

## DEVELOPMENT AND CONTINUING MAINTENANCE AGREEMENT

This Development and Continuing Maintenance Agreement (“Agreement”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 2022, by and between Zions Bancorporation, N.A. (“Zions”) and Vernal City (“Vernal”).

### RECITALS

**WHEREAS**, Zions is the owner of, and desires to sell, a certain parcel of real property (about 0.50 acres) in Vernal, Utah, as more particularly outlined in **red** on Exhibit “A”, which is attached hereto and incorporated herein by this reference (the “Transferred Property”). Zions will retain ownership of those certain parcels of real property adjacent to the Transferred Property and outlined in green on Exhibit “A”) (“Zions Property”).

**WHEREAS**, Vernal is the owner of a certain parcel of real property located in Vernal, Utah, more particularly outlined in **yellow** on Exhibit “A”, which is attached hereto and incorporated herein by this reference (the “Vernal Property”).

**WHEREAS**, Vernal desires to purchase the Zions Property in order to combine it with the Vernal Property in order to create a public parking lot (“Vernal City parking lot”) as shown on Exhibit “B”; which parcel shall be deemed common, unreserved parking for the use by the public. The Parking Lot shall be developed with pedestrian and public access easements, drive-aisles, and rights-of-way as shown on Exhibit “B”. The Transferred Property, Vernal Property, and Vernal City Parking Lot shall collectively hereinafter be referred to as the “Property”.

**WHEREAS**, the Parties hereto have agreed to certain development and maintenance obligations with respect to the Property for the consideration, and upon the terms provision, and conditions hereinafter set forth.

**NOW, THEREFORE**, in consideration of the promises, the covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

### AGREEMENT

1. Vernal hereby agrees to the following:
  - a. Vernal shall finalize any necessary agreements with Zions for final site plan approval, including public access and utility easements and approvals for curb cuts and access points.
  - b. Vernal shall bear the cost for legal work, survey work, engineering work as required to develop easements for access, cross parking agreements, and other agreements as required to develop the Property.
  - c. Vernal shall bear all costs for construction of curb cuts, construction of approaches, drive-lanes, and other improvements necessary for development of the Property.
  - d. Vernal shall construct the parking lot on the Property substantially as shown on Exhibit “B”.

- e. Construction of the parking lot shall be substantially completed by October 30, 2022.
  - f. During parking lot construction, access to the Bank's drive-ups shall not be blocked; or if temporary blockage is necessary, the blockage shall be coordinated with the Bank to create minimal disruption to the drive-ups.
2. Zions and Vernal hereby agree that any parking located upon the Vernal City parking lot shall be deemed common parking for the use by the public.
3. Any curb cuts, easements, or other agreements required or authorized by the any governmental body with jurisdiction over the Property for the development of the Property shall be approved by Zions. The parties agree to execute and deliver any further easement agreements, other agreements and/or other documents necessary for the establishment, approval, or otherwise related to, any curb cuts, easements, cross-access and/or or cross-parking granted by either Party related to the Property. In the event that either party requires future, additional easements consent for such easements shall not be unreasonably withheld.

Zions or Vernal may assign interest in and to any ingress and egress to the Property from their respective properties to occupants or tenants as each party may deem necessary. Should the "curb cuts" be located straddling the property line between the parcels of the Property, each party herein grants the other party the irrevocable right of ingress and egress over and across said access drives.

#### **MAINTENANCE**

4. *Parking Lot Maintenance:* Vernal agrees to provide normal maintenance and repairs for the Parking Lot Property, including those parts subject to easements, pursuant to the terms and conditions hereinafter set forth. Such services, which shall be performed by Vernal or its designees, shall include, without limitation both preventive and normal maintenance and repairs of the parking lot (including repaving as Vernal sees necessary to reasonably maintain the business center), islands and curbing on the Property, except as provided for in this Agreement. Vernal or its designee shall maintain reasonable telephone service to receive notice of requests for service from Zions. Upon being so notified, Vernal shall promptly make such repairs and/or replace materials in a good and workmanlike manner.

#### **PARKING CODE WAIVERS: "OAK HOUSE" & ZIONS BANK BUILDING**

- 5.
- a. Zions owns a building on the Zions Property which is commonly called the Oak House ("Oak House Property"). It is the intention of Zions to sell the Oak House Property to a third party. In exchange for entering into this Agreement, Vernal City shall waive its regulations and code requirements regarding parking for the Oak House Property and specifically waive the requirement regarding the minimum number of parking stalls required for an occupancy permit for the Oak House Property regardless of use. If the Oak House id demolished or substantially increases in square footage this provision does not apply.

- b. The "new" Zions Bank Building (shown in tan on Exhibit "B") on the Zions Property has 21 parking stalls to the south and west of the building, which Vernal hereby agrees shall be considered adequate to satisfy City code requirements for parking. Vernal hereby acknowledges and agrees that an occupancy permit shall not be denied based on less than necessary parking stalls for either the Oak House Property or the Zions Property.

#### **SPECIAL ASSESSMENT AREA**

6. Vernal City will development a special assessment area ("SAA") on the Property. The purpose of this SAA is to assess adjoining property owners a fee for parking on the Property. The Zions Bank Branch on the Zions Property, which has its own parking separately from the Property, shall not be included in the SAA. In the event Vernal City develops a process for parking hourly or daily parkers for parking on the Property, Zions will have the ability to provide free parking validations to its employees, customers, invitees, vendors, during business hours and shall not be subject to any parking fees for the foregoing. The Oak House building and property are subject to the SAA provisions and assessments.

#### **MISCELLANEOUS**

7. *Signage:* The Parties acknowledge and agree that signage, both monument and pylon, may be erected on the property in accordance with Vernal City codes and requirements. In order to perform maintenance on the signs the Parties shall grant necessary easements to each other.
8. *Term, Termination of Agreement:* This Agreement benefits the Property as a whole, running with the land, and shall be perpetual in duration, or as long as allowed by applicable Federal and Utah State law.
9. *Indemnification:* Except as otherwise provided in this Agreement or the Lease Agreement, the Parties hereby agree as follows:

Zions shall defend, indemnify, save, and hold Vernal harmless for, from and against any all claims, costs, liens, fees (including reasonable witness and reasonable attorneys' fees and costs), penalties, expenses, loss, damage and liability of any kind directly or indirectly relation in any way caused by Zions to the Property unless caused by gross negligence or misconduct by Vernal.

Vernal shall defend, indemnify, save and hold Zions harmless for, from and against any all claims, costs, liens, fees (including reasonable witness and reasonable attorneys' fees and costs), penalties, expenses, loss, damage and liability of any kind directly or indirectly relation in any way caused by Vernal to the Zions Property unless caused by gross negligence or misconduct by Zions.
10. *Notices:* All communications, notices and demands of any kind which either party may be required or desire to give to or service upon the other party shall be made in writing, and shall

be delivered by personal service to an officer of the other party or sent by certified mail, return receipt requested to the following address:

To: Zions Bank  
Property Management Dept. UT-ZBB 0194  
1 South Main Street  
Salt Lake City, UT 84130

To: Vernal City  
Attn: City Manager  
374 East Main Street, Vernal UT 84078  
435-789-2255

Any such notices sent by mail shall be presumed to have been received the addressee four (4) business days after posting in the United States mail. Either party may change its address by giving the other party written notice of its new address as provided herein.

11. *Entire Agreement:* This Agreement and the items incorporated herein contain all of the agreements of the parties hereto with respect to the matters contained herein, and no prior agreement or understanding pertaining to any such matter shall be effective. No provisions of this Agreement may be amended or modified in any manner whatsoever except by an agreement in writing signed by each or the parties hereto.
12. *Captions:* Captions to articles, sections, and paragraphs of the Agreement are not a part of this Agreement and shall not be deemed to affect the meaning or construction of any of its provisions.
13. *Severability:* If any term or provision of this Agreement, or the application thereof, to any person or circumstance shall, to any extent, be invalid and unenforceable the remaining terms and provisions of this Agreement, or the application of such terms or provisions to the person or circumstances, other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.
14. *Governing Law:* This Agreement shall be construed in accordance with the laws, including the conflict of law rules, of the State of Utah.

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**IN WITNESS WHEREOF**, the Parties have caused this Development and Continuing Maintenance Agreement to be executed by their duly authorized representatives.

**ZIONS**

ZIONS BANCOPORATON, N.A.

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

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

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

**ACKNOWLEDGEMENT OF ZIONS**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

On the \_\_\_\_\_ day of \_\_\_\_\_, 2022, before me, the undersigned, a Notary Public in and for said state, personally appeared \_\_\_\_\_ personally know to me of proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, the entity upon behalf of which the person acted executed the instrument, and that such individual made such appearance before the undersigned, in the City of \_\_\_\_\_, County of \_\_\_\_\_, Utah.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary

My commission expires:

\_\_\_\_\_

\_\_\_\_\_  
Printed Name of Notary Public

**VERNAL**

VERNAL CITY.

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

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

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

**ACKNOWLEDGEMENT OF VERNAL**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

On the \_\_\_\_\_ day of \_\_\_\_\_, 2022, before me, the undersigned, a Notary Public in and for said state, personally appeared \_\_\_\_\_ personally know to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, the entity upon behalf of which the person acted executed the instrument, and that such individual made such appearance before the undersigned, in the City of \_\_\_\_\_, County of \_\_\_\_\_, Utah.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary

My commission expires:

\_\_\_\_\_

\_\_\_\_\_  
Printed Name of Notary Public

**EXHIBIT A**  
*The Property*

**EXHIBIT B**  
*Cross Access Easement*