

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER URBAN
COUNCIL BILL NO. 02
ORDINANCE NO. 1615
Series 2017

TITLE: AN ORDINANCE AUTHORIZING THE ISSUANCE BY THE CITY OF WHEAT RIDGE, COLORADO OF ITS SALES AND USE TAX REVENUE BONDS, SERIES 2017A, AND PROVIDING OTHER DETAILS IN CONNECTION THEREWITH

WHEREAS, the City of Wheat Ridge, Colorado (the "City") is a home rule municipality and political subdivision of the State of Colorado (the "State") organized and existing under a home rule charter (the "Charter") pursuant to Article XX of the Constitution of the State; and

WHEREAS, Section 11.1 of the Charter authorizes the City Council of the City (the "City Council") to levy and impose taxes for municipal purposes and to provide for their collection, provided that there shall not be an increase of rate of sales tax unless and until such rate increase shall be approved by a majority of the electorate voting at a regular or special municipal election; and

WHEREAS, Sections 12.4 and 12.5 of the Charter authorize the City to, among other things, issue revenue bonds to construct and acquire capital improvements, payable from the available proceeds of a city sales and use tax which may be imposed pursuant to chapter XI of the Charter; and

WHEREAS, Article X, Section 20 of the State Constitution requires voter approval in advance for the creation of any multiple-fiscal year direct or indirect debt or other financial obligation; and

WHEREAS, prior to January 1, 2017, the City imposed a sales and use tax at the rate of 3.0%; and

WHEREAS, pursuant to an election held within the City on November 8, 2016 (the "2016 Election"), the City was authorized to increase the rate of sales and use tax levied by the City by an additional 0.5% commencing January 1, 2017 (the "0.5% Sales and Use Tax"), and to issue debt in an amount not to exceed \$33,000,000, with a maximum repayment cost of not to exceed \$38,500,000, and a maximum annual repayment cost of \$3,700,000, with the proceeds to be used only for certain public investments as provided in the following question approved at the 2016 Election (the "2016 Question"):

SHALL THE CITY OF WHEAT RIDGE DEBT BE INCREASED BY UP TO \$33,000,000, WITH A REPAYMENT COST OF LESS THAN \$38,500,000, AND SHALL THE CITY OF WHEAT RIDGE TAXES BE INCREASED BY UP TO \$3,700,000 ANNUALLY IN THE FIRST FULL FISCAL YEAR, AND BY WHATEVER ADDITIONAL AMOUNT IS RECEIVED FOR 11 YEARS THEREAFTER, WITHOUT INCREASING PROPERTY TAX, BY INCREASING THE RATE OF SALES AND USE TAX BY 1/2 CENT PER DOLLAR, WITH THE PROCEEDS TO BE USED ONLY FOR THE FOLLOWING PUBLIC INVESTMENTS:

- ANDERSON PARK IMPROVEMENTS

IMPROVEMENTS TO ANDERSON PARK TO PROVIDE UPGRADED, RENOVATED AMENITIES AND FACILITIES THAT ENHANCE RECREATIONAL OPPORTUNITIES AND MEET THE CURRENT NEEDS OF PARK AND FACILITY USERS AND TO REDUCE MAINTENANCE AND REPAIR COSTS; RENOVATIONS TO INCLUDE BUT NOT BE LIMITED TO, RENOVATION OF THE ANDERSON BUILDING AND OUTDOOR POOL LOCKER ROOMS AND IMPROVEMENTS TO SURROUNDING PARK AMENITIES - ESTIMATED PROJECT COST \$4,000,000

- WADSWORTH BOULEVARD RECONSTRUCTION - 35TH AVENUE TO INTERSTATE-70

RECONSTRUCTION OF WADSWORTH BOULEVARD TO PROVIDE AN IMPROVED MULTI-MODAL TRANSPORTATION FACILITY AND STREETScape IMPROVEMENTS, TO RELIEVE AND MITIGATE SEVERE TRAFFIC CONGESTION AND FACILITATE REDEVELOPMENT AND ECONOMIC DEVELOPMENT OPPORTUNITIES - ESTIMATED CITY SHARE OF TOTAL PROJECT COST \$7,000,000

- WHEAT RIDGE - WARD COMMUTER RAIL STATION AREA

CONSTRUCTION OF STREET, BICYCLE/PEDESTRIAN, PUBLIC AMENITIES AND OTHER INFRASTRUCTURE IMPROVEMENTS TO ADDRESS TRAFFIC GROWTH AND FACILITATE REDEVELOPMENT AND ECONOMIC DEVELOPMENT OPPORTUNITIES IN THE AREA SURROUNDING THE GOLD LINE STATION INCLUDING, BUT NOT LIMITED TO, RECONSTRUCTION OF RIDGE ROAD, 52ND AVENUE AND TABOR STREET, A TRAFFIC SIGNAL AT THE WARD ROAD / RIDGE ROAD INTERSECTION AND A PEDESTRIAN BRIDGE OVER RAILROAD TRACKS LINKING THE JOB CENTERS TO THE SOUTH - ESTIMATED CITY SHARE OF TOTAL PROJECT COST \$12,000,000

- CLEAR CREEK CROSSING - MIXED-USE DEVELOPMENT SITE ON THE WEST SIDE OF I-70 AT 38TH AND YOUNGFIELD

CONSTRUCTION OF ON AND OFF RAMP RAMP FROM INTERSTATE I-70 INTO THE CLEAR CREEK CROSSING DEVELOPMENT TO RELIEVE TRAFFIC CONGESTION AND IMPROVE VEHICULAR ACCESS AND TO

FACILITATE REDEVELOPMENT AND ECONOMIC DEVELOPMENT IN A
NEW MIXED-USE, SALES TAX GENERATING REDEVELOPMENT SITE -
ESTIMATED CITY SHARE OF TOTAL PROJECT COST \$10,000,000

SUCH INCREASE IN THE SALES AND USE TAX RATE TO BEGIN ON JANUARY 1, 2017 AND END WHEN REVENUES FROM SUCH SALES AND USE TAX RATE INCREASE REACH \$38,500,000 OR ON DECEMBER 31, 2028, WHICHEVER OCCURS FIRST; SUCH DEBT TO BE SOLD IN ONE SERIES OR MORE AT A PRICE ABOVE, BELOW OR EQUAL TO THE PRINCIPAL AMOUNT OF SUCH DEBT AND ON SUCH TERMS AND CONDITIONS AS THE CITY MAY DETERMINE, INCLUDING PROVISIONS FOR REDEMPTION OF THE DEBT PRIOR TO MATURITY WITH OR WITHOUT PAYMENT OF A PREMIUM OF NOT TO EXCEED 3.00%; AND SHALL THE REVENUES RAISED BY SUCH SALES AND USE TAX RATE INCREASE AND PROCEEDS OF SUCH DEBT, AND ANY OTHER REVENUE USED TO PAY SUCH DEBT, INCLUDING ANY INTEREST AND INVESTMENT INCOME THEREFROM, BE COLLECTED AND SPENT BY THE CITY AS A VOTER-APPROVED REVENUE CHANGE PURSUANT TO ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

WHEREAS, the 2016 Question was approved by a majority of the registered electors of the City voting thereon at the 2016 Election; and

WHEREAS, the City is now imposing sales and use taxes in the total amount of 3.5%, which includes the 0.5% Sales and Use Tax authorized at the 2016 Election; and

WHEREAS, the City has not issued any of the debt authorized at the 2016 Election; and

WHEREAS, the City Council has determined that it is the best interests of the City, and the inhabitants thereof, to finance a portion of the public improvements authorized in the 2016 Question by the issuance of the City of Wheat Ridge, Colorado, Sales and Use Tax Revenue Bonds, Series 2017A (the "Bonds") pursuant to the authority conferred at the 2016 Election; and

WHEREAS, the City Council has determined that the Bonds shall be payable from and constitute an irrevocable first lien, but not necessarily an exclusive first lien, on the Pledged Sales and Use Taxes (as hereinafter defined), subject to the terms and provisions hereof; and

WHEREAS, there has been filed with the City Clerk of the City forms of (a) the Preliminary Official Statement for the Bonds (the "Preliminary Official Statement"), (b) the Purchase Contract (hereinafter defined), (c) the Paying Agent Agreement (hereinafter defined), and (d) the Continuing Disclosure Certificate (hereinafter defined); and

WHEREAS, it is necessary to provide for the form of the Bonds, the Bond details, the payment of the Bonds, and other provisions relating to the authorization, issuance, and sale of the Bonds; and

WHEREAS, no member of the City Council has any conflict of interest or is interested in any pecuniary manner in the issuance of the Bonds.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEAT RIDGE, COLORADO:

SECTION 1. DEFINITIONS AND CONSTRUCTION.

- 1.01. DEFINITIONS. The meanings of certain terms are enumerated above in the recitals to this Ordinance. In addition, the following terms have the following respective meanings unless the context hereof clearly requires otherwise:

Authorized Denominations: denominations of \$5,000 or any integral multiple thereof.

Bank: any depository permitted by the laws of the State to receive public funds for deposit.

Beneficial Owner: any Person for which a Participant acquires an interest in the Bonds.

Bond or Bonds: those securities issued hereunder and designated as the "City of Wheat Ridge, Colorado, Sales and Use Tax Revenue Bonds, Series 2017A."

Bond Counsel: any law firm of nationally recognized standing in the field of municipal law whose opinions are generally accepted by purchasers of municipal bonds.

Bond Fund: the special fund created in Section 4.02 hereof.

Business Day: any day other than a Saturday, Sunday or other day on which banks in Denver, Colorado or New York, New York are required or authorized to be closed.

Cede: Cede & Co., the nominee of DTC as record owner of the Bonds, or any successor nominee of DTC with respect to the Bonds.

Charter: the City Charter of the City of Wheat Ridge, Colorado.

City: the City of Wheat Ridge, Colorado, and its successors.

City Clerk: the City Clerk of the City.

City Council: the City Council of the City of Wheat Ridge, Colorado.

City Manager: the duly appointed City Manager of the City or his or her successor in functions.

City Sales and Use Tax Ordinance: collectively, the ordinances of the City, as amended to the date hereof, imposing an aggregate 3.5% municipal sales and use tax upon sales and services, not specifically exempted, and codified as Chapter 22, Article 1 of the Wheat Ridge City Code.

City Treasurer: the duly appointed City Treasurer of the City or his or her successor in functions.

Commercial Bank: a state or national bank or trust company which: (i) is a member of the Federal Deposit Insurance Corporation and the Federal Reserve System, (ii) has, or which the holding company thereof has, a capital and surplus of \$100,000,000 or more (in the case of a bank holding company, figured on a consolidated basis), and (iii) is located within the United States.

Continuing Disclosure Certificate: the certificate executed by officers of the City simultaneously with the delivery of the Bonds which enables the Underwriter to comply with Rule 15c2-12 promulgated by the Securities and Exchange Commission.

C.R.S.: the Colorado Revised Statutes, as amended to the date hereof.

Debt Service Requirements: the principal of, interest on, and any premiums due in connection with the redemption of, the Bonds or any other designated series of securities hereafter issued, if any, or such part of such Bonds or securities as may be designated, as such principal, interest and premiums become due, whether at maturity or by mandatory sinking fund redemption.

DTC: the Depository Trust Company, New York, New York, and its successors and assigns, as securities depository for the Bonds.

Event of Default: each of the events stated in Section 9 hereof.

Federal Securities: bills, certificates of indebtedness, notes, bonds or similar securities which are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States of America, and which are non-callable.

Fiscal Year: the twelve (12) months commencing on the first day of January of any calendar year and ending on the thirty-first day of December of such calendar year or such other twelve (12) month period as may from time to time be designated by the City Council as the Fiscal Year of the City.

Fund: as used in this Ordinance, a segregated account of the City.

Insurance Policy: the municipal bond insurance policy issued by the Insurer, if any, insuring the payment when due of the principal of and interest on the Bonds as provided therein, if set forth in the Sale Certificate.

Insurer: the provider of the Insurance Policy, or any successor thereto, if set forth in the Sale Certificate.

Interest Payment Date: a date on which interest is due on any Bonds or Parity Securities. The Interest Payment Dates for the Bonds shall be June 1 and December 1.

Mayor: the duly elected or appointed Mayor of the City or his or her successor in functions.

Maximum Annual Debt Service Requirements: as to the Bonds or any other designated series of securities Outstanding or proposed to be issued, the maximum amount of Debt

Service Requirements (excluding any redemption premiums) coming due with respect to such Bonds or designated series of securities in any year from the year in which such amount is required to be determined through the final maturity of such Bonds or designated series of securities. For the purposes of this computation, variable rate bonds shall be assumed to bear interest at the highest of: (i) the actual rate of any outstanding variable rate bonds on the date of computation, or if the variable rate bonds are not yet outstanding, the initial rate (if established and binding), (ii) if the variable rate bonds have been outstanding for at least twelve months, the average rate over the twelve months immediately preceding the date of computation, or if no variable rate bonds are outstanding for such twelve months, the average rate borne by reference to an index comparable to that to be utilized in determining the interest rate for the variable rate bonds to be issued, or (iii) (a) if interest on the variable rate bonds is excludable from gross income under the applicable provisions of the Tax Code, the most recently published "Revenue Bond Index" as published in *The Bond Buyer* (or if such Index is not published within 30 days prior to such determination, such index selected by the City), or (b) if interest is not so excludable, the interest rate on direct U.S. Treasury Obligations with comparable maturities.

Ordinance: this Ordinance which authorizes the issuance of the Bonds.

Outstanding or outstanding: when used with reference to the Bonds, Parity Securities, or any other designated securities of the City and as of any particular date, all the Bonds, Parity Securities, or any such other designated securities theretofore executed, issued and delivered, except the following:

- (1) Any Bonds, Parity Securities, or other security cancelled by the City, by the Registrar, or otherwise on the City's behalf, at or before such date;
- (2) Any Bonds, Parity Securities held by or on behalf of the City;
- (3) Any Bonds, Parity Securities, or other security of the City for the payment or the redemption of which moneys or Federal Securities sufficient to meet all of the payment requirements of the principal of, the interest on, and any prior redemption premiums due in connection with such Bonds, Parity Securities, or other security to the date of maturity or any redemption date thereof, shall have theretofore been deposited in escrow or in trust with a Trust Bank for that purpose, as provided in and required by Section 8 hereof or a similar provision of the document authorizing the issuance thereof; and
- (4) Any lost, apparently destroyed, or wrongfully taken Bonds, Parity Securities, or other security of the City in lieu of or in substitution for which another bond or other security shall have been executed and delivered pursuant to the document authorizing the issuance thereof.

Owner or Registered Owner: means any Person who is the registered owner of any Bond as shown on the registration books maintained by the Registrar on behalf of the City.

Parity Bond Ordinance: any ordinance hereafter adopted by the City Council authorizing the issuance of Parity Securities, or such other document or instrument pursuant to which any Parity Securities are issued.

Parity Securities: any bonds, securities, leases or other obligations hereafter issued payable from and secured by all or a portion of the Pledged Revenues and having a lien on the Pledged Revenues which is equal to or on a parity with the Bonds.

Participant: any broker-dealer, bank, trust company, clearing corporation or other financial institution from time to time for which DTC or another securities depository holds the Bonds.

Paying Agent: BOKF, NA dba Colorado State Bank and Trust, in Denver, Colorado or its successor, which shall perform the function of paying agent as set forth in this Ordinance.

Paying Agent Agreement: the Registrar and Paying Agent Agreement dated as of the date of delivery of the Bonds, between the City and the Registrar and Paying Agent.

Permitted Investments: any investments or deposits permitted by the laws of the State and the Charter for funds of the City.

Person: any natural person, firm, partnership, association, corporation, trust, public body, or other entity.

Pledged Revenues: collectively, (a) the Pledged Sales and Use Taxes, plus (b) all amounts on deposit in the 0.5% Sales and Use Tax Fund, the Bond Fund and the 2017A Reserve Fund, if any, plus (c) any additional revenues legally available to the City which the City Council, in its sole discretion and without further consideration from any Owner, may hereafter pledge to the payment of the Bonds.

Pledged Sales and Use Taxes: all of the receipts collected by the City from Sales and Use Taxes (net of costs of collection, enforcement and administration of such Sales and Use Taxes by the City), but excluding:

- (1) any portion of the Supplemental Sales and Use Tax that is required to be remitted or is otherwise pledged or encumbered pursuant to the Prior Sales and Use Tax Agreements.
- (2) incremental increases in the Supplemental Sales and Use Tax which are required to be paid into a special fund, or pledged to the payment of obligations, pursuant to (i) an urban renewal plan as defined in Section 31-25-103(9), C.R.S., (ii) a plan of development as defined in Section 31-25-802 (6.4), C.R.S., or (iii) a value capture plan as defined in Section 43-4-508, C.R.S., or, in the case of (i), (ii) or (iii), any similar plan adopted by the City exercising its powers as a home rule city; and
- (3) any amounts determined, pursuant to the Sales and Use Tax Ordinance, and other applicable law, to be subject to valid claims for refunds.

Prior Sales and Use Tax Agreements: collectively, all agreements pursuant to which the City has agreed to remit all or a portion of the Supplemental Sales and Use Tax, or has otherwise pledged or encumbered all or any portion of the Supplemental Sales and Use Tax prior to the date of issuance of the Bonds.

Project: the acquisition and construction of that portion of the public improvements authorized at the 2016 Election that is being financed with the proceeds of the Bonds.

Principal Corporate Trust Office: means the principal corporate trust office of the Paying Agent and Registrar.

Purchase Contract: The Bond Purchase Agreement between the City and the Underwriter concerning the purchase of the Bonds.

Rebate Fund: the fund by that name created in Section 4.05 hereof.

Record Date: the fifteenth day of the calendar month immediately preceding each Interest Payment Date (whether or not a Business Day).

Redemption Date: the date fixed for the redemption prior to their maturity of any Bonds or other designated securities payable from the Pledged Revenues in any notice of prior redemption authorized by the City, or otherwise fixed and designated by the City.

Redemption Price: when used with respect to a Bond or other designated security payable from the Pledged Revenues, the principal amount thereof, plus the applicable premium, if any, payable upon the redemption thereof prior to the stated maturity date of such Bond or other security, plus accrued interest to and on a redemption date in the manner contemplated in accordance with the terms of the Bond or other security.

Registrar: BOKF, NA dba Colorado State Bank and Trust, Denver, Colorado, named in the Paying Agent Agreement as the paying agent, transfer agent and registrar of the Bonds, or any successor thereto.

Reserve Fund Insurance Policy: any bond insurance policy, surety bond, letter or line of credit or similar instrument which is utilized in lieu of cash or Permitted Investments in the 2017A Reserve Fund.

Reserve Fund Requirement: is the amount set forth in the Sale Certificate, which may be zero.

Sale Certificate: the certificate executed by the City Manager or the City Treasurer dated on or before the date of delivery of the Bonds, setting forth those determinations that may be delegated to such officials pursuant to Section 11-57-205(1), C.R.S., subject to the parameters and restrictions contained in this Ordinance.

Sales and Use Taxes: the portion of municipal sales and use tax of the City imposed at the rate of 1.00% pursuant to the City Sales and Use Tax Ordinance, and codified in Chapter

22, Article 1 of the Wheat Ridge City Code (which consists of the 0.5% Sales and Use Tax and the Supplemental Sales and Use Tax).

Security or securities: when used with reference to securities of the City, any bonds, notes, certificates, warrants, leases, contracts or other financial obligations or securities issued or executed by the City and payable in whole or in part from a lien on the Pledged Revenues.

Special Record Date: a special date fixed by the Registrar for the payment of defaulted interest to be preceded by not more than fifteen and not less than ten days' notice.

State: the State of Colorado.

Subordinate Bonds or Subordinate Securities: bonds or securities payable in whole or in part from the Pledged Revenues having a lien thereon subordinate or junior to the lien thereon of the Bonds.

Supplemental Act: the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, C.R.S.

Supplemental Sales and Use Tax: the portion of the municipal sales and use tax of the City imposed at the rate of 0.5% that is pledged to the payment of the Bonds, which is in addition to the 0.5% Sales and Use Tax approved at the 2016 Election that is also pledged to the payment of the Bonds.

Surety Provider: the entity issuing a Reserve Fund Insurance Policy to secure the Bonds, if any.

Tax Code: the Internal Revenue Code of 1986, as amended to the date of delivery of the Bonds, and the regulations promulgated thereunder.

Term Bonds: Bonds that are payable on or before their specified maturity dates from sinking fund payments established for that purpose and calculated to retire such Bonds on or before their specified maturity dates.

Trust Bank: a Commercial Bank which is authorized to exercise and is exercising trust powers.

Underwriter: George K. Baum & Company.

0.5% Sales and Use Tax: the portion of the municipal sales and use tax of the City imposed at the rate of 0.5% beginning January 1, 2017, that was approved by the voters of the City at the 2016 Election.

0.5% Sales and Use Tax Fund: the City's "0.5% Sales and Use Tax Fund (Fund 31)" previously created by the City and referred to in Section 4.01 hereof.

2016 Election: the election held within the City on November 8, 2016.

2017A Reserve Fund: the “City of Wheat Ridge, Colorado, Sales and Use Tax Revenue Bonds, Series 2017A, Reserve Fund” created in Section 4.03 hereof for the purpose of further securing the payment of the principal of and interest on the Bonds. The 2017A Reserve Fund shall secure only the payment of the Bonds and shall not secure the payment of any Parity Securities. If it is determined in the Sale Certificate that the Reserve Fund Requirement shall be zero, all references herein to the 2017A Reserve Fund shall be of no force and effect.

1.02. CONSTRUCTION. This Ordinance, except where the context by clear implication herein otherwise requires, shall be construed as follows:

- (1) Words in the singular number include the plural, and words in the plural include the singular.
- (2) Words in the masculine gender include the feminine and the neuter, words in the feminine gender include the masculine and the neuter, and when the sense so indicates, words of the neuter gender refer to any gender.
- (3) Articles, sections, subsections, paragraphs and subparagraphs mentioned by number, letter, or otherwise, correspond to the respective articles, sections, subsections, paragraphs and subparagraphs of this Ordinance so numbered or otherwise so designated.
- (4) The titles and headlines applied to articles, sections and subsections of this Ordinance are inserted only as a matter of convenience and ease in reference and in no way define, or limit the scope or intent of, any provisions of this Ordinance.

SECTION 2. SALE OF BONDS.

2.01. NEGOTIATED SALE. The City hereby determines that it is to the best advantage of the City to sell the Bonds to the Underwriter through a negotiated sale process. The City Manager and other employees and officers of the City are hereby authorized and directed to take all action necessary for the issuance of the Bonds and the delivery of the Bonds to the Underwriter in accordance with the terms and provisions of the Purchase Contract.

2.02. OFFICIAL STATEMENT. The Official Statement, in substantially the form of the Preliminary Official Statement, is in all respects approved, authorized and confirmed, but with such amendments, additions and deletions as are in accordance with the facts and not inconsistent herewith. The City Manager and all other City employees and representatives charged with responsibility for the sale of the Bonds are hereby authorized and directed to prepare a final Official Statement, substantially in the form of the Preliminary Official Statement but including the offering price(s) of the Bonds, interest rates, selling compensation, aggregate principal amount, principal amount per maturity, delivery date, ratings, and any other terms or provisions depending on such matters. The Mayor is hereby authorized and directed to affix her signature to the Official Statement for and on behalf of the City. The distribution by the Underwriter of the Preliminary Official Statement and the Official Statement to interested persons in connection with the sale of the Bonds is hereby ratified, approved and confirmed. The execution of a final Official Statement by

the Mayor shall be conclusively deemed to evidence the approval of the form and contents thereof by the City.

- 2.03. CONTINUING DISCLOSURE. The City hereby covenants that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Ordinance, failure of the City to comply with the Continuing Disclosure Certificate shall not be considered an Event of Default; provided that the Registered Owners of the Bonds may take such actions as may be necessary or appropriate to cause the City to comply with its obligations under this Section.

SECTION 3. THE BONDS.

- 3.01. AUTHORIZATION. In accordance with the Constitution of the State, the Charter, the 2016 Election, and all other laws of the State thereunto enabling, and pursuant to the provisions of this Ordinance and the Sale Certificate, the City hereby authorizes the issuance of its "Sales and Use Tax Revenue Bonds, Series 2017A," in an aggregate principal amount not to exceed \$33,000,000, to be payable and collectible, as to principal, prior redemption premium, if any, and interest, from Pledged Revenues as further set forth herein.

The Bonds shall be issued and sold for the purposes of paying the costs of the Project, paying the costs of issuance of the Bonds and, to the extent set forth in the Sale Certificate, funding the 2017A Reserve Fund. All Bond proceeds shall be deposited to such funds or accounts as set forth in the Sale Certificate.

.Section 11-57-204 of the Supplemental Act provides that a public entity, including the City, may elect in an act of issuance to apply any or all of the provisions of the Supplemental Act to the Bonds. The City Council hereby elects to apply all of the provisions of the Supplemental Act to the Bonds. The Bonds are issued under the authority of the Supplemental Act and shall so recite as provided in Section 3.02(9) hereof. Pursuant to Section 11-57-210 of the Supplemental Act, such recital shall be conclusive evidence of the validity and the regularity of the issuance of the Bonds after their delivery for value.

Pursuant to Section 11-57-205 of the Supplemental Act, the City Council hereby delegates to each of the City Manager or the City Treasurer the independent authority to sign a contract for the purchase of the Bonds (including the Purchase Contract) or to accept a binding bid for the Bonds and to execute any agreement or agreements in connection therewith, and the City Council hereby further delegates to each of the City Manager or the City Treasurer the authority to independently make any determination delegable pursuant to Section 11-57-205(1)(a-i) of the Supplemental Act, in relation to the Bonds, and to execute the Sale Certificate setting forth such determinations, subject to the parameters and restrictions contained in Section 3.02(2) of this Ordinance.

Pursuant to Section 11-57-205 of the Supplemental Act, (a) each of the City Manager or the City Treasurer are hereby independently authorized to determine if obtaining municipal bond insurance for all or a portion of the Bonds is in the best interests of the City, and if so, to select an Insurer to issue an Insurance Policy, execute a commitment relating to the same and execute any related documents or agreements required by such commitment, and

(b) each of the City Manager or the City Treasurer are hereby independently authorized to determine if obtaining a Reserve Fund Insurance Policy for all or a portion of the Reserve Fund Requirement is in the best interests of the City, and if so, to select a Surety Provider to issue a Reserve Fund Insurance Policy and execute any related documents or agreements required by such commitment. If it is determined that the Bonds will be sold without municipal bond insurance, all references herein to the Insurer and the Insurance Policy shall be of no force and effect.

The delegation set forth in this Section 3.01 shall be effective for one year after adoption of this Ordinance.

3.02. BOND DETAILS.

- (1) Generally. The Bonds shall be issued in fully registered form (i.e., registered as to payment of both principal and interest), initially registered in the name of Cede, as nominee for DTC. The Bonds shall be issued in Authorized Denominations (provided that no Bond may be in a denomination which exceeds the principal coming due on its maturity date and no individual Bond will be issued for more than one maturity bearing the same interest rate). The Bonds shall be numbered in such manner as the Registrar shall determine.

The Bonds shall be dated as of their date of delivery and shall bear interest from their date until maturity, payable semiannually on each June 1 and December 1, commencing on the date provided in the Sale Certificate, except that any Bond which is reissued upon transfer, exchange or other replacement shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, or if no interest has been paid, from the date of the Bonds.

The Bonds shall bear interest at the rates designated in the Sale Certificate based on a 360-day year consisting of twelve 30-day months, and shall mature on the dates and in the amounts set forth in the Sale Certificate subject to the parameters and limitations in subsection (2) below.

If upon presentation at maturity or prior redemption, payment of any Bond is not made as herein provided, interest shall continue thereon at the interest rate therein designated until the principal thereof is paid in full.

The principal of, interest on and premium, if any, due in connection with the Bonds shall be payable in lawful money of the United States of America, without deduction for exchange or collection charges. The principal and premium are payable upon surrender and presentation of the Bond at the Principal Corporate Trust Office, or such other office of the Registrar as it shall designate by written notice to the City.

The payment of interest on each Bond shall be made to the Registered Owner of such Bond and shall be paid by the Registrar on behalf of the City by check or wire of the Registrar sent to such Registered Owner on each Interest Payment Date (unless such date is not a Business Day, whereupon such payment shall occur on

the next succeeding Business Day) at his or her address as it appears on the registration records of the Registrar maintained for such purpose. Interest on each Bond shall be payable to the Registered Owner thereof as shown on the registration records as of the Record Date, regardless of any transfer or exchange of a Bond subsequent to such Record Date and prior to such Interest Payment Date. Any such interest not so punctually paid or duly provided for shall forthwith cease to be payable to the Registered Owner on such Record Date, and may be paid to the Registered Owner at his or her address as it appears on the registration records of the Registrar at the close of business on a Special Record Date. The Registrar may make payments of interest on any Bond by such alternative means as may be mutually agreed to between the Owner of such Bond and the Registrar; provided, however, that the City shall not be required to make funds available to the Registrar prior to the dates set forth in the Paying Agent Agreement. All such payments shall be made in lawful money of the United States of America without deduction for the services of the Paying Agent or Registrar.

The City and the Registrar may deem and treat the Registered Owner (whether or not the Bond shall be overdue) on the Record Date or Special Record Date as the absolute owner of the Bond for the purpose of receiving payment of or on account of the principal thereof, any redemption premium and interest due thereon, and on any other date for all other purposes, and neither the City nor the Registrar shall be affected by any notice to the contrary.

The Registrar shall evidence acceptance of the duties and obligations provided in this Ordinance by execution of the Paying Agent Agreement. The Bonds shall be subject to registration, transfer and exchange in the manner, and subject to the terms and conditions, set forth herein and in the Paying Agent Agreement.

- (2) Delegation Parameters. The Bonds shall mature, bear interest from their dated date to maturity, and be sold, all as provided in the Sale Certificate, provided that:
- (a) The aggregate principal amount of the Bonds shall not exceed \$33,000,000;
 - (b) the maximum total repayment cost of the Bonds shall not exceed \$38,500,000;
 - (c) the maximum annual repayment cost of the Bonds shall not exceed \$3,700,000;
 - (d) the Bonds shall mature no later than December 1, 2028;
 - (e) the purchase price of the Bonds shall not be less than 100%;
 - (f) in the event that the Bonds are subject to optional redemption prior to maturity, the redemption premium, if any, shall not exceed 3.00%; and
 - (g) the net effective interest rate on the Bonds shall not exceed 3.50%.

- (3) Redemption of the Bonds. The Bonds shall be subject to optional redemption or mandatory sinking fund prior to their respective maturity dates as set forth in the Sale Certificate.

In the case of Bonds of a denomination larger than \$5,000, a portion of such Bond (\$5,000 or any integral multiple thereof) may be redeemed, in which case the Registrar shall, without charge to the Owner of such Bond, authenticate and issue a replacement Bond or Bonds for the unredeemed portion thereof.

The Term Bonds, if any, shall be subject to mandatory sinking fund redemption at the times, in the amounts and at the prices provided in the Sale Certificate.

On or before the thirtieth day prior to each sinking fund payment date, the Registrar shall proceed to call the Term Bonds (or any Term Bond or Term Bonds issued to replace such Term Bonds) for redemption from the sinking fund on the next December 1, and give notice of such call without other instruction or notice from the City.

At its option, to be exercised on or before the sixtieth day next preceding each such sinking fund redemption date, the City may (a) deliver to the Registrar for cancellation Term Bonds subject to mandatory sinking fund redemption on such date in an aggregate principal amount desired or (b) receive a credit in respect of its sinking fund redemption obligation for any Term Bonds of the same maturity subject to mandatory sinking fund redemption on such date, which prior to said date have been redeemed (otherwise than through the operation of the sinking fund) and canceled by the Registrar and not theretofore applied as a credit against any sinking fund redemption obligation. Each Term Bond so delivered or previously redeemed will be credited by the Registrar at the principal amount thereof on the obligation of the City on such sinking fund redemption date and the principal amount of Term Bonds to be redeemed by operation of such sinking fund on such date will be accordingly reduced. The City will on or before the sixtieth day next preceding each sinking fund redemption date furnish the Registrar with its certificate indicating whether or not and to what extent the provisions of (a) and (b) of the preceding sentence are to be availed with respect to such sinking fund payment. Failure of the City to deliver such certificate shall not affect the Registrar's duty to give notice of sinking fund redemption as provided in this subsection (3).

- (4) Notice and Effect of Redemption. Notice of the prior redemption of any Bonds shall be given by the Registrar in the name of the City by mailing a copy of the redemption notice by certified or first-class postage prepaid mail, not more than 60 nor less than 30 days prior to the Redemption Date to the Owners of the Bonds to be redeemed at their addresses as shown on the registration records kept by the Registrar, or in the event that the Bonds to be redeemed are registered in the name of DTC, such notice may, in the alternative, be given by electronic means in accordance with the requirements of DTC. Failure to give such notice as aforesaid or any defect therein shall not affect the validity of the proceedings for the redemption of any other Bonds.

Such notice shall specify the Bonds to be redeemed, the number or numbers of the Bonds to be so redeemed (if less than all are to be redeemed), the Redemption Price to be paid and the Redemption Date. Such notice shall further specify any condition to such redemption and shall state that, upon the satisfaction of any such condition, on the Redemption Date there will become and will be due and payable upon each Bond or portion thereof (in integral multiples of Authorized Denominations) so to be redeemed at the Principal Corporate Trust Office of the Paying Agent, the applicable Redemption Price and accrued interest to the Redemption Date, and that from and after such date, interest on the Bonds (or portions thereof) called for redemption will cease to accrue. Notice having been given in the manner hereinabove provided and upon satisfaction of any condition to such redemption, the Bond or Bonds so called for redemption shall become due and payable on the Redemption Date so designated and, upon presentation thereof at the Principal Corporate Trust Office of the Paying Agent, the City will pay the Bond or Bonds so called for redemption. No further interest shall accrue on the principal of any such Bond (or portion thereof) called for redemption from and after the Redemption Date, provided sufficient funds are on deposit at the place of payment on the Redemption Date. Upon surrender of any Bond redeemed in part only, the Registrar shall execute and deliver to the Owner thereof, at no expense to such Owner, a new Bond or Bonds of the same maturity and interest rate and of Authorized Denominations equal in aggregate principal amount to the unredeemed portion of the Bond surrendered.

Any notice of redemption may contain a statement that the redemption is conditioned upon the receipt by the Paying Agent of funds on or before the Redemption Date sufficient to pay the principal of, interest on and any redemption premium due on the Bonds so called for redemption, and that if such funds are not available, such redemption shall be cancelled by written notice to the Owners of the Bonds called for redemption in the same manner as the original redemption notice was given.

- (5) Execution and Delivery. The Bonds shall be executed by and on behalf of the City with the manual or facsimile signature of the Mayor of the City, shall bear an impression or a facsimile of the seal of the City, shall be attested by the manual or facsimile signature of the City Clerk and shall be authenticated by the manual signature of the Registrar. Should any officer whose signature or facsimile signature appears on the Bonds cease to be such officer before delivery of the Bonds to the Underwriter or to any Owner, such signature or facsimile signature shall nevertheless be valid and sufficient for all purposes.

The Mayor and the City Clerk are hereby authorized and directed to prepare and to execute the Bonds as herein provided. When the Bonds have been duly executed and sold, the officers of the City are authorized to, and shall, deliver the Bonds to the Underwriter thereof on receipt of the agreed purchase price.

- (6) Special Obligation Recitals in Bonds. Each Bond shall recite in substance that the Bond is payable solely from the Pledged Revenues, that the Bond does not

constitute a general obligation debt of the City within the meaning of the Colorado Constitution or the Charter of the City, that the Bond is not payable in whole or in part from the proceeds of general property taxes and that the full faith and credit of the City is not pledged to pay the principal of or interest on such Bond.

- (7) Uniform Commercial Code. The Owners of the Bonds shall possess all rights enjoyed by holders of investment securities under the provisions of the Uniform Commercial Code – Investment Securities.
 - (8) Authentication. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Ordinance unless and until a certificate of authentication of such Bond, substantially in the form set forth in the form of Bond herein, shall have been duly manually executed by the Registrar. The executed certificate of authentication on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Ordinance.
 - (9) Form of Bond. Subject to the provisions of this Ordinance, each Bond shall be in substantially the form set forth in Exhibit A, with such omissions, insertions, endorsements and variations as to recitals of fact or other provisions as may be required by the circumstances and as may be required or permitted by this Ordinance or the Sale Certificate, and as may be necessary or appropriate to carry out the purpose of this Ordinance and to conform to the rules and requirements of any governmental authority or to any custom, usage or requirement of law with respect thereto.
- 3.03. BONDS AND PARITY SECURITIES RATABLY SECURED. The covenants and agreements herein set forth to be performed on behalf of the City shall be for the ratable benefit, protection and security of the Owners of any and all of the Bonds and Parity Securities, all of which Bonds and Parity Securities regardless of the time or times of their maturity, shall be of equal rank without preference, priority or distinction of any of the Bonds or Parity Securities over any other thereof, except as otherwise expressly provided in or pursuant to this Ordinance or the Parity Bond Ordinances pursuant to which the Parity Securities were issued.
- 3.04. PLEDGE; SPECIAL OBLIGATIONS. The City hereby irrevocably pledges the Pledged Revenues to the payment of the Debt Service Requirements on the Bonds. All of the Bonds, as to all Debt Service Requirements thereof, shall be payable solely out of the Pledged Revenues. The Bonds shall be payable out of and shall constitute an irrevocable first lien, but not necessarily an exclusive such lien, on the Pledged Sales and Use Taxes on a parity with the Parity Securities, if any, hereafter issued, and on moneys on deposit or credited to the 0.5% Sales and Use Tax Fund, the Bond Fund and the 2017A Reserve Fund as set forth herein.

The Registered Owner or Owners of any of the Bonds may not look to any general or other fund of the City for the payment of the Debt Service Requirements, except the herein designated special funds pledged therefor. The Bonds shall not constitute a general obligation or a debt of the City within the meaning of any constitutional or statutory

provision or limitation of the State or the Charter. The Bonds and interest thereon shall not be considered or held to be general obligations of the City but shall constitute the special and limited obligations of the City. The Bonds are not payable in whole or in part from the proceeds of general property taxes, and the full faith and credit of the City is not pledged for payment of the Bonds.

The creation, perfection, enforcement, and priority of the pledge of revenues to secure or pay the Bonds as provided herein shall be governed by § 11-57-208 of the Supplemental Act and this Ordinance. The revenues pledged for the payment of the Bonds, as received by or otherwise credited to the City, shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge on the revenues pledged for payment of the Bonds and the obligation to perform the contractual provisions made herein shall have priority over any or all other obligations and liabilities of the City. The lien of such pledge shall be valid, binding, and enforceable as against all persons or entities having claims of any kind in tort, contract, or otherwise against the City irrespective of whether such persons or entities have notice of such liens.

- 3.05. REGISTRATION, TRANSFER AND EXCHANGE OF BONDS. The City will cause to be kept at the Principal Corporate Trust Office registration records in which, subject to such reasonable regulations as the Registrar may prescribe, the City shall provide for the registration of Bonds and the registration of transfers of Bonds entitled to be registered or transferred as herein provided.

Each of the Bonds may be transferred or exchanged by the Owner thereof upon surrender for transfer or exchange of such Bond at the Principal Corporate Trust Office, or any successor transfer agent, duly endorsed or accompanied by a written instrument of transfer or authorization for exchange in form satisfactory to the Registrar and executed by the Owner thereof or his or her attorney duly authorized in writing. Thereupon, the Registrar shall authenticate and deliver, in exchange for such transferred or exchanged Bond, a new fully registered Bond in the name of the transferee, or, if exchanged, the Owner and issued in a principal amount equal to the principal amount of the transferred or exchanged Bond, of the same maturity, and bearing interest at the same rate. The City or the Registrar may require that the cost, if any, of preparing each new Bond upon such exchange or transfer and any other expenses of the City or the Registrar, including counsel fees, and any tax or other governmental charge, incurred in connection therewith (except in the case of an exchange resulting from the redemption of the Bond exchanged) shall be paid by the Owner requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. If any requested transfer or exchange of a Bond shall necessitate the printing of additional Bonds, the Registrar may require that the cost of such printing be paid by the City. The City and the Registrar shall not be obligated to issue, exchange, authenticate or transfer any Bonds (a) during a period beginning on the Record Date before any Interest Payment Date or Redemption Date and ending on such Interest Payment Date or Redemption Date, or (b) during a period beginning on the fifteenth day before the mailing of notice of redemption of Bonds and ending on the date of such mailing.

- 3.06. ISSUANCE IN BOOK-ENTRY FORM. The Bonds shall be initially issued in the form of a single, certificated, fully registered Bond for each maturity bearing interest at the same interest rate. Upon initial issuance, the ownership of each such Bond shall be registered in the registration records kept by the Registrar in the name of Cede.

With respect to Bonds registered in the name of Cede or held by a securities depository, the City, the Registrar, and the Paying Agent shall have no responsibility or obligation to any Participant or Beneficial Owner including, without limitation, any responsibility or obligation with respect to: (i) the accuracy of the records of the depository or any Participant concerning any ownership interest in the Bonds; (ii) the delivery to any Participant, Beneficial Owner, or Person other than the Registered Owner, of any notice concerning the Bonds, including notice of redemption; (iii) the payment to any Participant, Beneficial Owner, or Person other than the Registered Owner, of the principal of, premium if any, and interest on the Bonds. The City, the Registrar, and the Paying Agent may treat the Registered Owner of a Bond as the absolute owner of such Bond for the purpose of payment of the principal of, premium if any, and interest with respect to such Bond, for purposes of giving notices of redemption and other matters with respect to such Bond, and for all other purposes whatsoever. The Paying Agent shall pay all principal of, premium if any, and interest on the Bonds only to or upon the order of the Registered Owners, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to the payment of the same. No Person, other than a Registered Owner, shall receive a certificated Bond evidencing the obligations of the City pursuant to this Ordinance.

DTC may determine to discontinue providing its service as depository with respect to the Bonds at any time by giving notice to the City and discharging its responsibilities with respect thereto under applicable law. Additionally, the City Manager may terminate the services of DTC if he determines, in his sole and absolute discretion, that DTC is unable to discharge its responsibilities with respect to the Bonds or that continuation of the system of book entry transfers through DTC is not in the best interests of the Beneficial Owners or the City. Such termination shall be effected by written notice of the same from the City to DTC and to the Registrar and Paying Agent. Upon the termination of the services of DTC, a substitute depository which is willing and able to undertake the system of book-entry transfers upon reasonable and customary terms may be engaged by the City or, if the City Manager determines in his sole and absolute discretion that it is in the best interests of the Beneficial Owners or the City that the Beneficial Owners be able to obtain certificated Bonds, the Bonds shall no longer be restricted to being registered in the name of Cede or other nominee of a depository but shall be registered in whatever name or names the Beneficial Owners shall designate at that time, and fully registered Bond certificates shall be delivered to the Beneficial Owners.

- 3.07. OFFICIAL INTENT TO REIMBURSE EXPENDITURES. The City intends to reimburse certain permitted original expenditures (within the meaning of Treasury Regulation §1.150-2) incurred by the City in connection with the Project prior to the receipt of any proceeds of the Bonds. The City shall not use reimbursed moneys for purposes prohibited by Treasury Regulation §1.150-2(h). The Bonds are expected to be issued in the maximum aggregate principal amount of \$33,000,000. This Section 3.07 is intended to be a declaration of

“official intent” to reimburse expenditures within the meaning of Treasury Regulation§1.150- 2.

SECTION 4. SPECIAL FUNDS.

- 4.01. DISPOSITION OF PLEDGED REVENUES; 0.5% SALES AND USE TAX FUND. The Pledged Revenues shall be deposited by the City in the Funds described in this Section 4, to be accounted for in the manner and priority set forth in this Section 4.

The City has created a special fund designated as the 0.5% Sales and Use Tax Fund (Fund 31) (the “0.5% Sales and Use Tax Fund”). All revenues received from the 0.5% Sales and Use Tax shall be credited or deposited to the 0.5% Sales and Use Tax Fund, when and as received by the City. All revenues on deposit in the 0.5% Sales and Use Tax Fund shall be applied by the City solely in accordance with the authorization received by the City at the 2016 Election and the 2016 Question. Moneys on deposit in the 0.5% Sales and Use Tax Fund shall be applied as set forth in this Section 4.

Revenues received from the Supplemental Sales and Use Tax shall be accounted for separately from the 0.5% Sales and Use Tax and shall be applied as set forth in this Section 4.

Neither the Underwriter nor any subsequent Owner of any Bonds shall in any manner be responsible for the application or disposal by the City or by any of its officers, agents or employees of the moneys derived from the sale of the Bonds or of any other moneys designated in this Section 4

- 4.02. BOND FUND. The City hereby creates a special fund designated as the City of Wheat Ridge, Colorado, Sales and Use Tax Revenue Bonds, Series 2017A, Bond Fund (the “Bond Fund”).

There shall be credited or deposited to the Bond Fund first from moneys on deposit in the 0.5% Sales and Use Tax Fund, the following amounts:

- (1) Interest Payments. Commencing with the month immediately succeeding the delivery of the Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor from whatever source, to pay the next installment of interest due on the Bonds then Outstanding, and the next installment of interest due on any Parity Securities that are payable from the Bond Fund.
- (2) Principal Payments. Commencing with the month immediately succeeding the delivery of the Bonds, or commencing one year next prior to the first principal payment date of the Bonds, whichever commencement date is later, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor from whatever source, to pay the next installment of principal (whether at maturity or on a mandatory Redemption Date) due on the Bonds then Outstanding and the next installment of principal (whether at maturity

or on a mandatory Redemption Date) due on any Parity Securities that are payable from the Bond Fund.

To the extent that there are not sufficient revenues on deposit in the 0.5% Sales and Use Tax Fund to make such credits or deposits to the Bond Fund in any month as set forth above, revenues received by the City from the Supplemental Sales and Use Tax shall be used to make such credit or deposit in accordance with Section 4.06 hereof.

The moneys credited to the Bond Fund shall be used solely to promptly pay when due the Debt Service Requirements of the Bonds, and the Parity Securities then Outstanding which are secured by moneys on deposit in the Bond Fund, except as otherwise provided in this Ordinance. Parity Securities hereafter issued may be secured by amounts on deposit in the Bond Fund or may be secured by a separate bond fund, all as provided in the Parity Bond Ordinance authorizing the issuance of such Parity Securities. In the event that the Parity Securities are secured by a separate bond fund, all payments to the Bond Fund and the bond fund securing such Parity Securities shall be made concurrently and on a pari passu basis as further set forth in Section 4.06 hereof.

The City shall be entitled to credits against such payments for any sums on hand in the Bond Fund which are available for the payment of Debt Service Requirements. Nothing herein prevents the accumulation of amounts required to be paid into the Bond Fund at a faster rate than that required in this Section, in which case no further payments need be made as long as and to the extent that the amounts so accumulated are on deposit in the Bond Fund and available for the payment of Debt Service Requirements on the Bonds.

- 4.03. 2017A RESERVE FUND. The City hereby creates a special fund designated as the "City of Wheat Ridge, Colorado, Sales and Use Tax Revenue Bonds, Series 2017A, Reserve Fund" (the "2017A Reserve Fund"). The 2017A Reserve Fund shall secure only the payment of the Debt Service Requirements on the Bonds. Any Reserve Fund Requirement for the 2017A Reserve Fund shall be set forth in the Sale Certificate. Such Reserve Fund Requirement may be zero. In the event that it is determined in the Sale Certificate that the Reserve Fund Requirement shall be zero, all references herein to the 2017A Reserve Fund shall be of no force and effect.

If at any time the City shall for any reason fail to pay into the Bond Fund the full amount required by Section 4.02 hereof, then the City shall pay into the Bond Fund at such time from the 2017A Reserve Fund an amount equal to the difference between that paid from the Pledged Revenues and the full amount so required. For the purpose of maintaining the 2017A Reserve Fund at the minimum amount required to be maintained therein, the money so used shall be replaced and transferred to the 2017A Reserve Fund first from moneys on deposit in the 0.5% Sales and Use Tax Fund thereafter received and not required to be otherwise applied by Section 4.02 hereof (concurrently and on a pari passu basis with any other reserve funds or accounts securing Parity Securities that are payable from the 0.5% Sales and Use Tax), and then from available Supplemental Sales and Use Tax as provided in Section 4.06 hereof (concurrently and on a pari passu basis with any other reserve funds or accounts securing Parity Securities that are payable from the Supplemental Sales and Use Tax).

Except as otherwise provided herein, the 2017A Reserve Fund shall be accumulated and maintained as a continuing reserve to be used only to prevent deficiencies in the payment of the Debt Service Requirements on the Bonds. All or a portion of the moneys on deposit in the 2017A Reserve Fund may also be applied to the optional redemption or defeasance of all or a portion of the Bonds in accordance with Section 8 hereof and may be applied to the payment of the final Debt Service Requirements due on the Bonds, whether at maturity or prior redemption.

The 2017A Reserve Fund shall not secure the payment of additional Parity Securities, although such Parity Securities may be secured by a separate reserve account or reserve fund, as set forth in the documents authorizing such Parity Securities.

The Reserve Fund Requirement shall be funded and maintained by any one of or any combination of: (i) cash; (ii) Permitted Investments; and (iii) a Reserve Fund Insurance Policy which provides for payments when and as required for purposes of the 2017A Reserve Fund.

In lieu of all or a portion of the moneys required to be deposited in the 2017A Reserve Fund by this Ordinance and the Sale Certificate, the City may at any time or from time to time deposit a Reserve Fund Insurance Policy in the 2017A Reserve Fund in full or partial satisfaction of the Reserve Fund Requirement. Any such Reserve Fund Insurance Policy shall be payable on any date on which moneys will be required to be withdrawn from the 2017A Reserve Fund as provided herein. Upon deposit of any Reserve Fund Insurance Policy in the 2017A Reserve Fund, the City may transfer moneys equal to the amount payable under such Reserve Fund Insurance Policy from the 2017A Reserve Fund and apply such moneys to any lawful purpose.

All cash and investments in the 2017A Reserve Fund shall be transferred to the Bond Fund for payment of principal and interest on the Bonds before any drawing may be made on any Reserve Fund Insurance Policy credited to the 2017A Reserve Fund in lieu of cash. Payment of any policy costs shall be made prior to replenishment of any such cash amounts. Draws on all Reserve Fund Insurance Policies on which there is available coverage shall be made on a pro-rata basis (calculated by reference to the coverage then available thereunder) after applying all available cash and investments in the 2017A Reserve Fund. Payment of policy costs shall be made on a pro-rata basis prior to replenishment of any cash drawn from the 2017A Reserve Fund.

Any moneys at any time in excess of the minimum amount required to be maintained in the 2017A Reserve Fund may be withdrawn therefrom, and transferred from time to time to the Bond Fund and distributed in the same manner as other moneys in the Bond Fund.

- 4.04. TERMINATION OF DEPOSITS; USE OF MONEYS IN BOND FUND AND 2017A RESERVE FUND. No payment need be made into the Bond Fund or the 2017A Reserve Fund if the amount in the 0.5% Sales and Use Tax Fund, together with amounts on deposit in the Bond Fund and the 2017A Reserve Fund totals a sum at least equal to all Debt Service Requirements of the Outstanding Bonds and any Outstanding Parity Securities which are payable from the Bond Fund to their respective maturities or to any redemption date or redemption dates

as of which the City shall have exercised or shall have obligated itself to exercise its option to redeem, prior to their respective maturities, any Bonds and any such Parity Securities then Outstanding and thereafter maturing, both accrued and not accrued (provided that, solely for the purpose of this Section, there shall be deemed to be a credit to the 2017A Reserve Fund of moneys, Federal Securities and bank deposits, or any combinations thereof, accounted for in any other account or accounts of the City and restricted solely for the purpose of paying the Debt Service Requirements on the Bonds). In such case, moneys in the 0.5 % Sales and Use Tax Fund, the Bond Fund and the 2017A Reserve Fund (except for any known interest or other gain to accrue from any investment or deposit of moneys pursuant to Section 5.02 hereof from the time of any such investment or deposit to the time or respective times the proceeds of any such investment or deposit shall be needed for such payment, at least equal to such Debt Service Requirements on the Bonds) shall be used together with any such gain from such investments and deposits solely to pay such Debt Service Requirements as the same become due. Any moneys in excess thereof in the Bond Fund and the 2017A Reserve Fund and any other moneys derived from the Pledged Revenues may be used in any lawful manner determined by the City.

- 4.05. REBATE FUND. After the payments required by Sections 4.02 and 4.03 have been made, there shall be deposited into a special and separate fund hereby created and to be known as the "City of Wheat Ridge, Colorado, Sales and Use Tax Revenue Bonds, Series 2017A, Rebate Fund" (the "Rebate Fund") moneys in the amounts and at the times specified in the Tax Certificate so as to enable the City to comply with Section 7.14 hereof. Such moneys shall be deposited in the Rebate Fund concurrently and on a pari passu basis with any other rebate funds or accounts relating to Parity Securities. Amounts on deposit in the Rebate Fund shall not be subject to the lien and pledge of this Ordinance to the extent that such amounts are required to be paid to the United States Treasury. The City shall cause amounts on deposit in the Rebate Fund to be forwarded to the United States Treasury (at the address provided in the Tax Certificate) at the times and in the amounts set forth therein.

Upon receipt by the City of an opinion of Bond Counsel to the effect that the amount in the Rebate Fund is in excess of the amount required to be contained therein, such excess moneys may be used by the City for any lawful purpose.

- 4.06. INSUFFICIENCY OF 0.5% SALES AND USE TAX REVENUES; APPLICATION OF SUPPLEMENTAL SALES AND USE TAX REVENUES. To the extent that there are not sufficient revenues on deposit in the 0.5% Sales and Use Tax Fund in any month to make any of the payments or deposits required to be made as set forth in this Section 4, the City shall make such payments or deposits, in the order of priority set forth above, from revenues received by the City from the Supplemental Sales and Use Tax.
- 4.06. PAYMENT OF ADDITIONAL PARITY SECURITIES. Concurrently with the payments required by Sections 4.02, 4.03 and 4.05, Pledged Revenues received by the City shall be used by the City for the payment of principal of and interest on Parity Securities payable from a lien on the Pledged Revenues and hereafter authorized to be issued in accordance with this Ordinance and any other provisions herein supplemental thereto, including reasonable reserves for such securities, as the same accrue.

Payments for bond funds or accounts, reserve funds or accounts and rebate funds or accounts for Parity Securities shall be made concurrently and on a pari passu basis with the payments required by Sections 4.02, 4.03 and 4.05.

- 4.08. PAYMENT OF ADDITIONAL SUBORDINATE SECURITIES. Subsequent to provision in full for the payments and fund maintenance transfers required by the foregoing provisions of this Section 4, any Supplemental Sales and Use Tax revenues remaining in any month after the payments and accumulations required hereby have been made may be used by the City for the payment of Debt Service Requirements of Subordinate Securities payable from the Pledged Revenues and hereafter authorized to be issued in accordance with this Ordinance and any other provisions herein supplemental thereto, including reasonable reserves for such Subordinate Securities, as the same accrue; but the lien of such Subordinate Securities on the Pledged Revenues and the pledge thereof for the payment of such Subordinate Securities shall be subordinate to the lien and pledge of the Bonds and any Parity Securities as herein provided.

No revenues received from the 0.5% Sales and Use Tax may be pledged or used by the City for the payment of Debt Service Requirements of Subordinate Securities for so long as the Bonds remain Outstanding.

- 4.09. USE OF REMAINING 0.5% SALES AND USE TAX REVENUES AND SUPPLEMENTAL SALES AND USE TAX REVENUES. After the above-required payments have been made in each month, and there shall have been credited to the Bond Fund and the 2017A Reserve Fund for the payment of the Bonds and any other securities payable from a lien on the Pledged Revenues all amounts required to be deposited therein, then any remaining revenues from the Supplemental Sales and Use Tax may be used by the City in any manner authorized by law for said funds.

After the above-required payments have been made in each month, moneys on deposit in the 0.5% Sales and Use Tax Fund shall be retained therein and, except as hereinafter provided, shall not be released from such Fund until all the Outstanding Bonds and all Outstanding Parity Securities payable in whole or in part from the 0.5% Sales and Use Tax have been paid or defeased in full. Notwithstanding the foregoing, moneys on deposit in the 0.5% Sales and Use Tax Fund may be applied to the optional redemption of all or a portion of the Bonds and any Parity Securities payable from the 0.5% Sales and Use Tax, and may be applied to the payment of the final Debt Service Requirements due on the Outstanding Bonds and Parity Securities, whether at maturity or prior redemption. Upon the payment or defeasance of all the Outstanding Bonds and Parity Securities payable from the 0.5% Sales and Use Tax, any moneys remaining on deposit in the 0.5% Sales and Use Tax Fund shall be remitted to the City and applied to the purposes authorized at the 2016 Election.

- 4.10. BUDGET AND APPROPRIATION OF FUNDS. The sums provided to make the payments specified in this Section 4 are hereby appropriated for said purposes, and said amounts for each year shall be included in the annual budget and the appropriation ordinance or measures to be adopted or passed by the City Council in each year respectively while any of the Bonds, either as to principal or interest, are outstanding and unpaid. No provisions

of any constitution, statute, charter, ordinance, resolution, or other order or measure enacted after the issuance of the Bonds shall in any manner be construed as limiting or impairing the obligation of the City to keep and perform the covenants contained in this Ordinance so long as any of the Bonds remain outstanding and unpaid.

SECTION 5. GENERAL ADMINISTRATION OF FUNDS.

- 5.01. PLACES AND TIMES OF DEPOSITS. The 0.5% Sales and Use Tax Fund, Bond Fund and 2017A Reserve Fund (and any accounts therein) and the Rebate Fund shall be maintained in a Bank as a book account or invested in Permitted Investments, kept separate and apart for accounting purposes from all other accounts or funds of the City as trust accounts solely for the purposes herein designated therefor; provided that there may be established separate accounts and subaccounts of any fund or account in more than one Bank. For purposes of investment of moneys, nothing herein prevents the combination of such accounts with any other Bank account or accounts or other funds of the City. Each periodic payment shall be credited to the proper book account not later than the date therefor designated, except that when any such date shall be a Saturday, a Sunday or a legal holiday, then such payment shall be made on or before the next preceding Business Day.
- 5.02. INVESTMENT OF FUNDS. Any moneys in any fund designated herein may be invested in Permitted Investments as provided by law. The obligations so purchased as an investment of moneys in each such fund shall be deemed to be part of such fund, and the interest accruing thereon or investment income realized therefrom shall be credited to each such fund. Any loss resulting from such investment shall be charged to the fund from which the investment was made. The City shall present for redemption or sale on the prevailing market any obligations so purchased as an investment of moneys in any fund whenever it shall be necessary to do so in order to provide moneys to meet any payment or transfer from such fund.
- 5.03. NO LIABILITY FOR LOSSES INCURRED IN PERFORMING TERMS OF ORDINANCE. Neither the City nor any officer, employee or agent of the City shall be liable or responsible for any loss resulting from any investment or reinvestment made in accordance with this Ordinance.