

TOWN OF JOHNSTOWN, COLORADO

ORDINANCE NO. 2022-231

AN ORDINANCE AMENDING THE TOWN OF JOHNSTOWN MUNICIPAL CODE CONCERNING TOWN SALES TAXES TO PROVIDE A CREDIT AGAINST SALES TAX IF A CERTAIN PUBLIC IMPROVEMENTS FEE HAS BEEN PAID IN CONNECTION WITH THE DEVELOPMENT KNOWN AS LEDGE ROCK CENTER

WHEREAS, the Town of Johnstown, Colorado (the “Town”) is a municipal corporation duly organized and existing under its Home Rule Charter adopted pursuant to Article XX of the Constitution of the State of Colorado; and

WHEREAS, the Town Council is vested with authority to administer the affairs of the Town; and

WHEREAS, the Town desires to cooperate in the development of certain property within the Town known as Ledge Rock Center and to cooperate in the funding of certain public improvements related to such development, and thus entered into that certain Development and Reimbursement Agreement for Ledge Rock Center Commercial by and among the Town, Ledge Rock Center, LLC, a Kansas limited liability company (“Developer”), and Ledge Rock Center Commercial Metropolitan District, a quasi-municipal corporation and political subdivision of the state of Colorado, effective on February 18, 2022 as provided therein (“Agreement”); and

WHEREAS, all capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Agreement; and

WHEREAS, the Developer has requested that the Town Council consider this Ordinance prior to recordation of the PIF Covenant, and the Town Council desires to accommodate such request on the condition that the sales tax credit contemplated herein shall not be effective unless and until the PIF Covenant has been recorded against the PIF Property; and

WHEREAS, pursuant to the anticipated PIF Covenant, Ledge Rock Center, LLC intends to impose public improvements fees on certain sales or provisions of tangible personal property or services occurring within the property known as Ledge Rock Center and described within the PIF Covenant as the PIF Property, which public improvements fees shall be used to contribute to the financing of public improvements within the Town; and

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

WHEREAS, the Town Council finds that an amendment to the Johnstown Municipal Code to implement the aforementioned sales tax credit would be in the best interests of the citizens of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO:

Section 1. Ratification. All actions heretofore taken by the Town Council and other officers, employees and agents of the Town in connection with the Agreement and the implementation of the provisions thereof, which are not inconsistent with provisions of this Ordinance, are hereby ratified, approved and confirmed.

Section 2. Sales Tax Credit. Article IV of Chapter 4 the Johnstown Municipal Code is hereby amended to add Section 4-60, which shall state as follows:

Sec. 4-60. Sales Tax Credit – Ledge Rock Center.

Notwithstanding any other provision of this Article, and in order to implement the provisions of the Development and Reimbursement Agreement for Ledge Rock Center Commercial, dated as of the Effective Date thereof (as amended or supplemented from time to time, the “Agreement”), by and among the Town of Johnstown, Ledge Rock Center, LLC and the Ledge Rock Center Commercial Metropolitan District, there shall be granted to each person or entity obligated to pay, collect or remit sales tax on the sale of tangible personal property at retail or the furnishing of services, which are subject to Town sales tax occurring within the PIF Property, as defined in the PIF Covenant, and incorporated herein by this reference, a tax credit against collection of the sales tax as hereinafter set forth. Such sales tax credit shall be granted in form of a reduction in the applicable sales tax rate in an amount equivalent to two percent (2%), 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 for such transaction. The sales tax credit shall be automatic and shall take effect immediately upon the occurrence of a Taxable Transaction within the PIF Property, but shall be subject to the applicable retailer’s remittance to and receipt by the PIF Collecting Agent of the Credit PIF Revenues in accordance with the PIF Covenant and the Agreement. The sales tax credit shall be granted during the Credit PIF Period and shall automatically terminate when the Credit PIF Period terminates. All capitalized terms used in this Section and not otherwise defined herein shall have the meanings set forth in the Agreement.

Section 3. Effect of Sales Tax Credit. The Town Council hereby finds and determines that the creation or termination of the 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 Town, and that nothing herein or in the Agreement creates a multiple fiscal year direct or indirect financial obligation or other indebtedness of the Town. The Town shall have the right to reduce or terminate the sales tax credit at any time in accordance with the terms of the Agreement.

Section 4. 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.

Section 5. Effective Date. The amendment to Article IV of Chapter 4 the Johnstown Municipal Code to add Section 4-60 shall be effective on March 1, 2023, on the condition that the PIF Covenant has been recorded against the PIF Property. If the condition is not satisfied, this Ordinance shall be void and of no effect.

Section 6. Publication. This Ordinance, after its passage on final reading, shall be numbered, recorded, published and posted as required by the Town Charter and the adoption, publication and posting shall be authenticated by the signature of the Mayor and the Town Clerk and by the Certificate of Publication. Copies of the entire Ordinance are available at the office of the Town Clerk.

INTRODUCED, AND APPROVED on first reading by the Town Council of the Town of Johnstown, Colorado, this ___ day of _____, 2022.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor

PASSED UPON FINAL APPROVAL AND ADOPTED on second reading by the Town Council of the Town of Johnstown, Colorado, this ___ day of _____, 2022.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor