

REDEVELOPMENT AGREEMENT – UTILITY RELOCATION

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 D, Tulsa, Oklahoma 74106, and **ROSS GROUP DEVELOPMENT, LLC**, an Oklahoma limited liability company, whose mailing address is: PO Box 690960, Tulsa, OK 690960 and **VALLEY NATIONAL BANK**, a national banking corporation, whose mailing address is: 4812 E. 81st Street, Tulsa, OK74137, collectively, (the “Developer”), to be effective on the date of execution by TDA (the “Effective Date”).

WITNESSETH:

WHEREAS, pursuant to the terms and conditions of a Contract for Sale of Land for Private Redevelopment dated November 2, 2017 (the “Contract”), the TDA has agreed to sell and the Developer has agreed to purchase certain real property (more particularly described on Attachment "B" annexed hereto and made a part hereof), hereinafter the "Property", and to redevelop the Property for and in accordance with the uses specified in the Contract, the City of Tulsa Downtown Master Plan, the PlaniTulsa 2010 Tulsa Comprehensive Plan; and

WHEREAS, in conjunction with the redevelopment of the Property, Developer has requested financial assistance from TDA to assist in payment of the costs of relocation of overhead public utility lines and appurtenances within the public right of way (as hereinafter described and depicted on Attachment “C” hereto – the “Project”) to permit the development of the Property; and

WHEREAS, upon recommendations of the administration of the City of Tulsa the Board of Commissioners of TDA has determined that it is in the best interests of the City and its citizens to make available financial assistance toward partial reimbursement of the costs of completion of the Project in the relocation of said overhead public utility lines based on a pro rata share of the linear footage abutting the Property compared to the total linear footage of overhead public utility lines to be relocated and in a total amount to be provided by TDA not to exceed Five Hundred Thousand Dollars (\$500,000.00); and

WHEREAS, the Developer has agreed to proceed with construction and completion of the Project and completion of the redevelopment of the Property in accordance with the terms, conditions and requirements of the Contract;

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 the Advance 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 the Advance Request signed by the Developer and TDA in the form set forth on Attachment "A" attached hereto.

C. "Developer" or "Redeveloper" means Ross Group Development, LLC and/or Valley National Bank.

D. "Expenditures Eligible for Reimbursement" means a pro rata share of all costs associated with the construction and completion of the Project, together with all construction supplies and services attributable to and essential for the construction of the Project. The pro rata share shall be computed upon the basis of a comparison of the linear footage of overhead public utility lines abutting the Property to the total linear footage of relocated overhead public utility lines constituting the Project. Such reimbursement shall not exceed the Maximum Amount of Advance and shall be payable upon issuance of the Certificate of Completion of the Project by TDA upon its receipt of a certification of such completion in writing addressed to TDA issued by a licensed architect acceptable to TDA and the issuance of a Certificate of Completion of the building and improvements to be constructed by Developer pursuant to the Contract.

E. "Development Costs" means the Expenditures Eligible for Reimbursement set forth for the Developer.

F. "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.

G. "Maximum Amount of Advance" means the principal sum of Five Hundred Thousand Dollars (\$500,000.00), which is the amount of the assistance.

H. "Property" means the real estate located at Tulsa, Oklahoma 74103, more particularly described herein on Attachment "A" to this Agreement.

I. "Project" means the design, construction and relocation of overhead public utility lines and related amenities, to be located underground in the public right of way adjacent the Property described herein, as more particularly described and depicted on Attachment "B" hereto and in documents submitted by Developer to the TDA Board of Commissioners.

J. "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 given to the Developer 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 the City and/or the 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 PLANS.

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 descriptions, standards, specifications and representations submitted to the City of Tulsa and to the TDA Board of Commissioners in association with or description of the Project.

B. Copies of all documents, including drawings, specifications, invoices and data created by or submitted to TDA in connection with the Project shall become and remain the property of the City of Tulsa, Oklahoma.

SECTION 3. SCHEDULE OF REDEVELOPMENT.

Time is of the essence in the completion of construction of the Project. The completion of construction of the Project shall be concurrent with the time for completion of the construction/redevelopment of the Property pursuant to the schedule set forth in the Contract, 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.

TDA shall have no obligation to authorize the Developer to commence work on the Project before and until Developer has furnished TDA the following documents and has executed this Agreement.

A. Documentation in such form as TDA shall reasonably require, demonstrating that all required insurance coverage and bonds are in force and information or documents required by this Redevelopment Agreement and/or the Advance Request have been submitted to TDA.

B. TDA shall have determined that the Developer has completed the Project and has completed the proposed redevelopment upon the Property in substantial compliance with the terms of the Contract.

C. TDA shall have determined that the construction work expense for which reimbursement is requested by Developer constitutes Expenditures Eligible for Reimbursement for the construction of the Project.

SECTION 5. DILIGENCE REQUIRED.

A. The Developer agrees for itself, its successors, and assigns to promptly begin and diligently complete the Project through the underground relocation of the overhead public utility lines described and depicted on Attachment "B" hereto, unless a written extension has been approved and executed by both parties. It is agreed that these agreements and covenants shall be binding upon Developer 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 Project improvements (including the nature and dates for the beginning and completion thereof), or shall abandon or substantially suspend construction work, 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 judicial proceedings.

SECTION 6. CONTACT PERSON.

The Developer agrees that Warren Ross 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: Warren Ross, President,
The Ross Group Construction Corporation
Address: 10159 E. 11th St #200
Address: Tulsa, Oklahoma 74128
Phone: 918-234-7675
E-mail: warren.ross@trgcc.com

SECTION 7. 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 8. BONDS AND INSURANCE.

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

- A. A statutory payment bond shall not be required from the Developer due to the provision for the Advance of funds following completion of the Project.
- B. A copy of the general contractor's 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 Project.
- 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 and not less than \$2,000,000.00 in the aggregate. 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 9. APPLICATION FOR ADVANCE.

A request from the Developer for an Advance of Expenditures Eligible for Reimbursement shall be made to TDA as follows:

- A. A request shall be made upon: (1) the issuance of a Certificate of Completion of the Project by TDA and (2) the issuance of a Certificate of Completion for completion of the construction of improvements on the Property pursuant to the Contract.
- B. The Request for Advance shall be made in the following manner and include the following:
 - 1. When and where applicable, the request shall be submitted on an AIA Document G702. The request shall be accompanied by a certification of the completion of the Project issued by a licensed architect and shall include a schedule of values for all elements of work performed and TDA's pro rata share of the costs of the Project computed as provided herein; and
 - 2. A detailed invoice and corresponding cancelled check or certified check for expenses incurred in completion of the Project; and
 - 3. When applicable, an approved City permit related to the applicable expense on the invoice, 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; and
 - 5. A valid certificate of insurance for worker's compensation for each contractor or subcontractor services on the invoice.

SECTION 10. CERTIFICATE OF COMPLETION.

A. Promptly after completion of the construction of the Project in accordance with this Agreement, and upon written notification from the Developer that the work has been completed accompanied by a certification of the completion of the Project issued by a licensed architect acceptable to TDA, and after TDA's satisfactory final inspection, TDA 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 Project. The certification shall be in such form as will enable it to be recorded in the Tulsa County land records.

SECTION 11. 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 residential units, retail or restaurant spaces.

SECTION 12. 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 D
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:
Name: Warren Ross, Manager,
Ross Group Development, LLC
Address: PO Box 690960
Address: Tulsa, Oklahoma 74103
Phone: 918-234-7675
E-mail: warren.ross@trgcc.com

SECTION 13. 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 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.

SECTION 14. 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.

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.

TULSA DEVELOPMENT AUTHORITY

By: _____
Roy Peters, Chairman

Date: _____

“TDA”

ROSS GROUP DEVELOPMENT, LLC

By: _____
Warren Ross, Manager

Date: _____

AND

VALLEY NATIONAL BANK

By: _____
Tom Biolchini, Chairman

Date: _____

“Developer”

ATTACHMENT "A"

ADVANCE REQUEST

Pursuant to the Redevelopment Agreement dated June _____, 2018 (the "Redevelopment Agreement"), by The Tulsa Development Authority ("TDA") and **ROSS GROUP DEVELOPMENT, LLC**, and **VALLEY NATIONAL BANK** ("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 Overhead Public Utility Line Relocation Project 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), architect certification of completion of the Project, schedule of values for all elements of work performed, invoices, cancelled checks, 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 certificate evidencing all-risk builders risk insurance.

Dated this _____ day of _____, 2019.

ROSS GROUP DEVELOPMENT, LLC

By: _____
Warren Ross, Manager

Dated this _____ day of _____, 2019.

The above Advance Request is hereby approved this _____ day of _____, 2019.

TULSA DEVELOPMENT AUTHORITY

By: _____
Executive Director

Attachment "B"
**To Redevelopment Agreement between Tulsa Development Authority (TDA) and
Ross Group Development, LLC and Valley National Bank (collectively - Developer)**
Dated June ____, 2018

LEGAL DESCRIPTION OF THE PROPERTY

**Lot 1, 2, and 3, Block 44, Original Town, now City of Tulsa, Tulsa County, State of
Oklahoma, according to the recorded Plat thereof.**