

RESOLUTION NO. 1610

**A RESOLUTION OF THE GOLDEN CITY COUNCIL
APPROVING A SETTLEMENT AGREEMENT AND MUTUAL
RELEASE BY AND AMONG THE CITY OF THORNTON;
COORS MOLSON BREWING COMPANY AND THE CITY OF
GOLDEN**

WHEREAS, the City of Golden has exercised water purchase agreements with the Coors Brewing company for water supplied by the City of Thornton; and

WHEREAS, the City has certain obligations for a share of cost for the maintenance and operation of Standley Lake and ditches that feed it; and

WHEREAS, disputes concerning the level of obligation between Coors, Thornton and Golden have resulted in law suits being filed; and

WHEREAS, the parties through judicial recommended mediation have reached a negotiated settlement to the current dispute; and

WHEREAS, the parties have further reached agreement on language that will clarify future obligations.

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

That the Settlement Agreement and Mutual Release by and among the City of Golden; the Coors Molson Brewing Company and the City of Thornton, as attached hereto, is approved.

Adopted the 27th day of October, 2005.



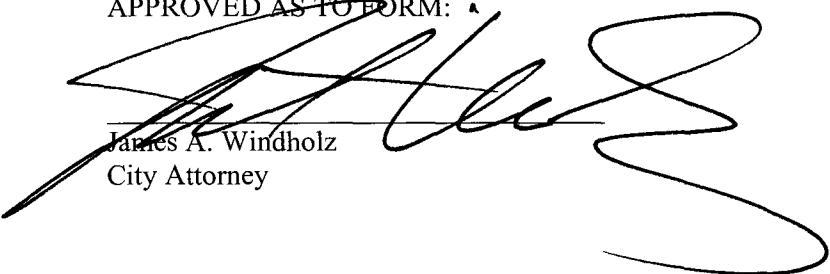
Charles J. Baroch
Mayor

ATTEST:



Susan M. Brooks, MMC
City Clerk

APPROVED AS TO FORM: *



James A. Windholz
City Attorney

Resolution 1610

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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 meeting thereof held on the 27th day of October, A.D., 2005.

(SEAL)

ATTEST:

A handwritten signature in black ink, appearing to read "Susan M. Brooks", written over a horizontal line.

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

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

THIS SETTLEMENT AGREEMENT AND MUTUAL RELEASE (the "Agreement") is made by and among the City of Thornton ("Thornton"); Coors Molson Brewing Company f/k/a Adolph Coors Company, d/b/a Coors Brewing Company, Inc.; and the City of Golden ("Golden") (collectively the "Parties") as of this _____ day of _____, 2005. This Agreement shall become effective only if and when signed by each of the Parties.

RECITALS

A. On or about September 11, 2003, Thornton commenced an action in the District Court, Adams County, Colorado styled *City of Thornton v. Adolph Coors Company, d/b/a Coors Brewing Company*, Civil Action No. 03CV2779, asserting claims for declaratory relief and for damages as a result of the alleged breach of a contract between Thornton and Coors, dated May 23, 1988 (the "Coors/Thornton Agreement").

B. On April 14, 2004, a related case, Civil Action No. 04CV1041, was consolidated into Civil Action No. 03CV2779 (both cases are collectively referred to as the "Litigation").

C. On or about December 3, 2003, Coors filed an Answer and Counterclaim for Declaratory Relief in the Litigation.

D. On or about December 15, 2003, Coors filed a Third-Party Complaint against Golden in the Litigation, asserting a claim for indemnification against Golden based on a separate agreement between Coors and Golden, dated May 23, 1988, (the "Coors/Golden Agreement").

E. On March 3, 2004, Golden filed an Answer to Coors' Third-Party Complaint and Counterclaims for declaratory relief against Thornton and Coors in the Litigation.

F. The Coors/Thornton and Coors/Golden Agreements are perpetual agreements, which trigger obligations of the Parties each year. The disputes that were raised in the Litigation or could have been raised in the Litigation concern the years 2000 through 2004.

G. The Parties have agreed to resolve all disputes that were raised or could have been raised in the Litigation and wish to memorialize the resolution of their disputes in this Agreement.

H. Contemporaneously with the execution of this Agreement, the Parties are executing a Second Amendment to the Coors/Thornton Agreement and a First Amendment to the Coors/Golden Agreement, copies of which are attached hereto as Ex. A and Ex. B, respectively.

I. The Parties agree that in consideration for full resolution of this matter, including resolution of Coors' claim for indemnification against Golden and for Coors' release of Golden as described herein in paragraph 5(b), Golden shall make payment directly to Thornton as its contribution to the settlement of this Litigation.

NOW THEREFORE, in consideration of the above recitals and the following mutual covenants set forth in this Agreement, and such other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties to this Agreement agree as follows:

AGREEMENT

1. **Payment by Coors to Thornton.** Coors agrees to pay to Thornton the sum of One Million Six Hundred Thirty Five Thousand and no/100 Dollars (\$1,635,000) upon execution of this Agreement.

2. **Payment by Golden to Thornton.** Golden agrees to pay to Thornton the sum of Four Hundred Sixty Five Thousand and no/100 Dollars (\$465,000) upon execution of this Agreement. Golden's payment to Thornton shall extinguish any amounts that would be due and owing to Coors by Golden pursuant to the Coors/Golden Agreement for the years 2000 through 2004.

3. **Method of Payment.** Each payment obligation set forth in Paragraphs 1 and 2 of this Agreement shall be made by check payable to the "City of Thornton."

4. **Dismissal of the Litigation.** Concurrently herewith and conditioned on Coors' and Golden's payment of their respective settlement payments to Thornton, the Parties shall execute a Stipulation to Dismiss the Litigation, with prejudice, and file it with the District Court, Adams County, Colorado.

5. **Mutual General Releases.**

a. **Release by Thornton.** Thornton agrees to forever release, waive, relinquish, dismiss and discharge any and all claims, causes of action, or demands that it has against Coors and/or Golden, or any of them, including their respective officers, directors, agents, employees, members, subsidiaries, attorneys, insurers, sureties, heirs, successors, assigns, existing as of the date of this Agreement, whether known or unknown, at law or in equity, in tort, in contract or pursuant to statute, regardless of legal theory, arising out of the Coors/Thornton Agreement, including any and all claims that were asserted or could have been asserted in the Litigation for years 2000 through 2004. Thornton's release of Coors shall not take effect until receipt of the Settlement Payments from Coors and Golden.

b. **Release by Coors.** Coors agrees to forever release, waive, relinquish, dismiss and discharge any and all claims, causes of action, or demands that it has against Thornton and/or Golden, or any of them, including their respective officers, directors, agents, employees, members, subsidiaries, attorneys, insurers, sureties, heirs, successors, assigns, existing as of the date of this Agreement, whether known or unknown, at law or in equity, in tort, in contract or pursuant to statute, regardless of legal theory, arising out of the Coors/Thornton Agreement and/or the Coors/Golden Agreement, including any and all claims that were asserted or could have been asserted in the Litigation for years 2000 through 2004.

c. **Release by Golden.** Golden agrees to forever release, waive, relinquish, dismiss and discharge any and all claims, causes of action, or demands that it has against Thornton and/or Coors, or any of them, including their respective officers, directors, agents, employees, members, subsidiaries, attorneys, insurers, sureties, heirs, successors, assigns, existing as of the date of this Agreement, whether known or unknown, at law or in equity, in tort, in contract or pursuant to statute, regardless of legal theory, arising out of the Coors/Thornton Agreement and/or the Coors/Golden Agreement, including any and all claims that were asserted or could have been asserted in the Litigation for years 2000 through 2004.

6. **Representations and Warranties.**

a. **No Reliance on Other Statements.** The Parties to this Agreement have not relied on any statements, representations, or warranties of any kind in entering into this Agreement, except those as set forth herein.

b. **Non-Assignment of Claims.** Each of the Parties to this Agreement represents and warrants that it has not assigned any claim, cause of action, or demand subject to the terms of the mutual release herein, in whole or in part, to any third party who is not a party to this Agreement.

c. **Read and Reviewed.** The Parties to this Agreement hereby represent that they have read and understand the terms of this Agreement, that they have had the opportunity to confer with attorneys and other professionals of their choosing, and that they have made this Agreement of their own free will without coercion or duress.

d. **Warranty of Authority.** The persons executing this Agreement have the Authority to enter into this Agreement and to bind the Parties they represent.

7. **Further Assurances.** The Parties shall execute any documents or undertake any reasonable actions that may be necessary to effectuate the terms and conditions of this Agreement.

8. **Integration.** This document represents the entire agreement among the Parties and supersedes and replaces any prior agreements or understandings among the Parties, whether oral or written.

9. **Modification / Amendments.** This Agreement may not be modified or amended except by a writing duly executed by the Parties to this Agreement, or their duly authorized representatives. No oral modifications shall be deemed effective to alter the terms or conditions set forth in this Agreement.

10. **Binding Effect.** This Agreement shall be binding upon, and shall inure to the benefit of, the undersigned Parties, including their respective officers, directors, agents, employees, members, subsidiaries, heirs, successors and assigns.

11. **Entire Agreement.** This Agreement contains the entire agreement between the Parties with respect to the matters set forth herein, and the issues, claims, defenses, and causes of action asserted in the Litigation, and supersedes all prior discussions, offers, proposals, communications, letters, statements or agreements between the Parties, whether oral or written or both, related to the subjects addressed in this Agreement.

12. **Interpretation.** This Agreement shall be construed and interpreted under the laws of the State of Colorado.

13. **Enforcement.** The Parties hereby agree and acknowledge that any cause or claim arising from or relating to this Agreement, including any claims to enforce any term or condition herein shall be brought in either the District Court, Jefferson County, Colorado or the District Court, Adams County, Colorado, and the Parties hereby agree and acknowledge that jurisdiction and venue shall be proper in the State of Colorado.

14. **Severability.** In the event that any promise, condition or covenant herein contained is held to be invalid or void for any reason by any court of competent jurisdiction, the same shall be deemed to be severable from the remainder of this Agreement and shall in no way affect any other covenant or condition contained in this Agreement. If such condition, covenant or other provision shall be deemed invalid due to its scope or breadth, such provisions shall be deemed valid to the extent of the scope or breadth permitted by law.

15. **Paragraph Headings.** The paragraph headings in this Agreement are provided for convenience of reference, and are not intended to limit, restrict or modify the rights and obligations of the Parties as set forth in the paragraphs of this Agreement. In the event of any conflict between a heading and the text of this Agreement, the text of this Agreement will control.

16. **Mutual Drafting.** Each of the Parties has cooperated in the negotiation, drafting and preparation of this Agreement. Therefore, in any construction to be made of this Agreement, the same shall not be construed against either Party.

17. **No Admission.** This Settlement Agreement is being entered into solely as a settlement of claims, and does not represent an admission by the Parties of any liability with respect to the claims or defenses that were asserted or could have been asserted in the Litigation.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth below:

Dated: _____ 2005.

THE CITY OF THORNTON, COLORADO

By: _____

Name: _____

Title: _____

**COORS MOLSON BREWING COMPANY,
f/k/a ADOLPH COORS COMPANY, d/b/a
COORS BREWING COMPANY, INC.**

By: _____

Name: _____

Title: _____

THE CITY OF GOLDEN, COLORADO

By: _____

Name: _____

Title: _____

FIRST AMENDMENT

To that Certain Agreement Between the Parties Hereto Dated May 23, 1988 and Recorded in the Public Records of Jefferson County, Colorado under Reception No. 88049910, commonly known as the Coors/Golden Agreement.

THIS AMENDMENT (the "Amendment") is made by and among Coors Molson Brewing Company f/k/a Adolph Coors Company, d/b/a Coors Brewing Company, Inc. ("Coors") and the City of Golden ("Golden") (collectively the "Parties") as of this _____ day of _____, 2005. This Amendment shall become effective when signed by each of the Parties.

RECITALS

A. The Parties entered into a written agreement, dated May 23, 1988 (the "Coors/Golden Agreement"). Coors is also a party to an agreement among Coors and the City of Thornton ("Thornton") (the "Coors/Thornton Agreement"), also dated May 23, 1988. On December 23, 1996, Coors and Thornton executed the First Amendment to the Coors/Thornton Agreement.

B. Pursuant to the Coors/Golden Agreement, among other things, Coors agreed to assign to Golden certain of its rights to receive deliveries of water from the City of Thornton to Golden for a set purchase price and Golden agreed to carry a proportional interest in all of the rights and obligations Coors acquired under Paragraphs 2., 6., 7., 8., 9., 10., 11., 12. and 13. of the Coors/Thornton Agreement.

C. In 2003, a dispute arose concerning the interpretation of Paragraphs 2.D.(4)(e)(ii) and 2.D.(4)(e)(iii) of the Coors/Thornton Agreement, which led to an action in the District Court, Adams County, Colorado styled *City of Thornton v. Adolph Coors Company, d/b/a Coors Brewing Company*, Civil Action No. 03CV2779 (the "Litigation"). In the Litigation, Thornton asserted claims against Coors for declaratory relief and a claim for damages as a result of an alleged breach of the Coors/Thornton Agreement by Coors. Coors asserted counterclaims against Thornton and also asserted cross claims against Golden based on the Coors/Golden Agreement. Golden asserted counterclaims against both Coors and Thornton

D. Coors, Thornton and Golden have agreed to settle all disputes that were raised or could have been raised in the Litigation among them.

E. Accordingly, contemporaneously with the execution of this Amendment, Coors, Thornton, and Golden have executed a Settlement Agreement and Mutual Release, which fully and finally resolves the Litigation.

F. As part of the Settlement Agreement and Mutual Release, Coors and Thornton have executed a Second Amendment to the Coors/Thornton Agreement of even date herewith, which amends the language of Paragraphs 2.D.(4)(e)(ii) and 2.D.(4)(e)(iii)

of the Coors/Thornton Agreement. A true and correct copy of the Second Amendment to the Coors/Thornton Agreement is attached hereto as **Attachment A**.

AMENDMENT

NOW THEREFORE, in consideration of the above recitals and the following mutual covenants set forth in this Amendment, and such other and good and valuable consideration, the receipt of which is hereby acknowledged, the Parties hereby amend the Coors/Golden Agreement as follows:

1. The Parties to this Agreement incorporate by this reference the Second Amendment to the Coors/Thornton Agreement, which amends, substitutes and supersedes the language of Paragraphs 2.D.(4)(e)(ii) and 2.D.(4)(e)(iii) of the Coors/Thornton Agreement. *See Attachment A*. Golden specifically acknowledges that as a part of settlement of the Litigation, through its representatives and counsel, Golden actively participated in the negotiation and drafting of the Second Amendment to the Coors/Thornton Agreement along with Coors and Thornton.

2. Pursuant to and in accordance with Paragraph 2 of the May 23, 1988 Coors/Golden Agreement, Coors and Golden agreed, among other things, "that the assignment by Coors to Golden of any right to receive deliveries of water from Thornton shall carry with it a proportional interest in all of the rights and obligations Coors shall have acquired under paragraphs 2., 6., 7., 8., 9., 10., 11., 12. and 13 of the Coors-Thornton Agreement, . . ."

3. Therefore, to the extent that the Second Amendment to the Coors/Thornton Agreement alters, amends or otherwise changes the rights and obligations that Coors acquired under Paragraph 2. of the May 23, 1988 Coors/Thornton Agreement, Golden hereby agrees to its proportional interest in all of those altered or amended rights and obligations of Coors.

4. All other aspects of the Coors/Golden Agreement, including all rights, obligations, interests, agreements and remedies, remain unchanged.

IN WITNESS WHEREOF, the Parties have executed this Second Amendment to the Coors/Golden Agreement as of this _____ day of _____, 2005.

THE CITY OF GOLDEN, COLORADO

By: C. J. Baruch
Mayor

ATTEST:

Susan B. Buda
City Clerk

Approved as to Form by Legal Counsel:

James A. Windholz, City Attorney

**COORS MOLSON BREWING COMPANY,
f/k/a ADOLPH COORS COMPANY, d/b/a
COORS BREWING COMPANY, INC.**

By: Samuel D. Walker

Name: Samuel D. Walker

Title: Global Chief Legal Officer

ATTEST:

Title:

Approved as to Form:

Title:

SECOND AMENDMENT

To that Certain Agreement Between the Parties Hereto Dated May 23, 1988 and Recorded in the Public Records of Jefferson County, Colorado under Reception No. 88049908.

THIS SECOND AMENDMENT (the "Amendment") is made by and among the City of Thornton ("Thornton") and Coors Molson Brewing Company f/k/a Adolph Coors Company, d/b/a Coors Brewing Company, Inc. (collectively the "Parties") as of this ____ day of _____, 2005. This Amendment shall become effective only if and when signed by each of the Parties.

RECITALS

A. The Parties entered into a written agreement, dated May 23, 1988 (the "Coors/Thornton Agreement").

B. On December 23, 1996, the Parties entered into the First Amendment to the Coors/Thornton Agreement.

C. A dispute has arisen concerning the interpretation of Paragraphs 2.D.(4)(e)(ii) and 2.D.(4)(e)(iii) of the Coors/Thornton Agreement. On or about September 11, 2003, Thornton commenced an action in the District Court, Adams County, Colorado styled *City of Thornton v. Adolph Coors Company, d/b/a Coors Brewing Company*, Civil Action No. 03CV2779 (the "Litigation"), asserting claims for declaratory relief and a claim for damages as a result of an alleged breach of the Coors/Thornton Agreement by Coors.

D. The Parties have agreed to settle all disputes that were raised or could have been raised in the Litigation, and now wish to amend the Coors/Thornton Agreement as part of the settlement.

E. Contemporaneously with the execution of this Amendment, the Parties and the City of Golden, which is also a party to the Litigation, have executed a Settlement Agreement and Mutual Release, which fully and finally resolves the Litigation.

AMENDMENT

NOW THEREFORE, in consideration of the above recitals and the following mutual covenants set forth in this Amendment, and such other and good and valuable consideration, the receipt of which is hereby acknowledged, the Parties to this Amendment agree that the below-language shall be substituted for and shall supersede that of Paragraphs 2.D.(4)(e)(ii) and 2.D.(4)(e)(iii) in the Coors/Thornton Agreement, and all references to Paragraphs 2.D.(4)(e)(ii) and 2.D.(4)(e)(iii) throughout the Coors/Thornton Agreement shall be construed in conformity with the following:

Paragraph 2.D.(4)(e)(ii)

- (A) To make timely payment of all assessments or charges when they become due on all of the shares, inches or contracts of mutual ditch companies and/or carrier ditch companies which hold, control or operate the water rights described in the premises.
- a. For each water year, Coors shall reimburse Thornton for 28.5% of the assessments and/or charges which Thornton pays for each water year to: (1) the Farmer's High Line Canal and Reservoir Company; (2) the Farmer's Reservoir and Irrigation Company for Standley Division shares only; and (3) the Church Ditch Company. Each water year commences on November 1 of each year and ends on October 31 of the following year.
- b. The amount of the annual reimbursement due to Thornton from Coors shall be paid by Coors within forty five (45) days of receipt of the invoice from Thornton.
- c. Notwithstanding the provisions of 2.D.(4)(e)(ii)(A) a., above, under no circumstances shall Coors be obligated to reimburse Thornton for the following: (1) any costs incurred in connection with enlargement of the storage capacity of Standley Lake above 42,734 acre feet; (2) any costs incurred by Thornton in connection with enlargement of the capacity of any of the ditches or canals which flow into Standley Lake (for purposes of this paragraph, the capacities of the ditches or canals shall be deemed to be: Church Ditch - 125 cfs; Croke Canal - 450 cfs; Farmer's High Line Canal - 300 cfs; any work to increase the capacity of the ditches or canals beyond these amounts shall be considered to be an enlargement. In addition, any work to increase the capacity of the ditches or canals by increasing the capacity of headgates, bridges, culverts, box culverts, flumes or other similar non-earthen structures beyond the maximum capacity of the structures as of the date of this Amendment, even if the maximum capacity of the structure is less than the capacity of the ditch or canal listed above, shall be considered to be an enlargement); (3) any costs incurred by Thornton for the purpose of maintaining, improving or enhancing water quality; (4) any costs incurred by Thornton for recreational purposes; (5) any costs incurred by Thornton for the purpose of improving or enhancing Thornton's capacity to convey or deliver water from Standley Lake to Thornton beyond the capacity of the conveyance and delivery facilities that exist as of the date of this Amendment.

Paragraph 2.D.(4)(e)(iii)

- (A) To contribute its share of the costs toward and cause the water supply facilities or structures required for the use of the water rights described in the premises to be maintained or rehabilitated as may be legally required to assure

their compliance with lawfully enforceable state or federal safety standards and/or to assure their continued utility for the maximum control and use of the water supplies available through the exercise of those water rights whether Thornton's interests in those facilities are held through the vehicle of mutual ditch company stock, carrier ditch company stock, carrier ditch company contracts, or by co-tenancy.

- a. For each water year, Coors shall reimburse Thornton for 28.5% of those costs incurred by Thornton in order for Farmer's Reservoir and Irrigation Company ("FRICO") and/or the Standley Lake Operating Committee ("SLOC") to maintain or rehabilitate the Croke Canal, Standley Lake Dam or facilities or structures appurtenant thereto, as they currently exist or as they may be maintained or rehabilitated, but not any facilities or structures downstream of the Standley Lake valve house or stream release, such that the Croke Canal is capable of safely and adequately conveying 450 cubic feet per second (cfs) of water, and/or such that Standley Lake is capable of safely and adequately storing 42,734 acre feet of water and/or to comply with SLOC's, FRICO's or Thornton's obligation under Colorado law to maintain a safe reservoir or dam and/or to assure continued full conveyance capacity in the Croke Canal and/or full storage capacity in Standley Lake. Each water year commences on November 1 of each year and ends on October 31 of the following year.
- b. The amount of the annual reimbursement due to Thornton from Coors shall be paid by Coors within forty five(45) days of receipt of the invoice from Thornton.
- c. Notwithstanding the provisions of 2.D.(4)(e)(iii)(A) a., above, under no circumstances shall Coors be obligated to reimburse Thornton for the following: (1) any costs incurred in connection with enlargement of the storage capacity of Standley Lake above 42,734 acre feet; (2) any costs incurred by Thornton in connection with enlargement of the capacity of any of the ditches or canals which flow into Standley Lake (for purposes of this paragraph, the capacities of the ditches or canals shall be deemed to be: Church Ditch - 125 cfs; Croke Canal - 450 cfs; Farmer's High Line Canal - 300 cfs; any work to increase the capacity of the ditches or canals beyond these amounts shall be considered to be an enlargement. In addition, any work to increase the capacity of the ditches or canals by increasing the capacity of headgates, bridges, culverts, box culverts, flumes or other similar non-earthen structures beyond the maximum capacity of the structures as of the date of this Amendment, even if the maximum capacity of the structure is less than the capacity of the ditch or canal listed above, shall be considered to be an enlargement); (3) any costs incurred by Thornton for the purpose of maintaining, improving or enhancing water quality; (4) any costs incurred by Thornton for recreational purposes; or (5) any costs incurred by Thornton for the

purpose of improving or enhancing Thornton's ability to convey or deliver water from Standley Lake to Thornton beyond the capacity of the conveyance and delivery facilities that exist as of the date of this Amendment.

- d. In the event that FRICO, SLOC or any governmental or regulatory agency having authority over Standley Lake determines that renovations or improvements are necessary for FRICO, SLOC or Thornton to comply with its obligation under Colorado law to maintain a safe reservoir or dam and/or to assure continued full canal conveyance capacity in the Croke Canal and/or full storage capacity in Standley Lake, Thornton shall provide Coors with written notice of such determination within thirty (30) days. Coors shall in turn provide written notice of such determination to any of its assigns within fourteen(14) days. Thornton shall also provide Coors with copies of any studies, reports or design documents relating to the renovations or improvements, and Coors shall be given a reasonable amount of time to review and comment on them.
- e. If Coors and its assigns agree that all or a portion of the renovations or improvements are necessary for FRICO, SLOC or Thornton to comply with its obligation under Colorado law to maintain a safe reservoir or dam and/or to assure continued full canal conveyance capacity in the Croke Canal and/or full storage capacity in Standley Lake, then Coors shall reimburse Thornton for 28.5% of such renovations or improvements as provided in subparagraph 2.D.4(e)(iii)(A) b. of this Amendment.
- f. If Coors and its assigns believe that renovations or improvements are not necessary for FRICO, SLOC or Thornton to comply with its obligation under Colorado law to maintain a safe reservoir or dam and/or to assure continued full canal conveyance capacity in the Croke Canal and/or full storage capacity at Standley Lake, then Coors, at its own expense, may hire an independent professional engineer with expertise in dam safety and construction to evaluate the necessity for the renovations or improvements, and Coors shall notify Thornton in writing of any objection to the renovations or improvements no later than sixty (60) days following Coors' receipt of written notice from Thornton as provided for in subparagraph d. above. Within fourteen (14) days of Coors' notification of its objections, Thornton and Coors shall meet in person to discuss the need for the renovations or improvements. The Parties shall negotiate in good faith and may use any dispute resolution processes, including the retention of an outside mediator, as mutually agreed to by the Parties.
- g. Failure by Coors or Thornton to provide the written notices set forth in subparagraphs d. and f. above shall not relieve either Party of its obligations under paragraphs 2.D.(4)(e)(ii) and 2.D.(4)(e)(iii) of this Amendment.

- h. In the event that Thornton and Coors are unable to agree on Coors' reimbursement obligations under subparagraph 2.D.(4)(e)(iii)(A) a., Thornton and Coors agree to resolve any such dispute(s) in a binding arbitration, which arbitration shall be conducted pursuant to the then current Expedited Procedures of the Commercial Arbitration Rules and Mediation Procedures (Including Procedures for Large, Complex Commercial Disputes) of the American Arbitration Association. The arbitration shall not, however, be administered by the American Arbitration Association. Thornton and Coors shall attempt to agree on a single neutral arbitrator who shall be a licensed professional engineer with expertise in dam construction and dam safety. If Thornton and Coors cannot agree on a single neutral arbitrator, then Thornton and Coors shall each select a neutral arbitrator, and the two arbitrators selected by the Parties shall select a third neutral arbitrator. Thornton and Coors shall share equally in the cost of the arbitration and the arbitrator(s). No disputes between the Parties relating to any provisions of the Coors/Thornton Agreement other than Coors' reimbursement obligations to Thornton under subparagraph 2.D.(4)(e)(iii)(A) a. shall be subject to binding arbitration.

IN WITNESS WHEREOF, the Parties have executed this Second Amendment to the Coors/Thornton Agreement as of the day and year first above written.

THE CITY OF THORNTON, COLORADO

By: _____

Jack Ethredge, City Manager

ATTEST:

City Clerk

Approved as to Form:

City Attorney

**COORS MOLSON BREWING COMPANY,
f/k/a ADOLPH COORS COMPANY, d/b/a
COORS BREWING COMPANY, INC.**

By: _____

Name: _____

Title: _____

ATTEST:

Title:

Approved as to Form:

Title: