

TRAFFIC CONTROL AGREEMENT
WEST STATE STREET APPROXIMATELY 825 FEET EAST OF NORTH 45TH STREET
AND
WEST STATE STREET APPROXIMATELY 125 FEET WEST OF NORTH 38TH STREET

THIS AGREEMENT is made and entered into by and between the City of Milwaukee, hereinafter called "City", a municipal corporation, and MillerCoors, LLC, hereinafter called "MillerCoors", its successors and assigns, relating to the design, installation, construction, operation, and maintenance of the traffic control signs and related traffic control facilities on West State Street approximately 825 feet east of North 45th Street and on West State Street approximately 125 feet west of North 38th Street, hereinafter called "Locations".

NOW, THEREFORE, in consideration of the mutual promises of each entity made to the other, the fulfillment of the terms and conditions, agreements, and understanding hereinafter set forth,

IT IS MUTUALLY AGREED by and between the parties that:

The traffic control signs are to be designed, constructed, operated, and maintained at the Locations.

CONDITIONS OF THIS AGREEMENT ARE TO BE AS FOLLOWS:

I. The City of Milwaukee hereby agrees:

- (a) That it will, through its Public Works Department and other appropriate and necessary agents of the City, install traffic control signs and related traffic control facilities at the Locations with all costs paid by MillerCoors.
- (b) That it will facilitate routine maintenance responsibility for the entire traffic control sign installation and that it will bill MillerCoors annually for the cost of said maintenance.
- (c) That it will provide all necessary repairs and replacements to equipment that fails to function properly as a result of normal wear and deterioration and that it will bill MillerCoors annually for the cost of said necessary repairs and replacements.
- (d) That it will provide all necessary repairs and replacements to equipment damaged by accident, vandalism, or acts of God, and that it will bill MillerCoors annually for the cost of said repairs and replacements.
- (e) That it will make any necessary equipment additions or revisions deemed necessary by changed laws, changed traffic conditions, or changed Location geometry, and will bill MillerCoors for the cost of said additions and revisions.

- (f) In the event that the total design and construction costs are less than the initial deposit, it will refund the difference to MillerCoors.
- (g) That the City has full authority to discontinue on either a temporary or permanent basis any traffic control facilities and to remove said facilities, in the event that the operation of MillerCoors ceases near these Locations.

II. MillerCoors hereby agrees:

- (a) That it will pay for the total cost of the design and construction of traffic control signs and related facilities at the Locations. The estimated cost of design and construction is to be deposited with the City in advance of the design and construction of the signs. In the event that the total design and construction costs exceed the deposit, it will pay the difference after billing by the City.
- (b) That it understands that the traffic control signs will be solar powered on their request, and as such, the operation of the signs is dependent on the effectiveness of the solar panel. If it is deemed that the solar power is insufficient, any cost associated with modifying the installation, whether to remove the installation or to hard-wire electrical service, will be the responsibility of MillerCoors.
- (c) That the City is to perform routine maintenance for the entire traffic control sign installation as indicated in Section I. (c), necessary repairs and replacements to all traffic control sign equipment which fails to function as indicated in Section I. (d), necessary repairs and replacements to all traffic control sign equipment which is damaged as indicated in Section I. (e) and any necessary equipment additions or revisions as indicated in Section I. (f). and it will pay the reasonable costs of any such repairs and replacements within 60 days after receiving the invoice from the City.
- (d) That the City is to perform all work related to the operation of the traffic control signs at the Locations, including engineering.
- (e) That it agrees to promptly notify the City through its Public Works Department (at the phone numbers listed below), of any damage, lamp outage, lens breakage, or seeming malfunction of the traffic control sign equipment or related traffic control facilities.

Canal Street Shop – 286-3687
Engineering Office – 286-3232

- (f) That the City shall operate and adjust the traffic control signs in such a manner as to best meet prevailing traffic conditions determined by the City of Milwaukee through its Public Works Department.
- (g) That it will pay the annual cost of the traffic sign maintenance and operation as described in Section I. (b) to I. (e).
- (h) That the City shall request layouts of MillerCoors' underground structure and facilities before performing work of such a nature that existing underground facilities must be avoided. The City shall be required to take precautionary measures to avoid damage to such underground facilities. MillerCoors shall supply the City with a complete record of the existing underground material structure at the Locations and any change or revision thereto as may take place in the future.

III. Ownership and Responsibility

After the design and construction work outlined in this agreement is completed, all of the materials installed shall become the property of the City.

IV. Notice

The City shall endeavor to promptly notify MillerCoors of any information that that the City has with respect to damage, routine downtime or seeming malfunction of the traffic control signs and facilities as follows:

Facilities Director Douglas Grelk – (414) 931-2402

MillerCoors shall endeavor to promptly notify the City through its Public Works Department of any damage, outage or seeming malfunction of the traffic control signs and facilities as follows:

Canal Street Shop – (414) 286-3687

V. Payments

All payments due under this agreement shall be paid within sixty (60) days after receipt of an invoice with appropriate back-up evidence of the same.

VI. Liability

Each party agrees to indemnify, defend and save harmless the other, as well as their officers, directors, employees and agents, from, and against any and all liability for injuries or damages to persons or property arising out of their own performance or failure to perform the provisions of this Agreement.

VII. Insurance

MillerCoors may elect to include the equipment constituting the traffic control signs and facilities owned by the City in insurance coverage maintained by MillerCoors for MillerCoors' own facilities and may, with respect to the traffic control signs and facilities at the Locations, name the City as an additional named insured, as interest may appear.

VIII. Duration

This Agreement shall continue and be in force indefinitely unless terminated on six (6) months written notice by either agency to the other.

This agreement supersedes, rescinds, and replaces any and all previous agreements which may have been entered into by the City and MillerCoors regarding the design, construction, operation and maintenance of traffic control signs and related traffic control facilities at the Locations.

IN WITNESS WHEREOF, the undersigned on behalf of the City of Milwaukee affix their hands and seals this ____ day of _____, 2009.

CITY OF MILWAUKEE

COMMISSIONER OF PUBLIC WORKS

IN WITNESS WHEREOF, the undersigned on behalf of MillerCoors affix their hands and seals this ____ day of _____, 2009.

MillerCoors

KAL:lja