

Recording Requested by:  
Anderson Law Center, P.C.  
PO Box 183  
Delta, UT 84624

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B: 598 P: 499 Fee \$0.00 Page 1 of 4  
Connie Hansen Millard Recorder  
06/29/2015 11:36:07 AM By DELTA CITY

AFTER RECORDING RETURN TO:

DELTA CITY  
76 North 200 West  
Delta, UT 84624-9440

SPACE ABOVE THIS LINE FOR  
RECORDERS USE

**DEVELOPMENT AGREEMENT WITH DELTA CITY, UTAH**

DATED: June 2, 2015

This Agreement is by and between Zion's Development, a partnership, a Utah Limited Liability Company ("Developer") and Delta City, a Municipal Corporation of the state of Utah ("Delta City").

**Recitals**

WHEREAS, Developer desires to develop and construct improvements, specifically a charter school that will consist of the placement of setting modular class rooms manufactured by Williams Scotsman ("Modular Units"), upon certain real property located described as:

**Lot 3, Block 27, Plat "A" Delta Townsite**

(the "Property");

WHEREAS, the Developer has submitted a Building permit Application to Delta City for approval to start construction of such development (the "Application");

WHEREAS, Delta City has determined that, absent contrary and superseding law, the placement of such Modular Units proposed by the application would not be allowed under currently enacted ordinances as set out in the Revised Ordinance of Delta City (1981 edition, as amended), specifically Title 12, Delta City Planning and Zoning ordinances promulgated by Delta City pursuant to statutory given by Utah Code Ann. 10-9a-501;

WHEREAS, Delta City has determined that the Application is made by or for a charter school as defined by Utah Code Ann. 10-9a-103(4);

WHEREAS, Utah Code Ann. § 10-9a-305 exempts charter school land use applicants from local zoning enforcement ordinances of municipalities;

WHEREAS, because the Application is by or for a charter school, the Parties recognize that Utah Code Ann. § 10-9a-305 exempts the Application from Delta City imposing an ordinance that prohibits the placement of the Modular Units;

WHEREAS, Utah Code Ann. § 10-9a-305 only applies to charter schools, the Parties which to make it clear that the exemption for the Application and the continued use of the Property pursuant to the Application only applies so long as the Property is used by a charter school or school district within the purview of Utah Code Ann. § 10.9a-305; and,

WHEREAS, Delta City and Developer intend and establish the terms of this Development Agreement shall run with the land to ensure that the requirements of the Development Agreement are binding and enforceable all persons who now own, or who may hereafter own the property to be developed and that Delta City may enforce this Development Agreement through any proceeding, at law or in equity, against any person or persons violating or threatening to violate this Agreement, and to recover any damages suffered by Delta City from any violation.

NOW THEREFORE, in consideration of these premises, the mutual obligations herein contained, and Delta City's approval of the Building Permit Application, it is agreed as follows:

1. **Adoption of Recitals.** The parties adopt the above recitals as part of the Development Agreement.
2. **Authority.** Developer warrants and represents to Delta City that it is the owner of the Property and, as owner, has the authority to enter into this Development Agreement.
3. **Acceptance Requested.** Developer desires the approval of Delta City with respect to the Application.
4. **Exemption for School Duration.** The Developer expressly agrees and acknowledges that any and all exemptions from Delta City ordinances or other land used laws that would be applicable to the Property is conditioned upon the Property being used as a charter school or owned by a school district pursuant to Utah Code Ann. § 10-9a-305, as amended.
5. **Property Brought Into Compliance.** Within 90 days following the Property not being used as a school or owned by a school district or otherwise within the purview of Utah Code Ann. § 10-9a-305, as amended, the current owner of the Property shall bring the property into compliance with then existing land use law and ordinances that are then applicable to the Property.
6. **Nonconforming Uses Expressly Waived.** In the event the Property is not used as a school or owned by a school district pursuant to Utah Code Ann. § 10-9a-305 for 90 days, Developer or the current owner of the Property, whichever the case may be, expressly waives any and all claims of right to continued use of the Property not in conformance with then existing land use law and ordinances that are then applicable to the Property under a theory of "nonconforming uses and noncomplying structures" as contemplated by Utah Code Ann. § 10-9a-511, as amended, or any similar state law or ordinance dealing with nonconforming use or noncomplying structures.
7. **Development Agreement Runs with the Land.** It is the intention of the parties that the covenants herein contained shall run with the land herein described as the Property, and shall be binding upon the heirs, executors, assigns, administrators, and successors of the parties hereto, and shall be constructed to be a benefit and a burden upon the Property herein described. This Agreement may be recorded in the Millard County, Utah, real property records.

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8. **All owners Jointly and Severally Liable.** The whole of this Development Agreement is chargeable and enforceable against any and all owners of any portion or part of the Property. Delta City may seek enforcement of this Development Agreement against any and all persons that own any portion of the Property described herein.
9. **Remedies.**
- 9.1. Delta City's rights and remedies provided in this Development Agreement shall not be exclusive and are in addition to any other rights or remedies provided by law. Upon breach of any provision of this Development Agreement by the current owner of the Property, beyond any notice and right to correct specified herein, Delta City may initiate any one or more of the following actions:
- 9.1.1. Delay processing of any pending land development related application;
- 9.1.2. Issue stop work orders;
- 9.1.3. Refuse to issue or approve any land development permit, including but not limited to, right-of-way access, street cut, over-lot grading or building permits, certificates of occupancy, or final plats;
- 9.1.4. Issue a citation to the current owner of the Property and or any contractor or subcontractor for violation of Delta City Code; or
- 9.1.5. Initiate legal proceedings in any appropriate court of law.
- 9.1.6. Any amounts due and owing to Delta City under the Development Agreement that are not paid in a timely manner may be certified to the Millard County Treasurer for collection with taxes.
- 9.2. 30 days following a reasonable demand upon the current owner of the Property to bring the Property into compliance pursuant to Paragraph 5, Delta City may, at its election, bring the Property into compliance with then existing with then existing land use law and ordinances that are then applicable to the Property. The current owner of the Property shall reimburse Delta City for all costs incurred in the performance of the current owner obligations within thirty (30) days after receipt of the City's invoice for said service.
- 9.3. The current owner of the Property shall be responsible for all legal fees and costs associated with enforcement of this Development Agreement.
10. **Release Upon Completion.** Upon full completion of Developer's or the current owner's, whichever the case may be, obligation under this Development Agreement, which would include the Property no longer being used as a School or owned by a school district, and, the Property being brought into compliance with then existing with then existing land use law and ordinances that are then applicable to the Property, upon written request, Delta City will provide a written and recordable release of this Development Agreement.
11. **Jurisdiction.** This Development Agreement is enforceable by the State of Utah, Millard County, or Delta City.
12. **NOTICE TO DEVELOPER/PROSPECTIVE PURCHASER.** If you are the Developer or a prospective purchaser of this property, you are advised to discuss this Agreement with an Attorney of your choice. Execution and recordation of this Development Agreement will place requirements on the owner of any subsequent purchaser of the Real Property described herein and their heirs, successors, and assigns. These requirements include but are not limited to the payment for the public improvements described in Paragraph 4 and significant costs to the owner and purchasers, and their heirs, successors, and assigns. Developer's signature on this Development Agreement indicates that the Developer has thoroughly read this Development Agreement,

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understands it, has had an opportunity to consult with legal counsel prior to its execution, and understands that execution of the Development Agreement may result in significant financial obligations imposed upon the owner of the Property. A prospective purchaser of the Property burdened by this Development Agreement should also thoroughly review this Agreement, consult with legal counsel prior to purchasing the Property, and understand that this Development Agreement may result in significant financial obligations imposed upon and owner of the Property described herein.

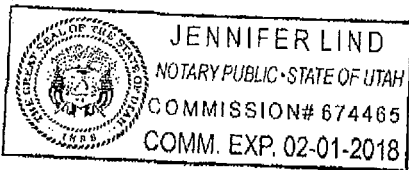
In Witness Whereof, the undersigned Developer has executed this Development Agreement on the day and year first written above.


Developer: **Zions Development**, a partnership

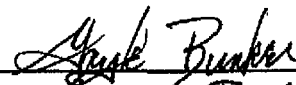
BY:   
Printed: Mike Mader  
Its General Partner

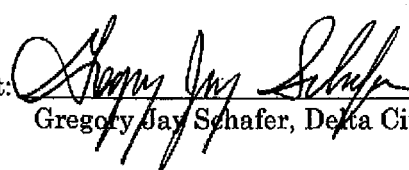
STATE OF UTAH                    )  
  )ss.  
COUNTY OF MILLARD        )  
                                      Utah

Before me, on this 2nd day of June, 2015, personally appeared Mike Mader and made known to me to be the identical person who executed the within and foregoing instrument, and acknowledged to me that he/she executed the same as his/her free and voluntary act and deed for the uses and purposes therein set forth.



  
NOTARY PUBLIC  
DELTA CITY

BY:   
Printed: GAYLE BUNKER  
Its: MAYOR

Attest:   
Gregory Jay Schafer, Delta City Recorder

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