

**FIRST AMENDMENT TO  
LOAN AGREEMENT**

by and among

**CITY AND COUNTY OF DENVER  
(Acting on Behalf of its Downtown Development Authority)**

as City,

**PNC BANK, NATIONAL ASSOCIATION**

as Co-Syndication Agent, Lead Arranger and Administrative Agent and Lender

and

**U.S. BANK NATIONAL ASSOCIATION,**

as Co-Syndication Agent and Lender.

**Relating to:**

**\$197,315,000**

**City and County of Denver, Colorado,  
(Acting on Behalf of its Downtown Development Authority)  
Downtown Development Authority Tax Increment Revenue Bond, Series 2017**

## FIRST AMENDMENT TO LOAN AGREEMENT

THIS FIRST AMENDMENT TO LOAN AGREEMENT (this “Amendment”), effective as of the date indicated on the signature page of the City and County of Denver herein (the “Amendment Effective Date”), is entered into by and among **CITY AND COUNTY OF DENVER**, a municipal corporation organized and operating as a home-rule city under the laws of the State of Colorado and acting on behalf of its Downtown Development Authority (the “City”), as the City, **PNC BANK, NATIONAL ASSOCIATION** (“PNC”), as successor to Compass Bank and Compass Mortgage Corporation, as Co-Syndication Agent, Lead Arranger, and Administrative Agent, and Lender, and **U.S. BANK NATIONAL ASSOCIATION** (“U.S. Bank” and together with PNC, the “Lenders”).

### WITNESSETH:

WHEREAS, all capitalized terms used and not defined herein shall have the meaning assigned to them in the Original Agreement (as defined below); and

WHEREAS, the City, Compass Bank, Compass Mortgage Corporation and U.S. Bank National Association previously entered into that certain Loan Agreement dated as of February 3, 2017 (the “Original Agreement”), pursuant to which Compass Mortgage Corporation and U.S. Bank (the “Original Lenders”) made a loan to the City in the original principal amount of \$197,315,000, pursuant to the terms and conditions set forth in the Original Agreement; and

WHEREAS, after the closing of the Original Agreement, PNC Bank, National Association acquired Compass Bank and Compass Mortgage Corporation, and PNC Bank, National Association has succeeded to Compass Mortgage Corporation as lender under the Original Agreement; and

WHEREAS, pursuant to Section 9.01 of the Original Agreement, no amendment or modification of the Original Agreement shall be effective unless the same shall be in writing and approved by the Required Lenders; provided, however, that no such supplemental agreement shall, without the consent of each Lender directly affected thereby, extend the final maturity of the Loan, or postpone any Scheduled Principal Amount or Mandatory Excess Principal Prepayment or forgive all or any portion of the Outstanding Loan Amount thereof or any payment obligation related thereto, or reduce the rate or extend the time of payment of interest or fees thereon or payment obligations related thereto or increase the amount of any Lender’s Pro Rata Share of the Loan Amount; and

WHEREAS, under the Original Agreement, “Required Lenders” means the Lenders whose Pro Rata Shares in the aggregate equal more than 66.67% of the Loan Amount; and

WHEREAS, the City and the Lenders wish to amend the Original Agreement as provided herein; and

WHEREAS, the Lenders constitute “Required Lenders” pursuant to the Original Agreement and by their execution of this Amendment, have consented to the amendments to the Original Agreement contained herein.

NOW, THEREFORE, in consideration of the foregoing and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

## ARTICLE I

### INTENTION OF PARTIES, AGREEMENT PROVISIONS

The City and the Lenders have entered into this Amendment pursuant to Section 9.01 of the Original Agreement to amend their rights and obligations set forth in the Original Agreement and agree that this Amendment does not constitute a novation of and in no way satisfies or refinances the debt evidenced by the Original Agreement. The terms of the Original Agreement, as amended by this Amendment (as so amended, the “Agreement”), shall govern the rights and obligations of the City and the Lenders in connection with the transactions contemplated by the Agreement to the extent provided therein.

## ARTICLE II

### AMENDMENT

**Section 2.01 Amendment to Section 1.01 of the Original Agreement.** The following terms contained in Section 1.01 of the Original Agreement are hereby amended and replaced to read as follows (strikethrough indicates that the defined term has been entirely removed):

~~“DUS Project Mill Levy Post-TIF Term Revenues” means, commencing on the date immediately following the expiration of the TIF Term, the Property Tax Revenues generated by DUS District No. 2 and DUS District No. 3 from the imposition of the DUS Project Mill Levy on all of their respective taxable property, all pursuant to the terms of the DUS Districts Pledge Agreement.~~

“Pledged Revenue” means (i) from the Closing Date to and including December 1, 2024, (A) the Pledged Increment Revenue and (B) the DUS Project Mill Levy Base Revenues, and (ii) after December 1, 2024, the Pledged Increment Revenue.

**Section 2.02 Amendment to Section 2.03(c) of the Original Agreement.** Section 2.03(c) of the Original Agreement is hereby amended and replaced to read as follows:

(c) Principal Payments. Repayment of the Outstanding Loan Amount shall occur on each Principal Payment Date by paying the Scheduled Principal Amount from amounts on deposit in the Revenue Fund and, to the extent such moneys are on deposit in the Surplus Fund on such Principal Payment Date, the amount of any Mandatory Excess Principal Prepayment and any Optional Excess Principal Prepayment elected by the City to be applied to the Outstanding Loan Amount as provided in Section 2.03(c)(ii). On the Maturity Date, the Outstanding Loan Amount, less any amount transferred by the Administrative Agent from the Reserve Fund and applied to the repayment of the Outstanding Loan Amount, shall be due and payable in full.

(i) *Scheduled Principal Amounts.* The Scheduled Principal Amounts shall be as set forth below:

<b>Principal Payment Date (December 1)</b>	<b>Scheduled Principal Amount<sup>1</sup></b>	<b>Principal Payment Date (December 1)</b>	<b>Scheduled Principal Amount<sup>1</sup></b>
2017	\$ 6,427,000	2023	\$10,770,000
2018	7,084,000	2024	11,278,000
2019	8,792,000	2025	11,818,000
2020	9,293,000	2026	12,444,000
2021	9,729,000	2027	13,082,000
2022	10,248,000	Maturity Date <sup>2</sup>	86,350,000

1. Assumes no prepayments of the Outstanding Loan Amount prior to the Maturity Date pursuant to the Optional Excess Principal Prepayment or Mandatory Excess Principal Prepayment.
2. All amounts on deposit in the Reserve Fund shall be applied to repay the Outstanding Loan Amount on the Maturity Date.

(ii) *Excess Principal Prepayments.* In addition to the Scheduled Principal Amount, on each Principal Payment Date prior to and including December 1, 2023, the City shall be required to prepay the Outstanding Loan Amount from amounts on deposit in the Surplus Fund up to the Maximum Principal Prepayment Amount (such prepayment amount is referred to as the “**Mandatory Excess Principal Prepayment**”). On each Principal Payment Date occurring after December 1, 2023, the City shall only be required to pay the Scheduled Principal Amount due and payable on such Principal Payment Date. On each Principal Payment Date prior to and including December 1, 2023, subject to the last sentence of this Section, the Administrative Agent shall, at the election and written direction of the City, apply amounts on deposit in the Surplus Fund that are in excess of the Maximum Principal Prepayment Amount to one or more of the following (a) subject to the payment of any applicable Prepayment Fee calculated as set forth in Section 2.04(d) hereof, to the prepayment of Outstanding Loan Amount (such Outstanding Loan Amount being prepaid, net of any applicable Prepayment Fee, is referred to as the “**Optional Excess Principal Prepayment**”), or (b) at the election of the City, (x) such amount or a portion thereof shall be retained on deposit in the Surplus Fund, and/or (y) such amount or a portion thereof shall be released to the City for distribution to each jurisdiction which levies a Property Tax in the DUS Plan Area its pro rata share, as determined in the sole judgment of the City, of the released amount. On each Principal Payment Date occurring after December 1, 2023, the Administrative Agent shall, at the election and written direction of the City, (i) retain the amount on deposit in the Surplus Fund, or the portion thereof specified in the written direction of the City, to be used to pay future Scheduled Principal Amounts and Optional Excess Principal Prepayment amounts, if any, on future Principal Payment Dates, (ii) remit the amount on deposit in the Surplus Fund, or portion thereof specified in the written direction of the City, to the City to be used in accordance with the DDA Act or (iii) remit the amount on deposit in the Surplus Fund, or portion thereof specified in the written direction of the City, to the City for distribution to each jurisdiction which levies a Property Tax in the DUS Plan Area of its pro rata share, as determined in the sole judgment of the City, of the released amount. The Administrative Agent shall apply any Mandatory Excess Principal Prepayment amount and any Optional Excess Principal Prepayment amount to prepay the Outstanding Loan Amount in inverse order of maturity, commencing with the Scheduled Principal Amount due and owing on the Maturity Date. Amounts on deposit in the Surplus Fund applied to prepay the Loan in accordance with clause (a) of this paragraph shall be allocated to

each Lender based on each Lender's Pro Rata Share. Each Mandatory Principal Prepayment and Optional Excess Principal Prepayment shall be made in integral multiples of \$1,000. Notwithstanding the foregoing, upon occurrence and during the continuation of an Event of Default, amounts on deposit in the Surplus Fund shall not be released to the City and shall be applied by the Administrative Agent pursuant to Section 6.02(b) hereof.

**Section 2.03 Amendment to Section 2.04(a) of the Original Agreement.** Section 2.04(a) of the Original Agreement is hereby amended and replaced to read as follows:

(a) Mandatory Excess Principal Prepayment. On each Principal Payment Date prior to and including December 1, 2023, the City shall prepay the Outstanding Loan Amount from amounts on deposit in the Surplus Fund as provided in Section 2.03(c)(ii) and Section 3.03(c) hereof. The City authorizes the Administrative Agent to apply all amounts on deposit in the Surplus Fund on each Principal Payment Date prior to and including December 1, 2023, and not needed to make up any deficiency in the Reserve Fund as set forth in Section 3.03, for purposes of making the Mandatory Excess Principal Prepayments without any further instruction or consent from the City.

**Section 2.04 Amendment to Section 3.01(b) of the Original Agreement.** Section 3.01(b) of the Original Agreement is hereby amended and replaced to read as follows:

(b) The Administrative Agent shall, in each calendar year, disburse, transfer, credit and apply all Pledged Revenue received in such calendar year and credited to the Revenue Fund pursuant to paragraph (a) above to the following purposes and in the following order of disbursement priority:

- First:** To the Lenders (i) the payment of interest and Scheduled Principal Amounts due and payable on the Loan on each Interest Payment Date and Principal Payment Date for such calendar year, and (ii) any fees, costs, expenses and any other amounts due and owing under this Agreement during such calendar year pursuant to an invoice provided by the Lender to the City and the Administrative Agent, including any amounts unpaid from any prior calendar year;
- Second:** To the credit of the Reserve Fund, the amount, if any, required to replenish the Reserve Fund to the Reserve Requirement;
- Third:** To a designated fund or account any rebate deposits required to be made therein as certified by the City to the Administrative Agent;
- Fourth:** Prior to December 1, 2024, the balance, if any, on deposit in the Revenue Fund (after the credits set forth in paragraphs "First" through "Third" of this Section 3.01(b) have been made in full) shall be deposited in the Surplus Fund and applied as provided in Section 3.03 hereof. On and after December 1, 2024, the balance, if any, on deposit in the Revenue Fund (after the credits set forth in paragraphs "First" through "Third" of this Section 3.01(b) have been made in full) shall be remitted to the City to be used in accordance with the

DDA Act or for distribution by the City to each jurisdiction which levies a Property Tax in the DUS Plan Area of its pro rata share, as determined in the sole judgment of the City, of the released amount.

**Section 2.05 Amendment to Section 3.03(c) of the Original Agreement.** Section 3.03(c) of the Original Agreement is hereby amended and replaced to read as follows:

(c) *Principal Prepayment from Amounts in the Surplus Fund.* On each Principal Payment Date prior to and including December 1, 2023, all amounts on deposit in the Surplus Fund shall be applied by the Administrative Agent to make the Mandatory Excess Principal Prepayments and Optional Excess Principal Prepayments in accordance with Sections 2.04(a) and 2.04(b) hereof. On each Principal Payment Date after December 1, 2023, the City may direct the Administrative Agent to apply amounts on deposit in the Surplus Fund to an Optional Excess Principal Payment in accordance with Section 2.04(b) hereof. To the extent a Prepayment Fee is due in connection with any Optional Excess Principal Prepayments, such Prepayment Fee shall also be funded from amounts on deposit in the Surplus Fund and to the extent the amount on deposit in the Surplus Fund is not sufficient to pay in full the Prepayment Fee due, the amount of the Optional Excess Principal Prepayment shall be reduced to the extent necessary to pay the Prepayment Fee in full.

**Section 2.06 Amendment to Section 5.02(b) of the Original Agreement.** Section 5.02(b) of the Original Agreement is hereby amended and replaced to read as follows:

(b) Amendment of DUS Plan or the DUS Plan Area. The City may, without the prior written consent of the Required Lenders, amend or modify the DUS Plan and take any action to include additional property in the DUS Plan Area so long as such amendment, modification or action is not likely to have a material adverse effect on the Collateral as certified to the Required Lenders in writing by the City's Manager of Finance prior to the amendment, modification or action, as applicable. The City shall not, without the prior written consent of the Required Lenders, take any action that could have the effect of excluding property from the DUS Plan Area or take any action or permit the DDA to take any action that would have a materially adverse effect on the Collateral.

**Section 2.07 Amendment to Section 5.02(c) of the Original Agreement.** Section 5.02(c) of the Original Agreement is hereby amended and replaced to read as follows:

(c) Additional Debt. Nothing herein prevents the City from issuing additional Debt payable from or secured by any portion of the Collateral that has a lien that is on parity with the lien of the Loan Obligations without the consent of the Required Lenders, provided that each of the following is met as of the time of the issuance of additional debt: (i) the City is current in all payments of principal and interest on the Loan Obligations, and in the accumulation of any required amounts in the Reserve Fund, (ii) no Default or Event of Default has occurred and is continuing, and (iii) the Pledged Revenue held in the Revenue Fund, the Surplus Fund and the Reserve Fund is in an aggregate amount at least sufficient to cover the maximum amount of principal and interest payable by the City on any future Principal Payment Date. Nothing herein prevents the City from issuing additional Debt payable from or secured by any portion of the

Collateral that has a lien that is subordinate and junior to the lien of the Loan Obligations without the consent of the Required Lenders.

**Section 2.08 Amendment to Section 6.01(o) of the Original Agreement.** Section 6.01(o) of the Original Agreement is hereby amended and replaced to read as follows:

(c) Either DUS District No. 2 or DUS District No. 3 fails to impose the DUS Project Mill Levy prior to December 1, 2024;

### ARTICLE III

#### MISCELLANEOUS

**Section 3.01 Full Force and Effect.** The Original Agreement is hereby amended as of the Amendment Effective Date to the extent provided in this Amendment and, except as specifically provided herein, the Original Agreement shall remain in full force and effect in accordance with its terms.

**Section 3.02 Applicable Law and Jurisdiction.** This Amendment will be governed by and interpreted as provided in Section 9.06 of the Original Agreement and the Parties hereto consent to the exclusive jurisdiction of any state or federal court situated in Denver, Colorado in accordance with Section 9.06 of the Original Agreement.

**Section 3.03 Headings.** Section headings in this Amendment are included herein for convenience of reference only and shall not have any effect for purposes of interpretation or construction of the terms of this Amendment.

**Section 3.04 Counterparts.** This Amendment may be signed in any number of counterpart copies, but all such copies shall constitute one and the same instrument.

**Section 3.05 Representations and Warranties.** The City hereby represents and warrants as of the Amendment Effective Date that:

(a) all representations and warranties of the City set forth in Article IV of the Original Agreement are true and correct on and as of the Amendment Effective Date as though made on and as of such date;

(b) no Default or Event of Default has occurred and is continuing; and

(c) to the best of the City's knowledge, the City is in compliance with the terms and conditions of the Original Agreement and has performed or complied with all of its obligations, agreements and covenants to be performed or complied with pursuant to the Original Agreement on or prior to the Amendment Effective Date;

(d) this Amendment has been duly authorized and validly executed by it and that the Original Agreement as hereby amended constitutes its valid obligation, enforceable in accordance with its terms, except to the extent that the enforceability thereof may be limited by bankruptcy, insolvency or other laws affecting creditors' rights generally and subject to the

application of general principles of equity including but not limited to the right of specific performance; and

(e) the organizational documents of the City have not been amended, restated, supplemented or otherwise modified, rescinded or revoked.

**Section 3.06 Severability.** In case any one or more of the provisions contained herein should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired hereby.

**Section 3.07 Electronic Signature; Electronically Signed Document.** The parties agree that the electronic signature of a party to this Amendment (or any amendment or supplement of this Amendment) shall be as valid as an original signature of such party and shall be effective to bind such party to this Amendment. The parties agree that any electronically signed document (including this Amendment) shall be deemed (i) to be “written” or “in writing,” (ii) to have been signed, and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. For purposes hereof, “electronic signature” means a manually-signed original signature that is then transmitted by electronic means; “transmitted by electronic means” means sent in the form of a facsimile or sent via the Internet as a pdf (portable document format) or other replicating image attached to an e-mail message; and, “electronically signed document” means a document transmitted by electronic means and containing, or to which there is affixed, an electronic signature. Paper copies or “printouts”, if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. Neither party shall contest the admissibility of true and accurate copies of electronically signed documents on the basis of the best evidence rule or as not satisfying the business records exception to the hearsay rule.

## ARTICLE IV

### CONDITIONS PRECEDENT; FEES

**Section 4.01 Conditions Precedent.** This Amendment shall become effective as of the Amendment Effective Date subject to the satisfaction, in the opinion of the Lenders, of or waiver by the Lenders of each of the following conditions precedent:

(a) delivery by the City to the Lenders of an executed counterpart of this Amendment;

(b) the Lenders shall have received an opinion of Bond Counsel, dated the Amendment Effective Date and addressed to the Lenders in form and substance satisfactory to the Lenders and their respective counsel, including opinions as to the validity and enforceability of the Original Agreement, as amended by the Amendment; that the Amendment has been duly authorized, executed and delivered by the City; and that interest on the Bond is excludable from gross income under federal income tax laws and Colorado taxable income; and

(c) all other legal matters pertaining to the execution and delivery of this Amendment shall be satisfactory to the Lenders and their respective counsel (and the execution



and delivery hereof by the Lenders shall constitute conclusive evidence that all such legal matters have been completed to the satisfaction of the Lenders).

**Section 4.02 Fees.** The City shall pay the reasonable fees and expenses of counsel to the Lenders promptly following receipt of an invoice for such fees and expenses.

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**Contract Control Number:**  
**Contractor Name:**  
Association

FINAN-202476206-01  
PNC Bank, National Association, US Bank, National

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at  
Denver, Colorado as of:

**SEAL**

**CITY AND COUNTY OF DENVER:**

**ATTEST:**

By:

\_\_\_\_\_

\_\_\_\_\_

**APPROVED AS TO FORM:**

**REGISTERED AND COUNTERSIGNED:**

Attorney for the City and County of Denver

By:

By:

\_\_\_\_\_

\_\_\_\_\_

By:

\_\_\_\_\_

**Contract Control Number:**  
**Contractor Name:**  
Association

FINAN-202476206-01  
PNC Bank, National Association, US Bank, National

By: See Attached Signature Pages

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

ATTEST: [if required]

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

Signature page to First Amendment to Loan Agreement

PNC BANK, NATIONAL ASSOCIATION,  
successor to Compass Bank and Compass  
Mortgage Corporation

By:  \_\_\_\_\_  
Name: Jonathan Narlock  
Title: Senior Vice President

U.S. BANK NATIONAL ASSOCIATION

By \_\_\_\_\_  
Name:  
Title:

Signature page to First Amendment to Loan Agreement

PNC BANK, NATIONAL ASSOCIATION,  
successor to Compass Bank and Compass  
Mortgage Corporation

By: \_\_\_\_\_  
Name: Jonathan Narlock  
Title: Senior Vice President

U.S. BANK NATIONAL ASSOCIATION

By Robert Naughton  
Name: Robert Naughton  
Title: Senior Vice President