



# Town of Johnstown

## TOWN COUNCIL AGENDA COMMUNICATIONS

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**AGENDA DATE:** February 7, 2022

**SUBJECT:** **Public Hearing - First Reading** – Ordinance 2022-225, An Ordinance Authorizing the Conveyance of Real Property located at Lot 2, Oxy Land Subdivision, in the Northwest ¼, Section 11, Township 4 North, Range 68 West of The 6<sup>th</sup> P.M., Town of Johnstown, County of Weld, State of Colorado, Consisting of Approximately 33.22 Acres, to Ledge Rock Center, LLC

**ACTION PROPOSED:** Consider First Reading of Ordinance No. 2022-225

**ATTACHMENTS:**

1. Ordinance No. 2022-225
2. Exhibit to Ordinance - Agreement Concerning Purchase and Sale of Real Property for Ledge Rock Center Commercial

**PRESENTED BY:** Avi Rocklin, Town Attorney

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**AGENDA ITEM DESCRIPTION:** Ledge Rock Center, LLC (“Developer”) and Ledge Rock Center Commercial Metropolitan District (“District”) 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 approximately 33 acres of land located at the southeast corner of Interstate 25 and State Highway 60 (“Property”) owned by the Town to the Developer for nominal consideration. The Property was conveyed to the Town by Kerr-McGee Oil & Gas Onshore LP (“Kerr-McGee”) pursuant to the Oil and Gas Operator Agreement and Encroachment License executed between the Town and Kerr-McGee on or about December 16, 2019.

The terms and conditions of the proposed conveyance of the Property are set forth in the Agreement Concerning Purchase and Sale of Real Property for Ledge Rock Center Commercial (“Agreement”) that is attached to the Ordinance. The Agreement would be executed, if at all, upon the effective date of the Ordinance.

The Agreement contains the following material terms:

- The Town will convey the Property to the District within three (3) business days after the District’s first issuance of bonds (“Conveyance Date”);
- The Developer will convey the public portions of the Property to the District within four (4) months of the Conveyance Date;

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- The Developer is required to complete the public improvements associated with the Property within five (5) years of the Conveyance Date absent written consent of the Town Council for an extension;
- Neither the District nor the Developer may encumber the public portions of the Property with a mortgage or other lien;
- The Developer may encumber the private portions of the Property when the Developer is prepared to commence construction of the vertical improvements upon written consent of the Town Manager;
- The District is not entitled to convey the Property to a third-party;
- The Developer may convey the private portions of the Property to third parties on the condition that the purchaser apply for a building permit within 6 months of the purchase and commence construction within 3 months of the issuance of the building permit.
- If the District or the Developer fail to comply with the terms of the Agreement, the defaulting party will be required to pay the Town the fair market value of the property at the time of such failure. The Developer may also lose the right to receive funds from the bond proceeds for the private improvements.

Additional terms and conditions related to the Town's participation in the Project as well as the Developer's and the District's rights and obligations related thereto are set forth in the Development and Reimbursement Agreement, Ledge Rock Center Commercial, Johnstown, Colorado that was approved by the Town Council on or about January 3, 2022.

Section 19.4 of the Home Rule Charter of the Town of Johnstown provides that the Town may receive bequests, gifts and donations of all kinds of property with the power to manage, sell, lease or otherwise dispose or provide for the disposition of same. Section 11-7 of the Johnstown Municipal Code provides that the Town may sell or dispose of real property and public buildings, used or held for any purpose, by ordinance upon such terms and conditions as Town Council deems to be in the best interests of the Town.

#### **LEGAL ADVICE:**

The Town Attorney prepared Ordinance No. 2022-225.

#### **FINANCIAL ADVICE:**

N/A

**RECOMMENDED ACTION:** Approve Ordinance No. 2022-225

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#### **SUGGESTED MOTIONS:**

**For Approval:** I move to approve Ordinance No. 2022-225, an Ordinance Authorizing the Conveyance of Real Property located at Lot 2, Oxy Land Subdivision, in the Northwest ¼, Section 11, Township 4 North, Range 68 West of The 6<sup>th</sup> P.M., Town of Johnstown, County of Weld, State of Colorado, Consisting of Approximately 33.22 Acres, to Ledge Rock Center, LLC.

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**For Denial:** I move to deny approval of Ordinance No. 2022-225.

*Reviewed and Approved for Presentation,*

A handwritten signature in blue ink, appearing to be 'W. J. C.', is written above a horizontal line.

Town Manager

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