

ORDINANCE NO. 029

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, AMENDING THE FIRESTONE MUNICIPAL CODE CONCERNING TOWN SALES AND USE TAXES TO PROVIDE A CREDIT AGAINST SALES AND USE TAXES DUE IF A CERTAIN PUBLIC IMPROVEMENTS FEE HAS BEEN PAID IN CONNECTION WITH THE PROPERTY KNOWN AS CAMBRIA CROSSING ANNEXATION

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO:

Section 1. Recitals.

A. The Town of Firestone (the "Town") is a municipal corporation of the State of Colorado.

B. 610 SOUTH MAIN, LLC, a Delaware limited liability company ("Owner") is the fee owner of certain property annexed into the Town comprising approximately 289 acres and generally known as Cambria Crossing (as more particularly defined in Exhibit A hereto, the "Property").

C. Owner intends to develop the Property as a phased, mixed-use development including, but not limited to, commercial/retail, entertainment, recreation, religious and residential uses (the "Project").

D. The Town desires to cooperate in the development of the Property and the funding of certain public improvements required in connection therewith.

E. In furtherance of the foregoing, the Town and the Owner have previously entered into a Public Improvements Reimbursement Agreement (Cambria Crossing Annexation) (the "Agreement") between the Owner and the Town, pursuant to which the Town is to cooperate in the funding of certain Public Improvements (as defined in the Agreement) through the reimbursement of certain costs associated with the construction and completion of Public Improvements from certain revenues generated from retail sales and construction activities within the Property, subject to the limitations set forth in the Agreement.

F. Pursuant to a Declaration of Covenants Imposing and Implementing the Cambria Crossing Public Improvements Fee (the "PIF Covenant"), the Owner intends to impose a public improvements fee on certain sales or provisions of goods or services occurring within the Property and intends to impose a public improvements fee (on building materials only) on an applicant for a building permit within the Property, which public improvements fees (defined in the Agreement as the Credit PIF) are to be used to contribute to the financing of Public Improvements.

G. Pursuant to the Agreement, the Town desires to provide a tax credit against the obligation to pay, collect and/or remit the sales and use tax to the Town for persons or entities who pay the portion of the public improvements fee defined in the Agreement as the Credit PIF.

H. The Board has previously determined that the development of the Project, the construction of the Public Improvements and the reimbursements by the Town contemplated by the Agreement, which are to be facilitated by the implementation of the sales and use tax credit provided herein, are in the best interests of the Town.

Section 2. Ratification. All actions heretofore taken (not inconsistent with the provisions of this Ordinance) by the Board of Trustees of the Town and other officers, employees and agents of the Town in connection with the Agreement and the implementation of the provisions thereof are hereby ratified, approved and confirmed.

Section 3. Tax Credit. Chapter 3.08 of the Firestone Municipal Code is amended by the addition of the following provision:

Notwithstanding any other provisions of this Chapter, and in order to implement the provisions of the Public Improvements Reimbursement Agreement (Cambria Crossing Annexation), dated August 28, 2013 (the "Agreement"), by and between the Town and 610 SOUTH MAIN, LLC, 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 which are subject to Town sales taxes occurring within the Property, as defined in the Agreement and the Declaration of Covenants Imposing and Implementing the Cambria Crossing Public Improvements Fee (the "PIF Covenant"), and Exhibit A hereto, and incorporated herein by this reference, a tax credit against collection of the sales tax as hereinafter set forth. 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/Trustee for such transaction. Notwithstanding any other provisions of this Chapter, there shall be granted to each applicant for a building permit within the Property a tax credit against the collection of the Town's use tax (on building materials only) as hereinafter set forth. Such tax credit shall be granted in the form of a reduction in the applicable use tax rate (on building materials only) in an amount equivalent to the rate of the Credit PIF, and shall attach to a particular transaction only to the extent that the Credit PIF Revenues are received by the PIF Collecting Agent/Trustee for such transaction. The tax credit for both the sales tax and the use tax shall be automatic and shall take effect immediately upon the applicable retailer's (as reflected on the retailer's periodic sales tax report) or building permit applicant's remittance to and receipt by the PIF Collecting Agent/Trustee of the Credit PIF Revenues in accordance with the PIF Covenant and the Agreement. The tax credit for both the sales tax and the use tax (on building materials only) shall be granted during the Credit PIF Period and

shall terminate when the Credit PIF Period terminates. The amount of sales and use tax credit granted hereunder shall equal the amount of the Credit PIF Revenues imposed and collected on Taxable Transactions by the application and imposition of the Credit PIF at a rate of 1.00%. All capitalized terms used in this section and not otherwise defined herein shall have the meanings given to them in the Agreement.

Section 4. Effect of Credit. The Town Council hereby determines that the creation or termination of this sales and use 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 Town, and that nothing herein or in the Agreement creates a multiple fiscal year financial obligation or other indebtedness of the Town. Nothing herein, in the Agreement, or in the PIF Covenant prohibits the Town from amending or terminating this tax credit.

Section 5. Repealer. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revise any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

INTRODUCED, READ, ADOPTED, APPROVED AND ORDERED PUBLISHED IN FULL this 28th day of August, 2013.

TOWN OF FIRESTONE



CWA
Chad Auer
Mayor

Attest:

Carissa Medina
Carissa Medina
Town Clerk

EXHIBIT A
Legal Description of the Property

THREE (3) PARCELS OF LAND SITUATED IN SECTION 12, TOWNSHIP 2 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL A (ANNEXATION PARCEL)

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 12 AND CONSIDERING THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 12 TO BEAR NORTH 00°27'00" WEST, SAID LINE FORMING THE BASIS OF BEARING FOR THIS LEGAL DESCRIPTION; THENCE SOUTH 89°58'03" EAST, ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 12, A DISTANCE OF 30.00 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF BIRCH STREET (W.C.R. 11), ALSO BEING THE POINT OF BEGINNING;

THENCE ALONG SAID EAST RIGHT-OF-WAY LINE, NORTH 00°27'00" WEST, A DISTANCE OF 2616.30 FEET TO THE SOUTHWEST CORNER OF THAT PARCEL OF LAND DESCRIBED BY DEED RECORDED MARCH 23, 2000 AT RECEPTION NO. 2757371 IN THE WELD COUNTY CLERK AND RECORDER'S OFFICE; THENCE CONTINUING NORTH 00°27'00" WEST, ALONG THE WEST LINE OF SAID PARCEL, A DISTANCE OF 11.52 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE NORTH 89°31'31" EAST, ALONG THE NORTH LINE OF SAID PARCEL, A DISTANCE OF 634.04 FEET TO THE NORTHEAST CORNER OF SAID PARCEL, ALSO BEING A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF FIRESTONE BOULEVARD (W.C.R. 24); THENCE NORTH 89°31'31" EAST, ALONG SAID SOUTH RIGHT-OF-WAY LINE OF FIRESTONE BOULEVARD (W.C.R. 24), A DISTANCE OF 3396.74 FEET TO THE EAST LINE OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 12; THENCE ALONG SAID EAST LINE OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 12, SOUTH 00°07'18" EAST, A DISTANCE OF 2663.46 FEET; THENCE ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 12, SOUTH 00°07'10" EAST, A DISTANCE OF 1345.97 FEET; THENCE ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER, NORTH 89°44'46" WEST, A DISTANCE OF 1328.01 FEET; THENCE ALONG THE WEST LINE OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER, NORTH 00°00'54" EAST, A DISTANCE OF 1340.88 FEET; THENCE ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 12, NORTH 89°58'03" WEST, A DISTANCE OF 2690.83 FEET TO THE POINT OF BEGINNING;

CONTAINING 12,425,711 SQUARE FEET OR 285.2550 ACRES, MORE OR LESS.

AND

PARCEL B

OUTLOT D OF BOOTH FARMS, SECOND FILING RECORDED ON DECEMBER 17, 2001 IN THE WELD COUNTY CLERK AND RECORDER'S OFFICE AT RECEPTION NO. 2909675

CONTAINING 174,660 SQUARE FEET OR 4.0096 ACRES, MORE OR LESS.

AND

PARCEL C

OUTLOT D1 OF THE 1ST REPLAT OF OUTLOTS A, H, I, J & N, BOOTH FARMS, SECOND FILING RECORDED ON OCTOBER 10, 2003 IN THE WELD COUNTY CLERK AND RECORDER'S OFFICE AT RECEPTION NO. 3115812.

CONTAINING 6,887 SQUARE FEET OR 0.1581 ACRES, MORE OR LESS.

CONTAINING A COMBINED TOTAL NET AREA FOR PARCELS A, B, AND C OF 12,607,258 SQUARE FEET OR 289.4227 ACRES, MORE OR LESS.