

DUS PROJECT MILL LEVY PLEDGE AGREEMENT

This DUS PROJECT MILL LEVY PLEDGE AGREEMENT (the “Agreement”), is made and entered into and dated as of [_____], 2017, by and among the CITY AND COUNTY OF DENVER, a municipal corporation duly organized and existing as a home rule city under Article XX of the Constitution of the State of Colorado and under the Charter of the City (the “City”), DUS METROPOLITAN DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the State of Colorado (“DUS District No. 1”), DUS METROPOLITAN DISTRICT NO. 2, a quasi-municipal corporation and political subdivision of the State of Colorado (“DUS District No. 2”), DUS METROPOLITAN DISTRICT NO. 3, a quasi-municipal corporation and political subdivision of the State of Colorado (“DUS District No. 3”), COMPASS BANK, a state chartered banking association, in its capacity as Administrative Agent for all Lenders, COMPASS MORTGAGE CORPORATION, an Alabama corporation (“CMC”) and U.S. BANK NATIONAL ASSOCIATION, a national banking association (“U.S. Bank”, and together with CMC, the “Lenders”).

RECITALS

Any capitalized term which is used, but not defined, in these Recitals shall have the meaning given in Article 1: DEFINITIONS.

A. The City is a municipal corporation duly organized and existing as a home rule city under Article XX of the Constitution of the State of Colorado (the “State”) and under the Charter of the City and is a political subdivision of the State.

B. The DDA is a body corporate and has been duly created, organized, established and authorized by the City to transact business and exercise its powers as a downtown development authority, all under and pursuant to the DDA Act.

C. In accordance with the DUS Plan and the DDA Act, the DDA is authorized to undertake development and redevelopment projects and activities within the central business district of the City and the City is authorized to finance and refinance such projects and activities in part by utilization of certain Property Tax Increment Revenues, including but not limited to revenue received from a portion of the DUS Project Mill Levy.

D. Pursuant to Colorado Constitution Article XIV, Section 18(2)(a), the City and the DUS Districts may cooperate and contract with each other to provide any function, service or facility lawfully authorized to each, and any such contract may provide for the sharing of costs, the imposition of collection of taxes and the incurring of debt.

E. The formation of the DUS Districts was approved by the City in conjunction with the approval of each of their respective Service Plans pursuant to the Special District Act. Each DUS District was organized with the approval of its respective electors, such approvals fully contemplating cooperation among the DUS Districts as provided herein and in the Service Plans. All governmental approvals necessary for the DUS Districts to make the pledge hereunder have

been obtained. All property within the DUS Districts is included within the Property Tax Increment Area.

F. Under the Service Plans, the DUS Districts are intended to work together and coordinate their activities with respect to the financing, construction, operation and maintenance of public improvements necessary to serve the development within their collective boundaries, including the DUS Project. The purposes for which the DUS Districts were formed include the provision of water, storm drainage, street, traffic and safety, park and recreation, sanitation, transportation, mosquito control and fire protection facilities, programs, and services, all in accordance with the Service Plans.

G. The Service Plans anticipate and the Parties intend that DUS District No. 1 will serve as the management district with responsibility to (i) provide administrative and management services to DUS District Nos. 2 and 3, (ii) receive the DUS Project Mill Levy Base Revenues and the DUS Project Mill Levy Post-TIF Term Revenues derived from the imposition of the DUS Project Mill Levy upon taxable property of DUS District Nos. 2 and 3 and (iii) remit such revenues to the DUSPA and/or other appropriate entities subject to the terms and limitations set forth herein.

H. The Service Plans anticipate and the Parties intend that all taxable property within the boundaries of DUS District Nos. 2 and 3 will be subject to the DUS Project Mill Levy to assist in financing the DUS Project; provided, however, no such property shall be subject to the DUS Project Mill Levy imposed by more than one DUS District.

I. As required by the Service Plans, all of the property which is or will be subject to the DUS Project Mill Levy as contemplated therein is included in the initial boundaries of DUS District No. 2. The Service Plans also require that, when any of the property initially included in DUS District No. 2 is subsequently developed and classified as residential property, it will then be excluded from DUS District No. 2 and included in DUS District No. 3.

J. DUSPA has financed the DUS Project by obtaining the DUSPA Loans.

K. In order to pay the DUSPA Loans in full and achieve interest rate savings, DUSPA operational savings and other economies it has been proposed that (a) the Regional Transportation District issue sales tax revenue bonds to pay a portion of the amounts outstanding pursuant to the Loans and (b) the City enter into the Loan Agreement with the Administrative Agent and the Lenders to pay the balance of the amounts due pursuant to the DUSPA Loans.

L. Pursuant to the DUS Project Mill Levy Pledge Agreement by and between DUSPA and DUS District No. 1, DUS District No. 2 and DUS District No. 3, dated June 22, 2010 (the "DUSPA/DUS District Nos. 1-3 Pledge Agreement"), DUS District No. 2 pledged to impose and remit to DUSPA in order to pay a portion of the DUSPA Loans the mill levy of 20 mills which commenced for collection in 2009 and for remittance to DUSPA in 2010.

M. The DUSPA/DUS District Nos. 1-3 Pledge Agreement shall terminate on the Effective Date of this Agreement.

N. The Parties intend that DUS District No. 2 and DUS District No. 3 shall each impose the DUS Project Mill Levy and collect and remit the DUS Districts Pledged Revenues to the City beginning on the Effective Date of this Agreement, and continuing each year until the Termination Date as provided herein. As provided herein, such obligations shall constitute indebtedness and a multiple-fiscal year obligations of DUS District No. 2 and DUS District No. 3.

O. Each of the DUS Districts has previously determined that the DUS Project (i) is generally contemplated by its Service Plan, (ii) is needed for development of property within the DUS Districts and (iii) due to the interrelatedness between the development anticipated to occur within the DUS Districts and the area to be served by the DUS Project, will benefit its residents, property owners and taxpayers.

P. Each of the DUS Districts hereby determines that the execution of this Agreement, the execution and delivery of the Loan Agreement by the City, and the Refunding Project (as defined in the Loan Agreement) are in the best interests of its respective residents, property owners, and taxpayers.

Q. The Parties acknowledge that each of DUS District Nos. 2 and 3 certified in 2016 a debt service mill levy of 20 mills for collection in 2017, which is 5 mills greater than the DUS Project Mill Levy required to be imposed under the this Agreement, and that revenues derived from such 5 mills (i) do not constitute DUS Districts Pledged Revenues under this Agreement and (ii) are within the definition of and shall be remitted by the DDA to each of DUS District Nos. 2 and 3, as applicable, together with other “DUS Districts Non-Pledged Revenues” as defined in and in accordance with the terms of that certain Amended and Restated DDA/DUS District Nos. 1-5 Cooperation and Pledge Agreement by and among the DDA, the DUS Districts, DUS District No. 4 and DUS District No. 4, dated as of _____, 2017.

R. In order to facilitate the making of the loan to the City pursuant to the Loan Agreement, the DUS Districts by the terms of this Agreement will pledge the DUS Districts Pledged Revenues to the City and/or the Administrative Agent and the Lenders and covenant to take certain actions with respect to generating such revenues, for the benefit of the City, the Administrative Agent and the Lenders.

S. At the Elections, the qualified electors of each of DUS District Nos. 1, 2 and 3 voted in favor of the issuance of general obligation indebtedness and the imposition of taxes for the payment thereof, for the purpose of funding certain improvements and facilities as follows (the “Debt Authorization”):

Purpose	District No. 1	District No. 2	District No. 3
Street Facilities	\$300,000,000	\$300,000,000	\$300,000,000
Water Facilities	300,000,000	300,000,000	300,000,000
Sanitation Facilities	300,000,000	300,000,000	300,000,000
Traffic/Safety Protection	300,000,000	300,000,000	300,000,000
Park and Recreation	300,000,000	300,000,000	300,000,000
Transportation	300,000,000	300,000,000	300,000,000

Mosquito Control	300,000,000	300,000,000	300,000,000
Fire Protection	300,000,000	300,000,000	300,000,000
Refunding	300,000,000	300,000,000	300,000,000
TOTAL	*2,700,000,000	*2,700,000,000	* \$2,700,000,000

*The Service Plan of each of the DUS Districts, limits the total debt permitted to be issued by the DUS Districts to the aggregate principal amount of \$300,000,000 for financing DUS Project improvements, inclusive of the debt created by the DUSPA Loans being refunded, in part, by this Loan.

T. At the Elections, the qualified electors of each of the DUS Districts voted in favor of entering into intergovernmental agreements or other contracts constituting general obligation indebtedness of up to \$300,000,000 and the imposition of taxes for the payment thereof, for the purpose of paying, reimbursing or financing the costs of any public improvements the DUS Districts are lawfully authorized to provide (the “IGA Authorization”).

U. Pursuant to the DUSPA/DUS District Nos. 1-3 Pledge Agreement, the DUS Districts allocated \$300,000,000 in voted debt authorization to the DUSPA Loans. Because the Loan and the sales tax revenue bonds issued by RTD will refund the DUSPA Loans at a lower interest rate, no additional voted debt authorization is needed to support the District’s Payment Obligation or its covenant to annually impose the DUS Project Mill Levy, both as established in this Agreement.

V. The Districts hereby express their collective intention to make the necessary portions of both the Debt Authorization and the IGA Authorization available to support the Payment Obligation established in this Agreement and to allocate from their respective voted authorizations to this Agreement, Debt Authorization and IGA Authorization in the amount generated by the DUS Project Mill Levy imposed each year pursuant to this Agreement, not to exceed \$[] over the term of this Agreement.

W. It has been and hereby is determined by the DUS Districts, that the DUS Districts shall be liable for the repayment of the Payment Obligation only to the extent of the DUS Districts Pledged Revenues.

X. The DUS Districts hereby elect to apply all applicable provisions of the Supplemental Act to this Agreement.

AGREEMENT

NOW, THEREFORE, for and in consideration of the promises and the mutual covenants and stipulations herein, the Parties hereby agree as follows:

ARTICLE 1
DEFINITIONS

Capitalized terms used in this Agreement and not defined in this Article I shall have the meaning assigned to such terms in the Loan Agreement.

1.1 Definitions. As used herein, unless the context expressly indicates otherwise, the words defined below and capitalized in the text of this Agreement shall have the respective meanings set forth below:

“Administrative Agent” has the same meaning as in the Loan Agreement.

“Board” or **“Boards”** means the lawfully organized Boards of Directors of the DUS Districts.

“City” means the City and County of Denver, Colorado, a municipal corporation organized and operating as a home-rule city under the laws of the State.

“City/DDA Cooperation Agreement” means that certain Amended and Restated Denver Union Station Plan of Development Cooperation Agreement dated [_____], 2017, between the City and the DDA and as the same may be amended from time to time.

“DDA” means the Denver Downtown Development Authority, a body corporate duly organized and existing as a downtown development authority under the laws of the State.

“DDA Act” means the Downtown Development Authority Act, Section 31-25-801, et seq., C.R.S., as amended from time to time.

“DUS District” means, for the purposes of this Agreement, any one of DUS District No. 1, DUS District No. 2 or DUS District No. 3.

“DUS District Bonds” means bonds, notes or other multiple-fiscal year financial obligations issued or incurred by one or more of the DUS Districts.

“DUS District No. 1” means DUS Metropolitan District No. 1, a quasi-municipal corporation and political subdivision of the State, created pursuant to the Special District Act and its Service Plan, and its permitted successors and assigns.

“DUS District No. 2” means DUS Metropolitan District No. 2, a quasi-municipal corporation and political subdivision of the State, created pursuant to the Special District Act and its Service Plan, and its permitted successors and assigns.

“DUS District No. 3” means DUS Metropolitan District No. 3, a quasi-municipal corporation and political subdivision of the State, created pursuant to the Special District Act and its Service Plan, and its permitted successors and assigns.

“DUS Districts” means collectively, DUS District No. 1, DUS District No. 2 and District No. 3.

“DUS Districts Pledged Revenues” means, collectively, the DUS Project Mill Levy Base Revenues and the DUS Project Mill Levy Post-TIF Term Revenues.

“DUS Plan” means the Denver Union Station Plan of Development dated November 25, 2008, and approved by the Denver City Council on December 22, 2008, by the DUS Plan Ordinance, as such DUS Plan may be amended from time to time.

“DUS Plan Area” means the area described in Exhibit A to the DUS Plan.

“DUS Plan Ordinance” means Ordinance No. 723, Series 2008.

“DUS Project” means acquisition, construction, renovation, rehabilitation, improvement or equipping of property whether real or personal, tangible or intangible and wherever situated and whether now owned or hereafter acquired by DUSPA, the City, the Regional Transportation District, or any other public entity that is necessitated by and/or associated with the improvement of the DUS Plan Area in accordance with the DUS Plan.

“DUS Project Mill Levy” means an ad valorem mill levy (a mill being equal to 1/10 of 1 cent) imposed by each of DUS District No. 2 and DUS District No. 3 upon all of their respective taxable property each year in the amount of 15 mills; provided however, that in the event legislative or constitutionally imposed adjustment in assessed values or the method of their calculation is made after August __, 2008, such mill levy shall be adjusted by each DUS District No. 2 and DUS District No. 3 to take into account legislative or constitutionally imposed adjustments in assessed values or the method of their calculation (as of August __, 2008), so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation to assessed valuation shall be deemed to be a change in the method of calculating assessed valuation.

“DUS Project Mill Levy Base Revenues” means the Property Tax Revenues produced by the imposition of the DUS Project Mill Levy against the Property Tax Base Amount for property subject to the DUS Project Mill Levy during the TIF Term.

“DUS Project Mill Levy Property Tax Increment Revenues” means the Property Tax Increment Revenues produced by the imposition of the DUS Project Mill Levy against the property subject to the DUS Project Mill Levy during the TIF Term.

“DUS Project Mill Levy Post-TIF Term Revenues” means the Property Tax Revenues produced by the DUS Project Mill Levy after the expiration of the TIF Term pursuant to the terms of this Agreement.

“DUSPA” means the Denver Union Station Project Authority, a Colorado non-profit corporation and instrumentality of the City created as a constituted authority for the purpose of financing, acquiring, owning, equipping, designing, constructing, renovating, operating, maintaining and taking such other action as necessary with respect to the DUS Project.

“DUSPA Loans” means the two loans obtained by DUSPA (a) entering into a Loan Agreement dated as of July 23, 2010 pursuant to which the U.S. Department of Transportation, acting through the Federal Highway Administrator agreed to lend DUSPA up to \$145,600,000 and (b) entering into a Loan Agreement dated as of July 23, 2010, pursuant to which the U.S. Department of Transportation, acting through the Federal Railroad Administrator agreed to lend DUSPA up to \$155,000,000.

“Effective Date” means the date on which this Agreement is executed.

“Elections” means elections of each of the DUS Districts duly called for and held on November 4, 2008, in accordance with law and pursuant to due notice.

“Lenders” means Compass Mortgage Corporation and U.S. Bank National Association and their successors and assigns.

“Loan” means the loan made by the Lenders to the City pursuant to the Loan Agreement.

“Loan Agreement” means the Loan Agreement dated as of [_____], 2017, by and among the City, as Borrower, Compass Bank as Administrative Agent, and Compass Mortgage Corporation and U.S. Bank National Association, as Lenders, as the same may be amended from time to time.

“Loan Costs” means the principal and interest due from the City to the Lenders under the Loan Agreement and any other amounts required to be paid by the City under the Loan Agreement.

“Ordinance” means Ordinance No. ___, Series 2017 of the City Council of the City, adopted January 17, 2017, authorizing the Loan Agreement.

“Party” means DUS District No. 1, DUS District No. 2, DUS District No. 3, the City, the Administrative Agent or the Lenders, as applicable, and **“Parties”** means collectively, DUS District No. 1, DUS District No 2, DUS District No. 3, the City, the Administrative Agent and the Lenders.

“Payment Obligation” means the obligation of the DUS Districts to assist the City in paying the Loan Costs in accordance with the provisions hereof, but solely from and to the extent of the DUS Districts Pledged Revenues.

“Property Tax” means the levy on real and personal property at the rate fixed each year by the governing body of a taxing jurisdiction.

“Property Tax Base Revenues” means the Property Tax Revenues produced by the imposition of Property Tax by the applicable jurisdiction against the Property Tax Base Amount of such jurisdiction during the TIF Term, provided that in the event of a general reassessment of taxable property in the Property Tax Increment Area, Property Tax Base Revenues shall be proportionately adjusted in the manner required by the DDA Act.

“Property Tax Base Amount” means the total valuation for assessment as certified by the County Assessor for the City of all property taxable by the applicable jurisdiction lying within the Property Tax Increment Area as of January 1, 2008, as may be recalculated in accordance with State law.

“Property Tax Increment Area” means the area more particularly described on Exhibit B-1, as the same may be amended from time to time, of the City/DDA Cooperation Agreement.

“Property Tax Increment Revenues” means, for each calendar year, subsequent to inclusion of property into the Property Tax Increment Area, all Property Tax Revenues with respect to such property, in excess of Property Tax Revenues produced by the levy of Property Tax on Property Tax Base Amount for such property; provided that (i) such amount shall be reduced by any lawful collection fee charged by the City; and (ii) in the event of a general reassessment of taxable property in the Property Tax Increment Area, Property Tax Increment Revenues shall be proportionately adjusted in the manner required by the DDA Act.

“Property Tax Revenues” means the revenues produced by the levy of any Property Tax provided that such amount shall be reduced by any lawful collection fee charged by the City.

“Service Plans” means the Service Plans of the DUS Districts, as the same may be supplemented, amended or restated from time to time.

“Special District Act” means Section 32-1-101, *et seq.*, C.R.S., as amended from time to time.

“Special Fund” means the fund created by the City pursuant to Section 31-25-807, C.R.S., as amended from time to time, and Ordinance 723, Series of 2008 adopted by the City Council of the City.

“Supplemental Act” means the Supplemental Public Securities Act, Section 11-57-201, *et seq.*, C.R.S., as amended from time to time.

“Termination Date” means the earlier of (i) the date on which Loan Agreement has been defeased or fully paid and discharged pursuant to its terms or (ii) December 31, 2049.

“TIF Term” means the thirty (30) year period commencing on December 22, 2008 and ending at midnight December 23, 2038.

1.2 Interpretation. In this Agreement, unless the context expressly indicates otherwise, the words defined below shall have the meanings set forth below:

(a) The terms “herein,” “hereunder,” “hereby,” “hereto,” “hereof” and any similar terms, refer to this Agreement as a whole and not to any particular article, section, or subdivision hereof; the term “heretofore” means before the date of execution of the Agreement; and the term “hereafter” means after the date of execution of this Agreement.

- (b) All definitions, terms, and words shall include both the singular and the plural, and all capitalized words or terms shall have the definitions set forth in Section 1.1 hereof.
- (c) Words of the masculine gender include correlative words of the feminine and neuter genders, and words importing the singular number include the plural number and vice versa.
- (d) The captions or headings of this Agreement are for convenience only, and in no way define, limit, or describe the scope or intent of any provision, article, or section of this Agreement.
- (e) All schedules, exhibits, and addenda referred to herein are incorporated herein by this reference.

ARTICLE 2
PAYMENT OBLIGATION

2.1 No Additional Electoral Approval Required. The authorization of the DUS Districts for issuance of debt, fiscal year spending, revenue collections and other constitutional matters requiring voter approval for purposes of this Agreement, was approved at the Elections. The performance of the terms of this Agreement requires no further electoral approval.

2.2 Funding of Loan Costs Generally.

(a) The City agrees to enter into the Loan Agreement as necessary to refinance the DUSPA Loans. The City hereby agrees to apply the net proceeds of the Loan in accordance with the provisions of the Loan Agreement. The City hereby agrees to apply or cause all DUS Districts Pledged Revenues to be applied in accordance with the Loan Agreement.

(b) Each of the DUS Districts hereby pledges to the City, the Administrative Agent and the Lenders the DUS Districts Pledged Revenues, to the extent received by such any of the DUS Districts, for the benefit of the City, the Administrative Agent and the Lenders to pay the Payment Obligation in accordance with the provisions hereof. The Payment Obligation shall constitute an irrevocable lien upon the DUS Districts Pledged Revenues, to the extent the same are received by or otherwise credited to any of the DUS Districts. The DUS Districts hereby elect to apply all of the provisions of the Supplemental Act to this Agreement and the Payment Obligation. The obligation of the DUS Districts to pay the Payment Obligation as provided herein shall constitute a limited tax obligation of DUS District Nos. 2 and 3 and shall constitute special, limited obligations of DUS District No. 1, payable solely from and to the extent of the DUS Districts Pledged Revenues.

(c) In no event shall the total Payment Obligation payable by the DUS Districts hereunder exceed the maximum amounts permitted under their respective Service Plans, their respective electoral authority and any other applicable law. The entire Payment Obligation with respect to the DUS Districts will be deemed defeased upon the Termination Date.

(d) Because the actual total DUS Districts Pledged Revenues payable by the DUS Districts hereunder cannot be determined with any certainty at this time, the DUS Districts shall not be permitted to pre-pay any amounts due hereunder.

2.3 Imposition of DUS Project Mill Levy.

- (a) The Parties agree that no property shall be subject to the DUS Project Mill Levy of more than one DUS District.
- (b) In order to fund the Payment Obligation, each of DUS District No. 2 and DUS District No. 3 levied in 2016 and shall levy in each year thereafter until the Termination Date, in addition to all other taxes, direct annual taxes in the amount of the DUS Project Mill Levy on all of the taxable property of DUS District No. 2 and DUS District No. 3, respectively,.
- (c) This Section 2.3 is hereby declared to be the certificate of each DUS District No. 2 and DUS District No. 3 to the appropriate officers of the City indicating the aggregate amount of taxes to be levied for the purposes of paying the Payment Obligation due hereunder.
- (d) It shall be the duty of DUS District No. 2 and DUS District No. 3 annually at the time and in the manner provided by law for the levying of its taxes, if such action shall be necessary to effectuate the provisions of this Agreement, to ratify and carry out the provisions hereof with reference to the levy and collection of the ad valorem property taxes herein specified, and to require its officers to cause the appropriate officials of the City to levy, extend and collect said ad valorem taxes in the manner provided by law for the purpose of providing funds for the payment of the amounts to be paid hereunder promptly as the same, respectively, become due. Said taxes, when collected, shall be applied only to the payment of the amounts to be paid hereunder in accordance with the provisions of this Agreement.
- (e) Said DUS Project Mill Levy shall be levied, assessed, collected, and enforced at the time and in the form and manner and with like interest and penalties as other general taxes in the State.
- (f) DUS Districts shall pursue all reasonable remedies to collect, or cause the collection of, delinquent DUS Districts Pledged Revenues.

2.4 Payment and Application of DUS Districts Pledged Revenues. DUS District No. 1 hereby agrees to remit to the City, as soon as practicable upon receipt from DUS District No. 2 and DUS District No. 3, all revenues comprising the DUS Districts Pledged Revenues, which DUS Districts Pledged Revenues the City shall deposit into the Special Fund and shall apply or cause to be applied moneys in the Special Fund to pay Loan Costs, in accordance with the Loan Agreement. Immediately upon receipt thereof, such DUS Districts Pledged Revenues shall be paid by DUS District No. 1, in lawful money of the United States of America by check mailed or delivered, or by wire transfer, to the City, or such other method as may be mutually agreed to by DUS District No. 1 and the City. To the extent that excess revenues are released to any of the DUS Districts pursuant to the provisions of the Loan Agreement, the DUS Districts agree to apply the same to the costs of the DUS Districts permitted by the Service Plans.

It is hereby acknowledged that, until the expiration of the TIF Term, the DUS Project Mill Levy Property Tax Increment Revenues resulting from the imposition of the DUS Project

Mill Levy are revenues of the City and that, pursuant to the Loan Agreement, the City has pledged the DUS Project Mill Levy Property Tax Increment Revenues to the Administrative Agent and the Lenders for payment of Loan Costs. Accordingly, the DUS Districts shall be obligated to remit to the City such DUS Project Mill Levy Property Tax Increment Revenues prior to the expiration of the TIF Term only in those cases when the DUS Districts actually receive such revenue from the City Treasurer or otherwise.

2.5 Effectuation of Pledge of Security, Current Appropriation. The sums herein required to pay the amounts due hereunder are hereby appropriated for that purpose, and said amounts for each year shall be included in the annual budget and the appropriation resolution or measures to be adopted or passed by the Board of each of the DUS Districts in each year while the Payment Obligation herein authorized is outstanding and unpaid. No provisions of any constitution, statute, resolution or other order or measure enacted after the execution of this Agreement shall in any manner be construed as limiting or impairing the obligation of DUS District No. 2 and DUS District No. 3 to levy the DUS Project Mill Levy, or as limiting or impairing the obligation of DUS District No. 2 and DUS District No. 3 to levy, administer, enforce and collect the ad valorem property taxes as provided herein for the payment of the Payment Obligation.

Furthermore, the DUS Districts acknowledge that Lenders are making the Loan to the City pursuant to the Loan Agreement and, as a result, shall be entitled to rely on the Payment Obligation of the DUS Districts to the City contained hereunder. Accordingly, it is acknowledged by the DUS Districts, that the purpose of this Section 2.5 is to ensure that the City, the Administrative Agent and the Lenders receive all payments due herein in a timely manner.

In addition, and without limiting the generality of the foregoing, the obligations of the DUS Districts to transfer funds to the City for each payment described herein shall survive any Court determination of the invalidity of this Agreement as a result of a failure, or alleged failure, of any of the directors of the DUS Districts to properly disclose, pursuant to State law, any potential conflicts of interest related hereto in any way, provided that such disclosure is made on the record of the DUS Districts meetings as set forth in their official minutes.

2.6 Limited Defenses; Specific Performance. It is understood and agreed by the DUS Districts that their obligations hereunder are absolute, irrevocable, and unconditional except as specifically stated herein, and so long as any obligation of the DUS Districts hereunder remains unfulfilled, each of the DUS Districts agree notwithstanding any fact, circumstance, dispute, or any other matter, or an Event of Default by the City hereunder, that it will not assert any rights of setoff, counterclaim, estoppel, or other defenses to its payment obligations, or take or fail to take any action which would delay a payment to the City, the Administrative Agent or the Lenders or impair the City's, the Administrative Agent's or the Lenders' ability to receive payments due hereunder. Notwithstanding that this Agreement specifically prohibits and limits defenses and claims of the DUS Districts, in the event any of the DUS Districts believes that it has valid defenses, setoffs, counterclaims, or other claims other than specifically permitted by this Section 2.6, it shall, nevertheless, make all payments to the City, the Administrative Agent or the Lenders as described herein and then may attempt or seek to recover such payments by actions at law or in equity for damages or specific performance, respectively.

2.7 Additional Covenants of DUS District Nos. 1, 2 and 3

- (a) None of the DUS Districts will issue or incur bonds, notes, or other obligations payable in whole or in part from, or constituting a lien upon, the DUS Project Mill Levy of any of the DUS Districts or the DUS Districts Pledged Revenues.
- (b) DUS District No. 1 shall keep and maintain, or cause to be kept and maintained, accurate records and accounting entries reflecting all funds received from DUS District No. 2 or DUS District No. 3 and the use(s) of such funds, including monthly unaudited financial statements reflecting the information contained in the accounting records.
- (c) At least once a year in the time and manner provided by law, each DUS District will cause an audit or audit exemption to be performed of the records relating to revenues and expenditures of such DUS District. In addition, at least once a year in the time and manner provided by law, each DUS District will cause a budget to be prepared and adopted. Copies of the budget and the audit will be filed and recorded in the places, time, and manner provided by law.
- (d) Each of DUS District Nos. 2 and 3 agree that no property will be excluded from its respective boundaries without the prior written consent of the City, the Administrative Agent and the Lenders.

2.8 Additional Covenants of the City

- (a) The City shall keep and maintain, or cause to be kept and maintained, accurate records and accounting entries reflecting all funds received from the DUS Districts and the use(s) of such funds, including monthly unaudited financial statements reflecting the information contained in the accounting records and shall provide such records upon request to the Administrative Agent.
- (b) In accordance with state law, the City will cause an audit to be performed of the records relating to revenues and expenditures of the City at least once a year. In addition, at least once a year the City will cause a budget to be prepared and adopted. Copies of the budget and the audit will be filed and recorded in the places, time, and manner provided by law
- (c) Upon the occurrence of an event of default under the Loan Agreement of which the City has notice, the City shall within three business days of such notice provide written notice to the DUS Districts of such event of default.
- (d) The City shall not take or consent to any action that would have the effect of reducing the Pledged Revenue (as defined in the Loan Agreement), without the prior written consent of the DUS Districts.
- (e) The City shall take no action nor consent to any action that could have the effect of excluding property from the DUS Plan Area, without the prior written consent of the DUS Districts.

ARTICLE 3
REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of DUS District Nos. 1-3. Each of the DUS Districts hereby makes the following representations and warranties with respect to itself:

(a) It is a quasi-municipal corporation and political subdivision duly organized and validly existing under the laws of the State.

(b) It has all requisite corporate power and authority to execute, deliver, and to perform its obligations under this Agreement. Its execution, delivery, and performance of this Agreement have been duly authorized by all necessary action.

(c) It is not in violation of any of applicable provisions of law or any order of any court having jurisdiction in the matter, which violation could reasonably be expected to materially adversely affect the ability of such DUS District to perform its obligations hereunder. The execution, delivery and performance by it of this Agreement (i) will not violate any provision of any applicable law or regulation or of any order, writ, judgment or decree of any court, arbitrator, or governmental authority, (ii) will not violate any provision of any document or agreement constituting, regulating, or otherwise affecting the operations or activities of it in a manner that could reasonably be expected to result in a material adverse effect on its ability to perform its obligations hereunder or its operations or financial condition, and (iii) will not violate any provision of, constitute a default under, or result in the creation or imposition of any lien, mortgage, pledge, charge, security interest, or encumbrance of any kind on any of the revenues or other assets of it pursuant to the provisions of any mortgage, indenture, contract, agreement, or other undertaking to which it is a party or which purports to be binding upon it or upon any of its revenues or other assets which could reasonably be expected to result in a material adverse effect on its ability to perform its obligations hereunder or its operations or financial condition.

(d) It has obtained all consents and approvals of, and has made all registrations and declarations with any governmental authority or regulatory body required for its execution, delivery, and performance of this Agreement.

(e) There is no action, suit, inquiry, investigation, or proceeding to which it is a party, at law or in equity, before or by any court, arbitrator, governmental or other board, body, or official which is pending or, to its knowledge, is threatened, in connection with any of the transactions contemplated by this Agreement nor, to its best knowledge, is there any basis therefor, wherein an unfavorable decision, ruling, or finding could reasonably be expected to have a material adverse effect on the validity or enforceability of, or the authority or ability of such DUS District to perform its obligations under, this Agreement.

This Agreement constitutes the legal, valid, and binding obligation of the DUS Districts, enforceable against each of the DUS Districts in accordance with its terms (except as such enforceability may be limited by bankruptcy, moratorium, or other similar laws affecting creditors'

rights generally and provided that the application of equitable remedies is subject to the application of equitable principles).

ARTICLE 4
NON-COMPLIANCE AND REMEDIES

4.1 Events of Non-Compliance. The occurrence or existence of any one or more of the following events shall be an “**Event of Non-Compliance**” hereunder, and there shall be no default or Event of Non-Compliance hereunder except as provided in this Section:

- (a) DUS District No. 2 or DUS District No. 3 fails or refuses to impose the DUS Project Mill Levy or any of the DUS Districts fails to remit the DUS Districts Pledged Revenues as required by the terms of this Agreement;
- (b) any representation or warranty made by any DUS District or the City in this Agreement proves to have been untrue or incomplete in any material respect when made and which untruth or incompleteness would have a material adverse effect upon any other Party;
- (c) any DUS District or the City fails in the performance of any other of its covenants in this Agreement, and such failure continues for 60 days after written notice specifying such default and requiring the same to be remedied is given to any of the Parties hereto;
- (d) any of the DUS Districts commence proceedings for dissolution or consolidation with another metropolitan district during the term of this Agreement without the prior written consent of the City; or
- (e) the City shall fail to deposit into the Special Fund or fail to apply or cause to be applied moneys in the Special Fund to pay Loan Costs, in accordance with the Loan Agreement;
- (f) (i) any DUS District(s) or the City shall commence any case, proceeding, or other action (A) under any existing or future law of any jurisdiction relating to bankruptcy, insolvency, reorganization, or relief of debtors, seeking to have an order for relief entered with respect to it or seeking to adjudicate it insolvent or a bankrupt or seeking reorganization, arrangement, adjustment, winding up, liquidation, dissolution, composition, or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian, or other similar official for itself or for any substantial part of its property, or making a general assignment for the benefit of its or their creditors; or (ii) there shall be commenced against any DUS District(s) or the City any case, proceeding, or other action of a nature referred to in clause (i) and the same shall remain not dismissed within 90 days following the date of filing; or (iii) there shall be commenced against any DUS District(s) or the City any case, proceeding, or other action seeking issuance of a warrant of attachment, execution, distraint, or similar process against all or any substantial part of its or their property which results in the entry of an order for any such relief which shall not have been vacated, discharged, stayed, or bonded pending appeal within 90 days from the entry thereof; or (iv) any DUS District(s) or the City shall take action in furtherance of, or indicating its or their consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii)

or (iii) above; or (v) any DUS District(s) or the City shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due.

4.2 Remedies For Events of Non-Compliance. Subject to Section 2.6 hereof, upon the occurrence and continuance of an Event of Non-Compliance, any Party may proceed to protect and enforce its rights against the Party or Parties causing the Event of Non-Compliance by mandamus or such other suit, action, or special proceedings in equity or at law, in any court of competent jurisdiction, including an action for specific performance. In the event of any litigation or other proceeding to enforce any of the terms, covenants or conditions hereof, the prevailing Party in such litigation or other proceeding shall obtain, as part of its judgment or award, its reasonable attorneys' fees and costs. In addition, the Administrative Agent and the Lenders may exercise such other remedy as is available to it or them pursuant to the Loan Agreement. The DUS Districts acknowledge and agree that a reduction in or termination of the DUS Project Mill Levy or withholding of any portion of the DUS Districts Pledged Revenues from remittance to the City in accordance with the terms hereof is not an available remedy for any Event of Non-Compliance by the City.

ARTICLE 5 **MISCELLANEOUS**

5.1 Pledge of Revenue. The creation, perfection, enforcement, and priority of the pledge of revenues to secure or pay the Payment Obligation of the DUS Districts shall be governed by § 11-57-208 of the Supplemental Act and this Agreement. The DUS Districts Pledged Revenues shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge shall be valid, binding, and enforceable as against all persons having claims of any kind in tort, contract, or otherwise against any of the DUS Districts irrespective of whether such persons have notice of such liens.

5.2 No Recourse Against Officers and Agents. Pursuant to § 11-57-209 of the Supplemental Act, if any member of the Board of any of the DUS Districts, or any officer or agent of any of the DUS Districts acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the Payment Obligation. Such recourse shall not be available either directly or indirectly through the Board or the applicable DUS District, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of this Agreement and as a part of the consideration hereof, each of the DUS Districts and the City specifically waives any such recourse.

5.3 Conclusive Recital. Pursuant to § 11-57-210 of the Supplemental Act, this Agreement contains a recital that the Payment Obligation is issued pursuant to certain provisions of the Supplemental Act, and such recital is conclusive evidence of the validity and the regularity of this Agreement after its delivery for value.

5.4 Limitation of Actions. Pursuant to § 11-57-212 of the Supplemental Act, no legal or equitable action brought with respect to any legislative acts or proceedings in connection with the authorization, execution, or delivery of this Agreement shall be commenced more than thirty (30) days after the authorization of this Agreement.

5.5 Opinion. At the time of execution and delivery of the Loan Agreement each of the DUS Districts shall deliver an opinion from its respective bond counsel addressed to the City, the Administrative Agent and each Lender and as required by the Loan Agreement, which opinion shall include without limitation a statement that this Agreement has been duly authorized, executed, and delivered by each of the DUS Districts, constitutes a valid and binding agreement of each of the DUS Districts, enforceable according to its terms, subject to any applicable bankruptcy, reorganization, insolvency, moratorium, or other law affecting the enforcement of creditors' rights generally and subject to the application of general principles of equity and containing such other opinions or statements as are required by the Loan Agreement.

5.6 Notices. Except as otherwise provided herein, all notices or payments required to be given under this Agreement shall be in writing and shall be hand delivered or sent by certified mail, return receipt requested, to the following addresses:

The City City and County of Denver
c/o [_____]
201 West Colfax Avenue
Denver, Colorado 80202

With a copy to: Butler Snow LLP
1801 California Street
Suite 5100
Denver, Colorado 80202

DUS Districts: McGeady Becher, P.C.
c/o Mary Jo Dougherty
450 East 17th Avenue
Suite 400
Denver, Colorado 80203

With a copy to: McGeady Becher, P.C.
c/o Mary Jo Dougherty
450 East 17th Avenue
Suite 400
Denver, Colorado 80203

Administrative Agent: BBVA Compass
c/o Matthew Chorske
999 18th Street
Suite 2800
Denver, Colorado 80202

Compass Mortgage
Corporation:

Compass Mortgage Corporation
c/o Matthew Chorske
999 18th Street
Suite 2800
Denver, Colorado 80202

U.S. Bank National
Association:

[_____]

With a copy to:

Ballard Spahr
c/o Anastasia G. Khokhryakova
1225 17th Street
Suite 2300
Denver, Colorado 80202

All notices or documents delivered or required to be delivered under the provisions of this Agreement shall be deemed received one day after hand delivery or three days after mailing. Any Party by written notice so provided may change the address to which future notices shall be sent.

5.7 Miscellaneous.

(a) This Agreement constitutes the final, complete, and exclusive statement of the terms of the agreement between the Parties pertaining to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings or agreements of the Parties. This Agreement may not be contradicted by evidence of any prior or contemporaneous statements or agreements. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation, understanding, agreement, commitment, or warranty outside those expressly set forth in this Agreement.

(b) If any term or provision of this Agreement is determined to be illegal, unenforceable, or invalid in whole or in part for any reason, such illegal, unenforceable, or invalid provisions or part thereof shall be stricken from this Agreement, and such provision shall not affect the legality, enforceability, or validity of the remainder of this Agreement. If any provision or part thereof of this Agreement is stricken in accordance with the provisions hereof, then such stricken provision shall be replaced, to the extent possible, with a legal, enforceable, and valid provision that is as similar in tenor to the stricken provision as is legally possible.

(c) It is intended that there be no third party beneficiaries of this Agreement. Nothing contained herein, expressed or implied, is intended to give to any person other than the City, the Administrative Agent, on behalf of the Lenders, the Lenders and the DUS Districts any claim, remedy, or right under or pursuant hereto, and any agreement, condition, covenant, or term

contained herein required to be observed or performed by or on behalf of any Party hereto shall be for the sole and exclusive benefit of the other Parties.

(d) This Agreement may not be assigned or transferred by any Party without the prior written consent of each of the other Parties, except that this Agreement may be assigned by a Lender to a transferee of its rights under the Loan Agreement and by the Administrative Agent to a successor Administrative Agent without the consent of any other Party.

(e) This Agreement shall be governed by and construed under the applicable laws of the State.

(f) This Agreement may be amended or supplemented by the Parties, but any such amendment or supplement must be in writing and must be executed by all Parties.

(g) If the date for making any payment or performing any action hereunder shall be a legal holiday or a day on which banks in Denver, Colorado are authorized or required by law to remain closed, such payment may be made or act performed on the next succeeding day which is not a legal holiday or a day on which banks in Denver, Colorado are authorized or required by law to remain closed.

(h) Each Party has participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not apply in interpreting this Agreement. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any Party.

(i) This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

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

(k) The City, the Lenders, the Administrative Agent and the DUS Districts shall have the right to access and review the City's, the Administrative Agent's and the DUS Districts' records and accounts, on reasonable times during each Party's regular office hours, for purposes of determining compliance with the terms of this Agreement.

(1) Each Party covenants that it will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, such acts, instruments, and transfers as may reasonably be required for the performance of its obligations hereunder.

5.9 Effective Date and Termination Date. This Agreement shall become effective on the Effective Date and shall remain in effect until the Termination Date.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the City, the DUS Districts, the Administrative Agent and the Lenders have executed this Agreement as of this ___ day of _____, 2017.

CITY AND COUNTY OF DENVER, COLORADO

(CITY SEAL)

By: _____
Mayor

ATTEST:

By: _____
Clerk and Recorder, *ex officio*
Clerk of the City and County of
Denver

Approved as to Form:

Registered and Countersigned:

By: _____
City Attorney

By: _____
Manager of Finance, Chief Financial Officer
ex officio Treasurer

By: _____
Auditor

Attest:

DUS METROPOLITAN DISTRICT NO. 1

Secretary

By: _____
Frank Cannon, Chair

Attest:

DUS METROPOLITAN DISTRICT NO. 2

Secretary

By: _____
Frank Cannon, Chair

Attest:

DUS METROPOLITAN DISTRICT NO. 3

Secretary

By: _____
Frank Cannon, Chair

COMPASS BANK

By: _____
Matthew J. Chorske, Senior Vice President

COMPASS MORTGAGE CORPORATION

By: _____
Matthew J. Chorske, Senior Vice President

U.S. BANK NATIONAL ASSOCIATION

By: _____

Title: _____