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 May \_\_, 2020

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CUSTODIAL AGREEMENT

THIS AGREEMENT (this “Agreement”) is made and dated as of May\_\_, 2020, 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 Borrower has determined in an Authorizing Resolution dated April 29, 2020 (the “Authorizing Resolution”) that it is in the best interests of the Borrower, that there shall be issued a not to exceed $15,000,000 2020 Tax-Exempt Note (the “2020 Note”); and

WHEREAS, the 2020 Note will be issued pursuant to the Authorizing Resolution, the Loan Agreement dated as of May1, 2020, between the Borrower and Zions Bancorporation, N.A. dba Vectra Bank Colorado, a national banking association (the “Bank”) (as amended or supplemented from time to time, the “2020 Loan Agreement”), and this Agreement; and

WHEREAS, the Borrower, the Bank and the Custodian intend for this Agreement to govern the application of certain revenues of the Borrower to the repayment of the 2020 Note as well as any Parity Debt (as defined herein); and

WHEREAS, under the terms of the Authorizing Resolution and the 2020 Loan Agreement, certain funds and accounts shall be pledged to the Owners (as herein defined) of the 2020 Note and the Parity Debt as set forth herein as security for the payment of the 2020 Note and the Parity Debt and as security for the payment of all obligations of the Borrower owing to the Bank under the 2020 Loan Agreement and to the Owners pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, the 2020 Loan Agreement and in the Authorizing Resolution, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

* 1. **Definitions**. Unless otherwise defined herein or the context otherwise requires, capitalized terms used herein shall have the meaning set forth below. These definitions shall be equally applicable to both the singular and the plural forms of the terms so defined. Certain terms have been defined in the introductory paragraph and the recitals to this Agreement.

In addition, the following terms as used in this Agreement shall have the following meanings, unless the context otherwise requires:

“*Authorized Person*” means the Chair or the Executive Director of the Borrower, and also means any other individual authorized by the Chair or Executive Director of the Borrower to act as an Authorized Person hereunder.

“*Debt Service Coverage Ratio*” means for any applicable Note Year, the ratio derived by dividing (a) the Net Pledged Revenue for such Note Year by (b) the amount of principal and interest paid on the Loan for the same Loan Year.

“*Developer*” means IP Vineyard LLC, a Delaware limited liability company,

“*Electronic Notification*” means telecopy, facsimile transmissions, email transmissions or other similar electronic means of communication providing evidence of transmission.

“*Financing Documents*” means this Agreement, the 2020 Note, the Authorizing Resolution, the Loan Agreement and any other document or instrument required or stated to be delivered hereunder or thereunder, all in form and substance satisfactory to the Bank.

“*Funds and Accounts*” means, collectively, the Loan Payment Fund, the Pledged Revenue Fund, the Mandatory Prepayment Fund and the Project Fund and all accounts within such funds as the same have been created pursuant to the Loan Agreement and maintained and administered as set forth herein.

“*Loan*” means the not to exceed $15,000,000 2020 tax-exempt loan made by the Bank to the Borrower as evidenced by the 2020 Loan Agreement, the 2020 Note and any loan made pursuant to any Parity Debt.

“*Loan Agreement*” means the 2020 Loan Agreement and any loan agreement executed in connection with any Parity Debt.

“*Loan Payment Fund*” means the fund by that name created pursuant to the Loan Agreement and maintained pursuant to Section 4 hereof, including a Capitalized Interest Account and a 2020 Cost of Issuance Account therein.

“*Mandatory Prepayment Fund*” means the fund established pursuant to the Loan Agreement and maintained pursuant to Section 6 hereof.

“*Maturity Date*” means December 1, 2036.

“*Non-Use Fee*” has the meaning set forth in Section 2.01(e) of the 2020 Loan Agreement or any similar fee provided for in the Loan Agreement for any Parity Debt.

“*Note Year*” means, December 2nd of any year through the next succeeding December 1st.

“*Owner*” means the registered owner of the 2020 Note and any Parity Debt.

“*Parity Debt*” means any debt issued by the Borrower payable from the Pledged Revenue on a parity basis with the 2020 Note.

“*Payment Date*” means December 1 of each year, commencing December 1, 2020 and continuing through and including the Maturity Date.

“*Permitted Investments*” means any investment or deposit permissible under then applicable law for governmental entities such as the Borrower.

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

“*Pledged Revenue Fund*” means the fund established pursuant to the Loan Agreement and maintained pursuant to Section 3 hereof.

“*Project Fund*” means the fund established pursuant to the Loan Agreement and maintained pursuant to Section 5 hereof.

“*Subordinate Debt*” means obligations of the Borrower payable from Pledged Revenue or other revenues of the Borrower that are junior and subordinate to the 2020 Loan and the Parity Debt.

* 1. **Creation of Funds and Accounts**. The following funds and accounts have been created and established pursuant to the Loan Agreement, and each shall be administered and maintained by the Custodian in accordance with the provisions hereof:
		1. A Pledged Revenue Fund, known as the “Colorado Springs Urban Renewal Authority Vineyard Pledged Revenue Fund;”
		2. A Loan Payment Fund, known as the “Colorado Springs Urban Renewal Authority Vineyard Loan Payment Fund,” and within the Loan Payment Fund a Capitalized Interest Account and a 2020 Cost of Issuance Account; and
		3. A Mandatory Prepayment Fund known as the “Colorado Springs Urban Renewal Authority Vineyard Mandatory Prepayment Fund.”
		4. A Project Fund known as the “Colorado Springs Urban Renewal Authority Vineyard Project Fund.”

The foregoing funds and accounts, as applicable, will be funded on the Closing Date if and to the extent provided in the Loan Agreement. The Custodian is hereby authorized to create further accounts or subaccounts in any of the various funds and accounts established hereunder which are deemed necessary or desirable by the Custodian.

* 1. **Pledged Revenue Fund**.
		1. The Custodian shall hold and administer the Pledged Revenue Fund, which includes accounts established pursuant to this Agreement, so long as any obligations of the Borrower remain owing to the Bank under the Loan Agreement. The Pledged Revenue Fund constitutes a trust fund held for the benefit of the Bank and the Owners and the money in such fund shall be disbursed only for the purposes and uses in the Loan Agreement and hereinafter authorized.
		2. The Borrower shall transfer all amounts comprising the Pledged Revenue to the Custodian as soon as practicable upon receipt thereof by the Borrower (but in no case less frequently than monthly) and the Custodian shall deposit all such moneys into the Pledged Revenue Fund.
		3. 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
			3. Third, if on December 1 of each year, the Debt Service Coverage (as calculated by the Bank and the Custodian) is greater than 1.25x and their 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 Developer.
	2. **Loan Payment Fund**.
		1. The Custodian shall hold and administer the Loan Payment Fund, so long as any obligations of the Borrower remain owing to the Bank under the Loan Agreement, or any obligations of the Borrower to the Owners of the 2020 Note or any Parity Debt under the Financing Documents are not discharged in accordance with the terms thereof. The Loan Payment Fund constitutes a trust fund for the benefit of the Bank and Owners of the 2020 Note and the Parity Debt, and the money in such fund shall be disbursed only for the purposes and uses in the Loan Agreement and hereinafter authorized.
		2. The amounts on deposit in the Loan Payment Fund (including any moneys transferred thereto from the Capitalized Interest Account) shall be used by the Custodian solely to pay amounts due pursuant to the Loan Agreement and this Agreement, in the following priority:
			1. First, to pay any past due interest on each Payment Date and on the Maturity Date on the 2020 Note and any past due interest on each interest payment date and the maturity date associated with the Parity Debt;
			2. Second, to pay any current interest due on each Payment Date and on the Maturity Date on the 2020 Note and any current interest due on each interest payment date and the maturity date associated with the Parity Debt;
			3. Third, to pay any past due principal on each Payment Date and on the Maturity Date on the 2020 Note and any past due principal on each payment date and the maturity date associated with the Parity Debt; and
			4. Fourth, to pay principal on the principal payment dates set forth in Section 2.02 of the Loan Agreement and the Maturity Date with respect to the 2020 Note and the dates upon which principal is due on the Parity Debt.

The Custodian may request from the Bank, and conclusively rely upon, written confirmation of the amounts to be paid as to principal, prepayment fee, if any, and interest on the Loan (including without limitation the interest represented by the Non-Use Fee).

Within the Loan Payment Fund there shall be established a Capitalized Interest Account. The amounts in the Capitalized Interest Account and any Parity Debt Capitalized Interest Account shall be transferred to the Loan Payment Fund to pay interest due on the 2020 Note and any Parity Debt in the current Note Year.

Within the Loan Payment Fund there shall also be established an account titled the 2020 Cost of Issuance Account. The monies in the 2020 Cost of Issuance Account shall be disbursed by the Custodian upon the Custodian’s receipt of a written request in the form of Exhibit A of this Agreement, upon which request the Custodian may conclusively rely. Any amounts remaining in the 2020 Cost of Issuance Account 90 days from the date of deposit shall be transferred to the Project Fund.

* 1. **Project Fund.**
		1. The Custodian shall hold and administer the Project Fund and disburse funds therefrom in accordance with requisitions in substantially the form of Exhibit B hereof. The Custodian may rely conclusively upon any such requisitions received and shall have no obligation to make an independent investigation in connection therewith.
		2. Upon the occurrence of an Event of Default, the Custodian shall cease disbursing moneys from the Project Fund until such Event of Default is cured.
		3. The Project Fund is held for the benefit of the Bank and the Owners of the 2020 Note and any Parity Debt and the money in such fund shall be disbursed only in accordance with this Agreement.
	2. **Mandatory Prepayment Fund**.
		1. The Custodian shall hold and administer the Mandatory Prepayment Fund so long as the Loan is outstanding in whole or in part. The Mandatory Prepayment Fund is held for the benefit of the Bank and the Owners of the 2020 Note and any Parity Debt and the money in such fund shall be disbursed only in accordance with this Agreement.
		2. On each December 1 the Custodian shall determine the amount credited to the Mandatory Prepayment Fund and, to the extent the amount therein is sufficient to prepay all or any part of the then-outstanding principal of the Loan and any Parity Debt in increments of $5,000 or integral multiples thereof, plus the accrued interest thereon, such moneys shall be applied by the Custodian to such prepayment beginning with the final principal payment due on December 1, 2036 and continuing in reverse chronological order. Amounts in the Mandatory Prepayment Fund not applied to the prepayment of the Loan or Parity Debt as aforesaid will be credited to the Loan Payment Fund as soon as practicable after the determination by the Custodian that any such amounts remain in the Mandatory Prepayment Fund.
	3. **Investment of Funds**. The Custodian shall, at the written direction of an Authorized Person of the Borrower, invest amounts held by it pursuant to this Agreement only in Permitted Investments and the investment earnings for such funds and accounts shall be deposited into the respective account which generated such earnings. The Custodian shall have no liability or responsibility for any loss or for failure to maximize earnings resulting from any investment made, sale or reduction in accordance with the provisions of this Section 7. The Custodian shall be entitled to assume, absent receipt by the Custodian of written notice to the contrary, that any investment that at the time of purchase is a Permitted Investment remains a Permitted Investment thereafter.

All investments and earnings thereon shall constitute a part of the Fund or Account from which the moneys used to acquire such investments have come. The Custodian shall sell and reduce to cash a sufficient amount of investments in a Fund or Account whenever the cash balance therein is insufficient to pay the amounts required to be paid therefrom, The Custodian may transfer investments from any Fund or Account to any other Fund or Account in lieu of cash when a transfer is required or permitted by the provisions of this Agreement.

In computing the amount of any Fund or Account, Permitted Investments purchased as an investment of moneys therein shall be valued at the then market value of such obligations, excluding any accrued interest. If the market value of such obligations is not readily available, the Custodian shall determine the value of such obligations in any reasonable manner.

The Custodian may make any and all investments permitted by the provisions of this Section 7 through its own investment department or that of its affiliates. As and when any amount invested pursuant to this Section 7 may be needed for disbursement, the Custodian may cause a sufficient amount of such investments to be sold and reduced to cash to the credit of such funds.

The parties acknowledge that to the extent regulations of the Comptroller of Currency or other applicable regulatory entity grant a right to receive brokerage confirmations of security transactions of this Agreement, the parties waive receipt of such confirmations, to the extent permitted by law. The Custodian shall furnish a statement of security transactions on its regular monthly reports.

* 1. **Security**. The Borrower hereby pledges and grants to the Bank a first priority lien on and security interest, as security for the payment of amounts due under the Loan Agreement and the 2020 Note and any Parity Debt, in and to all of its rights, title and interest, if any, whether now existing or hereafter arising, in (a) the Pledged Revenue Fund, the Loan Payment Fund and the Mandatory Prepayment Fund and (b) all cash and investment securities on deposit therein. The creation, perfection, enforcement and priority of the pledge of revenues to secure and pay the Loan provided herein shall be as described by the 2020 Loan Agreement. The Custodian hereby agrees that it will treat all property held by it in any fund or account hereunder as financial assets under Article 8 of the Uniform Commercial Code of the State of Colorado. The Custodian agrees to treat the Bank as entitled to exercise all securities entitlements with respect to the financial assets credited to the Pledged Revenue Fund, the Loan Payment Fund and the Mandatory Prepayment Fund and agrees that it shall at all times in the ordinary course of its business maintain securities accounts for others and act in that capacity as a custodian for others within the meaning of Article 8 of the Uniform Commercial Code of the State of Colorado. The Custodian hereby agrees that with respect to any uncertificated securities on deposit in the Pledged Revenue Fund, the Loan Payment Fund and the Mandatory Prepayment Fund, it will comply with entitlement orders originated by the Bank, without further consent by the Borrower. The Bank hereby agrees that it will give entitlement orders with respect to any uncertificated securities on deposit in the Pledged Revenue Fund, the Loan Payment Fund and the Mandatory Prepayment Fund to the Custodian only in compliance with the provisions of this Agreement. Without limiting the foregoing, the Bank is hereby authorized to file one or more financing statements (including fixture filings), continuation statements or other documents for the purpose of perfecting, confirming, continuing, enforcing or protecting the lien and security interests granted herein or to otherwise enable the Bank to enforce its rights hereunder, without the signature of the Borrower, and naming the Borrower as a debtor and the Bank as secured party. The Custodian agrees not to enter into any agreements with respect to the Pledged Revenue Fund, the Loan Payment Fund and the Mandatory Prepayment Fund containing provisions substantially similar to the provisions contained herein with any secured creditor other than the Bank. The Custodian further agrees not to take a lien on or a security interest in the Pledged Revenue Fund, the Loan Payment Fund and the Mandatory Prepayment Fund except for its rights to receive payments as described in Section 3(c) (i) hereof.
	2. **Withdrawals and Applications of Funds**. The Custodian may conclusively rely upon the written direction of the Bank and the Borrower in accordance with the terms herein.
	3. **Events of Default**. The occurrence of the following shall constitute an “Event of Default” hereunder (subject to any applicable cure period): the Custodian’s receipt of written notice from the Bank of the occurrence of any event of default under the Loan Agreement or any loan agreement, indenture or resolution authorizing Parity Debt.

Each party hereto agrees to give written notice of any Event of Default of which it has knowledge to the Custodian promptly upon obtaining such knowledge and the Custodian shall promptly forward such notice to the other parties.

* 1. **Remedies**. While any Event of Default remains uncured, the Bank and the Owners (through the rights assigned to them in the Loan Agreement and any loan agreement, indenture or resolution authorizing Parity Debt by the Borrower) shall have all of the following rights and remedies:
		1. to foreclose their respective security interests in the Funds and Accounts by any available judicial procedure or without judicial process;
		2. to exercise all rights and remedies available to the Bank or the Owners upon the occurrence of an event of default under the Loan Agreement or any event of default under any documents relating to any Parity Debt;
		3. to cause the Custodian to transfer all amounts in the Funds and Accounts pursuant to the terms of this Agreement; and
		4. to exercise any and all other rights and remedies that the Bank or the Owners may have by law or under any applicable agreement, including without limitation, all rights and remedies of a secured party under any applicable commercial code.
	2. **Cumulative Remedies**. The Bank’s and the Owners’ rights and remedies hereunder, under the Loan Agreement and any loan agreement, indenture or resolution authorizing Parity Debt are cumulative and in addition to all rights and remedies provided by law or otherwise from time to time, and each such right or remedy may be exercised concurrently or independently and as often as the Bank or the Owners deem advisable.
	3. **No Implied Waivers**. No waiver of any default shall be implied from any omission by any party to this Agreement to take action on account of such default if such default persists or is repeated, no waiver of any default shall affect any default other than the default expressly waived, and any such waiver shall be operative only for the time and to the extent stated. No waiver of any provision of any Financing Document shall be construed as a waiver of any subsequent breach of the same provision.
	4. **Custodian’s Costs and Expenses**. The Borrower shall from time to time, subject to any agreement then in effect with the Custodian, pay the Custodian compensation for its services and reimburse the Custodian for all its advances and expenditures hereunder, including but not limited to advances to and fees and expenses of accountants, agents, appraisers, consultants, legal counsel or other experts employed by it in the observance and performance of its rights and obligations hereunder.
	5. **Role of Custodian; No Discretionary Authority**. The Custodian hereby accepts all duties and responsibilities required or permitted to be performed by it pursuant to this Agreement, pursuant to which it is acting as custodian, and the Loan Agreement. The Custodian understands and acknowledges that, by reason of the execution hereof, with respect to any funds held by it under this Agreement it has assumed a role of custodian. The Custodian shall receive and disburse such funds solely in accordance with the terms and provisions hereof.
	6. **Indemnification**. The Borrower, the Bank and the Custodian acknowledge that, except to the extent set forth in any separate instrument signed by the parties with respect to this Agreement, the Custodian’s duties hereunder do not include any discretionary authority, control or responsibility with respect to the management or disposition of any asset or funds; that the Custodian has no authority or responsibility to render investment advice with respect to any asset or funds; and that the Custodian is not a fiduciary with respect to the Borrower or the Bank. In addition, it is agreed that the Custodian shall not be liable for any loss or diminution of assets or funds by reason of investment or for its actions taken in reliance upon an instruction from the Borrower or the Bank or as otherwise set forth herein. The Custodian shall only be responsible for the performance of such duties as are expressly set forth herein or in instructions of the Borrower or the Bank. The Custodian shall exercise reasonable care in the performance of its services hereunder. In no event shall the Custodian be liable for indirect or consequential damages, Custodian shall not be responsible or liable for any failure or delay in performance of its obligations under this Agreement arising out of or caused, directly or indirectly, by instructions, actions or omissions of the Borrower or the Bank or by circumstances beyond the Custodian’s reasonable control, including, without limitation, loss or malfunctions of utility, transportation, computer (hardware or software) or communication service; nor shall any such failure or delay give the Borrower or the Bank the right to terminate this Agreement, except as provided in Section 24 of this Agreement.

The Custodian shall be deemed to have received appropriate written “instructions” or “directions” upon receipt of written instructions or directions, signed or given by an Authorized Persons designated by the Borrower or an authorized representative of the Bank under the Loan Agreement. The Borrower and the Bank shall each provide the Custodian with a certificate designating such authorized parties in a form acceptable to the Custodian.

To the extent permitted by law, the Borrower and the Bank hereby agree to indemnify Custodian and its controlling person, officers, directors and employees (each an “Indemnified Party”) and hold each Indemnified Party harmless from and against any cost, losses, claims, liabilities, fines, penalties, damages and expenses (including reasonable attorneys’ and accountants’ fees) (collectively, a “Claim”) arising out of (i) Borrower’s actions or omissions or (ii) Bank’s actions or omissions and (iii) Custodian’s action taken or omitted hereunder in reliance upon the Borrower’s or Bank’s instructions, or upon any information, order, indenture, stock certificate, power of attorney, assignment, affidavit or other instrument delivered hereunder to Custodian, reasonably believed by Custodian to be genuine or bearing the signature of a person or persons authorized by the Borrower or the Bank to sign, countersign or execute the same; provided, that Borrower and Bank shall not indemnify an Indemnified Party for any Claim arising from the Indemnified Party’s willful misfeasance, bad faith or negligence in the performance of its duties, or reckless disregard of its duties under this Agreement.

* 1. **Miscellaneous**. Presentment, protest, notice of protest, notice of dishonor and notice of nonpayment are hereby waived with respect to any proceeds to which any Bank is entitled hereunder. The Custodian shall make no disbursement, investment or other use of funds until and unless it has collected funds. The Custodian shall not be liable for collection items until the proceeds of the same in actual cash have been received.
	2. **Successors and Assigns**. Subject to any applicable restrictions on assignment contained herein, in any Loan Agreement or any loan agreement, indenture or resolution authorizing Parity Debt, this Agreement shall bind and shall inure to the benefit of, the successors and assigns of the Borrower, the Custodian and the Bank.
	3. **Notices, Etc**. All notices, demands, instructions and other communications required or permitted to be given to or made upon any party hereto or any other Person shall be in writing and shall be personally delivered or sent by first class mail postage prepaid, by overnight delivery service, or by Electronic Notification and shall be deemed to be given for purposes of this Agreement on the day that such writing is initially delivered to the intended recipient thereof in accordance with the provisions of this Section 19. Unless otherwise specified in a notice sent or delivered in accordance with the foregoing provisions of this Section 19, notices, demands, instructions and other communications in writing shall be given to or made upon the respective parties (the “Notice Parties”) hereto at their respective addresses (or to their respective email addresses) indicated below:

to Borrower: Colorado Springs Urban Renewal Authority

30 South Nevada Avenue

Suite 603

Colorado Springs, CO 80903

Attention: Executive Director

Telephone: 719-385-5714

Email: jariah.walker@coloradosprings.gov

with a copy to: Kraemer Kendall Rupp Deen Neville LLC

430 North Tejon St.

Suite 300

Colorado Springs, CO 80903

Attention: David M. Neville

Telephone: 719-471-3690

Email: dneville@k2blaw.com

to Bank: Zions Bancorporation dba Vectra Bank

2000 S. Colorado Boulevard

Suite 2-1200

Denver, CO 80222

Telephone: 720-947-8802

Attention: Conrad Freeman

Email: cfreeman@vectrabank.com

to Custodian: Zions Bancorporation, National Association

 1001 17th Street

 Suite 850

 Denver, CO 80202

 Telephone: 720-947-7448

 Attention: Emily Stribling

 Email: emily.stribling@zionsbancorp.com

with a copy to: DenverCorporateTrust@zionsbancorp.com

The Notice Parties designated above may, by written notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, or other communications shall be sent.

* 1. **Integration; Modification; Waiver**. This Agreement, together with any other documents referred to herein, constitutes the entire agreement among the Borrower, the Custodian, and the Bank with respect to the matters set forth herein. No modification of this Agreement (including waivers of rights) shall be effective unless in writing and signed by each party hereto.
	2. **Counterparts; Electronic Documentation.** This document may be executed in counterparts with the same force and effect as if the parties had executed one instrument, and each such counterpart shall constitute an original hereof. No provision of this Agreement that is held to be inoperative, unenforceable or invalid shall affect the remaining provisions, and to this end all provisions hereof are hereby declared to be severable. Time is of the essence of this Agreement. This Agreement shall be governed by, and construed in accordance with, the internal laws of the State of Colorado. The Custodian shall be entitled, in its sole discretion, to image all or any selection of the Agreement, other documents, items and records governing, arising from or relating to this Agreement, and may destroy or archive the paper originals. The parties hereby waive any right to insist that the Custodian produce paper originals, agree that such images shall be accorded the same force and effect as the paper originals and further agrees that the Custodian is entitled to use such images in lieu of destroyed or archived originals for any purpose, including as admissible evidence in any demand, presentment or judicial or administrative proceedings.
	3. **Waiver of Jury Trial**. Each of the parties hereto irrevocably waives, to the fullest extent permitted by law, any and all rights to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby. The Borrower, the Bank and the Custodian each further agree that, in the event of litigation, it will not personally or through its agents or attorneys seek to repudiate the validity of this Section 22 and the Borrower acknowledges that it freely and voluntarily entered into this Agreement to waive trial by jury in order to induce the Bank to enter into the Loan Agreement.
	4. **Headings**. Section headings used in this Agreement are for convenience of reference only and shall not affect the construction of this Agreement.
	5. **Termination**. This Agreement shall terminate on the date when the Borrower has paid or otherwise discharged all amounts due and owing to (i) the Bank under the Loan Agreement and (ii) the Custodian under this Agreement. The Bank and Borrower agree to provide written notice to the Custodian when all amounts due and owing have been paid.
	6. **Express Duties**. This Agreement expressly and exclusively sets forth the duties of the Custodian with respect to any and all matters pertinent hereto, and no implied duties or obligations shall be read into this Agreement against the Custodian, there are no unwritten oral agreements between the parties. The Custodian shall have no duty to know or determine the performance or nonperformance of any provision of any agreement between or among the other parties hereto, and no other agreement shall be considered as adopted or binding, in whole or in part, upon the Custodian notwithstanding that any such other agreement may be referred to herein or deposited with Custodian, and the Custodian’s rights and responsibilities shall be governed solely by this Agreement.
	7. **Limitations of Liability**. The Custodian shall not be liable for any error of judgment or for any act done or step taken or omitted by it in good faith or for any mistake of fact or law or for anything which the Custodian may do or refrain from doing in connection herewith, including upon advice of counsel, except for its own willful misconduct or gross negligence,
	8. **Adverse Claims**. In the event of any disagreement between any of the parties to this Agreement, or between any of them and any other person, resulting in adverse claims or demands being made in connection with the matters covered by this Agreement, or in the event that the Custodian, in good faith, be in doubt as to what action it should take hereunder, the Custodian may, at its option, refuse to comply with any claims or demands on it, or refuse to take any other action hereunder, so long as such disagreement continues or such doubt exists, and in any such event, the Custodian shall not be or become liable in any way or to any person for its failure or refusal to act, and the Custodian shall be entitled to continue so to refrain from acting until (i) the rights of all interested parties shall have been fully and finally adjudicated by a court of competent jurisdiction, or (ii) all differences shall have been adjudged and all doubt resolved by agreement among all of the interested persons, and the Custodian shall have been notified of (i) or (ii) in writing.
	9. **Authority for Agreement**. Each party represents and warrants that it has full power and authority to enter into this Agreement and has taken all action necessary, corporate or otherwise, to carry out the transaction contemplated hereby so that when executed this Agreement constitutes a valid and binding obligation enforceable in accordance with its terms.
	10. **Resignation of Custodian; Successor Custodian**. The Custodian may resign at any time by giving written notice by Certified Mail, Return Receipt Requested to all of the parties hereto to be effective thirty days after such notice has been deposited into the U.S. Mail. If a successor Custodian has not been appointed within thirty days after such notice of resignation, the Custodian may petition any court of competent jurisdiction for the appointment of a successor Custodian. Costs of such petition, including reasonable attorneys’ fees, shall be borne by the Borrower. The Custodian shall have no responsibility for the appointment of a successor Custodian. The successor Custodian shall execute and deliver to the Custodian an instrument accepting such appointment, and the successor Custodian shall, without further acts, be vested with all the estates, property rights, powers and duties of the predecessor Custodian as if originally named as Custodian herein. The Custodian shall act in accordance with written instructions from the Borrower as to the transfer of all funds and accounts to a successor Custodian.
	11. **Patriot Act Notice**. The Custodian hereby notifies the Borrower that to help the government fight the funding of terrorism and money laundering activities pursuant to the requirements of the Patriot Act it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow the Custodian to identify the Borrower in accordance with the Patriot Act. The Borrower hereby agrees that it shall promptly provide such information upon request by the Custodian.

[The remainder of this page intentionally left blank.]

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 Custodial Agreement]

EXHIBIT A

FORM OF COST OF ISSUANCE REQUISITION

REQUISITION NO. \_\_\_\_\_\_\_\_\_\_\_\_\_

To: Zions Bancorporation, National Association

 Attention: Corporate Trust Services

The undersigned Borrower Representative (the “Authorized Person”) of Colorado Springs Urban Renewal Authority (the “Borrower”), hereby requisitions the following sum from the Cost of Issuance Account established under the Custodial Agreement, dated May 1, 2020 (the “Agreement”), and in connection with such request, certifies as follows:

Amount: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name and Payment Instructions of Payee:

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

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

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

The Borrower has attached hereto a copy of each Payee’s Form W-9 or Form W-8, as applicable (unless previously provided). The Borrower further acknowledges the Custodian cannot process such disbursement request until the Custodian is in receipt of a valid Form W-9 or Form W-8, as applicable, in accordance with Internal Revenue Service regulations and the Foreign Account Tax Compliance Act,

The Borrower further certifies to its knowledge that:

(a) all conditions required by the Loan Agreement and the Custodial Agreement and other Financing Documents to be met prior to the disbursement of the above amount have been satisfied;

(b) the Borrower is not in breach of any of the agreements contained in the Custodial Agreement and other Financing Documents; and

(c) no Event of default has occurred and is continuing.

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

COLORADO SPRINGS URBAN RENEWAL AUTHORITY

By:

Authorized Person

EXHIBIT B

FORM OF Project Fund REQUISITION

REQUISITION NO. \_\_\_\_\_\_\_\_\_\_\_\_\_

To: Zions Bancorporation, National Association

 Attention: Corporate Trust Services

The undersigned Borrower Representative (the “Authorized Person”) of Colorado Springs Urban Renewal Authority (the “Borrower”), hereby requisitions the following sum from the Project Fund established under the Custodial Agreement, dated May 1, 2020 (the “Agreement”), and in connection with such request, certifies as follows:

Amount: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name and Payment Instructions of Payee:

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

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

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

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

The Borrower has attached hereto a copy of each Payee’s Form W-9 or Form W-8, as applicable (unless previously provided). The Borrower further acknowledges the Custodian cannot process such disbursement request until the Custodian is in receipt of a valid Form W-9 or Form W-8, as applicable, in accordance with Internal Revenue Service regulations and the Foreign Account Tax Compliance Act.

The Borrower further certifies to its knowledge that:

(a) the obligation described above has been properly incurred by the Borrower, is a proper charge against the Project Fund and has not been the basis of any previous withdrawal or requisition;

(b) all conditions required by the Loan Agreement and the Custodial Agreement and other Financing Documents to be met prior to the disbursement of the above amount have been satisfied;

(c) the Borrower is not in breach of any of the agreements contained in the Custodial Agreement and other Financing Documents; and

(d) no Event of default has occurred and is continuing.

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

COLORADO SPRINGS URBAN RENEWAL AUTHORITY

By:

Authorized Person