneficial use within Lessee's service area and such successive uses as may be allowed under that certain Agreement dated May 23, 1988, among Golden, Lessee and Adolph Coors Company, as amended. Lessee shall incur any transit losses assessed in delivery of the Lease Water from Guanella Reservoir to Lessee without a reduction in the Lease Payment described below.
- Lease Term.** This Lease Agreement shall be effective as of the date signed by both Parties and shall terminate on August 31, 2013 ("Lease Term").
- Lease Payment.** Lessee shall pay Golden \$100,000 (\$500/AF) for the Lease Water at the time this Lease Agreement is executed ("Lease Payment"). This Agreement is on a take-or-pay basis, meaning Lessee is obligated to pay the entire Lease Payment regardless of whether it needs some or all of the Lease Water, so long as Golden has the Lease Water available and releases it from Guanella Reservoir.
- Delivery of Lease Water.** Lessee shall coordinate with Golden from time to time during the Lease Term by contacting William Stambaugh via telephone at (303) 591-7653, to provide Golden with advance notice of when Lessee desires the Lease Water, and shall confirm the request by e-mail to wstambaugh@ci.golden.co.us. Requests for water shall specify the amount and timing of water deliveries desired by Lessee. Upon such notification, Golden will coordinate with Lessee to try and make the requested Lease Water available at the time Lessee desires and in a manner reasonably consistent with Golden's operations of Guanella Reservoir, but subject to section 7, below.
- Approvals.** It shall be Lessee's exclusive responsibility to obtain approval from the State Engineer's Office and Adolph Coors Company for the use of the Lease Water, if such approval is needed. Before filing any written application or request with the State Engineer's Office, Lessee shall obtain Golden's approval of the form and incorporate any changes deemed necessary by Golden, if such written application or request is needed.

6. **Measurement.** Golden shall measure and record the Lease Water released from Guanella Reservoir in a form reasonably acceptable to the State Engineer's Office and Lessee. Lessee shall measure and record its diversions of Lease Water in a form reasonably acceptable to the State Engineer's Office, after taking into account any transit loss assessed by the State.

7. **Interruption or Modification of Lease Water Deliveries.** Golden reserves the right in its sole and unlimited discretion to reduce the volume of Lease Water and/or curtail delivery of Lease Water under this Lease Agreement, should Golden determine at any time during the Lease Term that it does not have adequate water supplies, or that making such deliveries will in some manner jeopardize the municipal water supply for its own citizens or impair its ability to satisfy other water delivery obligations existing as of the date of this Lease Agreement. In the event that such decisions by Golden under this section 7 reduces the amount of Lease Water that Golden is willing to make available to Lessee during the Lease Term, then the Lease Payment shall be reduced by the reduction in the Lease Water available to Lessee at a rate of \$500/acre-foot, and Golden shall reimburse Lessee that amount of the Lease Payment no later than 30 days after the end of the Lease Term. To the extent Golden is able and willing to release the Lease Water from Guanella Reservoir at any time before the Lease Term expires, the Lease Payment shall not be reduced. Golden will notify lessee of interruption or modification of lease water deliveries at least 24 hours in advance.

8. **No Warranties.** Golden does not warrant: (a) the quality of the Lease Water delivered by Golden under this Lease; (b) the administration of the Lease Water or allowed use thereof once released; and/or (c) the amount of Lease Water that Golden will actually deliver to Lessee as a result of transit loss and/or application of section 7, above.

9. **Termination.** Golden reserves the right to terminate this Lease Agreement at its sole discretion upon five days advance notice to Lessee, in which event Golden shall reimburse Lessee within 30 days of termination for any Lease Water that was not already released by Golden to Lessee at the rate of \$500/acre-foot.

11. **Non-Assignability.** Lessee may not assign or sub-lease any of its rights under this Lease.

12. **Miscellaneous.**

(a) This Lease Agreement constitutes the full agreement between the parties and may not be amended, nor any rights or obligations hereunder waived, except by an instrument in writing signed by the parties sought to be charged with such amendment or waiver.

(b) This Lease Agreement may be executed in counterparts.

(c) The parties represent that they have all authorizations and approvals to enter into this Lease Agreement.

Executed as of the date first set forth above.

CITY OF THORNTON

CITY OF GOLDEN

By: _____
Jack Ethredge, City Manager

By: _____
Marjorie N. Sloan
Mayor, City of Golden

ATTEST:

Nancy Vincent, City Clerk

APPROVED AS TO FORM:
Margaret Emerich, City Attorney

Assistant City Attorney

STATE OF COLORADO)
) ss.
COUNTY OF JEFFERSON)

The foregoing instrument was subscribed and sworn to before me this ____ day of _____, 20 __, by _____, Mayor of the City of Golden.

Witness my hand and official seal

My commission expires: _____

Notary Public

AGREEMENT FOR SHORT-TERM LEASE OF WATER

This Agreement for Short-Term Lease of Water ("Lease Agreement") is entered into this 24th day of April, 2013, by and between the City of Golden ("Golden"), and City of Thornton ("Lessee") (collectively referred to as "Parties").

WHEREAS, Lessee anticipates needing additional water supplies during all or a portion of 2013; and

WHEREAS, Golden is the owner of Guanella Reservoir decreed in Case No. 82CW469, as augmented by sources described in Case Nos. 82CW469, 83CW361, 87CW298 and 02CW379, and is willing to lease on a short-term basis to Lessee, water stored in Guanella Reservoir pursuant to the decree in 96CW1117 (referred to herein as "Stored 96CW1117 Water").

NOW, THEREFORE, in consideration of the forgoing recitals, and in consideration of the promises, payments and agreements hereinafter set forth, the adequacy and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Lease Water.** Golden hereby leases to Lessee and Lessee hereby leases from Golden up to 200 acre-feet of Golden's stored 96CW1117 Water, subject to the other terms of this Lease Agreement (the "Lease Water"). Use of the Lease Water is limited to beneficial use within Lessee's service area and such successive uses as may be allowed under that certain Agreement dated May 23, 1988, among Golden, Lessee and Adolph Coors Company, as amended. Lessee shall incur any transit losses assessed in delivery of the Lease Water from Guanella Reservoir to Lessee without a reduction in the Lease Payment described below.
2. **Lease Term.** This Lease Agreement shall be effective as of the date signed by both Parties and shall terminate on August 31, 2013 ("Lease Term").
3. **Lease Payment.** Lessee shall pay Golden \$100,000 (\$500/AF) for the Lease Water at the time this Lease Agreement is executed ("Lease Payment"). This Agreement is on a take-or-pay basis, meaning Lessee is obligated to pay the entire Lease Payment regardless of whether it needs some or all of the Lease Water, so long as Golden has the Lease Water available and releases it from Guanella Reservoir.
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instrument in writing signed by the parties sought to be charged with such amendment or waiver.

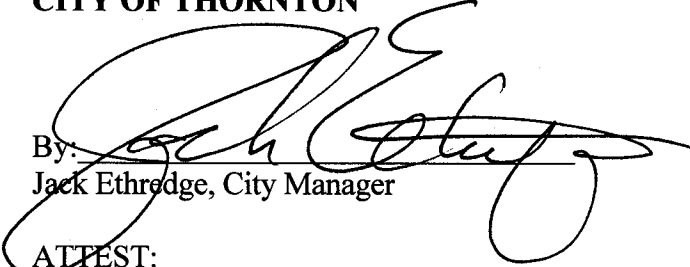
(b) This Lease Agreement may be executed in counterparts.

(c) The parties represent that they have all authorizations and approvals to enter into this Lease Agreement.

Executed as of the date first set forth above.

CITY OF THORNTON

CITY OF GOLDEN

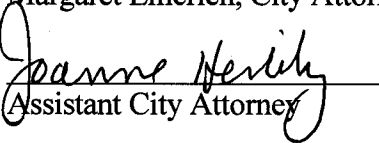
By: 
Jack Ethredge, City Manager

By: _____
Marjorie N. Sloan
Mayor, City of Golden

ATTEST:


Nancy Vincent, City Clerk

APPROVED AS TO FORM:
Margaret Emerich, City Attorney


Assistant City Attorney

STATE OF COLORADO)
) ss.
COUNTY OF JEFFERSON)

The foregoing instrument was subscribed and sworn to before me this ___ day of _____, 20___, by _____, Mayor of the City of Golden.

Witness my hand and official seal

My commission expires: _____

Notary Public

instrument in writing signed by the parties sought to be charged with such amendment or waiver.

(b) This Lease Agreement may be executed in counterparts.

(c) The parties represent that they have all authorizations and approvals to enter into this Lease Agreement.

Executed as of the date first set forth above.

CITY OF THORNTON

CITY OF GOLDEN

By: _____
Jack Ethredge, City Manager

By: Marjorie N. Sloan
Marjorie N. Sloan
Mayor, City of Golden

ATTEST:

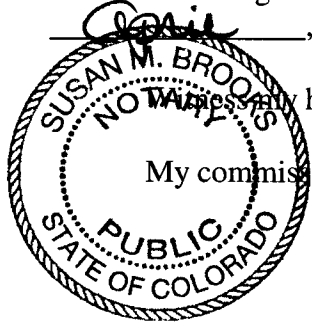
Nancy Vincent, City Clerk

APPROVED AS TO FORM:
Margaret Emerich, City Attorney

Assistant City Attorney

STATE OF COLORADO)
) ss.
COUNTY OF JEFFERSON)

The foregoing instrument was subscribed and sworn to before me this 27th day of April, 2013 by Marjorie N. Sloan Mayor of the City of Golden.



Witness my hand and official seal
My commission expires: 10/06/2013

Susan M. Brooks
Notary Public