

ORDINANCE NO. 2227

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, AMENDING THE OFFICIAL CODE OF THE CITY OF MONTROSE, COLORADO, CONCERNING SALES TAXES TO PROVIDE A CREDIT AGAINST SALES TAXES DUE IF A CERTAIN PUBLIC IMPROVEMENTS FEE HAS BEEN PAID IN CONNECTION WITH THE PROPERTIES KNOWN AS OXBOW CROSSING AND RIVER LANDING

WHEREAS, River Landing Development, LLC, a Colorado limited liability company ("River Landing"), Deer Trail Development, LLC, a Colorado limited liability company ("Deer Trail"), Oxbow Crossing Development, LLC, a Colorado limited liability company ("Oxbow Development"), Oxbow Crossing Real Estate I, LLC, a Colorado limited liability company ("Oxbow Real Estate," and together with River Landing, Deer Trail and Oxbow Development, "Owner"), and Target Corporation, a Minnesota corporation, are the fee owners of certain properties known as Oxbow Crossing and River Landing (as more particularly described in Exhibit A hereto, the "Property").

WHEREAS, Owner has developed and intends to further develop the Property as a phased, retail and commercial development (the "Project").

WHEREAS, the City of Montrose desires to cooperate with Owner to facilitate the development of the Project within a timeframe that advances the City of Montrose's economic development objectives, for the purpose of increasing sales tax revenues generated by the Project, including, without limitation, providing for certain incentives to retain existing retailers and service providers within and attracting new retailers and service providers to the Project.

WHEREAS, in furtherance of the foregoing, the City of Montrose and Owner previously have entered into that certain Development Agreement for Oxbow Crossing and River Landing (the "Agreement"), pursuant to which the City of Montrose is to cooperate in the financing of economic development incentives with respect to the Project from certain revenues generated from retail sales activities within the Property, subject to the limitations set forth in the Agreement.

WHEREAS, pursuant to a Declaration of Covenants Imposing and Implementing the Oxbow Crossing and River Landing Public Improvements Fee (the "PIF Covenant"), Owner intends to impose a public improvements fee on certain sales or provisions of goods or services occurring within the Property.

WHEREAS, pursuant to the Agreement, the City of Montrose desires to provide a tax credit against the obligation to pay, collect and remit sales taxes to the City of Montrose for persons or entities who pay the portion of the public improvements fee defined in the Agreement as the Credit PIF.

WHEREAS, the City Council previously has determined that the development of the Project, which is to be facilitated by the implementation of the sales tax credit provided herein, is in the best interests of the public health, safety and general welfare of the City of Montrose, and is consistent with the City of Montrose's development laws, regulations and policies.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTROSE, COLORADO, as follows:

SECTION 1: RATIFICATION

All actions heretofore taken (not inconsistent with the provisions of this Ordinance) by the City Council of the City of Montrose and other officers, employees and agents of the City of Montrose in connection with the Agreement and the implementation of the provisions thereof are hereby ratified, approved and confirmed.

SECTION 2: SALES TAX CREDIT

Chapter 5-15 of the Official Code of the Montrose Municipal Code is hereby amended by the addition of the following provision:

Notwithstanding any contrary provisions of this Chapter 5-15, and in order to implement the provisions of the Development Agreement for Oxbow Crossing and River Landing by and among River Landing Development, LLC, a Colorado limited liability company ("River Landing"), Deer Trail Development, LLC, a Colorado limited liability company ("Deer Trail"), Oxbow Crossing Development, LLC, a Colorado limited liability company ("Oxbow Development"), Oxbow Crossing Real Estate I, LLC, a Colorado limited liability company ("Oxbow Real Estate," and together with River Landing, Deer Trail and Oxbow Development, "Owner") and the City of Montrose (the "Agreement"), there shall be granted to each person or entity obligated to pay, collect or remit the sales tax on the sale or provision of goods or services occurring within the property legally described in Exhibit A attached hereto and incorporated herein by this reference (the "Property"), which are subject to City of Montrose sales taxes pursuant to this Chapter 5-15, a tax credit against collection of the sales tax as hereinafter set forth. All capitalized terms used in this section and not otherwise defined herein shall have the meanings given to them in the Agreement. Such tax credit shall be granted in the form of a reduction in the applicable sales tax in an amount equal to the amount of revenues generated from the imposition and collection of the Credit PIF with respect thereto, and shall attach to a particular transaction only to the extent that the Credit PIF Revenues are received by the PIF Collecting Agent for such transaction. The tax credit for sales tax shall be automatic, but shall be subject to the applicable retailer's (as reflected on the retailer's periodic sales tax report) remittance to and receipt by the PIF Collecting Agent of the Credit PIF Revenues in accordance with the PIF Covenant and the Agreement. The tax credit for sales tax shall be granted during the Credit PIF Period, which shall commence on January 1, 2012 with respect to the Phase One Retailers and on the effective date of this Ordinance with respect to Phase Two Retailers. The tax credit for sales tax shall terminate when the Credit PIF Period terminates in accordance with the terms and conditions of the Agreement. The amount of tax credit granted hereunder shall equal the amount of the Credit PIF

Revenues imposed and collected on Taxable Transactions within the Property by the application and imposition of the Credit PIF (i) at the rate of 0.10% with respect to Phase One Retailers; and (ii) at the rate of 2.15% with respect to Phase Two Retailers.

SECTION 3: EFFECT OF TAX CREDIT

The City Council hereby determines that the creation or termination of this sales tax credit does not constitute a tax increase, the imposition of a new tax, or a tax policy change directly causing a net tax revenue gain to the City of Montrose, and that nothing herein or in the Agreement creates a multiple fiscal year financial obligation or other indebtedness of the City of Montrose.

SECTION 4: VALIDITY

If any provision of this Ordinance or the application of it to any person or circumstance is held to be invalid by a Court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions or applications of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part or parts be declared invalid and as such, the provisions of this Ordinance are expressly declared to be severable.

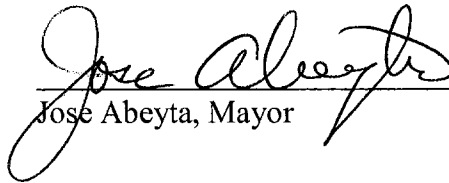
SECTION 5: REPEALER

Existing or parts of ordinances covering the same matters as embraced in this Ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Ordinance.

SECTION 6: EFFECTIVE DATE

This Ordinance shall become effective as set forth in the City Charter of the City of Montrose.

INTRODUCED, READ and PASSED on first reading this 3rd day of September, 2009.

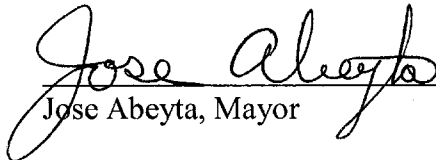

Jose Abeyta, Mayor

Attest:


Teri Colvin, City Clerk

You shall please take notice that the Montrose City Council shall hold a hearing upon the above Ordinance and on the question of its adoption on second reading on 17th, the 17th day of September, 2009 at the hour of 7:00 p.m. in the City Council Chambers, at the Elk's Civic Building located at 107 S. Cascade Avenue, Montrose, Colorado.

INTRODUCED, READ and ADOPTED on the second reading this 17th day of September, 2009.


Jose Abeyta, Mayor

Attest:


Teri Colvin, City Clerk

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

Lots 2, 3, 4, 5, 6 and 10, Oxbow Crossing Subdivision, County of Montrose, State of Colorado, according to the plat thereof recorded August 24, 2005 at Reception No. 742626;

Lots 7, 8 and 9, Oxbow Crossing Subdivision Amended, County of Montrose, State of Colorado, according to the plat thereof recorded December 6, 2006 at Reception No. 747751;

Lots 3 and 4, Oxbow Crossing Subdivision 3rd Amended, County of Montrose, State of Colorado, according to the plat thereof recorded December 13, 2006 at Reception No. 765109;

Outlot A, Oxbow Crossing Subdivision 2nd Amended Plat, County of Montrose, State of Colorado, according to the plat thereof recorded August 30, 2007 at Reception No. 780195;

Lots 3 and 4, River Landing North 2nd Amended Plat, County of Montrose, State of Colorado, according to the plat thereof recorded June 5, 2009 at Reception No. 803114;

Lots 5 and 6, River Landing North, County of Montrose, State of Colorado, according to the plat thereof recorded March 11, 2008 at Reception No. 787619;

Lots 1 and 2, River Landing North, Amended Plat, County of Montrose, State of Colorado, according to the plat thereof recorded May 23, 2008 at Reception No. 790747;

Lots 10, 11, 13, 14, and 18, River Landing Filing No. 1 2nd Amended Plat, County of Montrose, State of Colorado, according to the plat thereof recorded December 13, 2005 at Reception No. 765110;

Lots 12, 15, 16 and 19 and Tract A, River Landing Filing No. 2 Amended Plat, County of Montrose, State of Colorado, according to the plat thereof recorded December 13, 2006 at Reception No. 765111; and

Lot 17, River Landing Lot 17, County of Montrose, State of Colorado, according to the plat thereof recorded May 23, 2008 at Reception No. 790748.