**SECOND AMENDMENT TO VINEYARD REDEVELOPMENT AND**

**REIMBURSEMENT AGREEMENT**

 THIS SECOND AMENDMENT TO VINEYARD REDEVELOPMENT AND REIMBURSEMENT AGREEMENT (“Amendment”) is made effective as of August \_\_, 2021 by and among the COLORADO SPRINGS URBAN RENEWAL AUTHORITY, a body corporate and politic of the State of Colorado (the “Authority”), the VINEYARD METROPOLITAN DISTRICT, a quasi-municipal corporation organized and existing in accordance with Title 32, Article 1, C.R.S. (the “District”), and IP VINEYARD LLC, a Delaware limited liability company (the “Developer”) (CSURA, the District and Developer are hereinafter collectively referred to as the “Parties” and collectively as the “Parties”), on the following terms and conditions.

**RECITALS**

WHEREAS, the Authority, the District and the Developer (as assignee of Vineyard LLC) are Parties to that certain Vineyard Redevelopment and Reimbursement Agreement dated as September 5, 2012, as amended by that certain First Amendment to Vineyard Redevelopment and Reimbursement Agreement dated as of June 23, 2020 (the “Agreement”) (capitalized terms used herein and not otherwise defined will have the meanings given to such terms in the Agreement);

WHEREAS, in support of the Project, the Authority entered into tax-exempt loan transaction (the “Vectra Loan”) pursuant to (i) a Loan Agreement dated as of June 23, 2020 by and between the Authority and Zions Bancorporation, N.A. dba Vectra Bank Colorado (the “Lender”), as amended by that certain First Amendment to Loan Agreement dated as of April 27, 2021 by and between the Aurhority and Lender (as so amended, the “Vectra Loan Agreement”), (ii) a 2020 Tax Exempt Note dated as of June 23, 2020 (the “Vectra Note”) made by the Authority payable to the order of the Lender in the maximum principal amount of $15,000,000, and (iii) a Custodial Agreement dated as of June 23, 2020 by and among the Authority, Zions Bancorporation, National Association, as custodian (the “Custodian”), and the Lender, as amended by that certain First Amendment to Loan Agreement dated as of April 27, 2021 by and among the Aurhority, the Custodian and Lender (as so amended, the “Custodial Agreement,” and together with the Vectra Loan Agreement, the Vectra Note and any other documents and instruments executed and delivered in connection therewith, the “Vectra Loan Documents”), the proceeds of which Vectra Loan have been and will be used to reimburse the Developer for the Eligible Costs;

WHEREAS, contemporaneously herewith, the Authority, Lender and the Custodian, as applicable, are entering into a second amendment to each of the Loan Agreement and Custodial Agreement that will, among other things, temporarily subordinate the Authority Administrative Fee to the annual debt service payable on the Vectra Loan, in order to increase the borrowing base of the Vectra Loan and facilitate the commencement of construction of the next phase of the Private Improvements; and

WHEREAS, in connection with the amendment of the Vectra Loan Documents, and in consideration therefor, the Authority and the Lender require certain amendments to the Agreement and commitments by the Developer, all on the terms and conditions set forth herein;

**AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing and the covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

# Certain Defined Terms.

## The Agreement is hereby amended by adding the following defined terms to Section 2.0:

 “PILOT Covenant” means that certain Declaration of Covenants dated \_\_\_\_\_\_, 2021 and recorded in the real estate records of El Paso County, Colorado on \_\_\_\_\_\_\_\_, 2021 at Reception No. \_\_\_\_\_\_\_\_.

 “PILOT Revenue” means all revenue collected pursuant to the PILOT Covenant.

## The definition of “TIF Revenue” in the Agreement is hereby amended by adding the following at the end thereof:

“; provided, however, that notwithstanding the foregoing, until such time as the second completed building is included in the assessed value of the Property, adding a minimum of $1,372,892.99 of incremental assessed value, “TIF Revenue” shall include the Authority Administrative Fee.”

# Guaranty; Financial Assurances by Developer. As consideration for the subordintation of the Authority Administrative Fee as provided herein:

## In any year that the Authority Administrative Fee is not released to the Authority by Vectra pursuant to the Loan Documents, Developer hereby agrees to pay, within five (5) business days of written demand from the Authority, the Authority Administrative Fee for such year. In the event that Developer pays the Authority Administrative Fee in any year, such amount shall be reimbursable to Developer as an Eligible Cost.

## As security for Developer’s performance of its obligations in Section 2(a) above, contemporaneously with the execution of this Amendment, Developer shall provide cash collateral in an amount equal to $60,000 to be held by the Authority in trust for the benefit of Developer, which amount may be drawn and applied by the Authority in the event that the Authority issues a demand for payment in accordance with Section 2(a) above. Such amount shall be held by the Authority without interest. In the event that such amount is applied to the Authority Administrative Fee in any year, Developer shall replenish such amount within five (5) business days of written demand by the Authority.

## The obligations of this Section shall run with the Project and shall be assumed by any assignee of the Property, or any portion thereof.

## Developer’s principal, Vince Colarelli, shall be personally liable for the Developer’s obligations under this Section. Vince Colarelli has joined this Amendment as evidence of his obligations hereunder.

## The obligations of Developer (and Vince Colarelli) under this Section shall terminate and be of no further force or effect from and after the time at which the Authority Administrative Fee is no longer subordinated to the Vectra Loan. If the Authority is holding any funds in escrow at such time, such funds shall be released to Developer.

# Construction of Private Improvements. In connection with the reimbursement of Eligible Costs to Developer funded in connection with this Amendment, Developer will be ready to proceed with the next phase of construction of the Private Improvements. Developer agrees to use commercially reasonable efforts to construct, or to cause the construction of, the Private Improvements and Eligible Public Improvements in accordance with the schedule described on Exhibit A attached hereto and made a part of this Amendment.

# PILOT Covenant. As partial consideration for the Authority’s agreements in this Amendment, Developer acknowledges that it has executed and delivered, and has caused Vineyard LLC to execute and deliver, the PILOT Covenant, and has recorded the same in the real estate records of El Paso County, Colorado. The Authority, will apply the PILOT Revenue, if any, in accordance with the Loan Documents and in the same manner as TIF Revenue under the Agreement. Upon termination of the PILOT Covenant as set forth therein, the Parties will record an instrument evidencing such termination.

# Conditions Precedent to Effectiveness of Amendment. This Amendment shall not be effective until the satisfaction of the following conditions by the Developer:

## The PILOT Covenant shall have been recorded; and

## Developer shall be prepared to, and shall, simultanouesly close and fund sufficient third-party financing to allow Developer to satisfy its obligations to Iron Point Partners, LLC.

# Miscellaneous Provisions.

## Entire Agreement; Binding Effect. The Agreement, as amended by this Amendment, contains the entire understanding of the parties hereto with respect to, and supersedes all prior agreements and understandings relating to, the subject matter hereof. All the terms and provisions of this Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. All Recitals at the beginning of this Amendment are incorporated herein by this reference. All references to the “Agreement” shall include all the terms and provisions of this Amendment.

## Counterparts. This Amendment may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. This Amendment may be transmitted by facsimile or electronic mail, and facsimile or pdf signatures shall constitute original signatures for all applicable purposes.

## No Other Modification. Except as expressly modified by this Amendment, the terms, provisions, covenants and conditions of the Agreement shall remain unchanged and are hereby ratified and confirmed as of the date hereof as being in full force and effect. Notwithstanding the foregoing, whether or not specifically amended by this Amendment, all of the terms and provisions of the Agreement are hereby amended to the extent necessary to give effect to the purpose and intent of this Amendment.

## Time of the Essence. Time is of the essence in this Amendment.

## Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the State of Colorado.

## Further Assurances. The Parties shall each cooperate with each other to take all additional actions and execute and deliver all additional documents necessary or desirable to effectuate the provisions and spirit of this Amendment.

[SIGNATURE PAGE FOLLOWS]

 IN WITNESS WHEREOF, the Parties have caused this Amendment to be duly executed as of the date first above written.

COLORADO SPRINGS URBAN RENEWAL AUTHORITY

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

 Randle W. Case II, Chair

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

IP VINEYARD LLC

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

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

VINEYARD METROPOLITAN DISTRICT

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

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

For purposes of Section 2 of this Amendment:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Vince Colarelli

**EXHIBIT A**

**PHASE II OF PRIVATE IMPROVEMENTS AND ELIGIBLE PUBLIC IMPROVEMENTS**

August \_\_, 2021

Submittal of Development Plan for Next Building September 30, 2021

Submittal of Building Permit Application March 31, 2022

Commencement of Construction Within \_\_ days of Building Permit Issuane