



Town of Johnstown

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE: August 29, 2022

SUBJECT: Second Amended and Restated Development and Reimbursement Agreement, Ledge Rock Center Commercial, Johnstown, Colorado

ACTION PROPOSED: Consider Second Amended and Restated Development and Reimbursement Agreement, Ledge Rock Center Commercial, Johnstown, Colorado

ATTACHMENTS: 1. Second Amended and Restated Development and Reimbursement Agreement, Ledge Rock Center Commercial, Johnstown, Colorado

PRESENTED BY: Matt LeCerf, Town Manager,
Avi Rocklin, Town Attorney
Elisabeth Cortese, Special Counsel

AGENDA ITEM DESCRIPTION: For consideration is the Second Amended and Restated Development and Reimbursement Agreement, Ledge Rock Center Commercial, Johnstown, Colorado (“Second DRA”) by and among the Town of Johnstown, Ledge Rock Center, LLC (“Developer”) and Ledge Rock Center Commercial Metropolitan District (“District”). The District and Developer have requested that the Town cooperate in the development of Ledge Rock Center Commercial, a commercial retail center to be located at the southeast corner of Interstate 25 and State Highway 60 (“Project”), by conveying real property owned by the Town to the Developer and providing a sales tax credit against taxable transactions occurring within the property to be used to pay bonds that will be issued by the District to finance public improvements and the purchase of land. To effectuate the foregoing, the Town, the Developer and the District previously entered into that certain Development and Reimbursement Agreement for Ledge Rock Center Commercial, Johnstown, Colorado, effective February 18, 2022 (the “DRA”), as amended by that certain First Amendment to Development and Reimbursement Agreement Ledge Rock Center Commercial Johnstown, Colorado (“First Amendment”), dated April 18, 2022 (the DRA and the First Amendment will be referred to collectively herein as the “Original Agreement”).

At the time of execution of the Original Agreement, the parties anticipated that the District would issue bonds in 2022. Based on changes in construction costs and in the estimated net proceeds of the bonds as a result of interest rates anticipated to be issued by the District, the Developer and the District have requested that the Town agree to amend the Original Agreement to, among other revisions: (i) provide a 2.75%, for an interim period compared to the 2%, sales tax credit (“Credit PIF”) against taxable transactions occurring within the property to be used to pay bonds that will be issued by the District to finance public

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improvements and the purchase of land; (ii) recognize that the Town is only required to contribute approximately 7.83 acres of real property for the first phase of the Project, rather than 33.22 acres as originally contemplated; (iii) set forth a commitment by the Developer to advance funds to the District in an amount equal to the shortfall in the bond proceeds in the approximate amount of \$13,400,000 for the construction of the private improvements associated with the Project (“Developer Shortfall Funding Advance”).

The Second DRA provides that the Credit PIF will reduce from 2.75% to 2% when the District refunds the 2022 bonds and the 2025 Bonds (the 2025 Bonds are anticipated to be issued to fund the public improvements for the second phase of the Project). The Second DRA also provides that the District will provide funding to the Town for the Town’s use for any lawful purpose in an amount equal to the increase collected in the Credit PIF from 2% to 2.75% (the “District Cost Sharing Contribution”) with no interest accrual at a subsequent date.

Additional material terms of the Second DRA are as follows:

- The Project is estimated to contain 785,000 square feet of commercial and retail development. The Project is anticipated to be constructed in two phases.
- To finance the public improvements, the District intends that there will be a bond issuance in 2025 to finance the second phase of the Project and a bond issuance in 2027 to refund the 2022 and the 2025 bonds, reimburse the Developer for the Developer Shortfall Funding Advance and to pay the District Cost Sharing Contribution.
- When the second phase of the project is financed, the Town would convey additional property owned by the Town to the Developer on terms and conditions to be subsequently agreed-upon.
- The Credit PIF will only be imposed until December 1, 2051 unless the bonds are paid earlier.
- In addition to the Credit PIF, the Developer will impose a 2.5% fee, an Add-On PIF, on all taxable transactions, which amount, along with the Credit PIF and a District imposed 5 mill levy, will be used to pay the bonds. The Developer is required to continue imposing the Add-On PIF while debt is outstanding and may continue to impose the fee after the debt is re-paid to use the funds to maintain the retail facility.
- The District will not be entitled to secure any financing for the public improvements with a mortgage or encumbrance on the portion of the Town property conveyed by the Developer to the District.

LEGAL ADVICE:

The Town Attorney and the Town’s Special Counsel, MaryAnn McGeady, prepared the Second Amended and Restated Development and Reimbursement Agreement, Ledge Rock Center Commercial, Johnstown, Colorado.

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FINANCIAL ADVICE:

The Town is contributing two and seventy-five hundredths percent (2.75%) of its sales tax revenue to the Project for a minimum period of five years.

RECOMMENDED ACTION: Approve the Second Amended and Restated Development and Reimbursement Agreement, Ledge Rock Center Commercial, Johnstown, Colorado.

SUGGESTED MOTIONS:

For Approval: I move to approve the Second Amended and Restated Development and Reimbursement Agreement, Ledge Rock Center Commercial, Johnstown, Colorado, as may be amended by the Town Manager and Town Attorney, without modifying the substance, and authorize the Mayor to execute the final form of agreement.

For Denial: I move to deny approval of the Second Amended and Restated Development and Reimbursement Agreement, Ledge Rock Center Commercial, Johnstown, Colorado.

Reviewed and Approved for Presentation,



Town Manager