

RESOLUTION NO. 17-65

OF THE

CITY OF PENSACOLA, FLORIDA

ADOPTED OCTOBER 12, 2017

RELATING TO:

\$25,000,000

CITY OF PENSACOLA, FLORIDA  
INFRASTRUCTURE SALES SURTAX REVENUE BOND, SERIES 2017

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RESOLUTION NO. 17-65

A RESOLUTION AUTHORIZING THE ISSUANCE BY THE CITY OF PENSACOLA, FLORIDA OF AN INFRASTRUCTURE SALES SURTAX REVENUE BOND, SERIES 2017, IN THE PRINCIPAL AMOUNT OF \$25,000,000 TO FINANCE INFRASTRUCTURE CAPITAL IMPROVEMENTS WITHIN THE CITY; PLEDGING THE PLEDGED REVENUES FOR THE PAYMENT OF SAID SERIES 2017 BOND; PROVIDING FOR THE PAYMENT OF THE SERIES 2017 BOND AND THE EXECUTION OF THE RELATED FINANCING DOCUMENTS IN CONNECTION THEREWITH; AUTHORIZING THE AWARD OF THE SALE OF THE SERIES 2017 BOND; AUTHORIZING FURTHER OFFICIAL ACTION IN CONNECTION WITH THE DELIVERY OF THE SERIES 2017 BOND; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA, that:

**Section 1. Authority for this Resolution.** This Resolution is adopted pursuant to the provisions of the Constitution and Statutes of the State of Florida, including particularly Chapter 166, Part II Florida Statutes, as amended, Section 212.055, Florida Statutes, Chapter 218, Part VI, Florida Statutes, the municipal charter of the City of Pensacola, Florida (the "Issuer"), and other applicable provisions of law (collectively, the "Act").

**Section 2. Definitions.** The following terms shall have the following meanings when used in this resolution unless the context clearly requires otherwise. Words importing singular numbers shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations. Capitalized terms used herein and not otherwise defined shall have the meaning set forth in the Loan Agreement (herein defined).

"Bond Counsel" means Bryant Miller Olive P.A. or any subsequent nationally recognized bond counsel acceptable to the Issuer.

"Charter" means the municipal charter of the Issuer.

"Chief Financial Officer" means the Chief Financial Officer of the Issuer, or his or her designee.

"City" means the City of Pensacola, Florida, a municipal corporation of the State.

"City Administrator" means the City Administrator of the Issuer, or any acting or interim City Administrator, or his or her designee.

“City Attorney” means the City Attorney of the Issuer, or his or her designee.

“City Council” means the City Council of the Issuer, as the governing body of the Issuer.

“Clerk” means the Clerk of the Issuer, any acting, deputy, or assistant Clerk, or his or her designee.

“Commitment” means the Commitment for purchase of the Series 2017 Bond and the provision of the Loan, submitted to the Issuer by the Lender and accepted by the Issuer with such changes as agreed to by the City and the Lender.

“County” means Escambia County, Florida.

“Financial Advisor” means RBC Capital Markets, LLC.

“Infrastructure Sales Surtax” shall mean the proceeds received by the Issuer, as its share determined in accordance with the Act, from the levy and collection by the County of the one-cent discretionary infrastructure sales surtax pursuant to Chapter 212, Part I, Florida Statutes.

“Lender” means Compass Mortgage Corporation, an Alabama corporation, and its successors and/or assigns.

“Loan” means the advance of moneys from the Lender to the Issuer pursuant to the Loan Agreement.

“Loan Agreement” means the agreement between the Lender and the Issuer setting forth the terms and details of the Loan, in substantially the form attached hereto as Exhibit A with such changes, modifications, insertions or deletions as are authorized herein.

“Mayor” means the Mayor of the Issuer or the City Administrator or Chief Financial Officer on behalf of the Mayor.

“Pledged Revenues” means (i) the Infrastructure Sales Surtax, (ii) moneys on deposit in the funds and accounts created under the Loan Agreement (other than amounts constituting any rebate liability as described in the Tax Certificate therein defined), and (iii) certain investment earnings.

“Project” means the acquisition, construction, renovation and equipping of additions, extensions, and improvements to the facilities and general infrastructure of the Issuer constituting “infrastructure” as defined in the Act, including, without limitation, all property rights, appurtenances, easements, franchises and equipment relating thereto and deemed necessary or convenient for the acquisition, construction, renovation and equipping thereof, in accordance with plans on file or to be on file with the Chief Financial Officer.

“Resolution” means, collectively, this resolution and all resolutions amendatory hereof and supplemental hereto.

“Series 2017 Bond” means the City of Pensacola, Florida, Infrastructure Sales Surtax Revenue Bond, Series 2017, authorized herein, in substantially the form attached to the Loan Agreement as Exhibit A, with such changes, modifications, insertions or deletions as are authorized herein.

“State” means the State of Florida.

**Section 3. Findings.** It is hereby found, declared, and determined by the City Council:

(A) On August 21, 2014, the Board of County Commissioners of the County enacted Ordinance No. 2014-32 authorizing the County to levy a one percent infrastructure sales surtax for a period commencing January 1, 2018 and concluding December 31, 2028, and provided that the distribution of the proceeds of the surtax to the incorporated municipalities of the County shall be as set forth in Section 218.62, Florida Statutes. Such levy was approved by referendum of the County’s electorate on November 4, 2014.

(B) The Issuer has determined that it is necessary and in the best interests of the health, safety and welfare of the Issuer and its inhabitants that the Issuer undertake the Project. Issuance of the Series 2017 Bond to construct the Project satisfies a paramount public purpose.

(C) The Issuer is without currently available funds to pay the cost of the Project, and it is necessary and desirable that the Issuer borrow the moneys necessary to provide for payment of the Project.

(D) On February 11, 2016, the City Council of the City adopted Resolution No. 01-16 expressing its intent for purposes of Section 1.150-2 of the Income Tax Regulations promulgated pursuant to the Internal Revenue Code of 1986, as amended, to be reimbursed from proceeds of a future tax-exempt financing for capital expenditures with respect to the Project.

(E) The Pledged Revenues are not currently pledged to any obligation of the Issuer.

(F) The Series 2017 Bond will be payable from the Pledged Revenues and as may be further described in the Loan Agreement. The Pledged Revenues are anticipated to be sufficient to pay the principal of and accrued interest on the Series 2017 Bond as the same becomes due.

(G) The obligation of the Issuer to repay the Series 2017 Bond in accordance with its terms and to make the payments required under the Loan Agreement is hereby declared to be and shall be a special, limited obligation of the Issuer, solely secured by and payable from the

Pledged Revenues and as may be further described in the Loan Agreement. The obligation of the Issuer to repay the Series 2017 Bond in accordance with its terms and to make any other payments, if any, required under the Series 2017 Bond or the Loan Agreement shall not be or constitute a general obligation or indebtedness of the Issuer and neither the Series 2017 Bond nor the Loan Agreement shall be or constitute a general obligation or indebtedness of the Issuer. Neither the Lender nor any successor owner of the Series 2017 Bond shall be entitled to compel the exercise of the ad valorem taxing power of the Issuer or the payment of the principal or interest on the Series 2017 Bond or the making of any payments required under the Series 2017 Bond or the Loan Agreement from any moneys of the Issuer other than the Pledged Revenues and any other moneys of the Issuer as may be more fully described in the Loan Agreement.

(H) It is necessary and desirable to provide for the securing of the Loan and for the execution and delivery of the Loan Agreement, the issuance of the Series 2017 Bond and the taking of all other action in connection with the consummation of the Loan.

(I) It is necessary and desirable to approve the estimated costs of issuance to be paid by the Issuer with proceeds of the Series 2017 Bond in connection with the delivery of the Series 2017 Bond and the Loan Agreement.

(J) The Financial Advisor has solicited proposals for the purchase of the Series 2017 Bond pursuant to a negotiated private placement.

#### **Section 4. Authorization of Series 2017 Bond and Project.**

(A) Subject and pursuant to the provisions hereof, the issuance by the Issuer of its Series 2017 Bond, in an aggregate principal amount of Twenty-five Million Dollars (\$25,000,000), to be dated, to bear interest, to be payable, to mature, to be subject to prepayment, to have such other characteristics as provided herein and in the Series 2017 Bond, the Commitment and the Loan Agreement, and to be secured as provided in the Loan Agreement is hereby authorized.

(B) The financing of the Project is hereby authorized (including reimbursing the Issuer for costs of the Project previously incurred in anticipation of the issuance of the Series 2017 Bond, if any). The City Council and the proper officers of the Issuer are hereby directed to take all action and steps deemed necessary to construct the Project, which are not inconsistent with the terms and provisions of this Resolution or the Loan Agreement.

#### **Section 5. Award of Series 2017 Bond.**

Because of the characteristics of the Series 2017 Bond and prevailing and expected market conditions, it is in the best interest of the Issuer to accept the offer of the Lender to purchase the Series 2017 Bond at a private negotiated sale, which was based upon a competitive selection process. Prior to the issuance of the Series 2017 Bond, the Issuer shall receive from the Lender a Lender's Certificate, in substantially the form attached hereto as Exhibit B and a

Disclosure Letter containing the information required by Section 218.385, Florida Statutes, in substantially the form attached hereto as Exhibit C.

The Issuer hereby accepts the Commitment of the Lender; provided, however, in the event of any inconsistencies as between such Commitment and the Loan Agreement, the Series 2017 Bond and this Resolution, the provisions of the Loan Agreement, the Series 2017 Bond and this Resolution shall control.

**Section 6. Approval of Form of Loan Agreement and Series 2017 Bond.** Subject to the conditions described in this Section, the Loan Agreement, in substantially the form attached hereto as Exhibit A, and the Series 2017 Bond, in substantially the form attached to the Loan Agreement as Exhibit A, are hereby approved, subject to such changes, modifications, insertions and deletions as may be made therein and approved by the Mayor upon the advice of the City Attorney, the Chief Financial Officer, Bond Counsel and/or the Financial Advisor, such approval to be conclusively evidenced by the execution and delivery thereof by the Issuer. Pursuant to Section 4.01(1) of its Charter, the Issuer hereby authorizes the Mayor to execute the Loan Agreement and Series 2017 Bond, such execution to be attested under seal by the City Clerk, approved as to substance by the Chief Financial Officer and designated as legal in form and valid as drawn by the City Attorney and further authorizes the Mayor to deliver the Loan Agreement and the Series 2017 Bond to the Lender, and to take such other actions as shall be necessary to consummate the Loan.

Upon execution and delivery of the Loan Agreement pursuant to the terms of this Resolution, all of the provisions of said Loan Agreement shall be deemed to be part of this Resolution as fully and to the same extent as if incorporated verbatim herein.

**Section 7. Authorization of Other Action.** The Mayor, City Administrator, City Attorney, the Clerk, the Chief Financial Officer and such other authorized officers, employees and agents of the Issuer are each designated agents of the Issuer in connection with the execution and delivery of the Loan Agreement and the Series 2017 Bond and are authorized and empowered, collectively or individually, to take all action and steps to execute and deliver any and all instruments, documents or contracts on behalf of the Issuer which are necessary or desirable in connection with the execution and delivery of the Loan Agreement and the Series 2017 Bond to the Lender, including, but not limited to, the making of modifications to the Loan Agreement and the Series 2017 Bond herein authorized.

**Section 8. Application of Proceeds of Loan.** The proceeds of the Loan shall be used as more fully described in the Loan Agreement and includes the payment of related associated costs of issuance (including but not limited to legal and financial advisory fees and expenses).

**Section 9. Repeal of Inconsistent Provisions.** All resolutions or parts thereof in conflict with this Resolution are hereby repealed to the extent of such conflict.

**Section 10. Severability.** If any one or more of the covenants, agreements, or provisions of this Resolution should be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements, or provisions shall be null and void and shall be deemed separate from the remaining covenants, agreements or provisions, and in no way affect the validity of all other provisions of the Resolution or of the Series 2017 Bond or Loan Agreement delivered hereunder.

**Section 11. Amendment.** This Resolution may not be amended or repealed following the issuance of the Series 2017 Bond except with the prior written consent of the Lender.

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**Section 12. Effective Date.** This Resolution shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the Charter of the Issuer.

Adopted: October 12, 2017

[SEAL]

Approved: \_\_\_\_\_  
Brian Spencer, Council President

ATTEST:

\_\_\_\_\_  
Ericka L. Burnett, City Clerk

EXHIBIT A

FORM OF LOAN AGREEMENT

[Follows]

LOAN AGREEMENT

by and between

CITY OF PENSACOLA, FLORIDA

and

COMPASS MORTGAGE CORPORATION

Dated October 18, 2017

relating to

\$25,000,000

CITY OF PENSACOLA, FLORIDA  
INFRASTRUCTURE SALES SURTAX REVENUE BOND, SERIES 2017

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## LOAN AGREEMENT

This LOAN AGREEMENT is made and entered into as of October 18, 2017 by and between CITY OF PENSACOLA, FLORIDA, a municipal corporation of the State of Florida (the "Issuer"), and COMPASS MORTGAGE CORPORATION, an Alabama corporation (together with its successors and/or assigns, the "Lender").

### WITNESSETH:

WHEREAS, the Issuer has previously determined that it is necessary for the health, safety and welfare of the Issuer and in the best interest of its inhabitants that the Issuer undertake the Project hereinafter described, and that the Project satisfies a paramount public purpose of the Issuer; and

WHEREAS, on February 11, 2016, the City Council of the Issuer adopted Resolution No. 01-16 expressing its intent, for purposes of Section 1.150-2 of the Treasury Regulations promulgated under the Code (as defined herein), to be reimbursed from proceeds of a future tax-exempt financing for capital expenditures with respect to the Project (as defined herein); and

WHEREAS, the Issuer has determined that it is without adequate currently available funds to pay Project Costs (as herein defined) and that it will be necessary that funds be made available to the Issuer in order to undertake the Project; and

WHEREAS, the Lender has agreed to lend the Issuer an aggregate principal amount of \$25,000,000 to be used to pay Project Costs upon the terms and conditions provided herein; and

WHEREAS, on August 21, 2014, the Board of County Commissioners of Escambia County, Florida (the "County"), enacted Ordinance No. 2014-32 authorizing the County to levy a one percent infrastructure sales surtax for a period commencing January 1, 2018 and concluding December 31, 2028, and provided that the distribution of the proceeds of the surtax to the incorporated municipalities of the County shall be as set forth in Section 218.62, Florida Statutes; and

WHEREAS, such levy was approved by referendum of the County's electorate on November 4, 2014; and

WHEREAS, the Issuer has determined that the annual receipt of Pledged Revenues (as herein defined) are anticipated to be sufficient in each year to repay the annual debt service coming due on the Series 2017 Bond (as herein defined); and

WHEREAS, pursuant to the Resolution (as herein defined), the Issuer has determined that it is in the best interest of the health, safety and welfare of the Issuer and the inhabitants thereof that the Issuer pledge the Pledged Revenues to secure the obligations of the Issuer to

repay the principal of and interest on the Issuer's Infrastructure Sales Surtax Revenue Bond, Series 2017 (the "Series 2017 Bond") when due; and

WHEREAS, the obligation of the Issuer to repay principal of and interest on the Series 2017 Bond will not constitute a general obligation or indebtedness of the Issuer as a "bond" within the meaning of any provision of the Constitution or laws of the State of Florida, but shall be and is hereby declared to be a special, limited obligation of the Issuer, solely secured by and payable from the Pledged Revenues, all as more fully described herein and in the Resolution; and

WHEREAS, the Issuer is not authorized to levy taxes on any property of or in the Issuer to pay the principal of or interest on the Series 2017 Bond or to make any other payments provided for herein; and

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

SECTION 1. DEFINITIONS. Capitalized terms used in this Loan Agreement and not defined in this Section 1 shall have the meanings assigned in the Resolution. The following terms shall have the following meanings herein, unless the text otherwise expressly requires:

"Additional Obligations" means bonds, notes or other debt obligations hereafter issued payable from Pledged Revenues on a parity with the Series 2017 Bond.

"Authorized Investments" means any investment, obligation, agreement or other financial instrument to the extent not inconsistent with the terms of the investment policy of the Issuer and applicable law.

"Bond Counsel" means Bryant Miller Olive P.A. or any other nationally recognized bond counsel subsequently appointed by the Issuer.

"Bonds" shall mean bonds, notes or other debt obligations authorized and issued pursuant to this Resolution and any Additional Obligations issued hereafter in accordance with the provisions hereof.

"Business Day" means any day of the year other than a day on which the Lender or the Issuer are lawfully closed for business.

"Chief Financial Officer" means the Chief Financial Officer of the Issuer, or his or her designee.

"City" means the City of Pensacola, Florida, a municipal corporation of the State.

“City Administrator” means the City Administrator of the Issuer, or any acting or interim City Administrator, or his or her designee.

“City Attorney” means the City Attorney of the Issuer, or his or her designee.

“City Council” means the City Council of the Issuer, as the governing body of the Issuer.

“Clerk” means the Clerk of the Issuer, any acting, deputy, or assistant Clerk, or his or her designee.

“Code” means the Internal Revenue Code of 1986, as amended.

“County” means Escambia County, Florida.

“Date of Delivery” means October 18, 2017.

“Default” means an Event of Default as defined and described in Section 14 hereof.

“Fiscal Year” means the period from each October 1 to the succeeding September 30.

“Interest Payment Date” means each April 1 and October 1 commencing April 1, 2018, and continuing through the Maturity Date.

“Lender” or “Purchaser” means Compass Mortgage Corporation, an Alabama corporation, and its successors and/or assigns.

“Infrastructure Sales Surtax” shall mean the proceeds received by the Issuer, as its share determined in accordance with the Act, from the levy and collection by the County of the one-cent discretionary infrastructure sales surtax pursuant to Chapter 212, Part I, Florida Statutes.

“Loan” means the advance of moneys from the Lender to the Issuer pursuant to this Loan Agreement.

“Loan Agreement” means this agreement between the Lender and the Issuer setting forth the terms and details of the Loan.

“Maturity Date” means October 1, 2028.

“Maximum Annual Debt Service” means the maximum annual debt service requirement on the Series 2017 Bond and any Additional Obligations issued hereunder pursuant to Section 10(F) hereof for the then current and any subsequent Fiscal Year.

“Mayor” means the Mayor of the Issuer or the City Administrator or Chief Financial Officer on behalf of the Mayor.

“Paying Agent” means an officer of the Issuer or the bank or trust company which the Issuer may from time to time designate to serve as paying agent for the Series 2017 Bond. The Paying Agent shall initially be the Chief Financial Officer.

“Payment Date” means any Interest Payment Date or Principal Payment Date.

“Person” or words importing persons, means firms, associations, partnerships (including without limitation, general and limited partnerships), joint ventures, societies, estates, trusts, corporations, public or governmental bodies, other legal entities, and natural persons.

“Pledged Revenues” means (i) the Infrastructure Sales Surtax, (ii) moneys on deposit in the funds and accounts created hereunder (other than amounts constituting any rebate liability as described in the Tax Certificate), and (iii) certain investment earnings.

“Principal Amount” means Twenty-Five Million Dollars (\$25,000,000).

“Principal Payment Date” means each October 1 commencing October 1, 2018, and continuing through the Maturity Date.

“Project” means the acquisition, construction, renovation and equipping of additions, extensions, and improvements to the facilities and general infrastructure of the Issuer constituting "infrastructure" as defined in the Act, including, without limitation, all property rights, appurtenances, easements, franchises and equipment relating thereto and deemed necessary or convenient for the acquisition, construction, renovation and equipping thereof, in accordance with plans on file or to be on file with the Chief Financial Officer.

“Project Costs” means a portion of the cost of undertaking the Project including, but not limited to: engineering, legal, accounting, and financial expenses; expenses for estimates of costs and of revenues; expenses for plans, specifications and surveys; fees of fiscal agents, financial advisors or consultants; administrative expenses relating solely to the Project; the costs of acquiring and constructing the Project, reimbursement to the Issuer for any sums heretofore expended for the foregoing purposes and such other costs and expenses as may be necessary or incidental to the financing or refinancing of the Project.

“Register” means the books maintained by the Registrar in which are recorded the name and address of the Registered Owner of the Series 2017 Bond.

“Registered Owner” means the person in whose name the ownership of the Series 2017 Bond is registered on the books maintained by the Registrar. The initial Registered Owner shall be the Lender.

“Registrar” means the Person maintaining the Register. The Registrar shall initially be the Chief Financial Officer.



“Regulations” means the Income Tax Regulations promulgated by the Internal Revenue Service under Sections 103 and 141 through 150 of the Code.

“Resolution” means Resolution No. 17-65 adopted by the Issuer on October 12, 2017, as may be amended and supplemented from time to time.

“Series 2017 Bond” means the Infrastructure Sales Surtax Revenue Bond, Series 2017, of the Issuer, substantially in the form attached hereto as Exhibit A.

“State” means the State of Florida.

“Tax Certificate” means the Issuer’s Tax Certificate as to Arbitrage and the Provisions of Sections 141-150 of the Internal Revenue Code of 1986, As Amended, dated as of the date hereof.

SECTION 2. INTERPRETATION. Unless the context clearly requires otherwise, words of masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa. This Loan Agreement and all the terms and provisions hereof (a) have been negotiated between the Issuer and the Lender; (b) shall not be construed strictly in favor of or against either party hereto; and (c) shall be construed to effectuate the purpose set forth herein and to sustain the validity hereof.

### SECTION 3. THE LOAN.

A. Loan. The Lender, by the purchase of the Series 2017 Bond, hereby makes and the Issuer hereby accepts the Loan, upon the terms and conditions set forth herein. The purchase price of the Series 2017 Bond shall be \$25,000,000, which is equal to the principal amount of the Series 2017 Bond.

#### B. Disbursement of Proceeds.

(i) The Issuer shall pay all costs and expenses in connection with the preparation, issuance and sale of the Series 2017 Bond.

(ii) Simultaneously with the delivery of the Series 2017 Bond to the Lender, net proceeds of the Series 2017 Bond remaining after payment of costs of issuance shall be deposited into a separate account hereby created and established to be known as the “City of Pensacola, Florida Infrastructure Sales Surtax Revenue Bond, Series 2017 Project Fund” (the “Project Fund”) and shall be used to pay Project Costs. Monies in the Project Fund shall be invested in Authorized Investments, and all income derived therefrom shall be deposited in the Project Fund until the Project has been completed, at which time such income, together with any balance remaining in the Project Fund, shall be used to pay principal of and interest on the Series 2017 Bond.

To the extent there are no other available funds held hereunder, the Issuer shall use any remaining funds in the Project Fund to pay principal of and interest on the Series 2017 Bond in the Event of Default.

Such fund shall be kept separate and apart from all other funds of the Issuer and the moneys on deposit therein shall be withdrawn, used and applied by the Issuer solely for the purposes set forth herein. Such proceeds shall be and constitute trust funds for such purpose and there is hereby created a lien in favor of the Series 2017 Bond upon such money until so applied by the Issuer solely for the purposes set forth herein.

**SECTION 4. DESCRIPTION OF SERIES 2017 BOND.** The obligation of the Issuer to repay the Loan shall be evidenced by the Series 2017 Bond. The Series 2017 Bond shall be dated as of the Date of Delivery, shall mature on the Maturity Date, and shall be in registered form.

The interest rate on the Series 2017 Bond shall be a fixed rate of interest equal to 2.15% per annum. Interest on the Series 2017 Bond shall be calculated on the basis of a 360-day year consisting of twelve 30-day months and shall be paid by wire transfer or other medium acceptable to the Issuer and the Lender.

Principal on the Series 2017 Bond shall be paid in annual installments on each Principal Payment Date, in amounts specified in Schedule I attached to the Series 2017 Bond. Interest on the Series 2017 Bond shall be paid semi-annually on each Interest Payment Date.

The Series 2017 Bond shall be subject to prepayment as described in the Series 2017 Bond.

**SECTION 5. EXECUTION OF SERIES 2017 BOND.** The Series 2017 Bond shall be executed in the name of the Issuer by the Mayor, attested under seal by the City Clerk, approved as to content by the Chief Financial Officer, and designated legal in form and valid as drawn by the City Attorney. The Series 2017 Bond may be signed and sealed on behalf of the Issuer by any person who at the actual time of the execution of the Series 2017 Bond shall hold the appropriate office in the Issuer, although at the date thereof the person may not have been so authorized. The Series 2017 Bond may be executed by the facsimile signatures of the Mayor, the Clerk, the Chief Financial Officer and/or City Attorney, provided that at least one of the Mayor or Clerk's signatures must be a manual signature.

**SECTION 6. REGISTRATION AND TRANSFER OF SERIES 2017 BOND.** There shall be a Registrar who shall be responsible for maintaining the Register. The person in whose name ownership of a Series 2017 Bond is shown on the Register shall be deemed the Registered Owner thereof by the Issuer and the Registrar, who may treat the Registered Owner as the absolute owner of the Series 2017 Bond for all purposes, whether or not the Series 2017 Bond shall be overdue, and any notice to the contrary shall not be binding upon the Issuer or the Registrar.

Ownership of the Series 2017 Bond may be transferred or assigned only as a whole and only upon the Register. Transfer of the Series 2017 Bond (i) shall be restricted to Permitted Lenders, (ii) is not permitted in the event the remaining principal amount outstanding of the Series 2017 Bond is less than \$100,000, and (iii) is subject to consent of the Issuer, which consent shall not be unreasonably withheld. The Series 2017 Bond shall contain a legend that provides that the Registered Owner thereof shall not transfer the Series 2017 Bond except as provided herein.

Upon surrender to the Registrar for transfer or exchange of the Series 2017 Bond accompanied by an assignment or written authorization for exchange, whichever is applicable, duly executed by the Registered Owner or its attorney duly authorized in writing, the Registrar shall deliver in the name of the Registered Owner or the transferee or transferees, as the case may be, a new fully registered Series 2017 Bond of the same amount, maturity and interest rate as the Series 2017 Bond surrendered. Provided however, any assignment or transfer by the Registered Owner of the Series 2017 Bond shall be in whole and not in part.

The Series 2017 Bond presented for transfer, exchange, redemption or payment (if so required by the Issuer or the Registrar) shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guaranty of signature satisfactory to the City Attorney, Bond Counsel, or the Registrar, duly executed by the Registered Owner or by his duly authorized attorney.

The City Administrator and the Registrar may charge the Registered Owner a sum sufficient to reimburse them for any expenses incurred in making any exchange or transfer after the first such exchange or transfer following the delivery of such Series 2017 Bond. The Registrar or the City Administrator may also require payment from the Registered Owner or his transferee, as the case may be, of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto by any governmental entity other than the Issuer. Such charges and expenses shall be paid before any such new Series 2017 Bond shall be delivered.

The new Series 2017 Bond delivered upon any transfer or exchange shall be a valid obligation of the Issuer, evidencing the same debt as the Series 2017 Bond surrendered, shall be secured under this Loan Agreement, and shall be entitled to all of the security and benefits hereof to the same extent as the Series 2017 Bond surrendered.

Whenever a Series 2017 Bond shall be delivered to the Registrar for cancellation, upon payment of the principal amount thereof, or for replacement, transfer or exchange, such Series 2017 Bond shall be cancelled and destroyed by the Registrar, and counterparts of a certificate of destruction evidencing such destruction shall be furnished to the Issuer.

**SECTION 7. SERIES 2017 BOND MUTILATED, DESTROYED, STOLEN OR LOST.** In case the Series 2017 Bond shall be mutilated, or be destroyed, stolen or lost, upon the Registered Owner furnishing the Registrar satisfactory indemnity and complying with such

other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur, the Registrar shall issue and deliver a new Series 2017 Bond of like tenor as the Series 2017 Bond so mutilated, destroyed, stolen or lost, in lieu of or substitution for the Series 2017 Bond, if any, destroyed, stolen or lost, or in exchange and substitution for such mutilated Series 2017 Bond, upon surrender of such mutilated Series 2017 Bond, if any, to the Registrar and the cancellation thereof; provided however, if the Series 2017 Bond shall have matured or be about to mature, instead of issuing a substitute Series 2017 Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Series 2017 Bond be lost, stolen or destroyed, without surrender thereof. Any Series 2017 Bond surrendered under the terms of this Section 7 shall be cancelled by the Registrar.

Any such new Series 2017 Bond issued pursuant to this section shall constitute an original, additional contractual obligation on the part of the Issuer whether or not, as to the new Series 2017 Bond, the lost, stolen or destroyed Series 2017 Bond be at any time found by anyone, and such new Series 2017 Bond shall be entitled to equal and proportionate benefits and rights as to security for payment to the same extent as the Series 2017 Bond originally issued hereunder.

**SECTION 8. FORM OF SERIES 2017 BOND.** The Series 2017 Bond shall be in substantially the form attached hereto as Exhibit A, with such variations, omissions and insertions as may be necessary, desirable and authorized or permitted by this Loan Agreement.

**SECTION 9. SECURITY FOR SERIES 2017 BOND; SERIES 2017 BOND NOT DEBT OF THE ISSUER.** The payment of the principal of and interest on the Series 2017 Bond shall be secured forthwith solely by a first priority lien upon and pledge of the Pledged Revenues. The principal of and interest on the Series 2017 Bond shall not constitute a general obligation or indebtedness of the Issuer, but shall be a limited obligation of the Issuer payable solely from the Pledged Revenues, to the extent and as provided herein. The Registered Owner shall never have the right to compel the levy of taxes upon any property of or in the Issuer for the payment of the principal of and interest on the Series 2017 Bond or payment thereof from any source other than the Pledged Revenues.

**SECTION 10. COVENANTS OF THE ISSUER.** Until the principal of and interest on the Series 2017 Bond shall have been paid in full or provision for payment of the Series 2017 Bond shall have been made in accordance with the provisions of this Loan Agreement, the Issuer covenants with the Registered Owner of the Series 2017 Bond as follows:

A. Establishment of Debt Service Fund and Accounts Therein. There is hereby created and established a Debt Service Fund (and the Principal Account and Interest Account therein). The Debt Service Fund and any other special funds herein established and created shall constitute trust funds for the purposes provided herein for such funds. All such funds shall be continuously secured in the same manner as deposits of governmental funds are authorized to be secured by the laws of the State.

The cash required to be accounted for in any funds established hereunder may be deposited in a single bank account, provided that adequate accounting records are maintained to reflect and control the restricted allocation of the cash on deposit therein for the various purposes of such funds as herein provided.

The designation and establishment of the various funds and accounts in and by this Loan Agreement shall not be construed to require the establishment of any completely independent, self-balancing funds as such term is commonly defined and used in governmental accounting, but rather is intended solely to constitute an earmarking of certain revenues for certain purposes and to establish certain priorities for application of such revenues and assets as herein provided.

The moneys in the Debt Service Fund and the accounts therein until disbursed pursuant to the provisions hereof may be invested and reinvested only in Authorized Investments, in the manner provided by law. All income on such investments shall remain in such Fund and used for the purposes herein described. Authorized Investments in the funds and accounts under this Agreement shall be valued at the market value thereof, exclusive of accrued interest, by the Issuer as frequently as reasonably deemed necessary by the Lender but not less often than annually nor more often than monthly.

B. Disposition of Pledged Revenues.

The Issuer shall deposit the Pledged Revenues into the Debt Service Fund, monthly in advance on or before the first day of each month of each year, a sum equal to one-sixth (1/6) of the interest becoming due on the next Interest Payment Date and one-twelfth (1/12) of the principal becoming due on the next Principal Payment Date and to cure any deficiency in deposits in prior months, together with such additional proportionate sums as may be required to pay said principal and interest as the same shall respectively become due, or to account for a period of less than twelve months between the delivery of the Series 2017 Bond and the first Principal Payment Date or less than six months between the delivery of the Series 2017 Bonds and the first Interest Payment Date.

After the above described monthly deposits are made by the Issuer in accordance with this subsection, all Pledged Revenues may be used by the Issuer for any lawful purpose.

Any provision hereof to the contrary notwithstanding, so long as the Issuer is not in default in the payment of principal, premium, if any, and interest on the Series 2017 Bond, then the failure to deposit the Pledged Revenues into the Debt Service Fund in the amounts required hereunder shall not be deemed a default hereunder so long as the full amount of such deposits necessary to make all such payments with respect to the Series 2017 Bond is deposited in such Fund on or prior to the date such payments are due.

C. Financial Statements. The Issuer shall provide to the Lender, at no cost to the Lender, audited financial statements of the Issuer prepared in accordance with auditing

standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Governmental Auditing Standards*, issued by the Comptroller General of the United States for each Fiscal Year thereof within five (5) days of receipt, but no later than 180 days after the close of such Fiscal Year.

D. Annual Budget and Other Information. The Issuer will prepare its annual budget in accordance with the Act, and will provide at no cost to the Lender a copy of its final annual budget for each Fiscal Year within ninety (90) days of the beginning of each Fiscal Year, and the Issuer will provide the Lender such other financial or public information as the Lender may reasonably request.

E. Tax Compliance. Neither the Issuer, nor any third party over whom the Issuer has control, will make any use of, or permit an omission of use, of the proceeds of the Series 2017 Bond at any time during the term of the Series 2017 Bond which would cause the Series 2017 Bond to be (a) a “private activity bond” within the meaning of Section 103(b)(1) of the Code or (b) an “arbitrage bond” within the meaning of Section 103(b)(2) of the Code. The Issuer covenants throughout the term of the Series 2017 Bond to comply with the requirements of the Code and the Regulations, as amended from time to time, and to take all actions, and to not permit the omission of any actions, necessary to maintain the exclusion from gross income for purposes of the Code of interest on the Series 2017 Bond, including, without limitation, the payment of arbitrage rebate, if required.

The Issuer hereby makes each of the representations, warranties and covenants contained in the Tax Certificate. By this reference, all terms, conditions, and covenants in said Tax Certificate are incorporated in and made a part of this Loan Agreement.

F. Additional Obligations.

Additional Obligations payable on a parity with the Series 2017 Bond may be issued hereunder upon the filing with the Clerk and the Registered Owner of the Series 2017 Bond of a certificate of the Chief Financial Officer stating that the Pledged Revenues for the most recent Fiscal Year for which audited financial statements are available equals at least 1.25 times the Maximum Annual Debt Service on the Bonds then outstanding and the Additional Obligations proposed to be issued.

For purposes of calculating Maximum Annual Debt Service, interest on Additional Obligations which bear interest at a variable rate of interest shall be deemed to bear interest at the greater of (i) 1.25 times the most recent 25 Year Revenue Bond Index published by *The Bond Buyer*, or (ii) 1.25 times the actual average interest rate during the prior Fiscal Year of the Issuer. For purposes of calculating Maximum Annual Debt Service, the debt service on Additional Obligations, whether bearing interest at a fixed or variable interest rate, constituting Balloon Indebtedness, shall be determined assuming such obligations are amortized over 20 years from the date of original issuance on an approximately level debt service basis. For purposes of the

foregoing sentence, "Balloon Indebtedness" means obligations designated as such by the Issuer, 25% or more of the original principal of which matures during any one Fiscal Year.

Obligations secured by the Infrastructure Sales Surtax that are junior and subordinate in all respects to the Series 2017 Bond may be issued without regard to the foregoing.

G. No Impairment. The Issuer covenants with the Registered Owner that it will not, without the written consent of the Registered Owner, enact any ordinance or adopt any resolution which repeals, impairs, or modifies in any manner adverse to the Registered Owner the Infrastructure Sales Surtax.

H. Receipt of Pledged Revenues. The Issuer covenants to do all things necessary or required on its part by the Act, or other applicable provisions of law, to entitle it to receive and to enforce the collection and receipt of the Infrastructure Sales Surtax. The Issuer shall exercise all legally available remedies to enforce such collection and receipt now or hereafter available under law. The Issuer will not take any action, or enter into any agreement that shall result in reducing the level of Infrastructure Sales Surtax below the amount sufficient to provide for the payment of the Series 2017 Bond as provided herein.

**SECTION 11. REPRESENTATIONS AND WARRANTIES.** The Issuer represents and warrants to the Lender that:

A. Organization. The Issuer is a municipal corporation, duly organized and existing under the laws of the State.

B. Authorization of Loan Agreement and Related Documents. The Issuer has the power and has taken all necessary action to authorize the execution and delivery of and the performance by the Issuer of its obligations under, this Loan Agreement and the Series 2017 Bond in accordance with their respective terms. This Loan Agreement and the Series 2017 Bond have been duly executed and delivered by the Issuer and are valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their respective terms, except to the extent that such enforcement may be limited by laws regarding bankruptcy, insolvency, reorganization or moratorium applicable to the Issuer or by general principles of equity regarding the availability of specific performance.

C. Pledged Revenues. The Issuer is entitled to receive the Pledged Revenues effective January 1, 2018, and is legally entitled to pledge from such Pledged Revenues amounts necessary to pay the principal of and interest on the Series 2017 Bond when due as provided herein. The Issuer estimates that the Pledged Revenues will be available in amounts sufficient to pay the principal of and interest on the Series 2017 Bond as the same becomes due prior to the Maturity Date and, to pay all principal of and interest on the Series 2017 Bond on the Maturity Date.

D. Financial Statements. The audited financial statements of the Issuer for the Fiscal Year ended September 30, 2016 (the "Financial Statements"), previously provided to the Lender

were prepared in accordance with generally accepted accounting principles, are correct and present fairly the financial condition of the Issuer as of such date and the results of its operations for the period then ended.

**SECTION 12. CONDITIONS PRECEDENT.** The obligation of the Lender to make the Loan is subject to the satisfaction of each of the following conditions precedent on or before the Date of Delivery:

A. Action. The Lender shall have received a copy of the Resolution certified as complete and correct as of the closing date, together with an executed Loan Agreement, the executed Series 2017 Bond and the customary closing certificates.

B. Incumbency of Officers. The Lender shall have received an incumbency certificate of the Issuer in respect of each of the officers who is authorized to sign this Loan Agreement, the Series 2017 Bond, and the related financing documents on behalf of the Issuer.

C. Opinion of City Attorney. The Lender shall have received a written opinion of the City Attorney as to (1) the valid existence of the Issuer as a municipal corporation of the State; (2) the due adoption of the Resolution; (3) the due authorization and execution of this Loan Agreement, the Series 2017 Bond and the transaction contemplated hereby and thereby; (4) the Loan Agreement and the Series 2017 Bond constituting valid and binding obligations of the Issuer, enforceable against the Issuer, in accordance with their respective terms; and (5) the absence of litigation against the Issuer relating to (a) its existence or powers, (b) its authority to issue the Series 2017 Bond and pledge the Pledged Revenues, (c) the procedures governing the authorization and issuance of the Series 2017 Bond, and (d) any other matter which may result in any material adverse change in the business, properties, assets or financial condition of the Issuer in a form and substance satisfactory to the Lender.

D. Certificate of Chief Financial Officer. The Lender shall have received a certificate from the Chief Financial Officer that: (1) since the date of the Financial Statements, referred to in Section 11.D. above, there has been no material adverse change in the financial condition, revenues, properties or operations of the Issuer; (2) there are no liabilities (of the type required to be reflected on balance sheets prepared in accordance with generally accepted accounting principles), direct or indirect, fixed or contingent, of the Issuer as of the date of such financial information which are not reflected therein; (3) there has been no material adverse change in the financial condition or operations of the Issuer since the date of such Financial Statements (and to the Chief Financial Officer's knowledge no such material adverse change is pending or threatened); and (4) the Issuer has not guaranteed the obligations of, or made any investment in or loans to, any person except as disclosed in such information.

E. Representations and Warranties; No Default. The representations and warranties made by the Issuer herein shall be true and correct in all material respects on and as of the Date of Delivery, as if made on and as of such date; no Default shall have occurred and be



continuing as of the Date of Delivery or will result from the consummation of the Loan; and the Lender shall have received a certificate from the Issuer to the foregoing effect.

F. Opinion of Bond Counsel. The Issuer shall have received an opinion of Bond Counsel, on which the Lender may rely, to the effect that interest on the Series 2017 Bond is excludable from gross income for federal income tax purposes.

G. Lender Certificates. The Issuer shall have received the fully executed Lender's Certificate substantially in the form attached to the Resolution as Exhibit C and the Disclosure Letter containing the information required by Section 218.385, Florida Statutes, substantially in the form attached to the Resolution as Exhibit D.

H. Notice of Material Litigation. Promptly after the Issuer becomes aware of the same, the Issuer will notify the Lender of any pendency of litigation material to the Issuer's ability to repay the Series 2017 Bond, specifying the nature thereof and what action the Issuer has taken, is taking and/or proposes to take with respect thereto.

I. Other Documents. The Lender shall have received such other documents, certificates and opinions as the Lender or its counsel shall have reasonably requested.

**SECTION 13. NOTICES.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered, delivered by telecopier, mailed by registered or certified mail, postage prepaid, or delivered by courier service to the parties at the following addresses:

Issuer: City of Pensacola, Florida  
222 West Main Street  
Pensacola, Florida 32502  
Attention: City Administrator, with a required copy to the City Attorney at the same address, and a required copy to the Clerk at the same address.

Lender: Compass Mortgage Corporation  
5055 Bayou Boulevard  
Pensacola, Florida 32503

Any of the above parties may, by notice in writing given to the others, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Communication via telecopier shall be confirmed by delivery by hand, mail, or courier, as specified above, of an original promptly after such communication by telecopier.

**SECTION 14. EVENTS OF DEFAULT DEFINED.** The following shall be "Events of Default" under this Loan Agreement, and the terms "Default" and "Events of Default" shall mean (except where the context clearly indicates otherwise), any one or more of the following events:

A. Failure by the Issuer to make any payment of principal of or interest on the Series 2017 Bond within three (3) days of the date due.

B. Failure by the Issuer to observe and perform any other covenant, condition or agreement on its part to be observed or performed under this Loan Agreement for a period of thirty (30) days after written notice of such failure was or was by the terms hereof required to be delivered to the Issuer by the Lender, unless the Lender shall agree in writing to an extension of such time prior to its expiration;

C. The Issuer admits in writing its inability to pay its obligations hereunder, including its obligation with respect to any Additional Obligations hereafter issued;

D. The making of any warranty, representation or other statement by the Issuer or by an officer or agent of the Issuer in this Loan Agreement or in any instrument furnished in compliance with or in reference to this Loan Agreement which is false or misleading in any material adverse respect;

E. The filing of a petition against the Issuer under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, if an order for relief is entered under such petition or such petition is not dismissed within sixty (60) days of such filing;

F. The filing by the Issuer of a voluntary petition in bankruptcy or seeking relief under any provision of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, or the consent by the Issuer to the filing of any petition against it under such law; or

G. The admission by the Issuer of its insolvency or bankruptcy or its inability to pay its debts as they become due or that it is generally not paying its debts as such debts become due, or the Issuer's becoming insolvent or bankrupt or making an assignment for the benefit of creditors, or the appointment by court order of a custodian (including without limitation a receiver, liquidator or trustee) of the Issuer or any of its property taking possession thereof and such order remaining in effect or such possession continuing for more than sixty (60) days.

**SECTION 15. NOTICE OF DEFAULTS.** The Issuer shall within five Business Days after it acquires knowledge thereof, notify the Registered Owner of the Series 2017 Bond in writing (a) of any change in any material fact or circumstance represented or warranted by the Issuer in this Agreement or in connection with the issuance of the Series 2017 Bond; (b) upon the happening, occurrence, or existence of any Event of Default that the Registered Owner is not otherwise aware of, or (c) any event or condition which with the passage of time or giving notice, or both, would constitute an Event of Default, and shall provide the Registered Owner of the Series 2017 Bond, with such written notice, a detailed statement by the Chief Financial Officer of all relevant facts and the action being taken or proposed to be taken by the Issuer with respect thereto. Regardless of the date of receipt of such notice by the Registered Owner of the

Series 2017 Bond, such date shall not in any way modify the date of occurrence of the actual Event of Default.

**SECTION 16. REMEDIES.** For all Events of Default, the Lender may sue to protect and enforce any and all rights, including the right to specific performance, existing under the laws of the State, of the United States of America, or granted and contained in this Loan Agreement, and to enforce and compel the performance of all duties required by this Loan Agreement or by any applicable laws to be performed by the Issuer, the City Council or by any officer thereof, and may take all steps to enforce this Loan Agreement to the full extent permitted or authorized by the laws of the State or the United States of America.

The Issuer and the Lender each waives, to the fullest extent permitted by law, any right to trial by jury respect of any litigation based upon the Series 2017 Bond or arising out of, under or in conjunction with the Series 2017 Bond or this Loan Agreement.

**SECTION 17. NO PERSONAL LIABILITY.** No recourse shall be had for the payment of the principal of and interest on the Series 2017 Bond or for any claim based on the Series 2017 Bond or on this Loan Agreement, against any present or former member or officer of the City Council or any person executing the Series 2017 Bond.

**SECTION 18. PAYMENTS DUE ON SATURDAYS, SUNDAYS AND HOLIDAYS.** In any case where the date for making any payment or the last date for performance of any act or the exercise of any right, as provided in this Loan Agreement, shall be other than a Business Day, then such payment or performance shall be made on the succeeding Business Day with the same force and effect as if done on the nominal date provided in this Loan Agreement, provided that interest on any monetary obligation hereunder shall accrue at the applicable rate to and including the date of such payment.

**SECTION 19. AMENDMENTS, CHANGES AND MODIFICATIONS.** This Loan Agreement may be amended only by a writing approved with the same formality as this Agreement, signed by the Issuer and the Registered Owner.

**SECTION 20. BINDING EFFECT.** To the extent provided herein, this Loan Agreement shall be binding upon the Issuer and the Lender and shall inure to the benefit of the Issuer and the Lender and their respective successors and assigns. This Loan Agreement shall be discharged and neither the Issuer nor the Lender shall have any further obligations hereunder or under the Series 2017 Bond when the Issuer shall have paid the principal of and interest on the Series 2017 Bond in full and shall have paid in full all other amounts, if any, due under the Series 2017 Bond or this Loan Agreement.

**SECTION 21. SEVERABILITY.** In the event any court of competent jurisdiction shall hold any provision of this Loan Agreement invalid or unenforceable such holding shall not invalidate or render unenforceable, any other provision hereof.

**SECTION 22. EXECUTION IN COUNTERPARTS.** This Loan Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 23. APPLICABLE LAW.** The laws of the State shall be the law applied in the resolution of any action, claim or other proceeding arising out of the Resolution, the Series 2017 Bond or this Loan Agreement.

**SECTION 24. VENUE; ATTORNEY'S FEES.** The parties agree that jurisdiction and venue for the enforcement of the Resolution, this Loan Agreement or the Series 2017 Bond shall be in the state and/or federal courts of Escambia County, Florida. The prevailing party in any action, claim or proceeding arising out of the Resolution, the Loan Agreement or the Series 2017 Bond shall be entitled to attorney's fees and costs from the losing party

**SECTION 25. ASSIGNMENT.** The Lender may assign its rights hereunder to any party to whom it sells or transfers the Series 2017 Bond.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have duly executed this Loan Agreement as of the date first above written.

CITY OF PENSACOLA, FLORIDA

By: \_\_\_\_\_  
Ashton J. Hayward, III, Mayor

(SEAL)

ATTEST:

By: \_\_\_\_\_  
Ericka L. Burnett, City Clerk

Approved as to Content:

By: \_\_\_\_\_  
Richard Barker, Jr.  
Chief Financial Officer

Legal in Form and Valid as Drawn:

By: \_\_\_\_\_  
Lysia H. Bowling  
City Attorney

*[Signature Page of Loan Agreement]*

COMPASS MORTGAGE CORPORATION

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

Name: John Gormley

Title: Senior Vice President

*[Signature Page of Loan Agreement]*

**EXHIBIT A**

**FORM OF SERIES 2017 BOND**

**TRANSFER OF REGISTRATION OF THIS BOND IS RESTRICTED AS HEREIN DESCRIBED AND AS DESCRIBED IN THE HEREIN DEFINED LOAN AGREEMENT.**

No. R-1

\$25,000,000

**CITY OF PENSACOLA, FLORIDA  
INFRASTRUCTURE SALES SURTAX REVENUE BOND, SERIES 2017**

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Issue</u>
2.15%	October 1, 2028	October 18, 2017

**REGISTERED OWNER: COMPASS MORTGAGE CORPORATION**

**PRINCIPAL AMOUNT: TWENTY FIVE MILLION DOLLARS (\$25,000,000)**

KNOW ALL MEN BY THESE PRESENTS, that the City of Pensacola, Florida (the "Issuer"), for value received, hereby promises to pay to the Registered Owner designated above, or registered assigns, solely from the sources hereinafter mentioned, in installments, on the Principal Payment Dates indicated in Schedule I attached hereto and on the Maturity Date, or sooner as provided herein, the Principal Amount shown above and the interest on the outstanding Principal Amount hereof from the date of this Bond or from the most recent date to which interest has been paid, whichever is applicable, until payment of such Principal Amount, at the Interest Rate described above, with all unpaid interest being due on the Maturity Date or upon the earlier payment of principal hereunder upon presentation and surrender hereof at the office of the Chief Financial Officer for the Issuer, as Registrar and Paying Agent. The principal of, premium, if any, and interest on this Bond are payable in lawful money of the United States of America. Interest due hereon shall be calculated on the basis of a 360-day year consisting of twelve 30-day months.

This Bond is subject to prepayment prior to maturity on the dates and at the prices as more fully described in Schedule "II" hereto.

This Bond is being issued in the principal amount \$25,000,000 to finance the costs of the Project of the Issuer under the authority of and in full compliance with the Constitution and Statutes of the State of Florida, including particularly Chapter 166, Part II Florida Statutes, as amended, Section 212.055, Florida Statutes, Chapter 218, Part VI, Florida Statutes, the municipal charter of the Issuer, and Resolution No. 17-65, duly adopted by the City Council of the Issuer on October 12, 2017 (the "Resolution"), and pursuant to a Loan Agreement between the Issuer and the Registered Owner, dated October 18, 2017 (the "Loan Agreement"), to which reference

should be made to ascertain those terms and conditions. The terms and provisions of the Loan Agreement and the Resolution, including, without limitation, the definitions therein, are hereby incorporated as a part of this Bond. The principal of this Bond shall be disbursed by the Registered Owner hereof to the Issuer in immediately available funds on the Date of Delivery in accordance with the Loan Agreement.

This Bond is payable from and secured solely by the Pledged Revenues, all in the manner provided in, and subject to the terms and conditions of, the Resolution and the Loan Agreement. This Bond shall not constitute a general obligation or indebtedness of the Issuer, but shall be a limited obligation of the Issuer payable solely from the Pledged Revenues as provided in the Loan Agreement. The Registered Owner hereof shall never have the right to compel the levy of taxes upon any property of or in the Issuer for the payment of the principal of and interest on this Bond. Reference is made to the Loan Agreement for the provisions relating to the security for payment of this Bond and the duties and obligations of the Issuer hereunder.

The Registered Owner may sue to protect and enforce any and all rights, including the right to specific performance, existing under the laws of the State of Florida, of the United States of America, or granted and contained in the Loan Agreement, and to enforce and compel the performance of all duties required by the Loan Agreement or by any applicable laws to be performed by the Issuer, the City Council or by any officer thereof, and may take all steps to enforce the Loan Agreement to the full extent permitted or authorized by the laws of the State of Florida or the United States of America.

This Bond is subject to all the terms of the Loan Agreement.

Ownership of this Bond may be transferred or assigned only as a whole and only upon the Register. Transfer of this Bond (i) shall be restricted to Permitted Lenders, (ii) is not permitted in the event the remaining principal amount outstanding thereof is less than \$100,000, and (iii) is subject to consent of the Issuer, which consent shall not be unreasonably withheld.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of the State of Florida to be performed, to exist and to happen precedent to and in the issuance of this Bond, have been performed, exist and have happened in regular and due form and time as so required.

[Remainder of page left intentionally blank]



IN WITNESS WHEREOF, the City of Pensacola, Florida, has issued this Bond and has caused the same to be executed by the manual signature of the Mayor, attested under seal by the City Clerk, approved as to content by the Chief Financial Officer, and designated legal in form and valid as drawn by the City Attorney, as of the Dated Date set forth above.

CITY OF PENSACOLA, FLORIDA

[SEAL]

By: \_\_\_\_\_  
Ashton J. Hayward, III, Mayor

ATTEST:

By: \_\_\_\_\_  
Ericka L. Burnett, City Clerk

Approved as to Content:

By: \_\_\_\_\_  
Richard Barker, Jr.  
Chief Financial Officer

Legal in Form and Valid as Drawn:

By: \_\_\_\_\_  
Lysia H. Bowling  
City Attorney

CERTIFICATE OF AUTHENTICATION OF REGISTRAR

This Bond constitutes the Infrastructure Sales Surtax Revenue Bond, Series 2017, as herein described. The Principal Amount, Interest Rate, Maturity Date and Registered Owner shown above are correct in all respects and have been recorded, along with the applicable federal taxpayer identification number and the address of the Registered Owner, in the Register maintained at the principal office of the undersigned.

CHIEF FINANCIAL OFFICER OF THE  
CITY OF PENSACOLA, FLORIDA, as  
Registrar

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Date of Authentication

SCHEDULE I TO SERIES 2017 BOND  
ANNUAL PRINCIPAL INSTALLMENTS

Principal Payment Date (October 1 )	Installment
2018	\$1,952,000.00
2019	2,091,000.00
2020	2,136,000.00
2021	2,181,000.00
2022	2,228,000.00
2023	2,276,000.00
2024	2,325,000.00
2025	2,375,000.00
2026	2,426,000.00
2017	2,478,000.00
2028*	2,532,000.00
Total	<u>\$25,000,00.00</u>

\*Maturity Date

SCHEDULE II TO SERIES 2017 BOND  
PREPAYMENT PROVISIONS

The Series 2017 Bond is subject to prepayment prior to maturity at the option of the Issuer, in whole or in part, upon not less than ten (10) days prior written notice to the Registered Owner. If the Issuer makes any prepayment of the outstanding principal amount of the Series 2017 Bond pursuant to this paragraph prior to October 18, 2027, the Issuer shall pay to the Registered Owner a prepayment fee equal to the quotient of (i) the product of (a) AYD, times (b) Average Principal, times (c) Percent Prepaid, times (d) Days Remaining, divided by (ii) 360.

**Definitions:**

“**AYD**” means the difference (but not less than zero) between: (i) the U.S. Treasury constant maturity yield, as reported in the H.15 Report for the date on which the Series 2017 Bond was issued, for a maturity that is the same as the term of the Series 2017 Bond upon issuance (rounded to the nearest whole number of 30-day months) or, if no such maturity is reported, an interpolated yield based on the reported maturity that is next shorter than, and the maturity reported that is next longer than, the term of the Series 2017 Bond upon issuance, and (ii) the U.S. Treasury constant maturity yield, as reported in the H.15 Report for the Prepayment Date for a maturity that is the same as the remaining term of the Series 2017 Bond at the Prepayment Date (rounded to the nearest whole number of 30-day months) or, if no such maturity is reported, then the interpolated yield using the method described in (i) above, but based on the remaining term of the Series 2017 Bond on the Prepayment Date. If the H.15 Report is not available for any day, then the H.15 Report for the immediately preceding day on which yields were last reported will be used.

“**H.15 Report**” means the Federal Reserve Board’s Statistical Release H.15, “Selected Interest Rates”. Weekly releases of, and daily updates to, H.15 Reports generally are available at the Federal Reserve Board’s website, [www.federalreserve.gov](http://www.federalreserve.gov). If the H.15 Report is replaced or otherwise unavailable, the Registered Owner may designate the replacement report or another report reasonably comparable to the H.15 Report, which shall be used in place of the H.15 Report.

“**Average Principal**” means the simple average of (i) the principal balance on the Prepayment Date, and (ii) the principal balance scheduled, as of the Prepayment Date (taking into account any prior prepayments), but for the prepayment, to be due at the maturity date of the Series 2017 Bond (plus any accrued and unpaid fees or other sums owed under the Resolution or the Series 2017 Bond).

“**Percent Prepaid**” means the percentage determined by dividing the principal amount of the Series 2017 Bond being prepaid by the principal balance outstanding on the Prepayment Date.

**“Days Remaining”** means the number of days (assuming a convention of twelve 30-day months per year) from the Prepayment Date through the maturity date of the Series 2017 Bond.

**“Prepayment Date”** means the date on which Registered Owner receives the prepayment.

Prepayment in full shall consist of payment of the remaining principal amount outstanding, together with all accrued and unpaid interest and all other amounts, costs and expenses for which the Issuer is responsible under the Resolution or Series 2017 Bond. Prepayment in part shall consist of payment of any portion of the remaining principal amount outstanding. So long as the Lender is the Registered Owner of the Series 2017 Bond and unless otherwise agreed to by the Lender in writing and provided that the Issuer is current on all amounts due under the Resolution and Series 2017 Bond, payments applied to the repayment of the Series 2017 Bond before Lender’s creation of a billing statement for the next payment due will be applied entirely to principal, and payments applied to the repayment of the Series 2017 Bond after the creation of such billing statement will be applied according to that billing statement. Unless otherwise agreed by the Lender in writing and provided that the Issuer is current on all amounts due, payments applied to the replacement of the Series 2017 Bond before Lender’s creation of a billing statement for the next payment due shall not relieve the Issuer of the Issuer’s obligation to continue making, uninterrupted, payments under the Series 2017 Bond. Except for billing statements requested by the Issuer in writing, billing statements presented to the Issuer more than 30 days or less than 10 days prior to a scheduled payment date on the Series 2017 Bond shall be of no force or effect. The Issuer agrees not to send any prepayments marked “paid in full”, “without recourse”, or similar language. If the Issuer sends such a payment, the Registered Owner may accept it without losing any of its rights under the Series 2017 Bond, and the Issuer will remain obligated to pay any further amounts owed or that may become owed to the Owner. So long as the Lender is the Registered Owner of the Series 2017 Bond, all written communications concerning disputed amounts, including any check or other payment instrument that indicates that the payment constitutes “payment in full” of the amount owed or that is tendered with other conditions or limitations or as full satisfaction of a disputed amount, must be mailed or delivered to: Compass Bank, PO Box 3096, Birmingham AL 35202.

## EXHIBIT B

### FORM OF LENDER'S CERTIFICATE

We certify that the following are true and correct in relation to the loan by Compass Mortgage Corporation (the "Lender") of \$25,000,000 evidenced by the Infrastructure Sales Surtax Revenue Bond, Series 2017 (the "Bond") dated October 18, 2017, and issued by the City of Pensacola, Florida (the "Issuer") pursuant to Resolution No. 17-65, duly adopted by the Issuer on October 12, 2017 (the "Resolution"). Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto by the Resolution or in the Loan Agreement dated as of the date hereof (the "Loan Agreement"), between the Lender and the Issuer.

1. The Lender is an "accredited investor" within the meaning of Regulation D under the Securities Act of 1933 (the "1933 Act") or a "qualified institutional buyer" (as defined under Rule 144A of the 1933 Act).

2. The Lender is a corporation that is engaged as a regular part of its business in making loans.

3. The Lender has made its own inquiry and analysis with respect to the Issuer, the Bond and the security therefor, and other material factors affecting the security for and payment of the Bond.

4. The Lender has received the financial information requested by the Lender from the Issuer in connection with the Bond and has been afforded the opportunity to examine such documents and receive such written information concerning the terms and conditions of the Bond and the financial condition and creditworthiness of the Issuer as the Lender has deemed necessary to receive in connection with determining whether to make the loan evidenced by the Bond.

5. The Lender has not relied upon any representations made by any officials of the Issuer, its agents, employees, counsel or representatives, in reaching its decision to make the loan evidenced by the Bond, other than the certificates, opinions, resolutions, or other documents executed in relation to the delivery to the Lender of the Bond, but has relied solely upon the documentation referred to in this and the preceding paragraph.

6. The Lender understands that (i) the loan is evidenced by the Bond, (ii) there is only one Bond and the aggregate principal amount of the Bond is the Principal Amount set forth on such Bond, (iii) the Bond may not be transferred except in whole, and (iv) any transfer (A) must be to a Permitted Lender, (B) is not permitted in the event the remaining principal amount outstanding of the Bond is less than \$100,000, and (C) is subject to consent of the Issuer, which consent shall not be unreasonably withheld.

“Permitted Lender” means any bank, trust company, savings institution, insurance company, dealer, investment company or qualified institutional buyer as contemplated by Section 517.061(7), Florida Statutes, that is engaged as a regular part of its business in making loans and is authorized to do business in the State of Florida.

7. The Lender is not acting as a broker or other intermediary and is acquiring the Bond, as evidence of a privately negotiated loan, from its own capital for its own accounts and not with a view to the resale or other distribution of all or any part thereof or any interest therein to others.

8. The Lender acknowledges that it is permitted to transfer the Bond only upon compliance with the requirements of the Resolution, the Loan Agreement and the Bond.

9. The interest rate established for the Bond was established at arms length between the Lender and the Issuer.

10. The Lender further represents, warrants and covenants that:

(i) it is not funding the loan represented by the Bond for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading any provision of Chapter 517, Florida Statutes;

(ii) it understands that no CUSIP will be obtained with respect thereto; and

(iii) it understands the Bond carries no rating from any credit rating agency.

This letter is furnished by us as Lender based solely on our knowledge on the day hereof and is solely for the benefit of the Issuer and Bryant Miller Olive P.A., as Bond Counsel for the Issuer, and may not be relied upon by or published or communicated to, any other person without our express written consent. The Lender disclaims any obligation to supplement this letter to reflect any facts or circumstances that may hereafter come to the Lender’s attention.

COMPASS MORTGAGE CORPORATION

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

Name: John Gormley

Title: Senior Vice President

EXHIBIT C

FORM OF DISCLOSURE LETTER

The undersigned, as Lender, proposes to negotiate with the City of Pensacola, Florida (the "Issuer") for the private purchase of its \$25,000,000 Infrastructure Sales Surtax Revenue Bond, Series 2017 ("Series 2017 Bond") pursuant to Resolution No. 17-65, duly adopted by the Issuer on October 12, 2017 (the "Resolution"). Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto by the Resolution or in the Loan Agreement dated as of the date hereof (the "Loan Agreement"), between the Lender and the Issuer. Prior to the award of the Series 2017 Bond, the following information is hereby furnished to the Issuer:

1. Set forth is an itemized list of the nature and estimated amounts of expenses to be incurred for services rendered to us (the "Lender") in connection with the issuance of the Series 2017 Bond (such fees and expenses to be paid by the Issuer):

\$5,000  
Burr & Forman LLP  
Legal Fees

2. (a) No other fee, bonus or other compensation is estimated to be paid by the Lender in connection with the issuance of the Series 2017 Bond to any person not regularly employed or retained by the Lender (including any "finder" as defined in Section 218.386(1)(a), Florida Statutes), except as specifically enumerated as expenses to be incurred by the Lender, as set forth in paragraph (1) above.

(b) No person has entered into an understanding with the Lender, or to the knowledge of the Lender, with the Issuer, for any paid or promised compensation or valuable consideration, directly or indirectly, expressly or implied, to act solely as an intermediary between the Issuer and the Lender or to exercise or attempt to exercise any influence to effect any transaction in the purchase of the Series 2017 Bond.

3. The amount of the underwriting spread expected to be realized by the Lender is \$0.

4. The management fee to be charged by the Lender is \$0.

5. Truth-in-Bonding Statement:

The Series 2017 Bond is being issued primarily to finance the cost of the Project and reimburse the Issuer for any Project Costs, as defined in the Loan Agreement. Unless earlier prepaid, the Series 2017 Bond is expected to be repaid by October 1, 2028. At a fixed interest rate of 2.15%, total interest paid over the life of the Series 2017 Bond is \$3,324,382 and issuance



of the Series 2017 Bond will result in maximum of approximately \$2,586,575.50 of annual revenues of the Issuer not being available to finance other services of the Issuer during the life of the Series 2017 Bond.

6. The name and address of the Lender is as follows:

Compass Bank  
5055 Bayou Boulevard  
Pensacola, Florida 32503

IN WITNESS WHEREOF, the undersigned has executed this Disclosure Letter on behalf of the Lender this 18<sup>th</sup> day of October, 2017.

COMPASS MORTGAGE CORPORATION

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

Name: John Gormley

Title: Senior Vice President

EXHIBIT D

COMMITMENT

[Follows]