

**2018 SUPPLEMENTAL INDENTURE OF TRUST**

by

**WELLS FARGO BANK, NATIONAL ASSOCIATION,**  
as Trustee

supplementing and amending  
the  
Indenture of Trust by Wells Fargo Bank, National Association,  
as Trustee,  
dated as of June 28, 2012

Dated as of January [\_\_], 2018

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TABLE OF CONTENTS

Page

ARTICLE I

DEFINITIONS..... 2

ARTICLE II

AMENDMENT OF 2012 INDENTURE

Section 2.01. Amendment of Appendix B to 2012 Indenture..... 3

ARTICLE III

MISCELLANEOUS

Section 3.01. Other Provisions Unaffected..... 3  
Section 3.02. Further Assurances and Corrective Instruments ..... 3  
Section 3.03. Amendments, Changes and Modifications ..... 3  
Section 3.04. Titles, Headings, Etc ..... 3  
Section 3.05. Manner of Giving Notices ..... 3  
Section 3.06. No Individual Liability ..... 3  
Section 3.07. Severability ..... 4  
Section 3.08. Applicable Law ..... 4

APPENDIX A DESCRIPTION OF THE LEASED PROPERTY

**THIS 2018 SUPPLEMENTAL INDENTURE OF TRUST** (this “2018 Supplemental Indenture”) is dated as of January [\_\_\_], 2018, is entered into by **WELLS FARGO BANK, NATIONAL ASSOCIATION**, a national banking association duly organized and validly existing under the laws of the United States, as trustee (the “Trustee”) for the benefit of the Owners of the Certificates, and amends the Indenture of Trust by the Trustee dated as of June 28, 2012 (the “2012 Indenture”). Capitalized terms used but not defined herein have the meanings assigned to them in the 2012 Indenture, as amended hereby (as so amended, the “Indenture”).

## RECITALS

WHEREAS, the Trustee (a) is a national banking association that is duly organized, validly existing and in good standing under the laws of the United States of America, (b) is duly qualified to do business in the State of Colorado (the “State”), (c) in its capacity as Trustee under the Indenture, is the owner of the Leased Property, and (d) is authorized, under its articles of association and applicable law, to own the Leased Property, to lease the Leased Property to the Colorado Department of Transportation (“CDOT”), to hold in trust the Trust Estate and to execute, deliver and perform its obligations under the Indenture; and

WHEREAS, pursuant to Section 43-1-212, Colorado Revised Statutes, as amended, the Trustee, as lessor, and CDOT, as lessee, entered into an Amended and Restated Lease Purchase Agreement dated as of June 28, 2012 (the “2012 Lease” and, as amended by the 2018 Amendment to Amended and Restated Lease Purchase Agreement dated as of the date hereof between the Trustee, as Lessor, and CDOT, as lessee (the “2018 Lease Amendment”), the “Lease”), pursuant to which the Trustee has leased the Leased Property to CDOT and CDOT has agreed to pay Base Rentals and Additional Rentals (each as defined in the Lease), subject, in each case, to the terms of the Lease; and

WHEREAS, in order to finance the refunding and defeasance of certain prior certificates of participation, the Trustee executed and delivered the “Certificates of Participation, Series 2012, evidencing undivided interests in the right to receive certain revenues payable by the Colorado Department of Transportation under a Lease Purchase Agreement dated as of June 28, 2012” pursuant to the 2012 Indenture; and

WHEREAS, CDOT and the Trustee desire for the 2012 Lease to be amended by the 2018 Lease Amendment and for the 2012 Indenture to be amended by this 2018 Supplemental Indenture to provide for the release from the Leased Property and from the lien of the 2012 Indenture of the property identified as the “Region 6 Headquarters Property” in Exhibit A to the 2012 Lease and in Appendix B to the 2012 Indenture (including, with respect to both, all improvements located on such property, the “Released Property”); and

WHEREAS, Section 8.05 of the 2012 Indenture provides that any amendment to the 2012 Lease may be made by CDOT and the Trustee upon the receipt by the Trustee of the written approval or consent of the Owners of not less than a majority in aggregate principal amount of the Certificates Outstanding; and

WHEREAS, Section 8.02 of the 2012 Indenture provides that any Supplemental Indenture amending the 2012 Indenture may be executed by the Trustee upon its receipt of the

written consent of the Owners of not less than a majority in aggregate principal amount of the Certificates Outstanding, or, with respect to Supplemental Indentures making any amendments described in clauses (a)(i) to (iv) of said Section 8.02, the consent of the Owners of all the Certificates Outstanding; and

WHEREAS, Banc of America Public Capital Corp. (as defined in the 2012 Indenture, the “Initial Purchaser”) is, as of the date hereof, the Owner of all of the Certificates Outstanding; and

WHEREAS, in accordance with Sections 8.02 and 8.05 of the 2012 Indenture and Section 14.03 of the 2012 Lease, the Initial Purchaser has, as of the date hereof, given its written consent to the amendment of the Lease by the 2018 Lease Amendment as set forth therein and of the 2012 Indenture by this 2018 Supplemental Indenture as set forth herein; and

WHEREAS, upon the effectiveness of the 2018 Lease Amendment and this 2018 Supplemental Indenture and the release of the Released Property effected thereby, the Trustee will convey the Released Property to CDOT; and

WHEREAS, the execution and performance of this Supplemental Indenture by the Trustee has been duly authorized by the Trustee and, upon the execution of this Supplemental Indenture by the Trustee, the Indenture will be enforceable against the Trustee in accordance with its terms, limited only by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors’ rights generally, by equitable principles, whether considered at law or in equity, by the exercise by the State and its governmental bodies of the police power inherent in the sovereignty of the State and by the exercise by the United States of America of the powers delegated to it by the Constitution of the United States of America;

NOW, THEREFORE, the Trustee declares for the benefit of the Owners of the Certificates as follows:

## **ARTICLE I**

### **DEFINITIONS**

Capitalized terms defined in the recitals to this 2018 Supplemental Indenture shall have the meanings set forth therein when used in the this 2018 Supplemental Indenture. Other capitalized terms used but not defined herein shall have the meanings assigned to them in the 2012 Indenture.

## ARTICLE II

### AMENDMENT OF 2012 INDENTURE

**Section 2.01. Amendment of Appendix B to 2012 Indenture.** The 2012 Indenture is hereby amended by the deletion of the property identified as the “Region 6 Headquarters Property” in Appendix B thereto, including without limitation, all improvements located thereon, as set forth in Appendix A hereto.

## ARTICLE III

### MISCELLANEOUS

**Section 3.01. Other Provisions Unaffected.** The Trustee hereby agrees for the benefit of the Owners of the Certificates that this 2018 Supplemental Indenture shall amend the 2012 Indenture solely to the extent provided herein as of the date hereof. All provisions of the 2012 Indenture not amended hereby are hereby ratified, confirmed and reaffirmed.

**Section 3.02. Further Assurances and Corrective Instruments.** So long as the Indenture is in full force and effect, the Trustee shall have full power to carry out the acts and agreements provided in this 2018 Supplemental Indenture and will from time to time, execute, acknowledge and deliver or cause to be executed, acknowledged and delivered such supplements hereto and such further instruments as may reasonably be requested by CDOT for correcting any inadequate or incorrect description of the Trust Estate, or for otherwise carrying out the intention of or facilitating the performance of the Indenture.

**Section 3.03. Amendments, Changes and Modifications.** Except as may otherwise be provided herein, this 2018 Supplemental Indenture may not be amended, changed, modified or altered other than in accordance with the provisions of the 2012 Indenture relating to the amendment of the 2012 Indenture.

**Section 3.04. Titles, Headings, Etc.** The titles and headings of the articles, sections and subdivisions of this 2018 Supplemental Indenture have been inserted for convenience of reference only and shall in no way modify or restrict any of the terms or provisions hereof.

**Section 3.05. Manner of Giving Notices.** All notices, certificates or other communications hereunder shall be in writing and shall be deemed sufficiently given when mailed by certified or registered mail, postage prepaid, addressed as follows: if to CDOT, to Colorado Department of Transportation, 4201 E. Arkansas Avenue, Denver, Colorado 80222, Attention: Executive Director and Chief Financial Officer; if to the Trustee, to Wells Fargo Bank, National Association, 1740 Broadway, Denver, Colorado 80274, Attention: Corporate Trust Services. The entities listed above may, by written notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

**Section 3.06. No Individual Liability.** All covenants, stipulations, promises, agreements and obligations of the Trustee, as the case may be, contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Trustee and not of any

member, director, officer, employee, servant or other agent of the Trustee in his or her individual capacity, and no recourse shall be had on account of any such covenant, stipulation, promise, agreement or obligation, or for any claim based thereon or hereunder, against any member, director, officer, employee, servant or other agent of the Trustee or any natural person executing this 2018 Supplemental Indenture or any related document or instrument.

**Section 3.07. Severability.** In the event that any provision of the Indenture, including without limitation this 2018 Supplemental Indenture, other than the holding of the Trust Estate in trust, shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 3.08. Applicable Law.** The laws of the State shall be applied in the interpretation, execution and enforcement of this 2018 Supplemental Indenture and of the Indenture.

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IN WITNESS WHEREOF, the Trustee has executed this 2018 Supplemental Indenture as of the date first above written.

WELLS FARGO BANK, NATIONAL  
ASSOCIATION, as Trustee

By \_\_\_\_\_  
Authorized Signatory

[Signature Page to Indenture of Trust]

STATE OF COLORADO )  
 ) ss.  
CITY AND COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of January, 2018, by [\_\_\_\_\_] as an authorized signatory of Wells Fargo Bank, National Association.

WITNESS MY HAND AND OFFICIAL SEAL, the day and year above written.

[SEAL]

\_\_\_\_\_  
Notary Public

My commission expires:

\_\_\_\_\_

## APPENDIX A

### DESCRIPTION OF THE LEASED PROPERTY

#### I. LAND:

##### A. Traffic Operations Center Property

Lot 2, CORPORATE PLACE SUBDIVISION FILING NO. 2, County of Jefferson, State of Colorado

##### B. Central Materials Lab Property

Lots 5 and 6, Block 3, Airlawn Industrial Park First Filing, City and County of Denver, State of Colorado

##### C. Region 4 Materials Lab Property

UNITS 3961, 3971 AND 3981, PLATTE BUSINESS CENTER CONDOMINIUMS, CITY OF EVANS, COUNTY OF WELD, STATE OF COLORADO, ACCORDING TO THE CONDOMINIUM MAP THEREOF, RECORDED JANUARY 21, 2005 AT RECEPTION NO. 3254932 AND AS DEFINED AND DESCRIBED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF PLATTE BUSINESS CENTER CONDOMINIUMS, RECORDED JANUARY 21, 2005 AT RECEPTION NO. 3254931 AND ANY SUPPLEMENTS OR AMENDMENTS THERETO.

##### D. [Region 6 Headquarters Property Deleted Pursuant to 2018 Supplemental Indenture]

##### E. Region 5 Maintenance Headquarters Property

The following Parcels I, II, III and IV and Tracts V and VI, located in La Plata County, Colorado:

##### PARCEL I:

A tract of land in the SE1/4SW1/4 of Section 24, Township 35 North, Range 10 West, N.M.P.M., described as follows:

BEGINNING at the Northerly right of way line of U.S. Highway No. 160 on the East line of SE1/4SW1/4 whence the South ¼ Corner of said Section 24 bears South 00° 05' West, 251.10 feet;

Thence North 00° 05' East, 37.32 feet along said East line of said SE1/4SW1/4 to the South right of way line of the Rio Grande Southern Railroad (abandoned);

" along said right of way line North 82° 17' West, 88.54 feet to the point of a 8° 36' curve to the left;

" along said 8° 36' curve to the left 109.69 feet;

- " South 3° 34' East, 106.54 feet to the North right of way line of U.S. Highway No. 160;
- " Easterly along said right of way line on a 3° 52' curve to the right 198.00 feet to the point of beginning.

PARCEL II:

A tract of land located in the SE1/4SW1/4 of Section 24, Township 35 North, Range 10 West, N.M.P.M., and being more particularly described as follows:

BEGINNING at a point on the East line of said SE1/4SW1/4 and a point on the Southerly line of the abandoned D&RGS Railroad right of way, from which point the South ¼ corner of said Section 24 bears South 00° 05' 00" West a distance of 288.42 feet;

Thence North 82° 17' 00" West a distance of 88.54 feet along said Right of Way line;

- " along said Right of Way line a distance of 109.69 feet along the arc of an 08° 36' 00" curve to the left, the long chord of which bears North 87° 00' West, a distance of 109.57 feet;
- " North 03° 34' 00" West, a distance of 15.58 feet;
- " South 89° 04' 58" East, a distance of 198.20 feet to a point on the East line of said SE1/4SW1/4;
- " South 00° 05' 00" West a distance of 30.00 feet along said East line to the point of beginning.

PARCEL III:

Lots 1, 2 and 3, Category One (1), Project No. 80-112, JAMES W. TABER and DAVID A. WILD (S) SUBDIVISION, according to the recorded plat thereof filed for record December 8, 1980 as Reception No. 450225.

PARCEL IV:

A portion of Lot Two (2), Category One (1), Project No. 84-258, according to the plat thereof filed for record November 7, 1984 under Reception No. 507767, and further described as follows:

A tract of land situated in the SW1/4 of Section 24, Township 35 North, Range 10 West, N.M.P.M., and more particularly described as follows:

BEGINNING at a point on the North right of way line of the abandoned Rio Grande Southern Railroad and from which point the South ¼ corner of said Section 24 bears South 29° 37' East, a distance of 462.44 feet;

Thence along the arc of a 7.4779 curve to the left 266.40 feet, (the long chord of which bears South 77° 28' 20" West, a distance of 264.82 feet) ;

Thence South 66° 13' West, a distance of 182.73 feet;

- " North 16° 58' 15" West, a distance of 98.28 feet;
- " North 70° 49' East, 434.01 feet;
- " South 22° 53' East, 114.48 feet to the point of beginning.

TOGETHER WITH the non-exclusive right to use the road from U.S. Highway No. 160 to the subject property as conveyed in Deed recorded October 9, 1984 under Reception No. 506472.

TRACT V:

Lot 1, Category 1-Project No. 84-258, according to the plat thereof filed for record November 7, 1984 as Reception No. 507767.

TOGETHER WITH the non-exclusive right to use the road from U.S. Highway No. 160 to the subject property as conveyed in Deed recorded October 9, 1984 under Reception No. 506472.

TRACT VI:

A tract of land located in the SE1/4SW1/4 of Section 24, Township 35 North, Range 10 West, N.M.P.M., being Tract II as described in the Deed recorded under Reception No. 693709 and being more particularly described as follows, to-wit:

BEGINNING on the East line of the SE1/4SW1/4 of said Section 24 on the Northerly right-of-way line of the abandoned Rio Grande Southern Railroad whence the South ¼ corner of said Section 24 bears South 01° 50' 44" East 391.23 feet;

Thence North 82° 17' 00" West 62.35 feet along the Northerly right-of-way line of the abandoned Rio Grande Southern Railroad;

" along the arc of a tangent curve to the left with a delta angle of 05° 35' 21" and a radius of 766.20 feet for a distance of 74.74 feet the long chord bears North 85° 04' 41" West, 74.71 feet along the Northerly right-of-way line of the abandoned Rio Grande Southern Railroad to the Westerly line of said Tract II, Reception No. 693709;

" North 153.09 feet along the Westerly line of said Tract II, Reception No. 693709 to the Northerly line of said Tract II;

" South 83° 00' 00" East, 132.31 feet along the Northerly line of said Tract II to the East line of the SE1/4SW1/4 of said Section 24;

" South 01° 50' 44" East, 151.83 feet along the East line of the SE1/4SW1/4 of said Section 24 to the point of beginning.

TOGETHER WITH the non-exclusive right of ingress and egress to the above described tract from U.S. Highway No. 160 along and across the old Rio Grande Southern Railroad right of way now abandoned.

**II. LICENSED PROPERTY:**

The Leased Property includes a license to enter on and use that certain real property described in Exhibit A to the Amended and Restated License Agreement dated as of June 28, 2012 (the "License Agreement") between CDOT as licensor and the Trustee, acting solely in its capacity as trustee under this Indenture, as licensee. The License Agreement is attached as Exhibit C to this Indenture.

**III. IMPROVEMENTS:**

The Leased Property includes all improvements located on the properties described in parts I and II of this Exhibit A as of the date of this Lease, subject to the terms of any Condominium Declaration and of the License Agreement described in such part II.