

RESOLUTION NO. 2002

A RESOLUTION OF THE GOLDEN CITY COUNCIL AUTHORIZING AN AGREEMENT WITH MILLERCOORS, LLC, PERTAINING TO CERTAIN USE TAX LIABILITIES

WHEREAS, a small portion of the MillerCoors Brewery is located within the city limits of the City of Golden; and

WHEREAS, the City is currently engaged with legal proceedings with MillerCoors, LLC, regarding liability for municipal use tax on beer containers that are located in that portion of the brewery that is within the city limits; and

WHEREAS, the City, through its Finance Director, and MillerCoors have come to an agreement that will resolve past use tax liabilities with respect to such beer containers; and

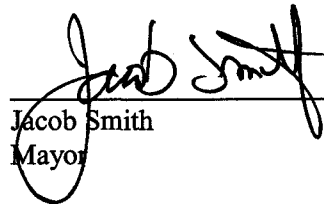
WHEREAS, the City and Miler Coors wish to enter into an agreement that addresses future collection of use taxes and/or fees in lieu of use taxes with respect to the beer containers that are located within the city limits.

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

Section 1. City Council ratifies the settlement proposed by the City's finance director pertaining to use tax liability of MillerCoors, LLC, that is the subject matter of Jefferson County District Court case number 2009CV1719.

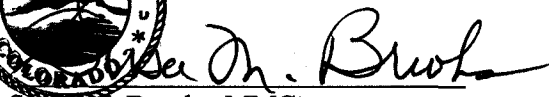
Section 2. In conjunction with the settlement of the above-referenced litigation, the agreement with MillerCoors, LLC, pertaining to future use tax payments, in the form substantially as attached hereto as Exhibit "A", is approved. The Mayor is authorized to execute such agreement on behalf of the City.

Adopted this 22nd day of October, 2009.



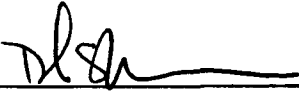
Jacob Smith
Mayor





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 regular business meeting thereof held on the 22nd day of October, A.D., 2009.



ATTEST:



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

AGREEMENT FOR PAYMENT OF FEE IN LIEU OF SALES AND USE TAXES

THIS AGREEMENT is effective the 13 day of ~~NOVEMBER~~, 2009, by and between the City of Golden ("City"), a Colorado home-rule municipality, and MillerCoors LLC and its predecessor entities, including but not limited to, Adolph Coors Company and Molson Coors Brewing Company (collectively "MillerCoors"), a limited liability company authorized to conduct business in the State of Colorado.

RECITALS

WHEREAS, the City is a Colorado home-rule municipality with the authority to impose certain taxes pursuant to Article XX, section 6 of the Colorado Constitution; and

WHEREAS, the City Council of the City, pursuant to the City's Home Rule Charter, has the authority to levy and collect certain taxes for municipal purposes, including the authority to levy sales and use tax; and

WHEREAS, pursuant to section 3.03.010 of the Golden Municipal Code, the City levies a use tax upon the privilege of using, storing, distributing, or otherwise consuming in the City any article of tangible personal property or taxable services at the rate of three-percent (3%) of the acquisition cost or purchase price of the property, unless the property is otherwise exempt under the Golden Municipal Code; and

WHEREAS, MillerCoors operates a facility ("the Facility") in Jefferson County, Colorado, at which MillerCoors manufactures beer for sale in kegs, aluminum cans, and glass bottles; and

WHEREAS, a small portion of the Facility is located within City limits; and

WHEREAS, MillerCoors both purchases kegs from keg manufacturers and collects kegs returned by distributors, and washes and sanitizes the kegs in the Facility; and

WHEREAS, the portion of the Facility within City limits houses part of an automated keg washing/sanitizing system, and kegs passing through the washing/sanitizing system briefly enter into City limits during the washing/sanitizing process; and

WHEREAS, the City is currently engaged in legal proceedings with MillerCoors, regarding liability for municipal use tax on the kegs which briefly enter into City limits during the washing/sanitizing process ("Kegs"); and

WHEREAS, a genuine dispute exists between the City and MillerCoors regarding MillerCoors' liability for City use tax upon the Kegs; and

WHEREAS, in conjunction with the settlement of the above-referenced legal proceedings, the City and MillerCoors wish to enter into this Agreement to address the

prospective collection by the City and payment by MillerCoors of a fee in lieu of sales and use taxes with respect to the Kegs.

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

SECTION 1.
FEE IN LIEU OF SALES AND USE TAX ON THE KEGS

1.1 Commencing on October 1, 2009, MillerCoors shall pay to the City a fee-in-lieu of sales and use taxes in an amount equal to fifty percent (50%) of the City use tax on the purchase price of the Kegs.

1.2 In consideration for MillerCoors' payment under paragraph 1.1, the City agrees to forego imposition and collection of any City sales or use tax on the Kegs for so long as MillerCoors complies with its obligations and responsibilities under this Agreement, and for so long as this Agreement remains in effect.

1.3 In accordance with paragraphs 1.1 and 1.2, MillerCoors shall timely submit City sales and use tax returns to the City, and shall report the total purchase price of any Kegs purchased during each monthly reporting period. MillerCoors shall submit payments of the fee-in-lieu of sales and use tax at the same time as, and with, its monthly City sales and use tax returns. City sales and use tax returns must be filed with the City on or before the twentieth (20th) day of the month following the reporting period pursuant to Section 3.04.030 of the Golden Municipal Code.

1.4 MillerCoors shall never be required to pay to the City more than one fee on any particular Keg. Once MillerCoors has paid the fee described in paragraph 1.1 to the City on any particular Keg, no further fees shall be due to the City on such Keg. Further, in the event that MillerCoors establishes that MillerCoors lawfully paid sales or use taxes to another jurisdiction on a Keg, MillerCoors shall be entitled to a credit in the same manner and to the same extent as would be permitted under applicable law if the amounts paid in accordance with paragraph 1.1 herein constituted a sales or use tax.

1.5 MillerCoors acknowledges and agrees that it remains subject to the audit procedures set forth in Chapter 3 of the Golden Municipal Code with respect to its obligations under this Agreement.

1.6 The City and MillerCoors expressly acknowledge and agree that this Agreement is limited in scope and application to Kegs purchased by MillerCoors on or after October 1, 2009.

1.7 Except as otherwise specifically provided herein, the City and MillerCoors expressly acknowledge and agree and that this Agreement does not in any way limit, alter, waive, resolve or otherwise affect any past, pending, or future audits or assessments of

MillerCoors by the City, or the City's right to conduct audits of and/or issue assessments to MillerCoors.

1.8 The initial term of this Agreement shall end on December 31, 2009. This Agreement shall automatically renew for successive one calendar year term(s), unless either Party provides written notice to the other of its intent to not renew the Agreement. Such notice must be delivered to the other Party prior to the end of the then existing term. Further, the Parties agree that renewal of this Agreement may be voided retroactively to the end of the previous term if, and only if, notice is delivered to the other Party on or before February 15 of the year following the previous calendar year term. If MillerCoors makes any payments pursuant to this Agreement for a period that is retroactively voided, the City shall credit such payments and apply them towards any sales or use tax that may be due on Kegs. In the event that it is determined that MillerCoors has no sales or use tax liability on such Kegs, such amount shall be refunded by the City to MillerCoors in accordance with the Golden Municipal Code or other applicable law. Any such notice shall be delivered in accordance with paragraph 3.6 of this Agreement.

SECTION 2. **DEFAULT**

2.1 For purposes of this Agreement, an event of Default is defined as failure by MillerCoors to make timely payment of any of the fees-in-lieu of sales and use tax due hereunder, which shall mean failure by MillerCoors to submit payment to the City by the twentieth (20th) of each month following each sales and use tax reporting period. An event of Default also includes any material breach of the Agreement by the City.

2.2 Pursuant to paragraph 2.1, in the event that either Party Defaults under this Agreement, the procedures and remedies in Chapter 3 of the Golden Municipal Code shall apply, and the Parties may exercise any other right, remedy, defense or privilege which may be available at law.

2.3 Prior to exercising any of the procedures and remedies set forth in this Agreement, or any other right, remedy, defense or privilege that may be available at law, a Party alleging Default shall provide the other Party with written notice of the alleged Default and shall allow the other Party a ten-day period, measured from the date written notice is given, to cure the alleged Default. Such notice shall be delivered in accordance with paragraph 3.6 of this Agreement.

SECTION 3. **GENERAL CONDITIONS**

3.1 Colorado Law. This Agreement shall be interpreted and enforced according to the laws of the State of Colorado. This Agreement may be enforced in an action for specific performance, injunctive relief, or damages in the Jefferson County, Colorado, District Court.

3.2 Entire Agreement. This Agreement constitutes the entire agreement of the Parties with respect to the transactions contemplated hereby and supersedes all prior agreements, arrangements and understandings relating to the subject matter hereof.

3.3 Binding Effect of Agreement. All of the terms, covenants, warranties and conditions of this Agreement will be binding upon, and inure to the benefit of and be enforceable by, the parties hereto and their respective successors and assigns.

3.4 Amendments. This Agreement may be amended, modified, superseded or canceled, and any of the terms, covenants, warranties or conditions hereof may be waived, only by a written instrument executed by the Parties.

3.5 Non-Waiver. The failure of any party at any time or times to require performance of any provision hereof will in no manner affect the right at a later time to enforce the same. No waiver by any party of any condition, or of any breach of any term, covenant or warranty contained in this Agreement, in any one or more instances, will be deemed to be or construed as a further or continuing waiver of any other condition or breach or as a waiver of any other condition or of any beach of any other term, covenant or warranty.

3.6 Notices. All notices, requests, demands, documents and other communications required or permitted to be given hereunder by the Parties shall be deemed to have been duly given if in writing and delivered via U.S. mail, postage prepaid, accompanied by transmission by facsimile, or by overnight mail, in care of:

MillerCoors LLC: Gerri Kroepfl
Manager State & Local Tax
MillerCoors LLC
3939 W. Highland Blvd.
Milwaukee, WI 53208
Fax: (414) 931-2158

City of Golden: Finance Director
City of Golden
911 10th Street
Golden, CO 80401
Fax: (303) 384-8001

The monthly payments described in Section 1 above, required or permitted to be given hereunder by MillerCoors to the City will be deemed to have been duly given if in writing and delivered via U.S. mail, to:

City of Golden
PO Box 5885
Denver, CO 80217-5885

or via U.S. mail to, or by personal service, in care of:

Attn: Finance Department
City of Golden
911 10th Street
Golden, CO 80401

The Parties may change the address to which the communications or payments are to be directed by giving written notice to the other in the manner provided in this paragraph 3.6.

3.7 Execution of Counterparts. This Agreement may be executed in multiple counterparts, and any counterpart executed by all of the Parties will constitute the binding agreement of each.

3.8 Severability. If any provision of this Agreement is determined to be invalid or illegal, such provision shall be deemed automatically amended as to conform to the law or if such amendment is not possible, such provision shall have no effect. In either event, the remaining provisions of this Agreement shall remain applicable to the Parties and be given full effect. The Parties hereby declare that they would have entered into this Agreement and each part or parts hereof irrespective of the fact that any one part of parts be declared invalid or illegal.

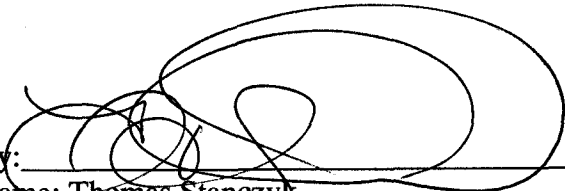
3.9 Incidental Documents. The Parties agree to execute any additional documents or take any additional action necessary to carry out this Agreement.

3.10 Full Authority. The undersigned individual signing this Agreement on behalf of MillerCoors represents and warrants that he or she is authorized by MillerCoors to execute and deliver this Agreement. The undersigned City signatory represents that he is signing this Agreement in his official capacity and is authorized to execute and deliver this Agreement on behalf of the City.

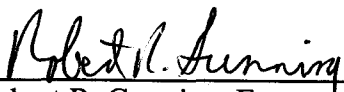
3.11 Non-Appropriation. The Parties agree that any financial obligation of the City is contingent upon its annual appropriation of funds and that nothing herein is intended to create a multiyear obligation or debt as set forth in Article X, Section 20, of the Colorado Constitution.

IN WITNESS WHEREOF, the Parties have executed this instrument to be effective the 13 day of NOVEMBER, 2009.

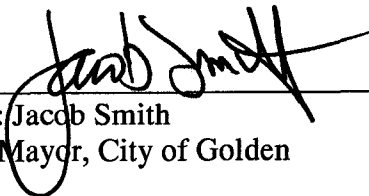
MILLERCOORS LLC:

By: 
Name: Thomas Stanczyk
Title: Director of Tax

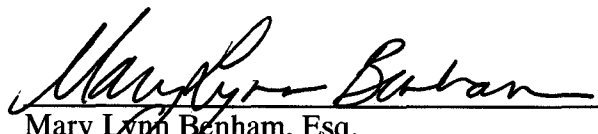
APPROVED AS TO FORM:


Robert R. Gunning, Esq.
Attorney for MillerCoors, LLC

THE CITY OF GOLDEN:

By: 
Name: Jacob Smith
Title: Mayor, City of Golden

APPROVED AS TO FORM:


Mary Lynn Benham, Esq.
Assistant City Attorney for the City of Golden

SETTLEMENT AGREEMENT

This Settlement Agreement (the "Agreement") is made by and among MillerCoors LLC and its predecessor entities, including but not limited to, Adolph Coors Company and Molson Coors Brewing Company (collectively "MillerCoors"), and the City of Golden, Colorado ("City"), and Jeffrey A. Hansen, in his official capacity as Finance Director for the City of Golden, Colorado ("Finance Director"). (Hereafter, the City and the Finance Director are collectively referred to as "Golden", and MillerCoors and Golden shall be referred to individually as "Party" and collectively as "the Parties.")

RECITALS

WHEREAS, on November 24, 2008, the City's Finance Department ("Department") issued MillerCoors an assessment of use taxes on beer kegs purchased by MillerCoors ("Assessment") covering the period October 1, 2003 through October 31, 2006 ("Assessment Period");

WHEREAS, on December 15, 2008, MillerCoors timely protested the Assessment to the Department;

WHEREAS, on March 12, 2009, following a hearing, the Finance Director issued a decision upholding all elements of the Assessment;

WHEREAS, on April 10, 2009, MillerCoors timely filed a complaint and notice of appeal with the Jefferson County District Court, known as Case No. 2009CV1719 ("Litigation");

WHEREAS, through the Litigation, MillerCoors challenged the Assessment on the basis that the City's use tax was not lawfully imposed on MillerCoors' beer kegs;

WHEREAS, on April 21, 2009, in accordance with C.R.S. § 39-21-105(4)(a), MillerCoors timely purchased a surety bond in the total amount of \$1,428,760.24 ("Bond"), and posted the Bond with the District Court;

WHEREAS, the Litigation is set for a two-day trial to the Court on January 12-13, 2010;

WHEREAS, the Parties wish to avoid the time, expense, and uncertainties associated with the Litigation and wish to resolve all claims of either of the Parties relating to: (i) the Assessment for the Assessment Period; and (ii) any sales or use tax on beer kegs that may be due (including any increments thereon) ("Subsequent Assessment") for the period November 1, 2006 through September 30, 2009 ("Subsequent Period");

NOW, THEREFORE, in consideration of the above recitals, the covenants and agreements contained herein, and other good and valuable consideration, the Parties agree as follows:

AGREEMENT

1. Payment by MillerCoors. MillerCoors agrees to pay use tax to the City on beer kegs in the total amount of \$285,216.43 (with no interest or penalty) for the Assessment Period. MillerCoors further agrees to pay use tax to the City on beer kegs in the total amount of \$285,216.43 (with no interest or penalty) for the Subsequent Period. These amounts shall be paid by check made to the order of the City no later than ten (10) calendar days after full execution of this Agreement.

2. Release by MillerCoors. MillerCoors hereby releases, acquits, and forever discharges Golden from any and all claims, rights, demands, obligations, actions or causes of action arising from or relating to the Assessment for the Assessment Period and the Subsequent Assessment for the Subsequent Period, whether such claims, rights, demands, obligations, actions or causes of action are known or unknown, actual or potential, matured or unmatured.

3. Release by Golden. Golden hereby releases, acquits, and forever discharges MillerCoors from any and all claims, rights, demands, obligations, actions or causes of action arising from or relating to the Assessment for the Assessment Period and the Subsequent Assessment for the Subsequent Period, whether such claims, rights, demands, obligations, actions or causes of action are known or unknown, actual or potential, matured or unmatured.

4. Dismissal of the Litigation. Immediately after the execution of this Agreement, MillerCoors shall take all necessary steps to dismiss the Litigation with prejudice. At such time as the Litigation is dismissed, the Parties agree that the Bond shall be released to MillerCoors.

5. No Admissions. Except as otherwise stated with specificity herein, the Parties' exchange of the consideration stated in this Agreement is in full satisfaction of all claims, statements, and positions made or taken by the Parties in the Litigation, and such exchange of consideration is not to be construed in any way as an admission or concession by either Party of the validity of any of the claims, statements, or positions made or taken by the other Party in the Litigation.

6. Bear Own Costs. The Parties shall bear their own costs, expenses and attorney fees incurred in connection with the Litigation, and the negotiation and drafting of this Agreement.

7. Authority. Each Party represents and warrants that it has taken all actions that are necessary or that are required by its procedures, bylaws, or applicable law to legally authorize the undersigned signatories to execute this Agreement on behalf of the Parties and to bind the Parties to its terms. The person(s) executing this Agreement on behalf of each of the Parties warrants they have full authorization to execute this Agreement.

8. Agreement as Complete Integration/Amendments. This Agreement is

intended as the complete integration of all understandings between the Parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written amendatory or other agreement properly executed by the Parties. This Agreement and any amendments shall be binding upon the Parties, their successors and assigns.

9. Captions. The paragraph titles and captions used in this Agreement are inserted only as, and intended solely for, the convenience of reference, and shall in no manner modify, expand, limit, constrain, or describe the scope or intent, or in any other way affect the terms or conditions, of this Agreement.

10. No Construction Against Drafting Party: The Parties acknowledge that each of them and their respective counsel have had the opportunity to review this Agreement; and that this Agreement shall not be construed against any Party merely because this Agreement or any of its provisions have been prepared by a particular Party.

11. Governing Law. This Agreement and all rights and obligations hereunder, including matters of construction, validity and performance, shall be governed by and construed in accordance with the laws of the State of Colorado. The Parties agree that the venue for any litigation arising out of this Agreement shall be in the District Court for Jefferson County, State of Colorado.

12. Confidentiality. The Parties agree this Agreement and the terms contained herein shall remain confidential to the extent permitted by law, and further agree that except as otherwise provided herein, the Parties shall not disclose this Agreement or its terms to any third party without the written consent of the other, unless otherwise directed by a court of law. Notwithstanding the foregoing, in the event that a request for disclosure of this Agreement is made under the Colorado Open Records Act (C.R.S. § 24-72-201 et seq.), the City shall promptly send written notice of such request by overnight mail to MillerCoors. Unless MillerCoors seeks judicial relief or a court order with respect to the request, or agrees, in writing, to reimburse the City for its reasonable costs and legal expenses incurred in obtaining judicial relief or a court order with respect to the request, the City may disclose the Agreement to the extent required by the Colorado Open Records Act. The Parties further agree that the Colorado Open Records Act does not require the disclosure of confidential taxpayer information or commercial and proprietary information, which information includes the settlement payment amounts set forth in paragraph 1 of the Agreement. In the event the Agreement is disclosed under the Colorado Open Records Act, the City shall redact the settlement payment amounts from the disclosed copy.

13. Notices. All notices, requests, demands, documents and other communications required or permitted to be given hereunder by the Parties shall be deemed to have been duly given if in writing and delivered via U.S. mail, postage prepaid, accompanied by transmission by facsimile, or by overnight mail, in care of:

MillerCoors LLC: Gerri Kroepfl
Manager State & Local Tax
MillerCoors LLC
3939 W. Highland Blvd.
Milwaukee, WI 53208
Fax: (414) 931-2158

City of Golden: Finance Director
City of Golden
911 10th Street
Golden, CO 80401
Fax: (303) 384-8001

The Parties may change the address to which the communications are to be directed by giving written notice to the other in the manner provided in this paragraph 13.

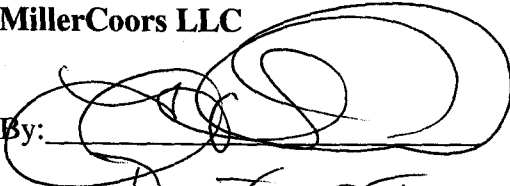
14. Costs and Attorney Fees. In the event of any civil action arising under or in connection with this Agreement, the prevailing party will be entitled to recover its reasonable attorney fees and costs.

15. Execution Knowing and Voluntary. Each of the Parties acknowledges and represents: (i) that it has fully and carefully read and considered this Agreement prior to its execution; (ii) that it has had the opportunity to make whatever investigation or inquiry it deems necessary or appropriate in connection with the subject matter of this Agreement; (iii) that it has been afforded the opportunity to negotiate any and all terms hereof; and (iv) that it is executing this Agreement voluntarily, and free from any undue influence, coercion, duress or fraud of any kind.


16. Counterparts and Signature Page. This Agreement may be signed via facsimile and in counterparts, all of which shall have full force and effect. Following execution of the Agreement, each of the Parties shall deliver an original signature page to counsel for the other Party.

IN WITNESS WHEREOF, this Agreement is made and is effective as of the last date written below.


MillerCoors LLC

By: 
Title: Director of Tax
Date: 11/13/09

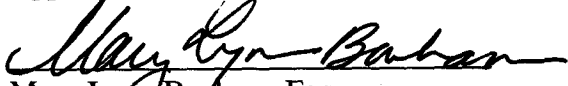
Approved as to Form:


Robert R. Gunning, Esq.
Attorney for MillerCoors LLC
Date: 11/13/09

City of Golden, Colorado

By: 
Title: FINANCE DIRECTOR
Date: 11/20/09

Approved as to Form:


Mary Lynn Berham, Esq.
Assistant City Attorney
Date: 11/20/09

AGREEMENT FOR PAYMENT OF FEE IN LIEU OF SALES AND USE TAXES

THIS AGREEMENT is effective the ____ day of _____, 2009, by and between the City of Golden (“City”), a Colorado home-rule municipality, and MillerCoors LLC (“MillerCoors”), a limited liability company authorized to conduct business in the State of Colorado.

RECITALS

WHEREAS, the City is a Colorado home-rule municipality with the authority to impose certain taxes pursuant to Article XX, section 6 of the Colorado Constitution; and

WHEREAS, the City Council of the City, pursuant to the City’s Home Rule Charter, has the authority to levy and collect certain taxes for municipal purposes, including the authority to levy sales and use tax; and

WHEREAS, pursuant to section 3.03.010 of the Golden Municipal Code, the City levies a use tax upon the privilege of using, storing, distributing, or otherwise consuming in the City any article of tangible personal property or taxable services at the rate of three-percent (3%) of the acquisition cost or purchase price of the property, unless the property is otherwise exempt under the Golden Municipal Code; and

WHEREAS, MillerCoors operates a facility (“the Facility”) in Jefferson County, Colorado, at which MillerCoors manufactures beer for sale in kegs, aluminum cans, and glass bottles; and

WHEREAS, a small portion of the Facility is located within City limits; and

WHEREAS, MillerCoors both purchases kegs from keg manufacturers and collects kegs returned by distributors, and washes and sanitizes the kegs in the Facility; and

WHEREAS, the portion of the Facility within City limits houses part of an automated keg washing/sanitizing system, and kegs passing through the washing/sanitizing system briefly enter into City limits during the washing/sanitizing process; and

WHEREAS, the City is currently engaged in legal proceedings with MillerCoors, regarding liability for municipal use tax on the kegs which briefly enter into City limits during the washing/sanitizing process (“Kegs”); and

WHEREAS, a genuine dispute exists between the City and MillerCoors regarding MillerCoors’ liability for City use tax upon the Kegs; and

WHEREAS, in conjunction with the settlement of the above-referenced legal

proceedings, the City and MillerCoors wish to enter into this Agreement to address the prospective collection by the City and payment by MillerCoors of a fee in lieu of sales and use taxes with respect to the Kegs.

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

SECTION 1.
FEE IN LIEU OF SALES AND USE TAX ON THE KEGS

1.1 Commencing on October 1, 2009, MillerCoors shall pay to the City a fee-in-lieu of sales and use taxes in an amount equal to fifty percent (50%) of the City use tax on the purchase price of the Kegs.

1.2 In consideration for MillerCoors' payment under paragraph 1.1, the City agrees to forego imposition and collection of any City sales or use tax on the Kegs for so long as MillerCoors complies with its obligations and responsibilities under this Agreement, and for so long as this Agreement remains in effect.

1.3 In accordance with paragraphs 1.1 and 1.2, MillerCoors shall timely submit City sales and use tax returns to the City, and shall report the total purchase price of any Kegs purchased during each monthly reporting period. MillerCoors shall submit payments of the fee-in-lieu of sales and use tax at the same time as, and with, its monthly City sales and use tax returns. City sales and use tax returns must be filed with the City on or before the twentieth (20th) day of the month following the reporting period pursuant to Section 3.04.030 of the Golden Municipal Code.

1.4 MillerCoors shall never be required to pay to the City more than one fee on any particular Keg. Once MillerCoors has paid the fee described in paragraph 1.1 to the City on any particular Keg, no further fees shall be due to the City on such Keg. Further, in the event that MillerCoors establishes that MillerCoors lawfully paid sales or use taxes to another jurisdiction on a Keg, MillerCoors may be entitled to the credit described in Section 3.03.050(b) of the Golden Municipal Code against the fee described in paragraph 1.1.

1.5 MillerCoors acknowledges and agrees that it remains subject to the audit procedures set forth in Chapter 3 of the Golden Municipal Code with respect to its obligations under this Agreement.

1.6 The City and MillerCoors expressly acknowledge and agree that this Agreement is limited in scope and application to Kegs purchased by MillerCoors on or after October 1, 2009.

1.7 Except as otherwise specifically provided herein, the City and MillerCoors expressly acknowledge and agree and that this Agreement does not in any way limit, alter, waive, resolve or otherwise affect any past, pending, or future audits or assessments of MillerCoors by the City, or the City's right to conduct audits of and/or issue assessments to MillerCoors.

1.8 The initial term of this Agreement shall end on December 31, 2009. This Agreement shall automatically renew for successive one calendar year term(s), unless either Party provides written notice to the other of its intent to not to renew the Agreement. Such notice must be delivered to the other Party prior to the end of the then existing term. Further, the Parties agree that renewal of this Agreement may be voided retroactively to the end of the previous term if, and only if, notice is delivered to the other Party on or before February 15 of the year following the previous calendar year term. If MillerCoors makes any payments pursuant to this Agreement for a period that is retroactively voided, the City shall credit such payments and apply them towards any sales or use tax that may be due on Kegs. In the event that it is determined that MillerCoors has no sales or use tax liability on such Kegs, such amount shall be refunded by the City to MillerCoors in accordance with the Golden Municipal Code or other applicable law. Any such notice shall be delivered in accordance with paragraph 3.6 of this Agreement.

SECTION 2. **DEFAULT**

2.1 For purposes of this Agreement, an event of Default is defined as failure by MillerCoors to make timely payment of any of the fees-in-lieu of sales and use tax due hereunder, which shall mean failure by MillerCoors to submit payment to the City by the twentieth (20th) of each month following each sales and use tax reporting period. An event of Default also includes any material breach of the Agreement by the City.

2.2 Pursuant to paragraph 2.1, in the event that either Party Defaults under this Agreement, the procedures and remedies in Chapter 3 of the Golden Municipal Code shall apply, and the Parties may exercise any other right, remedy, defense or privilege which may be available at law.

2.3 Prior to exercising any of the procedures and remedies set forth in this Agreement, or any other right, remedy, defense or privilege that may be available at law, a Party alleging Default shall provide the other Party with written notice of the alleged Default and shall allow the other Party a ten-day period, measured from the date written notice is given, to cure the alleged Default. Such notice shall be delivered in accordance with paragraph 3.6 of this Agreement.

SECTION 3. **GENERAL CONDITIONS**

3.1 Colorado Law. This Agreement shall be interpreted and enforced according to the

laws of the State of Colorado. This Agreement may be enforced in an action for specific performance, injunctive relief, or damages in the Jefferson County, Colorado, District Court.

3.2 Entire Agreement. This Agreement constitutes the entire agreement of the Parties with respect to the transactions contemplated hereby and supersedes all prior agreements, arrangements and understandings relating to the subject matter hereof.

3.3. Binding Effect of Agreement. All of the terms, covenants, warranties and conditions of this Agreement will be binding upon, and inure to the benefit of and be enforceable by, the parties hereto and their respective successors and assigns.

3.4 Amendments. This Agreement may be amended, modified, superseded or canceled, and any of the terms, covenants, warranties or conditions hereof may be waived, only by a written instrument executed by the Parties.

3.5 Non-Waiver. The failure of any party at any time or times to require performance of any provision hereof will in no manner affect the right at a later time to enforce the same. No waiver by any party of any condition, or of any breach of any term, covenant or warranty contained in this Agreement, in any one or more instances, will be deemed to be or construed as a further or continuing waiver of any other condition or breach or as a waiver of any other condition or of any beach of any other term, covenant or warranty.

3.6 Notices. All notices, requests, demands, documents and other communications required or permitted to be given hereunder by the Parties shall be deemed to have been duly given if in writing and delivered via U.S. mail, postage prepaid, accompanied by transmission by facsimile, or by overnight mail, in care of:

MillerCoors LLC: Gerri Kroepfl
Manager State & Local Tax
MillerCoors LLC
3939 W. Highland Blvd.
Milwaukee, WI 53208
Fax: (414) 931-2158

City of Golden: Finance Director
City of Golden
911 10th Street
Golden, CO 80401
Fax: (303) 384-8001

The monthly payments described in Section 1 above, required or permitted to be given hereunder by MillerCoors to the City will be deemed to have been duly given if in writing and delivered via U.S. mail, or by personal service, in care of:

Attn: Finance Department

City of Golden
911 10th Street
Golden, CO 80401

The Parties may change the address to which the communications or payments are to be directed by giving written notice to the other in the manner provided in this paragraph 3.6.

3.7 Execution of Counterparts. This Agreement may be executed in multiple counterparts, and any counterpart executed by all of the Parties will constitute the binding agreement of each.

3.8 Severability. If any provision of this Agreement is determined to be invalid or illegal, such provision shall be deemed automatically amended as to conform to the law or if such amendment is not possible, such provision shall have no effect. In either event, the remaining provisions of this Agreement shall remain applicable to the Parties and be given full effect. The Parties hereby declare that they would have entered into this Agreement and each part or parts hereof irrespective of the fact that any one part of parts be declared invalid or illegal.

3.9 Incidental Documents. The Parties agree to execute any additional documents or take any additional action necessary to carry out this Agreement.

3.10 Full Authority. The undersigned individual signing this Agreement on behalf of MillerCoors represents and warrants that he or she is authorized by MillerCoors to execute and deliver this Agreement. The undersigned City signatory represents that he is signing this Agreement in his official capacity and is authorized to execute and deliver this Agreement on behalf of the City.

3.11 Non-Appropriation. The Parties agree that any financial obligation of the City is contingent upon its annual appropriation of funds and that nothing herein is intended to create a multiyear obligation or debt as set forth in Article X, Section 20, of the Colorado Constitution.

IN WITNESS WHEREOF, the Parties have executed this instrument to be effective the
_____ day of _____, 2009.

MILLERCOORS LLC:

By: _____
Name: Thomas Stanczyk
Title: Director of Tax

Resolution No. 2002

Page 8

APPROVED AS TO FORM:

Robert R. Gunning, Esq.
Attorney for MillerCoors, LLC

THE CITY OF GOLDEN:

By: _____
Name: Jacob Smith
Title: Mayor, City of Golden

APPROVED AS TO FORM:

Mary Lynn Benham, Esq.
Assistant City Attorney for the City of Golden

AGREEMENT FOR PAYMENT OF FEE IN LIEU OF SALES AND USE TAXES

THIS AGREEMENT is effective the 13 day of ~~NOVEMBER~~, 2009, by and between the City of Golden ("City"), a Colorado home-rule municipality, and MillerCoors LLC and its predecessor entities, including but not limited to, Adolph Coors Company and Molson Coors Brewing Company (collectively "MillerCoors"), a limited liability company authorized to conduct business in the State of Colorado.

RECITALS

WHEREAS, the City is a Colorado home-rule municipality with the authority to impose certain taxes pursuant to Article XX, section 6 of the Colorado Constitution; and

WHEREAS, the City Council of the City, pursuant to the City's Home Rule Charter, has the authority to levy and collect certain taxes for municipal purposes, including the authority to levy sales and use tax; and

WHEREAS, pursuant to section 3.03.010 of the Golden Municipal Code, the City levies a use tax upon the privilege of using, storing, distributing, or otherwise consuming in the City any article of tangible personal property or taxable services at the rate of three-percent (3%) of the acquisition cost or purchase price of the property, unless the property is otherwise exempt under the Golden Municipal Code; and

WHEREAS, MillerCoors operates a facility ("the Facility") in Jefferson County, Colorado, at which MillerCoors manufactures beer for sale in kegs, aluminum cans, and glass bottles; and

WHEREAS, a small portion of the Facility is located within City limits; and

WHEREAS, MillerCoors both purchases kegs from keg manufacturers and collects kegs returned by distributors, and washes and sanitizes the kegs in the Facility; and

WHEREAS, the portion of the Facility within City limits houses part of an automated keg washing/sanitizing system, and kegs passing through the washing/sanitizing system briefly enter into City limits during the washing/sanitizing process; and

WHEREAS, the City is currently engaged in legal proceedings with MillerCoors, regarding liability for municipal use tax on the kegs which briefly enter into City limits during the washing/sanitizing process ("Kegs"); and

WHEREAS, a genuine dispute exists between the City and MillerCoors regarding MillerCoors' liability for City use tax upon the Kegs; and

WHEREAS, in conjunction with the settlement of the above-referenced legal proceedings, the City and MillerCoors wish to enter into this Agreement to address the

prospective collection by the City and payment by MillerCoors of a fee in lieu of sales and use taxes with respect to the Kegs.

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

SECTION 1.
FEE IN LIEU OF SALES AND USE TAX ON THE KEGS

1.1 Commencing on October 1, 2009, MillerCoors shall pay to the City a fee-in-lieu of sales and use taxes in an amount equal to fifty percent (50%) of the City use tax on the purchase price of the Kegs.

1.2 In consideration for MillerCoors' payment under paragraph 1.1, the City agrees to forego imposition and collection of any City sales or use tax on the Kegs for so long as MillerCoors complies with its obligations and responsibilities under this Agreement, and for so long as this Agreement remains in effect.

1.3 In accordance with paragraphs 1.1 and 1.2, MillerCoors shall timely submit City sales and use tax returns to the City, and shall report the total purchase price of any Kegs purchased during each monthly reporting period. MillerCoors shall submit payments of the fee-in-lieu of sales and use tax at the same time as, and with, its monthly City sales and use tax returns. City sales and use tax returns must be filed with the City on or before the twentieth (20th) day of the month following the reporting period pursuant to Section 3.04.030 of the Golden Municipal Code.

1.4 MillerCoors shall never be required to pay to the City more than one fee on any particular Keg. Once MillerCoors has paid the fee described in paragraph 1.1 to the City on any particular Keg, no further fees shall be due to the City on such Keg. Further, in the event that MillerCoors establishes that MillerCoors lawfully paid sales or use taxes to another jurisdiction on a Keg, MillerCoors shall be entitled to a credit in the same manner and to the same extent as would be permitted under applicable law if the amounts paid in accordance with paragraph 1.1 herein constituted a sales or use tax.

1.5 MillerCoors acknowledges and agrees that it remains subject to the audit procedures set forth in Chapter 3 of the Golden Municipal Code with respect to its obligations under this Agreement.

1.6 The City and MillerCoors expressly acknowledge and agree that this Agreement is limited in scope and application to Kegs purchased by MillerCoors on or after October 1, 2009.

1.7 Except as otherwise specifically provided herein, the City and MillerCoors expressly acknowledge and agree and that this Agreement does not in any way limit, alter, waive, resolve or otherwise affect any past, pending, or future audits or assessments of

MillerCoors by the City, or the City's right to conduct audits of and/or issue assessments to MillerCoors.

1.8 The initial term of this Agreement shall end on December 31, 2009. This Agreement shall automatically renew for successive one calendar year term(s), unless either Party provides written notice to the other of its intent to not renew the Agreement. Such notice must be delivered to the other Party prior to the end of the then existing term. Further, the Parties agree that renewal of this Agreement may be voided retroactively to the end of the previous term if, and only if, notice is delivered to the other Party on or before February 15 of the year following the previous calendar year term. If MillerCoors makes any payments pursuant to this Agreement for a period that is retroactively voided, the City shall credit such payments and apply them towards any sales or use tax that may be due on Kegs. In the event that it is determined that MillerCoors has no sales or use tax liability on such Kegs, such amount shall be refunded by the City to MillerCoors in accordance with the Golden Municipal Code or other applicable law. Any such notice shall be delivered in accordance with paragraph 3.6 of this Agreement.

SECTION 2. **DEFAULT**

2.1 For purposes of this Agreement, an event of Default is defined as failure by MillerCoors to make timely payment of any of the fees-in-lieu of sales and use tax due hereunder, which shall mean failure by MillerCoors to submit payment to the City by the twentieth (20th) of each month following each sales and use tax reporting period. An event of Default also includes any material breach of the Agreement by the City.

2.2 Pursuant to paragraph 2.1, in the event that either Party Defaults under this Agreement, the procedures and remedies in Chapter 3 of the Golden Municipal Code shall apply, and the Parties may exercise any other right, remedy, defense or privilege which may be available at law.

2.3 Prior to exercising any of the procedures and remedies set forth in this Agreement, or any other right, remedy, defense or privilege that may be available at law, a Party alleging Default shall provide the other Party with written notice of the alleged Default and shall allow the other Party a ten-day period, measured from the date written notice is given, to cure the alleged Default. Such notice shall be delivered in accordance with paragraph 3.6 of this Agreement.

SECTION 3. **GENERAL CONDITIONS**

3.1 Colorado Law. This Agreement shall be interpreted and enforced according to the laws of the State of Colorado. This Agreement may be enforced in an action for specific performance, injunctive relief, or damages in the Jefferson County, Colorado, District Court.

3.2 **Entire Agreement.** This Agreement constitutes the entire agreement of the Parties with respect to the transactions contemplated hereby and supersedes all prior agreements, arrangements and understandings relating to the subject matter hereof.

3.3 **Binding Effect of Agreement.** All of the terms, covenants, warranties and conditions of this Agreement will be binding upon, and inure to the benefit of and be enforceable by, the parties hereto and their respective successors and assigns.

3.4 **Amendments.** This Agreement may be amended, modified, superseded or canceled, and any of the terms, covenants, warranties or conditions hereof may be waived, only by a written instrument executed by the Parties.

3.5 **Non-Waiver.** The failure of any party at any time or times to require performance of any provision hereof will in no manner affect the right at a later time to enforce the same. No waiver by any party of any condition, or of any breach of any term, covenant or warranty contained in this Agreement, in any one or more instances, will be deemed to be or construed as a further or continuing waiver of any other condition or breach or as a waiver of any other condition or of any breach of any other term, covenant or warranty.

3.6 **Notices.** All notices, requests, demands, documents and other communications required or permitted to be given hereunder by the Parties shall be deemed to have been duly given if in writing and delivered via U.S. mail, postage prepaid, accompanied by transmission by facsimile, or by overnight mail, in care of:

MillerCoors LLC: Gerri Kroepfl
Manager State & Local Tax
MillerCoors LLC
3939 W. Highland Blvd.
Milwaukee, WI 53208
Fax: (414) 931-2158

City of Golden: Finance Director
City of Golden
911 10th Street
Golden, CO 80401
Fax: (303) 384-8001

The monthly payments described in Section 1 above, required or permitted to be given hereunder by MillerCoors to the City will be deemed to have been duly given if in writing and delivered via U.S. mail, to:

City of Golden
PO Box 5885
Denver, CO 80217-5885

or via U.S. mail to, or by personal service, in care of:

Attn: Finance Department
City of Golden
911 10th Street
Golden, CO 80401

The Parties may change the address to which the communications or payments are to be directed by giving written notice to the other in the manner provided in this paragraph 3.6.

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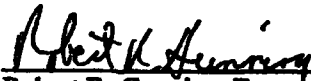
3.11 Non-Appropriation. The Parties agree that any financial obligation of the City is contingent upon its annual appropriation of funds and that nothing herein is intended to create a multiyear obligation or debt as set forth in Article X, Section 20, of the Colorado Constitution.

IN WITNESS WHEREOF, the Parties have executed this instrument to be effective the
13 day of NOVEMBER, 2009.

MILLERCOORS LLC:

By: 
Name: Thomas Stanczyk
Title: Director of Tax

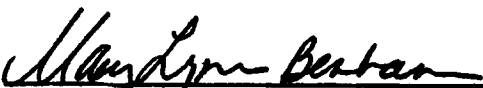
APPROVED AS TO FORM:


Robert R. Gunning, Esq.
Attorney for MillerCoors, LLC

THE CITY OF GOLDEN:

By: 
Name: Jacob Smith
Title: Mayor, City of Golden

APPROVED AS TO FORM:


Mary Lynn Benham, Esq.
Assistant City Attorney for the City of Golden

AGREEMENT FOR PAYMENT OF FEE IN LIEU OF SALES AND USE TAXES

THIS AGREEMENT is effective the 13 day of NOVEMBER, 2009, by and between the City of Golden ("City"), a Colorado home-rule municipality, and MillerCoors LLC and its predecessor entities, including but not limited to, Adolph Coors Company and Molson Coors Brewing Company (collectively "MillerCoors"), a limited liability company authorized to conduct business in the State of Colorado.

RECITALS

WHEREAS, the City is a Colorado home-rule municipality with the authority to impose certain taxes pursuant to Article XX, section 6 of the Colorado Constitution; and

WHEREAS, the City Council of the City, pursuant to the City's Home Rule Charter, has the authority to levy and collect certain taxes for municipal purposes, including the authority to levy sales and use tax; and

WHEREAS, pursuant to section 3.03.010 of the Golden Municipal Code, the City levies a use tax upon the privilege of using, storing, distributing, or otherwise consuming in the City any article of tangible personal property or taxable services at the rate of three-percent (3%) of the acquisition cost or purchase price of the property, unless the property is otherwise exempt under the Golden Municipal Code; and

WHEREAS, MillerCoors operates a facility ("the Facility") in Jefferson County, Colorado, at which MillerCoors manufactures beer for sale in kegs, aluminum cans, and glass bottles; and

WHEREAS, a small portion of the Facility is located within City limits; and

WHEREAS, MillerCoors both purchases kegs from keg manufacturers and collects kegs returned by distributors, and washes and sanitizes the kegs in the Facility; and

WHEREAS, the portion of the Facility within City limits houses part of an automated keg washing/sanitizing system, and kegs passing through the washing/sanitizing system briefly enter into City limits during the washing/sanitizing process; and

WHEREAS, the City is currently engaged in legal proceedings with MillerCoors, regarding liability for municipal use tax on the kegs which briefly enter into City limits during the washing/sanitizing process ("Kegs"); and

WHEREAS, a genuine dispute exists between the City and MillerCoors regarding MillerCoors' liability for City use tax upon the Kegs; and

WHEREAS, in conjunction with the settlement of the above-referenced legal proceedings, the City and MillerCoors wish to enter into this Agreement to address the

prospective collection by the City and payment by MillerCoors of a fee in lieu of sales and use taxes with respect to the Kegs.

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

SECTION 1.
FEE IN LIEU OF SALES AND USE TAX ON THE KEGS

1.1 Commencing on October 1, 2009, MillerCoors shall pay to the City a fee-in-lieu of sales and use taxes in an amount equal to fifty percent (50%) of the City use tax on the purchase price of the Kegs.

1.2 In consideration for MillerCoors' payment under paragraph 1.1, the City agrees to forego imposition and collection of any City sales or use tax on the Kegs for so long as MillerCoors complies with its obligations and responsibilities under this Agreement, and for so long as this Agreement remains in effect.

1.3 In accordance with paragraphs 1.1 and 1.2, MillerCoors shall timely submit City sales and use tax returns to the City, and shall report the total purchase price of any Kegs purchased during each monthly reporting period. MillerCoors shall submit payments of the fee-in-lieu of sales and use tax at the same time as, and with, its monthly City sales and use tax returns. City sales and use tax returns must be filed with the City on or before the twentieth (20th) day of the month following the reporting period pursuant to Section 3.04.030 of the Golden Municipal Code.

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1.6 The City and MillerCoors expressly acknowledge and agree that this Agreement is limited in scope and application to Kegs purchased by MillerCoors on or after October 1, 2009.

1.7 Except as otherwise specifically provided herein, the City and MillerCoors expressly acknowledge and agree and that this Agreement does not in any way limit, alter, waive, resolve or otherwise affect any past, pending, or future audits or assessments of

MillerCoors by the City, or the City's right to conduct audits of and/or issue assessments to MillerCoors.

1.8 The initial term of this Agreement shall end on December 31, 2009. This Agreement shall automatically renew for successive one calendar year term(s), unless either Party provides written notice to the other of its intent to not renew the Agreement. Such notice must be delivered to the other Party prior to the end of the then existing term. Further, the Parties agree that renewal of this Agreement may be voided retroactively to the end of the previous term if, and only if, notice is delivered to the other Party on or before February 15 of the year following the previous calendar year term. If MillerCoors makes any payments pursuant to this Agreement for a period that is retroactively voided, the City shall credit such payments and apply them towards any sales or use tax that may be due on Kegs. In the event that it is determined that MillerCoors has no sales or use tax liability on such Kegs, such amount shall be refunded by the City to MillerCoors in accordance with the Golden Municipal Code or other applicable law. Any such notice shall be delivered in accordance with paragraph 3.6 of this Agreement.

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City of Golden
PO Box 5885
Denver, CO 80217-5885

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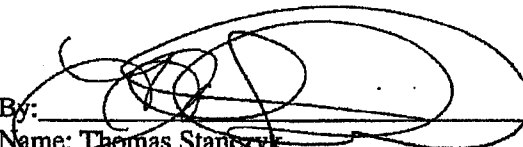
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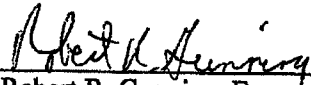
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IN WITNESS WHEREOF, the Parties have executed this instrument to be effective the
13 day of NOVEMBER, 2009.

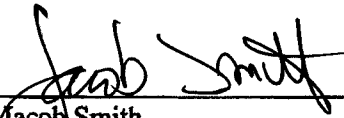
MILLERCOORS LLC:

By: 
Name: Thomas Stanczyk
Title: Director of Tax

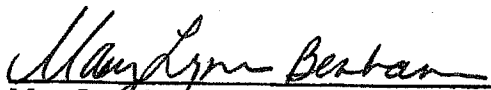
APPROVED AS TO FORM:


Robert R. Gunning, Esq.
Attorney for MillerCoors, LLC

THE CITY OF GOLDEN:

By: 
Name: Jacob Smith
Title: Mayor, City of Golden

APPROVED AS TO FORM:


Mary Lynn Benham, Esq.
Assistant City Attorney for the City of Golden