AMENDED AND RESTATED

INTERGOVERNMENTAL AGREEMENT BETWEEN

THE CITY OF WHEAT RIDGE, COLORADO

AND WARD TOD METROPOLITAN DISTRICT NOS. 1-3

THIS INTERGOVERNMENTAL AGREEMENT (the "**Agreement**") is made and entered into as of this 13th day of May, 2019, by, between and among the CITY OF WHEAT RIDGE, Colorado ("City"), and WARD METROPOLITAN DISTRICT NO. 1, a quasi-municipal corporation and political subdivisions of the State of Colorado; WARD TOD METROPOLITAN DISTRICT NO. 2, a quasi-municipal corporation and political subdivision of the State of Colorado; and WARD TOD METROPOLITAN DISTRICT NO. 3, a quasi-municipal corporation and political subdivision of the State of Colorado (each a "**District**" and collectively the "**Districts**"). The City and the Districts are each referred to herein as a "**Party**" and collectively referred to herein as the "**Parties**".

RECITALS

WHEREAS, the Districts was organized to provide those services and to exercise powers as are more specifically set forth in the Amended and Restated Service Plan for WARD TOD Metropolitan District Nos. 1-3, approved by the City on May 13, 2019 ("**Service Plan**"); and

WHEREAS, the Service Plan requires that the Districts approve this Agreement after approval of the Service Plan by the City; and

WHEREAS, the City and the Districts have determined it to be in the best interests of their respective taxpayers, residents and property owners to enter into this Agreement; and

WHEREAS, all defined terms set forth herein shall have the same meaning as set forth in the Service Plan.

NOW, THEREFORE, in consideration of the covenants and mutual agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

COVENANTS AND AGREEMENTS

1. Operations and Maintenance. The Districts shall dedicate the Public Improvements to the City or other appropriate jurisdiction in a manner contemplated under the Approved Development Plan and other rules and regulations of the City and applicable provisions of the City Code. The Districts shall be authorized, but not obligated, to own, operate and maintain Public Improvements not otherwise dedicated to the City or other public entity. The Parties anticipate the division of operations and maintenance responsibilities as set forth in Exhibit A attached hereto.

2. Construction Standards. The Districts will ensure that Public Improvements constructed by the Districts are designed and constructed in accordance with the standards and specifications of the City and of other governmental entities having proper jurisdiction, including the Colorado Department of Health, and other applicable local, state or federal agencies.

3. Inclusion of Property. The Districts shall not include within its boundaries any property outside the Service Area without the prior written consent of the City.

4. Total Debt Issuance. The Districts collectively shall not issue Debt in excess of Twenty Five Million Dollars ($25,000,000). Debt that is issued for the purpose of refunding outstanding District Debt shall not be counted against such $25,000,000 debt limitation, provided, however, that if the aggregate principal amount of the refunding Debt exceeds the outstanding aggregate principal amount of the refunded Debt, the increase in principal amount shall be counted against such debt limitation.

5. Bankruptcy. All of the limitations contained in the Service Plan, including, but not limited to, those pertaining to the Maximum Debt Mill Levy, Maximum Debt Mill Levy Imposition Term and the Fees have been established under the authority of the City to approve the Service Plan with conditions pursuant to Section 32-1-204.5, C.R.S. It is expressly intended that such limitations:

(a) shall not be subject to set-aside for any reason or by any court of competent jurisdiction, absent a Service Plan Amendment; and

(b) are, together with all other requirements of State law, included in the "political or governmental powers" reserved to the State under the U.S. Bankruptcy Code (11 U.S.C.) Section 903, and are also included in the "regulatory or electoral approval necessary under applicable nonbankruptcy law" as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943(b)(6).

Any Debt, issued with a pledge or which results in a pledge, that exceeds the Maximum Debt Mill Levy and the Maximum Debt Mill Levy Imposition Term, shall be deemed a material modification of this Service Plan pursuant to Section 32-1-207, C.R.S. and shall not be an authorized issuance of Debt unless and until such material modification has been approved by the City as part of a Service Plan Amendment.

7. Dissolution. Upon an independent determination of the City Council that the purposes for which the Districts was created have been accomplished, the Districts agrees to file a petition in the appropriate District Court for dissolution, pursuant to the applicable State statutes. In no event shall a dissolution occur until the Districts have provided for the payment or discharge of all of its outstanding indebtedness and other financial obligations as required pursuant to State statutes.

8. Disclosure to Purchasers. The Districts will use reasonable efforts to assure that all developers of the property located within the Districts provide written notice to all purchasers of property in the Districts regarding the Maximum Debt Mill Levy, as well as a general description of the Districts' authority to impose and collect rates, Fees, tolls and charges. The

form of notice shall be filed with the City prior to the initial issuance of the Debt by the Districts and shall be recorded in the Service Area.

9. Annual Report. The Districts shall be responsible for submitting an annual report to the City Clerk at the City's administrative offices by no later than September 1st of each year following the year in which the Service Plan is approved by the City Council. The annual report shall reflect activity and financial events of the District during the Report Year.

10. Maximum Debt Mill Levy. The "**Maximum Debt Mill Levy**" shall be the maximum mill levy a District is permitted to impose upon the taxable property within such District for payment of Debt, and shall be determined as follows:

(a) For the portion of any aggregate Debt which exceeds fifty percent (50%) of the District's assessed valuation, the Maximum Debt Mill Levy for such portion of Debt shall be Sixty (60) mills less the number of mills necessary to pay unlimited mill levy Debt described in Section (b) below; provided that if, on or after January 1, 2018, changes are made in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement; the mill levy limitation applicable to such Debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2018, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

(b) For the portion of any aggregate Debt which is equal to or less than fifty percent (50%) of the District's assessed valuation, either on the date of issuance or at any time thereafter, the mill levy to be imposed to repay such portion of Debt shall not be subject to the Maximum Debt Mill Levy and, as a result, the mill levy may be such amount as is necessary to pay the Debt service on such Debt, without limitation of rate.

(c) For purposes of the foregoing, once Debt has been determined to be within Section (b) above, such that the District is entitled to pledge to its payment an unlimited ad valorem mill levy, such District may provide that such Debt shall remain secured by such unlimited mill levy, notwithstanding any subsequent change in such District's Debt to assessed ratio. All Debt issued by the District must be issued in compliance with the requirements of Section 32-1-1101, C.R.S. and all other requirements of State law.

To the extent that the District is composed of or subsequently organized into one or more subdistricts as permitted under Section 32-1-1101, C.R.S., the term "District" as used herein shall be deemed to refer to the District and to each such subdistrict separately, so that each of the subdistricts shall be treated as a separate, independent district for purposes of the application of the definitions and limitations herein.

11. Notices. All notices, demands, requests or other communications to be sent by one Party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the address or by courier

delivery, via United Parcel Service or other nationally recognized overnight air courier service, or by depositing same in the United States mail, postage prepaid, addressed as follows:

To the District:	WARD TOD Metropolitan District Nos. 1-3 2154 East Commons Ave., Suite 2000 Centennial, CO 80122 ATTN: Clint C. Waldron, Esq. Phone: (303) 858-1800 Fax: (303) 858-1801 Email: cwaldron@wbapc.com
To the City:	City of Wheat Ridge 7500 W. 29th Ave., Wheat Ridge, CO 80033 ATTN: Patrick Goff, City Manager Phone: (303) 235-2805 Email: pgoff@ci.wheatridge.co.us
With a copy to:	Murray Dahl Kuechenmeister & Renaud LLP 710 Kipling Street, Suite 300 Lakewood, CO 80215 ATTN: Gerald Dahl Phone: (303) 493-6670 Email: gdahl@mdkrlaw.com

All notices, demands, requests or other communications shall be effective upon such personal delivery or 1 business day after being deposited with United Parcel Service or other nationally recognized overnight air courier service or 3 business days after deposit in the United States mail. By giving the other party hereto at least 10 days written notice thereof in accordance with the provisions hereof, each of the Parties shall have the right from time to time to change its address.

12. Amendment. This Agreement may be amended, modified, changed, or terminated in whole or in part only by a written agreement duly authorized and executed by the Parties hereto and without amendment to the Service Plan.

13. Assignment. No Party hereto shall assign any of its rights nor delegate any of its duties hereunder to any person or entity without having first obtained the prior written consent of all other Parties, which consent will not be unreasonably withheld. Any purported assignment or delegation in violation of the provisions hereof shall be void and ineffectual.

14. Default/Remedies. In the event of a breach or default of this Agreement by any Party, the non-defaulting Parties shall be entitled to exercise all remedies available at law or in equity, specifically including suits for specific performance and/or monetary damages. In the event of any proceeding to enforce the terms, covenants or conditions hereof, the prevailing Party/Parties in such proceeding shall be entitled to obtain as part of its judgment or award its reasonable attorneys' fees.

15. Governing Law and Venue. This Agreement shall be governed and construed under the laws of the State of Colorado and venue shall be in the District Court in and for the county in which the Districts are located.

16. Inurement. Each of the terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

17. Integration. This Agreement constitutes the entire agreement between the Parties with respect to the matters addressed herein. All prior discussions and negotiations regarding the subject matter hereof are merged herein.

18. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the District and the City any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the District and the City shall be for the sole and exclusive benefit of the District and the City.

19. Severability. If any covenant, term, condition, or provision under this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition, or provision shall not affect any other provision contained herein, the intention being that such provisions are severable.

20. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document.

21. Paragraph Headings. Paragraph headings are inserted for convenience of reference only.

22. Defined Terms. Capitalized terms used herein and not otherwise defined shall have meanings ascribed to them in the Service Plan.

(*Signature page follows)*

IN WITNESS WHEREOF, this Agreement is executed by the City and District as of the date first above written.

WARD TOD METROPOLITAN DISTRICT NOS. 1-3

By: _____
President

Attest:

By: _____
Secretary

CITY OF WHEAT RIDGE, COLORADO

By: _____
Mayor

Attest:

By: _____
Secretary

CITY OF WHEAT RIDGE SEAL COLORADO

APPROVED AS TO FORM:

_____
City Attorney

EXHIBIT A TO INTERGOVERNMENTAL AGREEMENT

Operations and Maintenance Chart

The Parties anticipate that operations and maintenance responsibilities will be as set forth below.

	City	**District**	**HOA**
Adjacent to Right-of-way	The City will maintain the following within the right-of-way: -Sidewalks -Curb, gutter -Street -Street/ped lights -Traffic/safety signs	As it pertains to the right-of-way the District will be responsible for: -Storm sewer -Landscaping -Irrigation -Street furnishings (e.g. trash cans, benches—including maintenance of furniture and emptying trash) -Entry documentation or fencing in the ROW	
Within Tracts		-Landscaping, irrigation, and sidewalks on Tract U and Tract W -Entry monumentation -Paseo (Tract U) - Park amenities (Tract W)	-All other landscaping -All other irrigation -All other sidewalks -Lighting (not in right-of-way) -Mail kiosks -Snow removal for alleys and walkways -Signage in private tracts, not monumentation