

AMENDED AND RESTATED
DISTRICT COORDINATING SERVICES AGREEMENT

This **AMENDED AND RESTATED DISTRICT COORDINATING SERVICES AGREEMENT** (this “**Agreement**”) is made and entered as of July 12, 2021 (the “**Effective Date**”), by and among **PTARMIGAN WEST METROPOLITAN DISTRICT NO. 1** (the “**Coordinating District**”) and **PTARMIGAN WEST METROPOLITAN DISTRICT NOS. 2-3** (each a “**Financing District**,” and collectively the “**Financing Districts**”), individually referred to herein as a “**District**” or “**Party**” or, the Coordinating District and the Financing Districts collectively referred to herein as the “**Districts**” or “**Parties**,” as the context indicates. The Districts are each quasi-municipal corporations and political subdivisions of the State of Colorado.

RECITALS

WHEREAS, the Districts have been duly and validly organized as quasi-municipal corporations and political subdivisions of the State of Colorado, in accordance with the provisions of §§ 32-1-101 *et seq.*, Colorado Revised Statutes (the “**Special District Act**”), with the power to provide for the financing, construction, installation, operation and maintenance of public infrastructure and improvements, as described in the Special District Act, within and without their respective boundaries, as authorized and in accordance with the Service Plan for the Districts, as the same may be amended from time to time (the “**Service Plan**”); and

WHEREAS, pursuant to the Colorado Constitution Article XIV, Section 18(2)(a), and § 29-1-203, C.R.S., the Districts may cooperate or contract with each other to provide any function, service or facility lawfully authorized to each, and any such contract may provide, *inter alia*, for the sharing of costs, the imposition of taxes, and the incurring of debt; and

WHEREAS, § 29-1-201, C.R.S., permits and encourages governments to make the most efficient and effective use of their powers and responsibilities by cooperating and contracting with other governments; and

WHEREAS, pursuant to § 32-1-1001(1)(d)(I), C.R.S., the Districts are empowered to enter into contracts and agreements affecting the affairs of the Districts; and

WHEREAS, the Districts were organized for the purpose of providing for the financing, construction, installation, operation and maintenance of public infrastructure and improvements serving an approximately 110.15 acre residential and commercial development in the Town of Windsor (the “**Town**”), Larimer County (the “**County**”), Colorado, referred to as “Ptarmigan West” (the “**Development**”); and

WHEREAS, at elections of the qualified electors of each of the Districts, duly called and held on May 8, 2018 (collectively, the “**Election**”), in accordance with law and pursuant to due notice, a majority of those qualified to vote and voting at the Election voted in favor of, *inter alia*, the imposition of taxes for the purpose of providing certain public improvements and facilities

(such public improvements and facilities, to the extent authorized by the Service Plan, are referred to herein as the “**Public Improvements**”), and entering into intergovernmental agreements or other contracts, without limit as to term, with other governmental entities and political subdivisions of the state; and

WHEREAS, it is anticipated that certain of the Public Improvements will be dedicated or otherwise conveyed to the Town, the County, or other public entity, or to an owners’ association within the boundaries of the Districts, and that the Coordinating District: (i) will own, operate and maintain all Public Improvements within the boundaries of the Districts that are not dedicated to the Town, County, any other public entity, or an owners’ association; and (ii) may provide trash service, architectural review, and covenant enforcement services to all or a portion of the property within the boundaries of the Districts; and

WHEREAS, the Districts have evaluated their respective roles, responsibilities and obligations with respect to the provision of administrative services, and ownership, operation and maintenance of certain of the Public Improvements, and desire to enter into this Agreement for the purpose of establishing the respective obligations of the Districts with respect to the coordination, oversight, and funding of certain administrative costs of the Districts and costs related to the continued operation and maintenance of certain of the Public Improvements within such Districts which serve, and are for the benefit of, the Districts and the residents and taxpayers thereof; and

WHEREAS, based on the integrated nature of the Public Improvements and that the Districts are part of an integrated project and coordination is necessary to maintain the integrity of the project, the Districts have independently determined that implementation of this Agreement is essential to the orderly administration of the affairs of the Districts and the coordinated operation and maintenance of Public Improvements benefiting the Districts, their residents and taxpayers; and

WHEREAS, the Districts have determined that coordination is also necessary to allow the Districts to operate in the most cost effective manner and to take advantage of economies of scale by eliminating the duplication of costs that would result without such coordination; and

WHEREAS, the Districts acknowledge that this Agreement does not impose any obligations on the Districts with respect to capital costs for the Public Improvements; and

WHEREAS, the Districts previously entered into that certain District Coordinating Services Agreement, dated January 28, 2020 (“**Prior Agreement**”) to coordinate and allow the Districts to operate in a cost effective manner; and

WHEREAS, the Districts now desire to enter into this Amended and Restated Agreement for the purpose of amending certain terms and conditions established by the Prior Agreement; and

WHEREAS, it is in the best interest of the Districts and for the public health, safety, convenience, and welfare of the residents of the Districts and of the general public that the Districts enter into this Agreement for the purpose of coordination of the Administrative Services and O&M Services, both as defined herein.

TERMS AND CONDITIONS

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

1. Administrative Services. The Coordinating District agrees to perform the administrative services described in **Exhibit A**, attached hereto and incorporated herein by this reference (the “**Administrative Services**”), for and on behalf of the Financing Districts, in compliance with all applicable federal, state, county and local or municipal body or agency statutes, ordinances and regulations, provided that each Financing District observes and performs the covenants and agreements set forth in this Agreement. Upon providing notice to the Financing Districts, the Coordinating District may suspend or curtail Administrative Services in its reasonable discretion as necessary or appropriate to address funding shortfalls that have occurred or are anticipated. The Coordinating District shall have the authority to enter into service contracts with third-parties to provide any Administrative Services required to be provided by the Coordinating District. In the event of any conflict between terms set forth in the body of this Agreement and terms set forth in Exhibit A, the terms in the body of this Agreement shall govern.

2. Ownership, Operation and Maintenance of Public Improvements. The Coordinating District will own, operate, and maintain all Public Improvements within the boundaries of the Districts that are not otherwise dedicated or conveyed to the Town, the County, or other public entity or owners’ association, in accordance with the Service Plan and any approved development plans for the project. The Coordinating District agrees to provide those operation and maintenance services described in **Exhibit B**, attached hereto and incorporated herein by this reference (the “**O&M Services**”) for the benefit of the Districts, provided that each Financing District observes and performs the covenants and agreements set forth in this Agreement. Upon providing notice to the Financing Districts, the Coordinating District may suspend or curtail O&M Services in its reasonable discretion as necessary or appropriate to address funding shortfalls that have occurred or are anticipated. The Coordinating District shall have the authority to enter into service contracts with third-parties to provide any O&M Services required to be provided by the Coordinating District. After requesting and considering input from the Financing Districts, the Coordinating District may adopt rules, regulations, policies, and procedures governing the Coordinating District’s acceptance and, as applicable, reimbursement for any Public Improvements.

3. Payment for Administrative and O&M Services. Each Financing District shall be responsible for its respective share of any and all costs, fees, charges, and expenses incurred by the Coordinating District (collectively, the “**Costs**”) in providing the Administrative Services and O&M Services (collectively, the “**Services**”). Costs may include but are not limited to, all fees of consultants (including managers, accountants, engineers, attorneys, auditors, and other consultants), utility charges, and service provider fees and charges. It is the desire and intent of the Districts that, to the extent possible, the Costs for the Services be paid by the imposition by each Financing District of an ad valorem mill levy against the taxable property lying within its boundaries. Nevertheless, nothing herein shall be construed as a limitation on the powers granted

to the Financing Districts by Colorado law to use alternative sources of revenue to pay the Coordinating District for the Costs.

4. Budget Process

a. Preliminary Budget. Each year the Coordinating District shall prepare and submit to the Financing Districts a preliminary budget for the following fiscal year showing the Services to be provided and the proposed Costs anticipated to be incurred by the Coordinating District with respect to the Services (the “**Preliminary Budget**”). The Coordinating District shall deliver the Preliminary Budget to the Financing Districts on or before October 15th of each year.

b. Budget Review and Approval. Unless otherwise agreed to by the Districts, on or before November 1 of each year, each Financing District, in its sole discretion, shall either: (a) approve the Preliminary Budget (in which case the Preliminary Budget shall become the “**Final Budget**” for the applicable fiscal year), or (b) propose in writing to the Coordinating District additions to and/or deletions from the Preliminary Budget. If any Financing District does not provide a proposal for additions to and/or deletions from the Preliminary Budget in writing by November 1st, such Financing District shall be deemed to have approved the Preliminary Budget as presented. If any Financing District does timely provide additions to and/or deletions from the Preliminary Budget, the Districts shall discuss and attempt in good faith to reach an agreement with respect to the Preliminary Budget on or before November 15th of each year.

c. Failure to Agree and Default Budget. In the event that the Coordinating District and the Financing Districts are unable to agree with regard to any proposed additions and/or deletions to the Preliminary Budget by November 15th of any year, then the Districts shall submit the Preliminary Budget to a mutually selected mediator in an attempt to reach agreement with respect to the Preliminary Budget. In the event the Districts cannot agree on a resolution to the dispute related to the Preliminary Budget by December 1st of any year, the Preliminary Budget with any revisions agreed to by the Districts to date shall be incorporated into and deemed to be the Final Budget; provided, however, that such Final Budget shall not include expenditures totaling the greater of: (1) 120% of the expenditures set forth and appropriated in the adopted budget for the current fiscal year, as the same may have been amended; or (2) 120% of the expenditures set forth in the Preliminary Budget that the Districts have agreed upon to date to be included in the Final Budget for the ensuing year. The budgeting, appropriation, and payments of the amounts called for in the Final Budget shall be made by the Financing Districts.

d. Budget Amendment. If after adoption of the Final Budget it appears to the Coordinating District that Costs for the year will exceed amounts as set forth in the Final Budget such that the Financing Districts will have to appropriate additional funds for the payment of the Costs for the year, the Coordinating District shall notify the Financing Districts as soon as reasonably practicable, and shall prepare and submit a proposed budget amendment to the Final Budget (each a “**Preliminary Budget Amendment**”) to the Financing Districts for review and comment. Within fifteen (15) days of submission of a Preliminary Budget Amendment to the Financing Districts, each Financing District, in its sole discretion, shall either: (a) approve the Preliminary Budget Amendment (in which case the Preliminary Budget Amendment shall become the “**Final Budget Amendment**”), or (b) propose in writing to the Coordinating District additions

to and/or deletions from the Preliminary Budget Amendment. If any Financing District does not provide a proposal for additions to and/or deletions from the Preliminary Budget Amendment in writing within fifteen (15) days as required herein, such Financing District shall be deemed to have approved the Preliminary Budget Amendment as presented. If any Financing District does timely provide additions to and/or deletions from the Preliminary Budget Amendment, the Districts shall discuss and attempt in good faith to reach an agreement with respect to the Preliminary Budget Amendment within thirty (30) days of the submission of the Preliminary Budget Amendment to the Financing Districts from the Coordinating District. In the event that the Coordinating District and the Financing Districts are unable to agree with regard to any proposed additions and/or deletions to the Preliminary Budget Amendment within the time provided herein, then the Parties shall submit the Preliminary Budget Amendment to a mutually selected mediator in an attempt to reach agreement with respect to a Final Budget Amendment. In the event the Districts cannot agree on a Final Budget Amendment within the time set forth above, the Preliminary Budget Amendment, with any revisions agreed to by the Districts to date, shall be incorporated into and deemed to be the Final Budget Amendment; provided, however, that the Final Budget Amendment shall not include expenditures totaling the greater of: (1) 120% higher than the expenditures set forth and appropriated in Final Budget being amended by the Final Budget Amendment, or (2) 120% of the expenditures set forth in the Preliminary Budget Amendment that the Districts have agreed upon to date to be included in the Final Budget Amendment. The budgeting, appropriation, and payments of the amounts called for in said Final Budget Amendment shall be made by the Financing Districts.

5. Deposit. Unless otherwise agreed by the Coordinating District, the Financing Districts, on or before the 15th day of each month, shall deposit with the Coordinating District an amount equal to 1/12th of the annual Costs due from such Financing District as determined by the Final Budget. Notwithstanding the foregoing, the Districts acknowledge that the Financing Districts may fund the Costs via the imposition of an ad valorem mill levy, and in such case, may not have funds available during the first quarter of each fiscal year to make the payments set forth herein. In such event, the Coordinating District agrees to defer collection of such amounts until such time as the Financing Districts have collected the funds for the Costs via the collection of taxes imposed through an ad valorem mill levy. All Costs due to the Coordinating District from the Financing Districts shall be paid in lawful money of the United States of America by check mailed or delivered, or by wire transfer, to the Coordinating District, or such other method as may be mutually agreed to by the Districts. The Coordinating District shall keep a record of and account for all deposits made by the Financing Districts in accordance with generally acceptable accounting principles.

6. Fees and Charges. The Districts acknowledge that the Coordinating District will incur certain direct and indirect costs associated with the provision of the O&M Services in order to properly provide the O&M Services and to ensure that the health, safety and welfare of the Districts and their inhabitants may be safeguarded. The Financing Districts further recognize and acknowledge that the Coordinating District is providing the O&M Services for the direct benefit of the Financing Districts and the property owners within their boundaries, and that pursuant to § 32-1-1001(1)(j)(I), C.R.S., the Coordinating District is authorized to fix and impose fees, rates, tolls, penalties and charges for services or facilities furnished by the Coordinating District which, until paid, shall constitute a perpetual lien on and against the property served. The Districts agree

that, after requesting and considering input from the Financing Districts, the Coordinating District may from time to time establish a fair and equitable fee to provide a source of funding to pay for the O&M Services (the “**User Fees**”), which User Fees are to be reasonably related to the overall cost of providing the O&M Services, and be imposed on those who are reasonably likely to benefit from or use the O&M Services (the “**Users**”). The Districts will make determinations as to the appropriate User Fees by taking into account mill levy revenues to be received from the Financing Districts in each fiscal year. The Financing Districts agree to cooperate with the Coordinating District in the collection of all User Fees due and owing, including but not necessarily limited to foreclosure as against the statutory perpetual lien associated with such User Fees.

7. Subject to Annual Appropriation and Budget. Notwithstanding anything contained herein to the contrary, the Districts agree that the Districts’ obligations under this Agreement shall extend only to monies appropriated for the purposes of this Agreement by the Board of each District and shall not constitute a mandatory charge, requirement or liability in any ensuing fiscal year beyond the then-current fiscal year. No provision of this Agreement shall be construed or interpreted as a delegation of governmental powers by the Districts, or as creating a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever of the Districts, including, without limitation, Article X, Section 20, or Article XI, Sections 1, 2 or 6 of the Constitution of the State of Colorado.

8. Rules and Regulations. The Districts acknowledge and agree that the Coordinating District may, after requesting and considering input from the Financing Districts, enact, from time to time, rules and regulations with respect to the Public Improvements and Services. Such rules and regulations, and amendments thereto, adopted and placed in force by the Coordinating District from time to time shall be fully enforceable within all Districts and against all Users. The Financing Districts agree to exercise authority and/or power they may have to assist the Coordinating District in enforcing the Coordinating District’s rules and regulations.

9. General Representations. In addition to the other representations, warranties, and covenants made by the Districts in this Agreement, the Districts make the following representations, warranties and covenants to each other:

a. Each District has the full right, power and authority to enter into, perform and observe this Agreement.

b. This Agreement is a valid, binding and legally enforceable obligation of the Districts and is enforceable in accordance with its terms.

c. The Districts shall keep and perform all of the covenants and agreements contained in this Agreement and shall take no action that could have the effect of rendering this Agreement unenforceable in any manner.

10. Default, Remedies and Enforcement.

a. Events of Default. The violation of any provision of this Agreement by any District, the occurrence of any one or more of the following events, and/or the existence of any

one or more of the following conditions shall constitute an “**Event of Default**” under this Agreement.

i. The failure to pay any payment when the same shall become due and payable as provided herein and to cure such failure within three (3) business days of the giving of notice by a District of such failure;

ii. The failure to perform or observe any other covenants, agreements, or conditions in this Agreement on the part of any District and to cure such failure within ten (10) days of receipt of notice from any of the other Districts of such failure; provided, however, that if the applicable default is of a nature that the same is not reasonably susceptible of being cured within such 10-day period, then the cure period shall extend so long as the defaulting District commences its cure within such 10-day period and thereafter pursues the cure to completion by the exercise of due diligence, as determined by the non-defaulting District(s);

iii. The filing of a voluntary petition under federal or state bankruptcy or insolvency laws by a District or the appointment of a receiver for any of a District’s assets which is not dismissed within thirty (30) days of such filing or appointment;

iv. Assignments by a Financing District for the benefit of a creditor and a failure to secure the release or termination of such assignments within thirty (30) days after the making of such assignments; or

v. The dissolution, insolvency, or liquidation of a District and a failure to cure such dissolution, insolvency or liquidation within ten (10) days of receipt of written notice, except dissolution of a District in accordance with Section 12(f) below shall not constitute an Event of Default.

b. Remedies on Occurrence of Events of Default. Upon the occurrence of an Event of Default, the non-defaulting District(s) hereto shall have the following rights and remedies:

i. In the event of breach of any provision of this Agreement, any non-defaulting District may ask a court of competent jurisdiction to enter a writ of mandamus to compel the Board of the defaulting District to perform its duties under this Agreement, and any non-defaulting District may seek from a court of competent jurisdiction temporary and/or permanent injunctions, or orders of specific performance, to compel the defaulting District to perform in accordance with the obligations set forth under this Agreement.

ii. The non-defaulting Districts may protect and enforce their rights under this Agreement by such suit, action, or special proceedings or remedies as they shall deem appropriate, including without limitation any proceedings for specific performance of any covenant or agreement contained herein, for the enforcement of any other appropriate legal or equitable remedy, or for the recovery of damages caused by breach of this Agreement, including attorneys’ fees and all other costs and expenses incurred in enforcing this Agreement or exercising any available remedies. If, at any time, there shall cease to be electors in the Coordinating District,

or if no electors of the Coordinating District are willing to act as directors of the Coordinating District, any Financing District may ask a court of competent jurisdiction to designate the proper persons to assume control of the Coordinating District for purposes of causing the performance of the Coordinating District's obligations under this Agreement.

iii. In the event the Event of Default is non-payment by a Financing District, the Coordinating District may:

(a) Suspend the provision of the Services the Coordinating District provides on behalf of such Financing District until such time as such Financing District cures such Event of Default; and/or

(b) After providing notice to such Financing District, impose User Fees directly upon the Users for the provision of the O&M Services in lieu of collecting the Costs related to the O&M Services from such Financing District. In such event, methods of collection of the User Fees shall be determined by the Coordinating District. The Coordinating District shall have the right to delegate or assign such impositions and collection power to a billing or service entity of its choice.

iv. To terminate this Agreement for any Event of Default that causes the non-defaulting District(s) irreparable harm material to their aggregate interests under this Agreement.

v. To take or cause to be taken such other actions as the non-defaulting District(s) reasonably deem necessary.

c. Delay or Omission No Waiver. No delay or omission of any District to exercise any right or power accruing upon any Event of Default shall exhaust or impair any such right or power or shall be construed to be a waiver of any such Event of Default, or acquiescence therein.

d. No Waiver of One Default to Affect Another; All Remedies Cumulative. No waiver of any Event of Default hereunder by any District shall extend to or affect any subsequent or any other then existing Event of Default or shall impair any rights or remedies consequent thereon. All rights and remedies of the non-defaulting District(s) provided herein may be exercised with or without notice, shall be cumulative, may be exercised separately, concurrently or repeatedly, and the exercise of any such right or remedy shall not affect or impair the exercise of any other right or remedy.

11. Termination. The Districts acknowledge that they are part of an integrated project and community, that the Public Improvements are not easily partitioned among the Districts and that cooperation in the termination process will be necessary to ensure that the integrity and quality of the community is maintained.

a. Administrative Services. A Financing District may terminate this Agreement as it relates to the provision of Administrative Services by the Coordinating District

for that Financing District upon ninety (90) days' written notice to the Coordinating District. If this Agreement is terminated by any Financing District in relation to Administrative Services, the Coordinating District shall be paid for Administrative Services performed for that Financing District prior to such termination. In the event of termination of the Administrative Services, as of the effective date thereof, the Coordinating District shall be fully relieved of any and all obligation to provide such Administrative Services to the Financing District terminating the Agreement as it relates to the provision of Administrative Services by the Coordinating District.

b. O&M Services. The Financing Districts' obligation to remit revenues to the Coordinating District, and the Coordinating District's obligation to provide the O&M Services, shall only terminate after a written notice has been provided by one of the Districts to the other Districts and an agreement is approved by each of the Financing Districts setting forth the matters required in this Section 11(b) (the "**Termination Agreement**"). It shall be required that any such Termination Agreement contain provisions to ensure that the Public Improvements are operated effectively and economically and that the public health, safety, prosperity, and general welfare of the residents and property owners within the Districts will be better served by the termination. Such Termination Agreement shall be required to include: (1) a plan for the manner in which ownership of the Public Improvements and ownership and maintenance shall be allocated and transferred as between the Districts; (2) a plan for payment associated with any outstanding obligations of the Coordinating District, as the same are incurred prior to the proposed date of termination; and (3) the manner in which outstanding agreements of the Coordinating District may be terminated, cancelled, assigned or otherwise handled.

In the event the Districts are not able to reach an agreement, they shall submit the issues to mediation and shall make a good faith effort to come to an agreement with the intent of reaching a cooperative solution that will best serve the residents and property owners of the Districts, as a whole. At such time as the provisions of the Termination Agreement are finalized in compliance with the requirements above, the Public Improvements shall be transferred in accordance with the provisions of the Termination Agreement and the Coordinating District shall be fully relieved of all further obligations absent any such obligations being specifically agreed to by the Coordinating District pursuant to the terms of the Termination Agreement.

12. Miscellaneous.

a. Relationship of Parties. This Agreement does not and shall not be construed as creating a joint venture, partnership, or employer-employee relationship between the Districts. The Districts intend that this Agreement be interpreted as creating only an ordinary contractual relationship between them, without any fiduciary or other special duties. The Districts hereby incorporate the RECITALS into this Agreement. It is also agreed that the conduct and control of the work and functions required by this Agreement shall lie solely with the Coordinating District which shall be free to exercise reasonable discretion in the performance of its duties under this Agreement. No District shall, with respect to any activity, be considered an agent or employee of any other District.

b. Assignment. Except as set forth herein or as contemplated in the Service Plan, neither this Agreement, nor any of a District's rights, obligations, duties or authority

hereunder may be assigned in whole or in part by any District without the prior written consent of all the other Districts. Any such attempt of assignment without the requisite consent shall be deemed void and of no force and effect at the election of any District with consent rights. Consent to one assignment shall not be deemed to be consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment. Notwithstanding the foregoing, nothing contained herein shall prohibit the Coordinating District from engaging contractors, consultants, employees or other third parties to perform the Services or any portion thereof, on behalf of the Coordinating District.

c. Modification. This Agreement may be modified, amended, changed or terminated, except as otherwise provided herein, in whole or in part, only by an agreement in writing duly authorized and executed by the Districts. No consent of any third party shall be required for the negotiation and execution of any such agreement.

d. Integration. This Agreement contains the entire agreement between and among the Districts regarding the subject matter hereof, and no statement, promise or inducement made by any District or the agent of any District that is not contained in this Agreement or separate written instrument shall be valid or binding.

e. Severability. If any covenant, term, condition or provision of 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 in the Agreement, the intention being that such provisions are severable. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

f. District Dissolution. In the event any District seeks to dissolve pursuant to §§ 32-1-701 *et seq.*, C.R.S., as amended, it shall provide written notification of the filing or application for dissolution to the other Districts concurrently with such filing. No District shall seek to dissolve so long as this Agreement is in effect without the prior written consent of the other Districts.

g. Survival of Obligations. Unfulfilled obligations of the Districts arising under this Agreement shall be deemed to survive the expiration of this Agreement or termination of this Agreement by court order. Said obligations shall be binding upon and inure to the benefit of the Districts and their respective successors and assigns.

h. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado. Venue shall be proper in the county in which the Districts are located.

i. Headings for Convenience Only. The headings, captions and titles contained herein are intended for convenience and reference only and are not intended to construe the provisions hereof.

j. Time Is of the Essence. Time is of the essence hereof; provided, however, that if the last day permitted or the date otherwise determined for the performance of any act required or permitted under this Agreement falls on a Saturday, Sunday or legal holiday, the time for performance shall be extended to the next succeeding business day, unless otherwise expressly stated.

k. Persons 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 Districts, any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all of the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the Districts shall be for the sole and exclusive benefit of the Districts acting through their respective Boards. This Agreement shall be construed as an intergovernmental agreement among the Districts only. It is expressly agreed by the Districts that no person other than the Financing Districts shall obtain any enforceable rights to service from the Coordinating District, and, to this end, it is expressly declared by the Districts that no person shall be construed as a third party beneficiary of any kind of this Agreement except as expressly stated herein.

l. Notices. Except as otherwise provided herein, all notices required under this Agreement shall be in writing and shall be (a) hand-delivered, and in such instance, considered effective upon delivery; (b) sent by registered or certified mail, return receipt requested, postage prepaid, and in such instance, considered effective seventy-two (72) hours after deposit in the United States mail with the proper address as set forth below; (c) sent by reputable overnight courier, and in such instance, considered effective on the next business day; or (d) sent via email, and in such instance considered effective upon receipt of an electronic delivery confirmation with a hard copy to be sent no later than three (3) business days after electronic delivery confirmation via one of the delivery methods specified in (a), (b) or (c) of this sentence, to the addresses of the Parties herein set forth. Any party by notice so given may change the address to which future notices shall be sent.

Coordinating District: Ptarmigan West Metropolitan District No. 1
c/o WHITE BEAR ANKELE TANAKA & WALDRON
2154 East Commons Avenue, Suite 2000
Centennial, Colorado 80122
Attention: Robert G. Rogers
(303) 858-1800 (phone)
(303) 858-1801 (fax)
rrogers@wbapc.com

Financing Districts: Ptarmigan West Metropolitan District Nos. 2-3
c/o Spencer Fane LLP
Attn: Jamie Cotter
1700 Lincoln Street, Suite 2000
Denver, Colorado 80203
(303) 839-3800
jcotter@spencerfane.com

m. District Records. The Districts shall have the right to access and review each other's records and accounts, at reasonable times during the Districts' regular office hours, for purposes of determining compliance by the Districts with the terms of this Agreement. Such access shall be subject to the provisions of Public Records Act of the State of Colorado contained in §§ 24-72-101, *et seq.*, C.R.S. and any policies adopted by the District. In the event of disputes or litigation between the Parties hereto, all access and requests for such records shall be made in compliance with the Public Records Act and any applicable discovery rules.

n. Recovery of Costs. In the event of any litigation between or among the Districts hereto concerning the subject matter hereof, the prevailing District(s) in such litigation shall receive from the losing District(s), in addition to the amount of any judgment or other award entered therein, all reasonable costs and expenses incurred by the prevailing District(s) in such litigation, including reasonable attorneys' fees.

o. Compliance with Law. The Districts agree to comply with all federal, state and local laws, rules and regulations which are now, or in the future may become applicable to the Districts, to their business or operations, or to services required to be provided by this Agreement.

p. Instruments of Further Assurance. The Districts each covenant that they will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, such acts, instruments, and transfers as may reasonably be required for the performance of their obligations hereunder.

q. Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the Districts, their respective officials, employees, contractors, or agents, or any other person acting on behalf of the Districts and, in particular, governmental immunity afforded or available to the Districts pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.

r. Counterpart Execution. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

s. Negotiated Provisions. This Agreement shall not be construed more strictly against one Party than against another, it being acknowledged that each Party has contributed substantially and materially to the preparation of this Agreement.

t. Entire Agreement. This Agreement constitutes the entire agreement between the Districts and sets forth the rights, duties, and obligations of each to the other as of this date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect.

[Signature Pages Follow.]

IN WITNESS WHEREOF, the Districts hereto have executed this Agreement as of the day and year first above written.

**PTARMIGAN WEST METROPOLITAN
DISTRICT NO. 1**


By: 
DAvid muth (Jul 15, 2021 17:15 CDT)

Officer of the District

ATTEST:


Scott D. Robbins (Jul 20, 2021 13:33 MDT)

APPROVED AS TO FORM:
WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law



General Counsel to District No. 1

**PTARMIGAN WEST METROPOLITAN
DISTRICT NO. 2**

By: 
DAvid muth (Jul 15, 2021 17:15 CDT)

Officer of the District

ATTEST:


Scott D. Robbins (Jul 20, 2021 13:33 MDT)

**PTARMIGAN WEST METROPOLITAN
DISTRICT NO. 3**

By: 
DAvid muth (Jul 15, 2021 17:15 CDT)

Officer of the District

ATTEST:

Scott D. Robbins
Scott D. Robbins (Jul 20, 2021 13:33 MDT)

**APPROVED AS TO FORM:
SPENCER FANE LLP**

Nicole Finco
Nicole Finco (Jul 20, 2021 17:01 MDT)

Special Counsel to District Nos. 2-3

EXHIBIT A

**ADMINISTRATIVE SERVICES
TO BE PROVIDED BY THE COORDINATING DISTRICT**

1. Serve as the “official custodian” and repository for the Financing Districts’ records, including, but not limited to, providing file space, incidental office supplies and photocopying, meeting facilities and reception services.
2. Coordination of all Board meetings to include:
 1. Preparation and distribution of agenda and information packets.
 2. Preparation and distribution of meeting minutes.
 3. Preparation, filing and posting of legal notices required in conjunction with the meeting.
 4. Other details incidental to meeting preparation and follow-up.
3. Ongoing maintenance of an accessible, secure, organized and complete filing system for the Financing Districts’ official records.
4. Monthly preparation of checks and coordination of postings with an accounting firm.
5. Periodic coordination with an accounting firm for financial report preparation and review of financial reports.
6. Insurance administration, including evaluating risks, comparing coverage, processing claims, completing applications, monitoring expiration dates, processing routine written and telephone correspondence, etc., and ascertaining that all contractors and subcontractors maintain required coverage for the Financing Districts’ benefit.
7. Election administration, including preparation of election materials, publications, legal notices, pleadings, conducting training sessions for election judges, and generally assisting in conducting the election.
8. Budget preparation, including preparation of proposed budget in coordination with an accounting firm, preparation of required and necessary publications, legal notices, resolutions, certifications, notifications and correspondence associated with the adoption of the annual budget and certification of the tax levy.
9. Response to inquiries, questions and requests for information from the Financing Districts’ property owners, residents and others.

10. Drafting proposals, bidding contract and construction administration, and supervision of contractors.
11. Analysis of financial condition and alternative financial approaches, and coordination and structuring of bond issue or other debt preparation.
12. Administration of the expenditure of any funds or proceeds related to any loans, bonds, or other financial obligations issued by one or more of the Districts.
13. Oversight of investment of the Districts' funds based on investment policies in accordance with state law.
14. Provide liaison and coordination with other governments.
15. Coordinate activities and provide information as requested to an external auditor engaged by the Coordinating District Board.
16. Supervise and ensure contract compliance of all service contractors.
17. Coordinate legal, accounting, management, engineering and other professional services.
18. Assist any auditors in the preparation of its annual audit as required by the laws of the State of Colorado.
19. Advise and assist the Financing Districts by analyzing the Financing Districts' long and short-term financial needs and presenting the Financing Districts with long and short-term financial proposals (including structuring of bond or other forms of debt issuance) to meet those needs.
20. Provide emergency communication services for the Coordinating District's facilities.
21. Perform such other services as may from time to time be reasonably necessary in furtherance of securing the Financing Districts' compliance with all applicable federal and state statutes and regulations and with applicable county and local laws; provided, however, that any and all expenditures in furtherance of these services shall be made and reimbursed in accordance with this Agreement.
22. Contracting for the design, planning, engineering, construction and/or acquisition, management, landscape architecture and engineering, soil testing and inspection, and line and systems testing and inspection attributable to the Public Improvements.
23. Obtaining any and all real property interests necessary for the provision of the Public Improvements.

24. Obtaining any and all governmental and/or administrative approvals necessary to the provision of the Public Improvements, including provision for the payment of fees associated therewith.

25. Performing and/or contracting for construction administration of construction contracts by which the Public Improvements are constructed.

26. Contracting for the acquisition of water rights to the extent necessary for the provision of the Public Improvements.

27. Administering collection of any amounts due to the Districts under any cost recovery or other reimbursement agreement relating to the Public Improvements.

28. Engagement of consultants necessary in connection with provision of the Administrative Services, including attorneys, accountants, engineers, managers, architects, soils consultants, and any other consultant determined by the Coordinating District to be necessary or appropriate to the provision of the Administrative Services.

29. In addition to these services, when other services are necessary in the opinion of the Coordinating District, the Coordinating District may recommend the same to the Financing Districts. The Coordinating District may, with the approval of the Financing Districts, provide any Administrative Services to the Financing Districts in lieu of retaining consultants or contractors to provide those services.

EXHIBIT B

O&M SERVICES TO BE PERFORMED BY THE COORDINATING DISTRICT

1. Operation and maintenance of any Public Improvements not otherwise dedicated or conveyed to any other governmental entity, owners association, or not otherwise operated and maintained by a Financing District, for the benefit of the Districts.
2. Maintain common areas, parks, entry monuments, landscaping, open space tracts, recreational facilities and other community amenities.
3. Provide trash service, architectural review, and covenant enforcement services (as applicable).