

**TULSA DEVELOPMENT AUTHORITY
STAFF REPORT**

MEETING DATE: June 7, 2018
TO: Chairman and Board Members
FROM: O.C. Walker, Executive Director
SUBJECT: Enter into a Redevelopment Agreement with 403 Cheyenne LLC, formerly Addax Development, to receive a loan from Affordable/Obtainable Housing Funds for Residential Development in Downtown Tulsa
LOCATION: 403 South Cheyenne Avenue, Tulsa, OK

Background:

Redeveloper:	403 Cheyenne
Owner:	403 South Cheyenne, LLC
Location:	403 South Cheyenne Avenue
Size of Tract:	N/A
Zoning:	CBD
Development Area:	Downtown
Fair Market Value	\$500,000.00 available in funds
Executive Director:	O.C. Walker

Relevant Info: On May 3, 2018, the TDA Board of Commissioners reviewed and approved Resolution No. 6442, Redevelopment Agreement with 403 Cheyenne, LLC, for the loan of Downtown Housing Funds for Residential Development for a \$500,000.00, non-interest-bearing loan over a seven-year period. The purpose of this report is to request that the TDA Board of Commissioners approve an amendment to the Redevelopment Agreement.

The requested modifications are as follows:

- Expenditures Eligible for Reimbursement shall be calculated as a percentage of the maximum Amount of Advances (which percentage shall be equal to the percentage of completion of the Redevelopment Project as certified in writing addressed to TDA by a licensed architect acceptable to TDA), less the amount of any previous loan advanced by TDA to the Redeveloper.
- Upon Redeveloper's satisfaction of the requirements and conditions for an advance of loan funds under the terms of this Redevelopment Agreement, the TDA shall be obligated to make loan advances, up to the maximum Amount of Advances from those TDA funds currently on deposit in the TDA account with the City of Tulsa, Oklahoma and Downtown Residential Housing Funds. TDA certifies that such account contains an amount sufficient to fully fund the Maximum Amount of Advances.

Attachments: Draft Redevelopment Agreement

Recommendation: Staff recommends the TDA Board of Commissioners approve this item as presented

Reviewed By: **O.C. Walker, Executive Director**

REDEVELOPMENT AGREEMENT

THIS AGREEMENT made and entered into, by and between the Tulsa Development Authority (“TDA”), a public body corporate, having its principal office at 1216 N. Lansing Avenue, Suite A, Tulsa, Oklahoma 74106, and 403 Cheyenne, LLC (the “Developer”), an Oklahoma limited liability company, having its principal office at 9 E. 4th Street, Suite 303, Tulsa, Oklahoma 74103 to be effective on the date of execution by TDA (the “Effective Date”).

WITNESSETH:

WHEREAS, the voters of Tulsa County, Oklahoma approved a Proposition levying a sales tax to fund a collection of public projects known as “Vision 2025” and in which the Downtowns/Neighborhoods Fund was included as a specific Vision 2025 project providing funds for projects promoting the economic vitality of downtowns including streetscaping, pocket parks, fountains, and downtown housing; and

WHEREAS, the City of Tulsa (the “City”) has entered into a Capital Improvement Agreement (“CIA”) with the Board of Commissioners of Tulsa County, Oklahoma, governing the distribution and use of Three Million Dollars (\$3,000,000.00) from the Vision 2025 Downtown/Neighborhoods Third Penny Sales Tax Fund for the purpose of providing financial assistance to Developers of residential projects in the Downtown Tulsa area; and

WHEREAS, the City has entered into an agreement with the Tulsa Development Authority (TDA) for administration of the financial assistance and expenditure of said funds for the development or redevelopment of residential projects in the Downtown Tulsa area which specifies the duties, obligations and authority of TDA and establishes certain requirements and standards of performance to be imposed upon the selected developers of the downtown residential housing projects; and

WHEREAS, the TDA developed guidelines, proposals and recommendations for the development or redevelopment of Tulsa properties located within the Inner Dispersal Loop as downtown residential housing as set forth in its Request For Proposals (RFP) for Affordable/Obtainable Housing Funds for Residential Development for Downtown Tulsa previously issued by TDA; and has appointed a Downtown Housing Task Force (“DHTF”) to review and make recommendations to the TDA Board of Commissioners as to those projects determined to be the most beneficial and efficient use of said funds in providing financial assistance to Developers of residential projects in the Downtown Tulsa area; ; and

WHEREAS, One Million Dollars (\$1,000,000.00) of the original Three Million Dollars (\$3,000,000.00) of development assistance loan funds have been repaid and is available to provide assistance to additional residential projects. the TDA Board of Commissioners has selected two projects to receive funding to assist in the development of downtown residential housing, and Developer was one of the recommended developers for its Adams Building Project; and

WHEREAS, the Adams Building project of Developer has been selected to construct, maintain and operate not less than sixty (60) residential apartment units on the upper floors of the property located at 403 S. Cheyenne Avenue, Tulsa, Oklahoma [zip-code], 74103, (the “Property”), being more particularly described as:

The West Seventy (70) feet of Lot Eight (8), Block One Hundred Thirty-four (134), ORIGINAL TOWN NOW CITY OF TULSA, Tulsa County, State of Oklahoma, according to the Official Plat thereof, being more particularly described as follows, to wit:

BEGINNING at the Northwesterly corner of said Lot 8; thence in a Southerly direction along the Westerly line of said Lot 8 a distance of 75 feet to the Southwesterly corner thereof; thence in an Easterly direction along the Southerly line of said Lot 8 a distance of 70 feet; thence in a Northerly direction and parallel with the Westerly line of said Lot 8 a distance of 75 feet to the Northerly line of said Lot 8; thence in a Westerly direction along the Northerly line of said Lot 8 a distance of 70 feet to the POINT OF BEGINNING

~~the _____ feet of Lot _____ (), Block _____ (), Original Town of Tulsa, now City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded Plat thereof (the "Property").~~ The ~~sixty (60)~~ residential apartment units are to be constructed in a good and workmanlike manner and substantially in accordance with the representations set forth in that certain proposal submitted by Developer in response to the Request For Proposals (RFP) issued by the TDA for Affordable/Obtainable Housing Funds for Residential Development for Downtown Tulsa. In essence, the applicant proposed to construct in accordance with its response and proposal, a minimum of sixty (60) residential apartment units in the building located upon the Property as part of a multi-use commercial/residential project (the "Project") with the total project cost estimated to be the sum of Ten Million Six-Hundred Fifty Thousand Dollars (\$10,650,000.00); and

WHEREAS, based upon the selection by the TDA Board of Commissioners, TDA has been directed to enter into negotiations for a Redevelopment Agreement between TDA and Developer in order to make available financial assistance in the sum of Five Hundred Thousand Dollars (\$500,000), less and except a two (2) per cent issuance fee in the amount of Ten Thousand Dollars (\$10,000.00) to be retained by TDA and further less and except expenses incurred by TDA for abstracting and title clearance work, filing, recording and closing fees, fees for legal services and inspection fees incurred by TDA in administration of the award of funds and the fulfillment of the contract terms, in the form of a non-interest bearing loan for a seven (7) year period evidenced by a Promissory Note having a maturity and term of seven years from the date of execution of the Redevelopment Agreement and secured by a second lien Real Estate Mortgage of like term in the principal amount of Four-Hundred Ninety Thousand Dollars (\$490,000.00) on the premises above described, all in accordance with the terms and conditions of this Agreement, and the Agreement between TDA and the City of Tulsa governing the administration of the third penny sales tax funds for Downtown Residential Housing Development.

NOW, THEREFORE, in consideration of the mutual covenants, promises and conditions set forth herein, the parties hereto do hereby agree as follows, to-wit:

SECTION 1. DEFINITIONS.

The terms herein set forth shall for all purposes of this Redevelopment Agreement have the following meanings. Unless the context otherwise indicates, words importing the singular shall include the plural and vice versa and the use of the neuter, masculine or feminine gender is for convenience only and shall be deemed to mean and include the neuter, masculine and feminine gender.

A. “Advance” shall mean any of the Advances of funds requested by the Developer and approved by TDA to reimburse Developer for “Expenditures Eligible for Reimbursement” (as defined in Section (D) in the development of the project.

B. “Advance Request” means each Advance Request signed by the Developer and TDA in the form set forth on Attachment “A” attached hereto.

C. “Construction Documents” shall mean all renderings, schematics, drawings, specifications, construction plans, construction standards, materials lists and specifications, color schemes, lighting, street environment and streetscapes, sidewalk, alleyway, retail space, entryways, awnings, signage, architectural and aesthetic features, exterior components, etc. prepared and/or utilized for construction of the Redevelopment Project, and shall also mean any document required to be submitted to the City of Tulsa for regulatory approval including, without limitation, zoning clearance, issuance of building permit and certificate of occupancy.

D. “Developer” or “Redeveloper” means 403 Cheyenne, LLC, of which Tim Strange is Manager and Steven Watts is contact person.

E. “Expenditures Eligible for Reimbursement” means all costs associated with improvements in the development and construction of the residential apartment units, together with all construction supplies and services attributable to and essential for the construction of the residential apartment units, such as: a proportional amount closing costs, professional fees, insurances, permits, materials and equipment. Expenditures Eligible for Reimbursement shall be calculated as a percentage of the Maximum Amount of Advances (which percentage shall be equal to the percentage of completion of the Redevelopment Project as certified in writing addressed to TDA by a licensed architect acceptable to TDA), less the amount of any previous loan advances by TDA to Redeveloper. In the event any such expenses are not solely for the construction of the residential apartment units, the eligible expenses shall be determined on a pro rata basis as a percentage of residential apartment unit construction costs compared to the total cost of the project. Construction costs for non-residential unit uses such as office, commercial or retail uses shall not be Expenditures Eligible for Reimbursement.

F. “Development Costs” means the Expenditures Eligible for Reimbursements set forth for the Developer.

G. “Downtown Tulsa” means that area bounded by the loop known as the Inner Dispersal Loop created around the central business district by various highways in Tulsa.

H. “Loan Amount” means the Maximum Amount of Advances in the principal sum of Four-Hundred Ninety Thousand Dollars (\$490,000.00) with zero (0) interest accruing unless default occurs in which event the interest rate during default until repayment shall be eight (8) per cent per annum upon the outstanding principal balance.

I. “Loan Term” means the term of the Promissory Note to be executed by Redeveloper which term shall be for a period of seven (7) years commencing ninety (90) days from the date of Developer’s execution of this Agreement, subject to acceleration upon sale of the Project or Property or upon refinancing of the permitted first mortgage indebtedness.

J. “Maximum Amount of Advances” means the principal sum of Four-Hundred Ninety Thousand Dollars (\$490,000.00), which is the amount of the Loan, less and except expenses incurred by TDA for abstracting and title clearance work, filing, recording and closing fees, fees for legal services and inspection fees incurred by TDA in administration of the award of funds and the fulfillment of the contract terms.

K. “Property” means the real estate located at 403 S. Cheyenne Avenue, Tulsa, Oklahoma, more particularly described herein on page ~~_____~~one of this Agreement.

L. “Permitted Plans” means those Construction Documents, as amended, submitted to and approved by the City of Tulsa Permits Department for the issuance of a permit to build the Redevelopment Project.

M. “Redevelopment Project” means the design, construction and operation of at least sixty (60) residential apartment units on the upper floors of the Adams Building with elevator and stairway access thereto, located at 403 S. Cheyenne Avenue, Tulsa, Oklahoma, the “Property”.

N. “Termination Event” shall mean the occurrence of any of the following:

1. Default under Redevelopment Agreement. Any default in or breach of the terms and provisions of this Redevelopment Agreement which has not been remedied to the satisfaction of TDA or the City, within ninety (90) days after written notice thereof has been mailed by certified mail or delivery service to the address for Developer listed herein by any one or more of said parties specifying such default or breach.

2. Representations. Any representation, advance request, statement, certificate, schedule or report made or furnished to TDA by the Developer proved to be false or materially misleading at the time of the making thereof; and Developer fails to take or cause to be taken corrective measures satisfactory to TDA within ninety (90) days after receipt of written notice from TDA shall cause a default.

SECTION 2. SUBMISSION AND APPROVAL OF CONSTRUCTION DOCUMENTS.

A. All Construction Documents and any changes subsequently made with respect to the development or redevelopment of the Property and construction of improvements shall be in compliance with, all necessary permits, inspections, applicable codes and procedures of, the City of Tulsa; and Developer shall furnish copies of such permits to TDA. Further, all such plans shall be substantially in compliance with the standards and representations set forth in the documents submitted by Developer to the TDA Board of Commissioners in response to the Request For Proposals (RFP) issued by the TDA for Affordable/Obtainable Housing Funds for Residential Development for Downtown Tulsa.

B. This Agreement requires there will be a minimum of sixty (60) residential apartment units constructed by the Developer.

C. All documents, including drawings, specifications, invoices and data created by or submitted to TDA in connection with the redevelopment of the Property shall become and remain the property of the TDA and/or the City of Tulsa, Oklahoma.

SECTION 3. SCHEDULE OF REDEVELOPMENT.

Time is of the essence in the completion of construction of the residential apartment units. The construction of the units shall commence within ~~_____sixteen (16)~~ days after Closing (Closing estimated to occur on June 14, 2018) and shall be completed within ~~_____twelve (12)~~ months after commencement of construction, unless the Developer's written request for an extension has been approved in writing by TDA, which will not be unreasonably withheld. If at any time during construction, the Developer determines that it will not be able to complete the plans within the time allocated, it shall forthwith give notice to TDA of that fact and advise TDA of the reason for the delay and the additional time needed for completion. TDA shall have the option of granting additional time by amending this Agreement and granting additional time for approval or in the alternative of electing to terminate the project by reason of the failure of Developer to timely complete the work. In such event, notice of termination shall be given in the manner set forth in Section 17.

SECTION 4. CONDITIONS PRECEDENT TO FUNDING OF LOAN.

TDA shall have no obligation to authorize the Developer to commence work on the Redevelopment Project before and until Developer has furnished TDA the following documents and has executed this Agreement and TDA has determined that funds are available for reimbursement to Developer.

- A. An abstract of title, certified at least to the Effective Date of this Agreement, showing marketable title to the Property to be vested in the Developer, subject only to the Construction mortgage(s) in an amount not greater than the amount stated herein below in SECTION 6. TITLE.
- B. Documentation in such form as TDA shall reasonably require, demonstrating that all required insurance coverage and bonds are in force.
- C. Documents executed by the Developer insuring that adequate parking will be available to residential tenants until the Maximum Amount of Advances is fully repaid to TDA.
- D. TDA shall have determined that the financing, development and construction documents and all other aspects of the proposed redevelopment are in substantial compliance with the application, documents, proposals and representations of the Developer made to the TDA Board of Commissioners.
- E. TDA shall have determined that the construction work for which reimbursement is requested by Developer is for the construction of residential units and/or for the proportional share of common facilities for the beneficial use of the residential units and off street parking for occupants thereof.

SECTION 5. OBLIGATION OF TDA TO MAKE ADVANCES.

~~The Upon Redeveloper's satisfaction of the requirements and conditions for an advance of loan funds under the terms of this Redevelopment Agreement the obligation of the Tulsa Development Authority shall be obligated to make loan advances, up to the Maximum Amount of Advances, is conditioned upon the availability of funds to cover said advances from those TDA funds provided by currently on deposit in a TDA account with the City of Tulsa, Oklahoma as Downtown Residential Housing Funds; third penny Downtown Residential Housing funds and for which TDA is authorized and permitted to loan for redevelopment by construction of the Project. TDA certifies that such account contains funds in an amount sufficient to fully fund the Maximum Amount of Advances.~~

SECTION 6. TITLE.

A. Developer, within ten (10) days from the Effective Date of this Agreement, shall furnish TDA an abstract of title certified at least to the Effective Date, showing a marketable title to the Property vested in Developer, subject only to reasonable utility easements, building restrictions of record, and a ~~first lien~~ mortgage recorded by ~~First United Bank and Trust Company~~ in the principal amount of ~~Six Million Three Hundred Six Thousand Dollars (\$6,306,000.00)~~. TDA shall have twenty (20) days after receipt of abstract in which to have the abstract examined and furnish Developer notice in writing of any title objections thereto. Developer shall then have ninety (90) days or such additional time as may be agreed on by the parties in which to correct said objections to the satisfaction of TDA. Marketability of title shall be based on the title standards of the Oklahoma Bar Association. Developer shall pay all costs associated with updating the Abstract of Title and obtaining a title opinion. Such costs are Expenditures Eligible for Reimbursement.

B. Upon acceptance of title to the Property by TDA, a loan Closing shall be scheduled at a mutually agreeable date and time at the offices of TDA which Closing must occur within 90 days from the date hereof unless such time is extended to a date certain by an agreement in writing signed by both parties. At Closing, the Developer shall execute a note and second mortgage to TDA in the forms attached hereto as Exhibit "B" and Exhibit "C" in the principal amount of the loan, Four-Hundred Ninety Thousand Dollars (\$490,000.00). TDA shall promptly file the Mortgage for recordation among the land records of Tulsa County, Oklahoma, showing TDA as a junior Mortgagee. Developer shall pay all closing costs including, but not limited to, the cost to record the Mortgage.

SECTION 7. TDA AND CITY RIGHT TO INSPECT.

A. Developer acknowledges and agrees that TDA and the City of Tulsa shall have the right to inspect the Property with forty-eight (48) hours' notice.

SECTION 8. LIMITATION UPON ENCUMBRANCE OF PROPERTY.

A. After execution of this Agreement and prior to the Developer's repayment of the ~~Four-Hundred Ninety Thousand Dollars (\$490,000.00)~~ mortgage loan to TDA on the Property, the Developer shall not engage in any financing or any other transaction, excluding construction mortgage(s), creating any additional mortgage, encumbrance or lien

upon the Property whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attached to the Property without the prior written consent of TDA. The Developer may re-finance the construction mortgage(s) at will, but in no event will the original amount of the construction mortgage(s) in the amount of Six Million Three Hundred Six Thousand Dollars ~~(\$6,306,000.00)~~ be increased. Any such increase will constitute a violation of this Agreement and cause the indebtedness due to be accelerated.

B. Should any taxes, assessments, encumbrance, mechanic's or any materialmen's lien, or any other unauthorized encumbrance or lien attach to the Property, and the Developer fail to take or cause to be taken corrective measure to cure any such encumbrance or lien within ninety (90) days after written demand by TDA, or such other time as agreed in writing by both parties, this Agreement shall be in default.

C. Developer agrees that all of the proceeds of any first mortgage and/or construction mortgage(s) and all funds received from the loan from TDA herein authorized must be expended on the construction and completion of the Redevelopment Project on the Property described herein. Loan funds provided by TDA may only be utilized by Developer in the payment of the costs of construction of the residential portion and components of the Adams Building Project.

SECTION 9. DILIGENCE REQUIRED.

A. The Developer agrees for itself, its successors, and assigns to promptly begin and diligently complete the Redevelopment Project on the Property through the construction of the improvements thereon, and the construction shall in any event be begun and completed within the periods specified above, unless a written extension has been approved and executed by both parties. It is agreed that these agreements and covenants shall be covenants running with the land, binding for the benefit of the City of Tulsa, Oklahoma and TDA, and enforceable by TDA and the City against the Developer and its successors and assigns.

B. If the Developer, or its successor in interest, shall default in or violate its obligations with respect to the construction of the improvements (including the nature and dates for the beginning and completion thereof), or shall abandon or fail to pursue completion of construction work in good faith, and the Developer fails to take or cause to be taken corrective measure to cure any such default, violation, abandonment, or suspension within ninety (90) days after written demand by TDA, or such other time as agreed in writing by both parties, then TDA shall have the right to institute such actions or proceedings as it may deem desirable, including foreclosure through judicial proceedings.

SECTION 10. CONTACT PERSON.

The Developer agrees that Tim Strange is a manager of the Developer. Steven Watts shall act as primary contact person, acting on behalf of the Developer regarding all aspects of the project. Developer may update this information periodically and any changes or updates to the contact information below shall be provided to TDA in writing. The Developer furnishes the following contact information and grants permission for the City or TDA to contact:

Name: Steven Watts
Address: 9 E. 4th Street, Suite 303
Address: Tulsa, Oklahoma
Phone: (918) 645-0804
Fax:
E-mail: steven.watts@addax.com

SECTION 11. UNCONTROLLABLE FORCES:

Neither TDA nor the Developer shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to forces which are beyond the control of the parties, including, but not limited to: fire, flood, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, inability to procure supplies, materials or services required to be provided by either TDA or the Developer under this Agreement.

SECTION 12. LOAN PROCEEDS AVAILABLE TO DEVELOPER.

A. Loan proceeds available to the Developer are subject to the terms and conditions set forth herein and any terms contained in the City of Tulsa/TDA Development Agreement, as well as the Note and Mortgage, Attachments Exhibits "B" and "C", in the principal sum of Four-Hundred Ninety Thousand Dollars (\$490,000.00). These funds shall be available to draw upon by the Developer as Expenditures Eligible for Reimbursement for residential improvements to the Property solely from the City of Tulsa Account established for the funding of the Project described herein. No other funds of the City of Tulsa nor any funds of TDA are committed to, liable for, nor available to Developer for this Project. Reimbursement shall be made only for the Developer's Expenditures Eligible for Reimbursement properly submitted to and approved by TDA and the City pursuant to the Advance Request procedures set forth.

SECTION 13. BONDS AND INSURANCE.

Prior to commencement of construction of the project, Developer shall provide to TDA the following documents:

A. A statutory payment bond, or any other form of insurance or bond agreed to by the parties, in the amount of the total cost of the ~~residential~~-construction and completion of the Redevelopment Project.

B. A certificate of insurance from an insurance company licensed to do business in Oklahoma evidencing all-risk builders risk insurance with coverage at least in the amount of the ~~residential~~ total cost of the Adams Building rehabilitation project of Ten Million Six-Hundred Fifty Thousand Dollars (\$10,650,000.00)\$._____.

C. A certificate of general liability insurance with bodily injury and property damage combined single limit coverage of not less than \$1,000,000.00. TDA and the City shall be named as additional insured and shall be notified of any policy cancellation by thirty (30) days written notice.

SECTION 14. APPLICATION FOR ADVANCES.

Requests from the Developer for an Advance of Expenditures Eligible for Reimbursement shall be made to TDA utilizing the "Advance Request" form attached hereto as Attachment "A".

- A. Requests shall be made no more frequently than once every thirty (30) days.
- B. No amounts shall be reimbursed after One-hundred Twenty Days (120) after the date for completion of the Project set forth herein, unless, by subsequent action, the Tulsa Development Authority has authorized an extension of said date.
- C. All ~~Advance requests-Requests~~ shall be made in the following manner and include the following:
 1. When and where applicable, ~~an Advance requests-Request~~ shall be submitted on an AIA Document G702 with certification by a licensed architect, acceptable to TDA, and include a schedule of values for all elements of work performed and expense incurred; and
 2. ~~A-Copies of a~~ detailed expense invoice(s) and corresponding ~~cancelled~~ check or certified check to be issued in payment of the corresponding expense simultaneously with the receipt of loan funds from TDA; and
 3. When applicable, an approved City permit related to the applicable expense on the invoice(s), and which TDA has reviewed under the City's PALS system; and
 4. A signed subcontractor lien waiver for each applicable portion on the invoice(s); and
 5. A valid certificate of insurance for worker's compensation for each contractor or subcontractor services on the invoice(s).

SECTION 15. CERTIFICATE OF COMPLETION.

- A. Promptly after completion of the construction of the improvements in accordance with this Agreement, and upon written notification from the Developer that the work has been completed, the Developer shall provide to TDA a copy of the Certificate of Occupancy issued by the City, following the City's final building inspection; and TDA, after a satisfactory final inspection, will furnish the Developer with a Certificate of Completion. The certification by TDA shall be a conclusive determination of satisfaction and termination of the covenants in this Agreement with respect to the obligations of the Developer and its successors and assigns to construct the improvements. The certification shall be in such form as will enable it to be recorded in the Tulsa County land records.
- B. All other covenants in this Agreement shall remain in force and effect upon the Developer and its successors and assigns until the loan is repaid and a release of the mortgage has been filed of record.

SECTION 16. NON-DISCRIMINATION IN EMPLOYMENT, ACCESS, RENTAL OR SALE.

The Developer agrees for itself, its successor and assigns that the Property is open to all persons without discrimination on the basis of race, color, religion, sex, sexual orientation, age, national origin or handicap status and that there shall be no discrimination in employment, and allowing use of or access to the public areas of the Property or in the rental or sale of the housing units agrees to include a statement to that effect in any advertisement for the construction, rental or sale of the housing units.

SECTION 17. NOTICES AND DEMANDS.

A notice, demand or other communication under this Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail postage prepaid, return receipt requested or delivered personally as follows:

To TDA:
Tulsa Development Authority
1216 N. Lansing Avenue, Suite A
Tulsa, Oklahoma 74106
Attention: O. C. Walker, II, Executive Director

With a copy to:
Jot Hartley, TDA General Counsel
201 W. 5th Street, Ste. 501
Tulsa, OK 74103

To the Developer:
403 Cheyenne, LLC
9 E. 4th Street, Suite 303
Tulsa, Oklahoma, 74103
Attention: Steven Watts

SECTION 18. PROHIBITION AGAINST TRANSFER OF THE PROPERTY WITHOUT WRITTEN PERMISSION OF TDA.

The Developer has not made or created, and will not, prior to the repayment of the Maximum Amount of Advances in full, as certified by a mortgage release filed by TDA, make or suffer to be made the sale of all or any part of the Property, except as hereinafter provided, and agrees the Property is subject to the Due on Sale Clause. This restriction shall not prohibit ~~_____~~ Tim Strange, Steven Watts, Mark Phillips and/or Joel Flachs from transferring all or part of his ownership interest in the Developer to any member of his family within the second degree of consanguinity or other entity wholly-owned either as a stockholder, member or partner of Developer. Further, the current owners of Developer shall not be prohibited from transferring or selling up to an undivided forty-nine percent (49%) of the ownership interest in the Developer.

Notwithstanding the above, the Developer shall have the right to transfer the residential units being constructed pursuant to this agreement into condominium units should it desire to do so without further authorization from TDA, provided that sufficient information regarding said units is furnished

to TDA in order that any necessary amendments can be made to the Promissory Note and Real Estate Mortgage securing the indebtedness authorized herein to insure that Tulsa Development Authority remains as a [second?] position lien holder. The Developer shall be entitled to a partial release of the Real Estate Mortgage covering the Property as to each individual residential unit and the corresponding common elements related thereto upon payment to TDA of the sum of Ten Thousand Dollars (\$10,000.00) per unit (up to the balance of the Loan Amount) sought to be released from said mortgage. Upon the completion of the conversion of the sixty (60) residential apartment units to condominium status, the mortgage covering the Property shall be amended to exclude any portion of the Property except the sixty (60) condominium and related common elements.

SECTION 19. LEASE OF UNITS PERMITTED. The Developer shall have the right to lease any unit of the Property within the building, whether residential, commercial, retail or office.

SECTION 20. SALE OF CONDOMINIUM UNITS AND COMMON ELEMENTS RELATED THERETO.

A. The Developer, after converting to condominiums, shall have the option of transferring title to or selling any residential unit of the Property. At closing, TDA shall issue a release of mortgage covering that specific condominium unit and related common elements which were subject to the sale upon payment of the consideration above set forth.

B. All proceeds paid to obtain partial releases of the mortgage shall be applied as a credit on the unpaid principal of the loan.

SECTION 21. AGREEMENT TO SURVIVE CLOSING OF LOAN.

The terms and provisions of this Agreement shall survive the Closing and remain in full force and effect until the repayment of all sums due under the Promissory Note and Mortgage from Developer to TDA.

SECTION 22. DEFAULT OR BREACH OF AGREEMENT.

Except as otherwise provided in this Agreement, in the event of any default in or breach of the Agreement, or any of its terms or conditions, by either party hereto, or any successor to such party, such party (or successor) shall, upon written notice from the other, proceed immediately to cure or remedy such default or breach, and, in any event, within ninety (90) days after receipt of such notice. In case such action is not taken or diligently pursued, or the default or breach shall not be cured or remedied within such time, the aggrieved party may, upon the expiration of thirty (30) days after the issuance of a notice of intent to accelerate mailed or sent by delivery service to Developers address listed herein, institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including, but not limited to, proceedings to compel specific performance by the party in default or breach of its obligations and/or foreclosure of the Mortgage.

SECTION 23. COUNTERPARTS.

This Agreement may be executed in counterparts, each of which shall constitute one and the same instrument and may be used as an original.

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IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth below to be effective on the date of execution by TDA's Chairman.

TULSA DEVELOPMENT AUTHORITY

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By: _____
Roy Peters, Jr., Chairman
"TDA"

Date: _____

403 CHEYENNE, LLC

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By: _____
Tim Strange, Manager
"Developer"

Date: _____

ATTACHMENT "A"

ADVANCE REQUEST

Pursuant to the Redevelopment Agreement dated _____, 2018 (the "Redevelopment Agreement"), by The Tulsa Development Authority ("TDA") and 403 Cheyenne, LLC ("Developer"), Developer hereby requests an Advance in the amount of \$_____ for the account of Developer from the account in the City of Tulsa established for the _____ Redevelopment Agreement.

Developer does hereby certify to the TDA that, as of the date hereof: (i) the representations in the Redevelopment Agreement are hereby ratified and confirmed, (ii) the requested Advance herein is for the Expenditures Eligible for Reimbursement of Development Costs (as defined in the Redevelopment Agreement), (iii) there exists no default in or breach of the terms and provisions of the Redevelopment Agreement by Developer, (iv) the Redevelopment Agreement is in full force and effect, and (v) all conditions precedent to payment of the requested Advance herein have been met and payment of the Advance requested herein is proper pursuant to the terms of the Redevelopment Agreement, (vi) attached hereto are copies of the AIA form (when applicable), invoices, ~~cancelled~~ checks to be issued by Developer, and other documentation required to be received by TDA under the Redevelopment Agreement in connection with such Expenditures Eligible for Reimbursement, all of which invoices and other documents have been approved by TDA, (vi) there has not been filed with or served upon TDA notice of any lien, right to lien, or attachment upon or claim affecting the right to receive payment of, any of the monies payable to any of the persons, firms, or corporations named in such invoices, which have not been released or will not be released simultaneously with the payment of such obligation, and (vii) TDA has received from Developer all documents required by the Redevelopment Agreement, including, but not limited to the statutory payment bond, the certificate evidencing all-risk builders risk insurance.

Dated this _____ day of _____, 20____.

[_____]

By: _____
Manager

Dated this _____ day of _____, 20____.

The above Advance Request- is hereby approved this _____ day of _____, 20____.

TULSA DEVELOPMENT AUTHORITY

By: _____