SECOND AMENDMENT TO CUSTODIAL AGREEMENT

**between**

**COLORADO SPRINGS URBAN RENEWAL AUTHORITY**

**ZIONS BANCORPORATION, N.A. dba VECTRA BANK COLORADO,**

**and**

**ZIONS BANCORPORATION, NATIONAL ASSOCIATION**

Relating to:

Not to exceed $15,000,000 2020 Tax-Exempt Note and any Parity Debt thereof

Dated as of August \_\_, 2021

SECOND AMENDMENT TO CUSTODIAL AGREEMENT

THIS AGREEMENT (this “Agreement”) is made and dated as of August \_\_, 2021, by and among COLORADO SPRINGS URBAN RENEWAL AUTHORITY, a body corporate and politic of the State of Colorado (the “Borrower”), ZIONS BANCORPORATION, NATIONAL ASSOCIATION, as custodian (in such capacity, the “Custodian”) and ZIONS BANCORPORATION, N.A. dba VECTRA BANK COLORADO (the “Bank”).

RECITALS

WHEREAS, the Bank, the Custodian and the Borrower entered into a Custodial Agreement dated as of June 23, 2020 as amended by a First Amendment to Custodial Agreement dated as of April 27, 2021 (collectively, the “Original Agreement”) (all capitalized terms used and not otherwise defined in the recitals hereof shall have the meaning assigned in the Original Agreement); and

WHEREAS, the Borrower, the Custodian and the Bank have determined to modify Section 3(c)of the Original Agreement and the Borrower has duly and properly approved such modified terms pursuant to a resolution of the Board of Directors of the Borrower (the “Board”) adopted on August \_\_\_, 2021; and

WHEREAS, as evidenced by its execution hereof, the Bank hereby approves and consents to this Amendment to the Original Agreement.

NOW, THEREFORE, in consideration of the foregoing premises, the Bank and the Borrower hereby agree as follows:

* 1. **Defined Terms**. The following capitalized terms used and not otherwise defined herein shall have the respective meanings assigned in the Original Agreement

“*Authority Administrative Fee*” means the annual fee due to the Borrower as described in the TIF Agreement.

“*Pledged Revenue*” means all TIF Revenue, as such term is used in the Loan Agreement, and all PILOT Revenue, plus, for purposes of this Agreement, all amounts held in the funds and accounts held under this Agreement.

                “*PILOT Revenue*” means all revenue collected and or received by the Borrower pursuant to a Declaration of Covenants dated \_\_\_\_\_\_, 2021 and recorded at \_\_\_\_\_\_\_\_\_\_\_\_\_.

All other capitalized terms used and not otherwise defined herein shall have the respective meanings assigned in the Original Agreement

* 1. **Amendment to Subsection 3(c) of Original Agreement**. Subsection 3(c) of the Original Agreement is hereby amended and restated in its entirety to read as follows:

(c) On the 10th day of each month, or the next succeeding business day, moneys on deposit in the Pledged Revenue Fund shall be applied by the Custodian as to the extent deposited therein as follows:

* + - 1. First, on each day on which fees or other amounts are due to the Custodian pursuant to the terms of this Agreement, or after direction in writing from the Borrower to the Custodian pursuant to the Loan Agreement (including the Non-Use Fee), the Custodian shall promptly pay such fees or other amounts;
			2. Second, for the current Note Year, to the Loan Payment Fund up to the amount required (taking into consideration amounts on deposit in the Capitalized Interest Account) to pay principal and interest due on the 2020 Note and the Parity Debt on a *pari passu* basis based on amounts due in such Note Year (including any past due interest and principal); and

(iii) Third, for any period in which the Authority Administrative Fee is included in the Pledged Revenue, after amounts in (i) and (ii) are paid in full, to the Borrower the Authority Administrative Fee; and

(iv) Fourth, if on the 10th day of each month, or the next succeeding business day, the Debt Service Coverage (as calculated by the Bank and confirmed by the Custodian) is greater than 1.25x and there remains money in the Pledged Revenue Fund (the “Excess Pledged Revenue”), then the Custodian shall deposit 50% of any such Excess Pledged Revenue in the Mandatory Prepayment Fund and pay the remaining 50% of the Excess Pledged Revenue to the Borrower to be held by the Borrower for payment to the Developer within 14 business days for any certified Eligible Costs not previously reimbursed to the Developer.

* 1. **No Default or Event of Default**. The Borrower hereby represents and warrants to the Bank that (a) no Event of Default has occurred and is continuing under the Original Agreement, (b) no Default or Event of Default has occurred and is continuing, and (c) no such Event of Default under the Original Agreement will exist immediately after giving effect to this Amendment.
	2. **Expenses**. The Borrower agrees to pay all of the reasonable costs and expenses incurred by the Bank and the Custodian in connection with the preparation, execution and delivery of this Amendment and any other documents or instruments which may be delivered in connection herewith, including without limitation, the reasonable fees and expenses of Kutak Rock LLP, counsel for the Bank.
	3. **Ratification**. Except as modified herein, all terms and provisions of the Original Agreement are hereby ratified and affirmed.
	4. **Severability**. If any section, paragraph, clause, or provision of this Amendment shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Amendment, the intent being that the same are severable.
	5. **Execution in Counterparts**. This Amendment 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.
	6. **Captions**. The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Amendment or the Original Agreement.
	7. **Amendment of Original Agreement; Integration**. This Amendment is made pursuant to and in accordance and conformity with Section 20 of the Original Agreement. As of the Amendment Effective Date, all references contained in any of the Financing Documents to the Custodial Agreement entered into by the Bank, the Borrower, the Trustee, and the Custodian shall mean the Original Agreement as amended by this Amendment, and such instruments are hereby integrated as if the terms of this Amendment were originally set forth in the Original Agreement.
	8. **Effective Date**. This Amendment shall become effective (the “Amendment Effective Date”) as of the \_\_\_th day of August, 2021.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

COLORADO SPRINGS URBAN RENEWAL AUTHORITY, a body corporate and politic of the State of Colorado

By:

Name:

Its:

Attest:

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

 Secretary

ZIONS BANCORPORATION, NATIONAL ASSOCIATION, as Custodian

By:

Name: David W. Bata

Its: Senior Vice President - Zions Bank Division

ZIONS BANCORPORATION, N.A. dba VECTRA BANK COLORADO

By:

Name:

Its:

[Signature Page to Second Amendment to Custodial Agreement]