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REDEVELOPMENT AGREEMENT

82

**EXECUTION
DRAFT
04/08/2010**

**SHOP & SAVE MARKET
5829 SOUTH ARCHER AVENUE PROJECT**

TAX INCREMENT ALLOCATION REDEVELOPMENT ACT

**ARCHER/CENTRAL
REDEVELOPMENT PROJECT AREA**

**ARCHER ADVISORS, LLC AND
5829 ARCHER DEVELOPMENT, LLC, JOINTLY AND SEVERALLY,
REDEVELOPMENT AGREEMENT**

DATED AS OF APRIL 8, 2010

BY AND BETWEEN

THE CITY OF CHICAGO

AND, JOINTLY AND SEVERALLY,

**ARCHER ADVISORS, LLC
an Illinois Limited Liability Company, and
5829 ARCHER DEVELOPMENT, LLC,
an Illinois Limited Liability Company**

This agreement was prepared by
and after recording return to:
William A. Nyberg, Esq.
City of Chicago Law Department
121 North LaSalle Street, Room 600
Chicago, IL 60602

**ARCHER/CENTRAL
REDEVELOPMENT PROJECT AREA**

**SHOP & SAVE MARKET
5829 SOUTH ARCHER AVENUE PROJECT
REDEVELOPMENT AGREEMENT**

TABLE OF CONTENTS

	PAGE
ARTICLE ONE: INCORPORATION OF RECITALS	3
ARTICLE TWO: DEFINITIONS	3
ARTICLE THREE: THE PROJECT	3
3.01 <u>The Project</u>	3
3.02 <u>Scope Drawings and Plans and Specifications</u>	3
3.03 <u>Project Budget</u>	4
3.04 <u>Change Orders</u>	4
3.05 <u>DCD Approval</u>	4
3.06 <u>Other Approvals</u>	4
3.07 <u>Progress Reports and Survey Updates</u>	5
3.08 <u>Inspecting Agent or Architect</u>	5
3.09 <u>Barricades</u>	5
3.10 <u>Signs and Public Relations</u>	5
3.11 <u>Utility Connections</u>	5
3.13 <u>Accessibility for Disabled Persons</u>	6
3.14 <u>Additional Project Features</u>	6
ARTICLE FOUR: FINANCING	6
4.01 <u>Total Project Cost and Sources of Funds</u>	6
4.02 <u>Developer Funds</u>	7
4.03 <u>City Funds</u>	7
4.04 <u>Sale or Transfer of the Property or Project by Developer</u>	9
4.05 <u>Treatment of Prior Expenditures</u>	9
4.06 <u>Cost Overruns</u>	9
4.07 <u>TIF Bonds</u>	10
4.08 <u>Discontinuance of Payments of City Funds</u>	10
ARTICLE FIVE: CONDITIONS PRECEDENT TO CLOSING	11
5.01 <u>Project Budget</u>	11
5.02 <u>Scope Drawings and Plans and Specifications</u>	11
5.03 <u>Other Governmental Approvals</u>	11

5.04	<u>Financing</u>	11
5.05	<u>Acquisition and Title</u>	12
5.06	<u>Evidence of Clear Title</u>	12
5.07	<u>Surveys</u>	12
5.08	<u>Insurance</u>	12
5.09	<u>Opinion of Developer's Counsel</u>	12
5.10	<u>Evidence of Prior Expenditures</u>	12
5.11	<u>Financial Statements</u>	13
5.12	<u>Additional Documentation</u>	13
5.13	<u>Environmental Reports</u>	13
5.14	<u>Entity Documents</u>	13
5.15	<u>Litigation</u>	13
ARTICLE SIX: AGREEMENTS WITH CONTRACTORS		14
6.01	<u>Bid Requirement for General Contractor and Subcontractors</u>	14
6.02	<u>Construction Contract</u>	14
6.03	<u>Performance and Payment Bonds</u>	14
6.04	<u>Employment Opportunity</u>	14
6.05	<u>Other Provisions</u>	15
ARTICLE SEVEN: COMPLETION OF CONSTRUCTION		15
7.01	<u>Certificate of Completion of Construction</u>	15
7.02	<u>Effect of Issuance of COC; Continuing Obligations</u>	15
7.03	<u>Failure to Complete</u>	16
7.04	<u>Notice of Expiration of Term of Agreement</u>	16
ARTICLE EIGHT: REPRESENTATIONS, WARRANTIES AND COVENANTS OF DEVELOPER.		16
8.01	<u>General</u>	16
8.02	<u>Covenant to Redevelop</u>	18
8.03	<u>Redevelopment Plan</u>	18
8.04	<u>Use of City Funds</u>	18
8.05	<u>Other Bonds</u>	18
8.06	<u>Employment Opportunity</u>	19
8.07	<u>Employment Profile</u>	19
8.08	<u>Prevailing Wage</u>	19
8.09	<u>Arms-Length Transactions</u>	19
8.10	<u>Financial Statements</u>	20
8.11	<u>Insurance</u>	20
8.12	<u>Non-Governmental Charges</u>	20
8.14	<u>Compliance with Laws</u>	21
8.15	<u>Recording and Filing</u>	21
8.16	<u>Real Estate Provisions</u>	21
8.17	<u>Job Recruitment, Training and Hiring Plan</u>	24

8.18	<u>Occupancy, Operations and Land Use Covenants</u>	24
8.19	<u>Annual Compliance Report</u>	24
8.20	<u>Reserved</u>	24
8.21	<u>Broker's Fees</u>	24
8.22	<u>No Conflict of Interest</u>	24
8.23	<u>Disclosure of Interest</u>	25
8.24	<u>No Business Relationship with City Elected Officials</u>	25
8.25	<u>Prohibition on Certain Contributions – Mayoral Executive Order No. 05-1</u>	25
8.26	<u>Survival of Covenants</u>	27
ARTICLE NINE: REPRESENTATIONS, WARRANTIES AND COVENANTS		
	OF CITY	27
9.01	<u>General Covenants</u>	27
9.02	<u>Survival of Covenants</u>	27
ARTICLE TEN: DEVELOPER'S EMPLOYMENT OBLIGATIONS		
10.01	<u>Employment Opportunity</u>	27
10.02	<u>City Resident Construction Worker Employment Requirement</u>	29
10.03	<u>Developer's MBE/WBE Commitment</u>	31
ARTICLE ELEVEN: ENVIRONMENTAL MATTERS		
11.01	<u>Environmental Matters</u>	33
ARTICLE TWELVE: INSURANCE		
12.01	<u>Insurance Requirements</u>	33
ARTICLE THIRTEEN: INDEMNIFICATION		
13.01	<u>General Indemnity</u>	34
ARTICLE FOURTEEN: MAINTAINING RECORDS/RIGHT TO INSPECT		
14.01	<u>Books and Records</u>	35
14.02	<u>Inspection Rights</u>	35
ARTICLE FIFTEEN: DEFAULT AND REMEDIES		
15.01	<u>Events of Default</u>	35
15.02	<u>Remedies</u>	36
15.03	<u>Curative Period</u>	37
ARTICLE SIXTEEN: MORTGAGING OF THE PROJECT		
16.01	<u>Mortgaging of the Project</u>	38
ARTICLE SEVENTEEN: NOTICES		
17.01	<u>Notices</u>	39

17.02	<u>Developer Requests for City or DCD Approval</u>	40
ARTICLE EIGHTEEN: ADDITIONAL PROVISIONS		
18.01	<u>Amendments</u>	40
18.02	<u>Complete Agreement, Construction, Modification</u>	41
18.03	<u>Limitation of Liability</u>	41
18.04	<u>Further Assurances</u>	41
18.05	<u>Waivers</u>	41
18.06	<u>Remedies Cumulative</u>	41
18.07	<u>Parties in Interest/No Third Party Beneficiaries</u>	41
18.08	<u>Titles and Headings</u>	42
18.09	<u>Counterparts</u>	42
18.10	<u>Counterpart Facsimile Execution</u>	42
18.11	<u>Severability</u>	42
18.12	<u>Conflict</u>	42
18.13	<u>Governing Law</u>	42
18.14	<u>Form of Documents</u>	42
18.15	<u>Assignment</u>	42
18.16	<u>Binding Effect</u>	43
18.17	<u>Force Majeure</u>	43
18.18	<u>Exhibits and Schedules</u>	43
18.19	<u>Business Economic Support Act</u>	43
18.20	<u>Approval</u>	44
18.21	<u>Construction of Words</u>	44
18.22	<u>Date of Performance</u>	44
18.23	<u>Survival of Agreements</u>	44
18.24	<u>Equitable Relief</u>	44
18.25	<u>Venue and Consent to Jurisdiction</u>	44
18.26	<u>Costs and Expenses</u>	44

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**SHOP & SAVE MARKET
5829 SOUTH ARCHER AVENUE PROJECT**

**ARCHER/CENTRAL
REDEVELOPMENT PROJECT AREA**

**ARCHER ADVISORS, LLC AND 5829 ARCHER DEVELOPMENT, LLC,
JOINTLY AND SEVERALLY
REDEVELOPMENT AGREEMENT**

This Archer Advisors, LLC and 5829 Archer Development, LLC, jointly and severally Redevelopment Agreement (the "**Agreement**") is made as of this 8th day of April, 2010, by and between the City of Chicago, an Illinois municipal corporation (the "**City**"), through its Department of Community Development ("**DCD**"), and Archer Advisors, LLC, an Illinois limited liability company ("**Archer Advisors**") and 5829 Archer Development, LLC, an Illinois limited liability company ("**5829 Development**") jointly and severally, ("**Developer**"). Archer Advisors and 5829 Development are "Affiliates" as that term is defined in this Agreement.

RECITALS:

A. Constitutional Authority: As a home rule unit of government under Section 6(a), Article VII of the 1970 Constitution of the State of Illinois (the "**State**"), the City has the power to regulate for the protection of the public health, safety, morals, and welfare of its inhabitants and, pursuant thereto, has the power to encourage private development in order to enhance the local tax base and create employment opportunities, and to enter into contractual agreements with private parties in order to achieve these goals.

B. Statutory Authority: The City is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq. (2006 State Bar Edition), as amended from time-to-time (the "**Act**"), to finance projects that eradicate blighted conditions through the use of tax increment allocation financing for redevelopment projects.

C. City Council Authority: To induce redevelopment under the provisions of the Act, the City Council of the City (the "**City Council**") adopted the following ordinances on May 17, 2000: (1) "An Ordinance of the City of Chicago, Illinois Approving a Tax Increment Redevelopment Plan for the Archer/Central Redevelopment Project Area"; (2) "An Ordinance of the City of Chicago, Illinois Designating the Archer/Central Redevelopment Project Area as a Redevelopment Project Area Pursuant to Tax Increment Allocation Redevelopment Act"; and (3) "An Ordinance of the City of Chicago, Illinois Adopting Tax Increment Allocation Financing for the Archer/Central Redevelopment Project Area" (the "**TIF Adoption Ordinance**"). Collectively the three ordinances are defined as the "**TIF Ordinances**". The redevelopment project area (the "**Redevelopment Area**") is legally described in Exhibit A.

D. The Project: In November, 2007, Developer purchased the site located at 5829 South Archer Avenue, Chicago, Illinois 60638 (the "**Property**") from Safeway Foods for \$8,300,000. A legal description of the Property is stated in Exhibit B-1. The Property is approximately 5.75 acres in size and contains a 61,584 square foot former Dominick's grocery store, 300 space parking lot and 33,000 square foot loading area. The grocery site has sat vacant for almost 2 years. Developer plans to renovate the grocery store by installing a new roof, a new heating, ventilation and air conditioning (HVAC) system, new windows and flooring, and new refrigeration equipment. The parking lot and loading area will be repaired and patched. The site will be landscaped to meet the City's ordinance requirements. Developer's acquisition of the Property and planned renovations and upgrades is defined in this Agreement as the "**Project**". A site plan for the Project is Exhibit B-2. At completion and full build-out, the Project will provide the Garfield Ridge neighborhood with a full-service grocery store that will contain a delicatessen, on-site bakery, fresh meat department (with meat smoker), fresh produce and basic and speciality grocery items. The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement.

E. Redevelopment Plan: The Project will be carried out in accordance with this Agreement and the City of Chicago Archer/Central Redevelopment Project Area Tax Increment Finance Program Redevelopment Plan and Project, revision number 1, October 12, 1999 revised March 15, 2000 (the "**Redevelopment Plan**") attached as Exhibit C, as amended from time-to-time.

F. City Financing and Assistance: Subject to Developer fulfilling its obligations under this Agreement required to obligate the City to do so, the City will make cash payments to Developer, in the amounts stated in Section 4.03, to reimburse Developer out of Incremental Taxes (as defined below) as provided in this Agreement for the costs of the TIF-Funded Improvements (as defined below) under the terms and conditions of this Agreement. In addition,

the City may, in its discretion, issue tax increment allocation bonds ("**TIF Bonds**") secured by Incremental Taxes (as defined below) as provided in a TIF bond ordinance (the "**TIF Bond Ordinance**"), at a later date as described and conditioned in Section 4.07. The proceeds of the TIF Bonds (the "**TIF Bond Proceeds**") may be used to pay for the costs of the TIF-Funded Improvements not previously paid for from Incremental Taxes, or in order to reimburse the City for the costs of TIF-Funded Improvements.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

AGREEMENT:

ARTICLE ONE: INCORPORATION OF RECITALS

The recitals stated above are an integral part of this Agreement and are hereby incorporated into this Agreement by reference and made a part of this Agreement.

ARTICLE TWO: DEFINITIONS

The definitions stated in Schedule A and those definitions stated in the recitals and preamble are hereby incorporated into this Agreement by reference and made a part of this Agreement.

ARTICLE THREE: THE PROJECT

3.01 **The Project**. Developer will: (i) begin redevelopment construction on or about August 7, 2010, and (ii) complete redevelopment construction no later than January 1, 2010, subject to: (a) the provisions of Section 18.17 (Force Majeure); and (b) the receipt of all applicable permits and Project approvals.

3.02 **Scope Drawings and Plans and Specifications**. Developer has delivered the Scope Drawings and Plans and Specifications to DCD and DCD has approved them or DCD has agreed to approve them as a post-closing item promptly upon receipt. After such initial approval, subsequent proposed changes to the Scope Drawings or Plans and Specifications within the scope of Section 3.04 will be submitted to DCD as a Change Order under Section 3.04. The Scope Drawings and Plans and Specifications will at all times conform to the Redevelopment Plan as in effect on the date of this Agreement, and to all applicable Federal, State and local laws, ordinances and regulations. Developer will submit all necessary documents to the City's Department of Buildings, Department of Transportation, and to such other City departments or governmental authorities as may be necessary to acquire building permits and other required approvals for the Project.

3.03 **Project Budget.** Developer has furnished to DCD, and DCD has approved, a Project Budget which is Exhibit D-1, showing total costs for the Project in an amount not less than \$15,026,238. Developer hereby certifies to the City that: (a) it has Lender Financing and/or Equity in an aggregate amount sufficient to pay for all Project costs; and (b) the Project Budget is true, correct and complete in all material respects. Developer will promptly deliver to DCD copies of any Change Orders with respect to the Project Budget as provided in Section 3.04.

3.04 **Change Orders.**

(a) Except as provided in subparagraph (b) below, all Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to material changes to the Project must be submitted by Developer to DCD concurrently with the progress reports described in Section 3.07; provided, however, that any Change Orders relating to any of the following must be submitted by Developer to DCD for DCD's prior written approval: (i) a reduction by more than five percent (5%) in the square footage of the Project from the square footage approved by DCD under Section 3.02, or (ii) a change in the primary use of the Project, or (iii) a delay in the Project completion date. Developer will not authorize or permit the performance of any work relating to any Change Order requiring DCD's prior written approval or the furnishing of materials in connection therewith prior to the receipt by Developer of DCD's written approval. The Construction Contract, and each contract between the General Contractor and any subcontractor, will contain a provision to this effect. An approved Change Order will not be deemed to imply any obligation on the part of the City to increase the amount of City Funds or to provide any other additional assistance to Developer.

(b) Notwithstanding anything to the contrary in this Section 3.04, Change Orders costing less than Two Hundred Fifty Thousand Dollars (\$250,000) each, to an aggregate amount of One Million, Five Hundred Thousand Dollars (\$1,500,000), do not require DCD's prior written approval as stated in this Section 3.04, but DCD must be notified in writing of all such Change Orders and Developer, in connection with such notice, must identify to DCD the source of funding therefor in the progress reports described in Section 3.07.

3.05 **DCD Approval.** Any approval granted by DCD under this Agreement of the Scope Drawings, Plans and Specifications and the Change Orders is for the purposes of this Agreement only, and any such approval does not affect or constitute any approval required by any other City department or under any City ordinance, code, regulation, or any other governmental approval, nor does any such approval by DCD under this Agreement constitute approval of the utility, quality, structural soundness, safety, habitability, or investment quality of the Project. Developer will not make any verbal or written representation to anyone to the contrary.

3.06 **Other Approvals.** Any DCD approval under this Agreement will have no effect

upon, nor will it operate as a waiver of, Developer's obligations to comply with the provisions of Section 5.03 (Other Governmental Approvals).

3.07 **Progress Reports and Survey Updates.** After the Closing Date, on or before the 15th day of each reporting month, Developer will provide DCD with written quarterly construction progress reports detailing the status of the Project, including a revised completion date, if necessary (with any delay in completion date being considered a Change Order, requiring DCD's written approval under Section 3.04). Developer must also deliver to the City written monthly progress reports detailing compliance with the requirements of Section 8.08 (Prevailing Wage), Section 10.02 (City Resident Construction Worker Employment Requirement) and Section 10.03 (Developer's MBE/WBE Commitment) (collectively, the "City Requirements"). If the reports reflect a shortfall in compliance with the requirements of Sections 8.08, 10.02 and 10.03, then there must also be included a written plan from Developer acceptable to DCD to address and cure such shortfall. At Project completion, upon the request of DCD, Developer will provide 3 copies of an updated Survey to DCD reflecting improvements made to the Property.

3.08 **Inspecting Agent or Architect.** An independent agent or architect, if any, (other than Developer's architect) selected by the lender providing Lender Financing, will also act as the inspecting agent or architect for DCD for the Project, and any fees and expenses connected with its work or incurred by such independent agent or architect will be solely for Developer's account and will be promptly paid by Developer. The inspecting agent or architect shall perform periodic inspections with respect to the Project, providing certifications with respect thereto to DCD, prior to requests for disbursement for costs related to the Project.

3.09 **Barricades.** Prior to commencing any construction requiring barricades, Developer will install a construction barricade of a type and appearance satisfactory to the City and constructed in compliance with all applicable Federal, State or City laws, ordinances, rules and regulations. DCD retains the right to approve the maintenance, appearance, color scheme, painting, nature, type, content, and design of all barricades (other than the name and logo of the Developer or the Project).

3.10 **Signs and Public Relations.** If requested by DCD, Developer will erect in a conspicuous location on the Property during the Project a sign of size and style approved by the City, indicating that financing has been provided by the City. The City reserves the right to include the name, photograph, artistic rendering of the Project and any other pertinent information regarding Developer and the Project in the City's promotional literature and communications.

3.11 **Utility Connections.** Developer may connect all on-site water, sanitary, storm and sewer lines constructed as a part of the Project to City utility lines existing on or near the perimeter of the Property, provided Developer first complies with all City requirements governing such connections, including the payment of customary fees and costs related thereto.

3.12 **Permit Fees.** In connection with the Project, Developer is obligated to pay only those building, permit, engineering, tap on, and inspection fees that are assessed on a uniform basis throughout the City of Chicago and are of general applicability to other property within the City of Chicago.

3.13 **Accessibility for Disabled Persons.** Developer acknowledges that it is in the public interest to design, construct and maintain the Project in a manner which promotes, enables, and maximizes universal access throughout the Project. Plans for all buildings on the Property and improvements on the Property will be reviewed and approved by the Mayor's Office for People with Disabilities ("MOPD") to ensure compliance with all applicable laws and regulations related to access for persons with disabilities and to promote the highest standard of accessibility.

3.14 **Additional Project Features**

(a) **Landscaping.** Developer will perform all landscaping work consistent with the landscaping requirements stated in the City of Chicago Open Space Impact Fee Ordinance, Journal of Proceedings of the City Council dated April 1, 1998 at pp 65269 - 65275 (the "Landscape Ordinance").

(b) **LEED Construction.** All construction of the Project, including but not limited to building construction, green space and surface parking shall be built to a minimum Leadership in Energy and Environmental Design ("LEED"), Civ2 Standard (Commercial Interiors, Version 2) ("**LEED-Civ2**"). The Project was registered with the US Green Building Council ("USGBC") for the required certification on December 31, 2008. The Project shall be constructed in compliance with all guidelines and requirements as delineated by the USGBC mandated for the LEED-Civ2 standard. Upon completion of construction, Developer, at Developer's cost, shall have all features of construction pertinent to LEED certification tested and certified as being compliant with the LEED-Civ2 standard. Developer will submit written evidence from the USGBC demonstrating compliance with the required LEED certification.

ARTICLE FOUR: FINANCING

4.01 **Total Project Cost and Sources of Funds.** The cost of the Project is estimated to be \$15,026,238 to be applied in the manner stated in the Project Budget. Such costs will be funded from the following sources:

Equity (subject to <u>Section 4.06</u>)	\$ 2,626,238
Construction Financing	2,000,000
Permanent Mortgage Financing	10,400,000
ESTIMATED TOTAL	\$15,026,238

4.02 **Developer Funds.** Equity and Lender Financing, will be used to pay all Project costs, including but not limited to costs of TIF-Funded Improvements. All Project costs will be front-funded by Developer.

4.03 **City Funds.**

(a) **Uses of City Funds.**

(i) Any funds expended by the City under this Agreement or otherwise related to the Project or to the TIF-Funded Improvements are defined as “**City Funds**”.

(ii) City Funds may be used to reimburse Developer only for costs of TIF-Funded Improvements that constitute Redevelopment Project Costs. Exhibit E states, by line item, the TIF-Funded Improvements for the Project contingent upon receipt by the City of documentation satisfactory in form and substance to DCD evidencing such costs and their respective eligibility as a Redevelopment Project Cost.

(b) **Sources of City Funds.**

(i) The City, through its Department of Community Development, agrees to provide reimbursement to Developer from Incremental Taxes for certain TIF-Funded Improvements, subject to the terms, conditions and qualifications of this Agreement in cash in the total amount of the lesser of \$3,000,000 or 20% of total Project Budget of \$15,026,238 in 10 level installments. The total payment of reimbursement under this Agreement will be reduced by \$0.50 for every \$1.00 in actual Project costs that are below the Project Budget referenced in Section 3.03 and Exhibit D-1.

(ii) The reimbursement program has ten installment payments and is subject to Developer satisfying all of the conditions scheduled below:

(A) Installment 1. Payment to Developer of \$300,000 at closing. Developer will submit a City Funds Requisition Form in the form of Exhibit N at closing as a part of closing documentation.

At closing, Developer will also deliver or cause to be delivered an unconditional irrevocable letter of credit in the form of Exhibit F (the “**Letter of Credit**”) in favor of the City as security for Developer’s performance obligations under this Agreement. The Letter of Credit will be kept in effect by Developer from the Closing Date until 1 calendar year after the date of the COC (as defined below).

(B) Installment 2. Payment to Developer of \$300,000 when the City issues its certificate of completion as provided in Section 7.01 (the “**COC**”). Before the City issues the COC, Developer will comply in full with all of the

following conditions:

1. Developer will submit documentation satisfactory in form and substance to DCD evidencing that actual Project costs were equal or greater than the Project Budget referenced in Section 3.03 and Exhibit D-1, and that the reduction in City Funds referenced in subsection (b)(i) above is not applicable. If such reduction is applicable, then such reduction will be applied to the Installment 2 payment, and to succeeding payments, as necessary.

2. Developer will submit a City Funds Requisition Form in the form of Exhibit N (the “**Requisition Form**”).

3. Developer will certify to the City in writing that the Project as defined and detailed in this Agreement has been constructed and completed.

4. Developer will certify to the City that the grocery store within the Project is operating as a full-service grocery store under its regular hours of operation and the City has verified the grocery store’s operational status.

5. The City’s Monitoring and Compliance unit within DCD has verified that Developer has fully complied with all City Requirements (M/WBE, City Residency and Prevailing Wage) and has issued its compliance letter to Developer.

6. DCD has verified that Developer is in full compliance with all covenants in this Agreement.

7. Developer has registered the Project with the USGBC for a LEED-CIv2 certification and has sent DCD a copy of the registration notification as evidence of registration. Developer has completed all construction work to obtain its LEED-CIv2 certification from the USGBC and has submitted its request for certification to the USGBC, with a copy to DCD. Developer covenants to submit documentation concerning its award of LEED-CIv2 certification to DPD upon receipt. Failure to obtain a LEED-CIv2 certification will be an Event of Default under Article Fifteen.

(C) Installments 3-10. Payments to Developer of \$300,000 each for installments 3 through 10. Payments 3 through 10 will commence the next March to April timeframe after the issuance date of the COC, and annually thereafter in

the March to April timeframe. For each of installments 3 through 10, Developer will submit a City Funds Requisition Form in the form of Exhibit N, no later than November 1st of the preceding year.

4.04 Sale or Transfer of the Property or Project by Developer.

(a) At Any Time. Developer may sell or transfer title to the Property or the Project to an Affiliate at any time, so long as Developer retains all executory obligations under this Agreement, and such Affiliate/transferee becomes a co-obligor under this Agreement with a joint and several liability joinder to this Agreement.

(b) From the Closing Date to the Date of the COC. Developer may not sell or transfer any part of the Property or Project to any non-Affiliated party, without the City's consent, which will not be unreasonably withheld, provided, however that any such non-Affiliated party must: (i) agree to assume all executory obligations under the Agreement, (ii) complete the City's economic disclosure forms to the City's satisfaction, (iii) be otherwise qualified to do business with the City and (iv) demonstrate to the City's satisfaction that such party has financial capability to meet its obligations under this Agreement.

(c) After the Date of the COC. After the date of the COC, Developer may sell or transfer any part of the Property or the Project to non-Affiliated third parties, provided, however, that any such non-Affiliated party must: (i) agree to assume all executory obligations under the Agreement, (ii) complete the City's economic disclosure forms to the City's satisfaction, (iii) be otherwise qualified to do business with the City, and (iv) demonstrate to the City's satisfaction that such party has financial capability to meet its obligations under this Agreement.

(d) Sales of Assets or Equity. For purposes of this subsection, the phrase: "sale or transfer of any part of the Property or Project" includes any sales or transfers which are a part of the sale or transfer of all or substantially all of Developer's assets or equity.

4.05 Treatment of Prior Expenditures. Only those expenditures made by Developer with respect to the Project prior to the Closing Date, evidenced by documentation satisfactory to DCD and approved by DCD as satisfying costs covered in the Project Budget, will be considered previously contributed Equity or Lender Financing, if any, hereunder (the "**Prior Expenditure(s)**"). DCD has the right, in its sole discretion, to disallow any such expenditure (not listed on Exhibit H) as a Prior Expenditure as of the date of this Agreement. Exhibit H identifies the prior expenditures approved by DCD as Prior Expenditures. Prior Expenditures made for items other than TIF-Funded Improvements will not be reimbursed to Developer, but will reduce the amount of Equity and/or Lender Financing, if any, required to be contributed by Developer under Section 4.01.

4.06 Cost Overruns. If the aggregate cost of the TIF-Funded Improvements exceeds City Funds available under Section 4.03, Developer will be solely responsible for such excess

costs, and will hold the City harmless from any and all costs and expenses of completing the TIF-Funded Improvements in excess of City Funds and from any and all costs and expenses of completing the Project in excess of the Project Budget.

4.07 **TIF Bonds.** The Commissioner of DCD may, in his or her sole discretion, recommend that the City Council approve an ordinance or ordinances authorizing the issuance of TIF Bonds in an amount which, in the opinion of the City Comptroller, is marketable under the then current market conditions. The proceeds of TIF Bonds may be used to pay City Funds due under this Agreement, and for other purposes as the City may determine. The costs of issuance of the TIF Bonds would be borne by the City. Developer will cooperate with the City in the issuance of the TIF Bonds, as provided and conditioned in Section 8.05.

4.08 **Discontinuance of Payments of City Funds.** The City may discontinue the payment of City Funds under this Agreement under the following circumstances, subject to the cure rights stated in Section 15.03:

(a) If Developer changes the primary use of the Property without the prior written approval of the Commissioner of DCD. Such approval is wholly discretionary for the City, and may or may not be granted.

(b) If Developer commits an Event of Default under Section 15.01, which remains uncured, subject to the remedies stated in Section 15.02(b).

(c) If a casualty event occurs to the Project after issuance of the COC, and Developer does not reconstruct and resume operations within 18 months from the date of the casualty event, subject to the provisions of Section 18.17 (Force Majeure), and the receipt of all applicable permits and Project approvals.

(d) If the City approves a new use for the Project and Developer (or another entity approved by DCD) does not commence operations of the new approved use within 12 months from the date of the City approval, subject to the provisions of Section 18.17 (Force Majeure), and the receipt of all applicable permits and Project approvals.

(e) If Developer sells the Property and leaves the Project, or if Developer sells the Property and leases it back, or if Developer enters into a transaction of a kind and nature whereby Developer no longer controls the Property, and Developer includes a restrictive covenant or similar restriction which prevents the Project from being used or occupied by a grocery store or supermarket for the sale of food.

(f) If Developer transfers ownership of the Property to a non-Affiliate, without the prior written consent of the Commissioner of DCD as required under this Agreement.

ARTICLE FIVE: CONDITIONS PRECEDENT TO CLOSING

The following conditions precedent to closing must be complied with to the City's satisfaction within the time periods set forth below or, if no time period is specified, prior to the Closing Date:

5.01 **Project Budget.** Developer will have submitted to DCD, and DCD will have approved, the Project Budget stated in Exhibit D-1, in accordance with the provisions of Section 3.03.

5.02 **Scope Drawings and Plans and Specifications.** Developer will have submitted to DCD, and DCD will have approved, the Scope Drawings and Plans and Specifications in accordance with the provisions of Section 3.02 or DCD will have agreed to approve them as a post-closing item, promptly upon receipt.

5.03 **Other Governmental Approvals.** Not less than 5 Business Days prior to the Closing Date, Developer will have secured or applied for or provided DCD with an application time schedule for all other necessary approvals and permits required by any Federal, State, or local statute, ordinance, rule or regulation to begin or continue construction of the Project, and will submit evidence thereof to DCD.

5.04 **Financing.**

(a) Developer will have furnished evidence acceptable to the City that Developer has Equity and Lender Financing, if any, at least in the amounts stated in Section 4.01 to complete the Project and satisfy its obligations under this Agreement. If a portion of such financing consists of Lender Financing, Developer will have furnished evidence as of the Closing Date that the proceeds thereof are available to be drawn upon by Developer as needed and are sufficient (along with the Equity and other financing sources, if any, stated in Section 4.01) to complete the Project.

(b) Prior to the Closing Date, Developer will deliver to DCD a copy of the construction escrow agreement, if any, entered into by Developer regarding Developer's Lender Financing, if any. Such construction escrow agreement must provide that the City will receive copies of all construction draw request materials submitted by Developer after the date of this Agreement.

(c) Any financing liens against the Property or the Project in existence at the Closing Date will be subordinated to certain encumbrances of the City stated in this Agreement under a subordination agreement, in the form of Exhibit Q, executed on or prior to the Closing Date, which is to be recorded, at the expense of Developer, in the Office of the Recorder of Deeds of Cook County.

5.05 **Acquisition and Title.** On the Closing Date, Developer will furnish the City with a copy of the Title Policy for the Property, showing Developer as the named insured. The Title Policy will be dated as of the Closing Date and will contain only those title exceptions listed as Permitted Liens on Exhibit I and will evidence the recording of this Agreement under the provisions of Section 8.15. The Title Policy will also contain the following endorsements as required by Corporation Counsel: an owner's comprehensive endorsement and satisfactory endorsements regarding zoning (3.1 with parking, if available), contiguity, location, access, and survey.

5.06 **Evidence of Clear Title.** Not less than 5 Business Days prior to the Closing Date, Developer, at its own expense, will have provided the City with current searches under Developer's name as follows:

Secretary of State (IL)	UCC search
Secretary of State (IL)	Federal tax lien search
Cook County Recorder	UCC search
Cook County Recorder	Fixtures search
Cook County Recorder	Federal tax lien search
Cook County Recorder	State tax lien search
Cook County Recorder	Memoranda of judgments search
U.S. District Court (N.D. IL)	Pending suits and judgments
Clerk of Circuit Court, Cook County	Pending suits and judgments

showing no liens against Developer, the Property or any fixtures now or hereafter affixed thereto, except for the Permitted Liens.

5.07 **Surveys.** Not less than 5 Business Days prior to the Closing Date, Developer will have furnished the City with 3 copies of the Survey.

5.08 **Insurance.** Developer, at its own expense, will have insured the Property and the Project as required under Article Twelve. At least 5 Business Days prior to the Closing Date, certificates required under Article Twelve evidencing the required coverages will have been delivered to DCD.

5.09 **Opinion of Developer's Counsel.** On the Closing Date, Developer will furnish the City with an opinion of counsel, substantially in the form of Exhibit J, with such changes as may be required by or acceptable to Corporation Counsel. If Developer has engaged special counsel in connection with the Project, and such special counsel is unwilling or unable to give some of the opinions stated in Exhibit J, such opinions shall be obtained by Developer from its general corporate counsel.

5.10 **Evidence of Prior Expenditures.** Not less than 20 Business Days prior to the

Closing Date, Developer will have provided evidence satisfactory to DCD of the Prior Expenditures as provided in Section 4.05. Such evidence of Prior Expenditures may be updated to the Closing Date by Developer.

5.11 **Financial Statements.** Not less than 30 days prior to the Closing Date, Developer will have provided Financial Statements to DCD for its 2007 and 2008 fiscal years, if available, and its most recently publicly available unaudited interim Financial Statements, in each case together with any audit letters.

5.12 **Additional Documentation.** Developer will have provided documentation to DCD, satisfactory in form and substance to DCD, with respect to current employment profile, if requested by DCD, and copies of any ground leases or operating leases and other tenant leases executed by Developer for leaseholds on the Property, if any.

5.13 **Environmental Reports.** Not less than 30 days prior to the Closing Date, Developer will provide DCD with copies of all environmental reports completed with respect to the Property, including the Phase I and II Environmental Assessment reports and the reports submitted to the Illinois Environmental Protection Agency (“IEPA”) for the Site Remediation Program (“SRP”), if any. Prior to the Closing Date, Developer will provide the City with a letter from the environmental engineer(s) who completed such report(s), authorizing the City to rely on such report(s).

5.14 **Entity Documents.** Developer will provide a copy of its current Articles of Formation, with all amendments, containing the original certification of the Secretary of State of its state of organization; certificates of good standing from the Secretary of State of its state of organization and from all other states where Developer is qualified to do business; current operating agreement, with all amendments; a secretary's certificate in such form and substance as the Corporation Counsel may require; and such other organizational documentation as the City may request. This condition precedent applies to each of Archer Advisors and 5829 Development.

5.15 **Litigation.** Developer will provide to Corporation Counsel and DCD, at least 10 Business Days prior to the Closing Date, a description of all pending or threatened litigation or administrative proceedings involving Developer or any Affiliate of Developer specifying, in each case, the amount of each claim, an estimate of probable liability, the amount of any reserves taken in connection therewith, and whether (and to what extent) such potential liability is covered by insurance.

ARTICLE SIX: AGREEMENTS WITH CONTRACTORS

6.01 Bid Requirement for General Contractor and Subcontractors.

(a) DCD acknowledges that Developer has selected Long Grove Advisors, LLC, an Illinois limited liability company, and an Affiliate of Developer, to be General Contractor for the Project. Prior to entering into an agreement with any subcontractor for construction of the TIF-Funded Improvements, (or any phase thereof) after the Closing Date, Developer must solicit, or must cause the General Contractor to solicit, bids from qualified contractors eligible to do business with the City of Chicago. For the TIF-Funded Improvements, Developer must cause the General Contractor to select the subcontractor submitting the lowest responsible bid who can complete the Project (or phase thereof) in a timely and good and workmanlike manner; provided, however, that Developer may consider a bidder's ability to meet the unique challenges of the Project in evaluating the "lowest responsible bid" rather than the lowest bid. If the General Contractor selects any subcontractor submitting other than the lowest responsible bid for the TIF-Funded Improvements, the difference between the lowest responsible bid and the bid selected may not be paid out of City Funds.

(b) The Developer must submit copies of the Construction Contract to DCD as required under Section 6.02 below. Photocopies of all subcontracts entered or to be entered into in connection with the TIF-Funded Improvements must be provided to DCD within 20 Business Days of the execution thereof. Developer must ensure that the General Contractor will not (and must cause the General Contractor to ensure that the subcontractors will not) begin work on the Project (or any phase thereof) until the applicable Plans and Specifications for that phase have been approved by DCD and all requisite permits have been obtained.

6.02 Construction Contract. Prior to the execution thereof, the Developer must deliver to DCD a copy of the proposed Construction Contract with the General Contractor selected to work on the TIF-Funded Improvements under Section 6.01 above, for DCD's prior written approval. Within 10 Business Days after execution of such contract by the Developer, the General Contractor and any other parties thereto, the Developer must deliver to DCD and Corporation Counsel a certified copy of such contract together with any modifications, amendments or supplements thereto.

6.03 Performance and Payment Bonds. Prior to commencement of construction of any work in the public way, if any, Developer will require that the General Contractor and any applicable subcontractor(s) be bonded (as to such work in the public way) for their respective payment and performance by sureties having an AA rating or better using the payment and performance bond form attached as Exhibit L. The City will be named as obligee or co-obligee on such bond.

6.04 Employment Opportunity. Developer will contractually obligate and cause the General Contractor to agree and contractually obligate each subcontractor to agree to the

provisions of Article Ten.

6.05 **Other Provisions**. In addition to the requirements of this Article Six, the Construction Contract and each contract with any subcontractor must contain provisions required under Section 3.04 (Change Orders), Section 8.08 (Prevailing Wage), Section 10.01(e) (Employment Opportunity), Section 10.02 (City Resident Construction Worker Employment Requirement), Section 10.03 (Developer's MBE/WBE Commitment), Article Twelve (Insurance) and Section 14.01 (Books and Records).

ARTICLE SEVEN: COMPLETION OF CONSTRUCTION

7.01 **Certificate of Completion of Construction**. Upon completion of the construction (or reconstruction under Section 4.08(d)) of the Project in compliance with the terms and conditions of this Agreement, and upon Developer's written request, DCD will issue to Developer a certificate of completion of construction in recordable form (the "COC") certifying that Developer has fulfilled its obligation to complete the Project in compliance with the terms and conditions of this Agreement. DCD will respond to Developer's written request for a COC within 30 days by issuing either a COC or a written statement detailing the ways in which the Project does not conform to this Agreement or has not been satisfactorily completed and the measures which must be taken by Developer in order to obtain the COC. Developer may resubmit a written request for a COC upon completion of such measures, and the City will respond within 30 days in the same way as the procedure for the initial request. Such process may repeat until the City issues a COC.

7.02 **Effect of Issuance of COC; Continuing Obligations**.

(a) The COC relates only to the construction of the Project, and upon its issuance, the City will certify that the terms of the Agreement specifically related to Developer's obligation to complete such activities have been satisfied. After the issuance of a COC, however, all executory terms and conditions of this Agreement and all representations and covenants contained herein will continue to remain in full force and effect throughout the Term of the Agreement as to the parties described in the following paragraph, and the issuance of the COC must not be construed as a waiver by the City of any of its rights and remedies under such executory terms.

(b) Those covenants specifically described at Section 8.02 (Covenant to Redevelop), Section 8.16 (Real Estate Provisions), and Section 8.18 (Occupancy, Operations and Land Use Covenants) as covenants that run with the land are the only covenants in this Agreement intended to be binding upon any transferee of the Property (including an assignee as described in the following sentence) throughout the Term of the Agreement notwithstanding the issuance of a COC (except with respect to Section 8.02). The other executory terms of this Agreement that remain after the issuance of a COC will be binding only upon Developer or a permitted assignee of Developer who, as provided in Section 18.15 (Assignment) of this Agreement, has contracted

to take an assignment of Developer's rights under this Agreement and assume Developer's liabilities hereunder.

7.03 **Failure to Complete.** If Developer fails to timely complete the Project in compliance with the terms of this Agreement, then the City will have, but will not be limited to, any of the following rights and remedies:

(a) the right to terminate this Agreement and cease all disbursement of City Funds not yet disbursed under this Agreement;

(b) the right (but not the obligation) to complete those TIF-Funded Improvements that are public improvements and to pay for the costs of such TIF-Funded Improvements (including interest costs) out of City Funds or other City monies. If the aggregate cost of completing the TIF-Funded Improvements exceeds the amount of City Funds available under Section 4.03, Developer will reimburse the City for all reasonable costs and expenses incurred by the City in completing such TIF-Funded Improvements in excess of the available City Funds; and

7.04 **Notice of Expiration of Term of Agreement.** Upon the expiration of the Term of the Agreement, DCD will provide Developer, at Developer's written request, with a written notice in recordable form stating that the Term of the Agreement has expired.

ARTICLE EIGHT: REPRESENTATIONS, WARRANTIES AND COVENANTS OF DEVELOPER.

8.01 **General.** Developer represents, warrants, and covenants, as of the date of this Agreement and as of the date of each disbursement of City Funds hereunder, that:

(a) Each of Archer Advisors and 5829 Development is an Illinois limited liability company duly organized, validly existing and qualified to do business in Illinois;

(b) Developer has the right, power and authority to enter into, execute, deliver and perform this Agreement;

(c) the execution, delivery and performance by Developer of this Agreement has been duly authorized by all necessary limited liability company action, and does not and will not violate its Certificate of Formation as amended and supplemented, its operating agreement, any applicable provision of law, or constitute a breach of, default under or require any consent under any agreement, instrument or document to which Developer is now a party or by which Developer or any of its assets is now or may become bound;

(d) Developer has acquired and will maintain good, indefeasible and merchantable fee simple title to the Property (and improvements and appertanences) free and clear of all liens except for the Permitted Liens scheduled in the Title Report and incorporated in Exhibit I, or

Lender Financing, if any, as disclosed in the Project Budget;

(e) Developer is now, and for the Term of the Agreement, will remain solvent and able to pay its debts as they mature;

(f) there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending or, to Developer's actual knowledge threatened or affecting Developer which would impair its ability to perform under this Agreement;

(g) Developer has and will maintain all government permits, certificates and consents (including, without limitation, appropriate environmental approvals) necessary to construct and complete and operate the Project and to conduct its business on the Property;

(h) Developer is not in default with respect to any indenture, loan agreement, mortgage, deed, note or any other agreement or instrument related to the borrowing of money to which Developer is a party or by which Developer or any of its assets is bound which would materially adversely effect its ability to comply with its obligations under this Agreement;

(i) the Financial Statements are, and when hereafter required to be submitted will be, complete, correct in all material respects and accurately present the assets, liabilities, results of operations and financial condition of Developer; and there has been no material adverse change in the assets, liabilities, results of operations or financial condition of Developer since the date of Developer's most recent Financial Statements;

(j) prior to the issuance of a COC, if it would materially adversely affect Developer's ability to perform its obligations under this Agreement, Developer will not do any of the following without the prior written consent of DCD: (1) be a party to any merger, liquidation or consolidation; (2) sell, transfer, convey, lease or otherwise dispose (directly or indirectly) of all or substantially all of its assets or any portion of the Property or the Project (including but not limited to any fixtures or equipment now or hereafter attached thereto) except in the ordinary course of business; (3) enter into any transaction with respect to the Property or the Project outside the ordinary course of Developer's business; (4) assume, guarantee, endorse, or otherwise become liable in connection with the obligations of any other person or entity; or (5) enter into any transaction that would cause a material and detrimental change to Developer's financial condition or its ability to complete the Project or to continue operations at the Property; provided, however, that Developer may transfer title to the Property to an Affiliate so long as Developer retains all executory obligations under this Agreement, and such Affiliate/transferee becomes a co-obligor with a joint and several liability joinder to this Agreement;

(k) Developer has not incurred and, prior to the issuance of a COC, will not, without the prior written consent of the Commissioner of DCD, allow the existence of any liens against the Property and Project other than the Permitted Liens; or incur any indebtedness secured or to

be secured by the Property and Project or any fixtures now or hereafter attached thereto, except Lender Financing disclosed in the Project Budget; and

(l) Developer has not made or caused to be made, directly or indirectly, any payment, gratuity or offer of employment in connection with the Agreement or any contract paid from the City treasury or under City ordinance, for services to any City agency ("**City Contract**") as an inducement for the City to enter into the Agreement or any City Contract with Developer in violation of Chapter 2-156-120 of the Municipal Code of the City, as amended.

(m) neither the Developer nor any Affiliate thereof is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of persons or entities with which the City may not do business under any applicable law, rule, regulation, order or judgment: the Specially Designated Nationals List, the Denied Persons Lists, the Unverified List, the Entity List and the Debarred List.

8.02 **Covenant to Redevelop.** Upon DCD's approval of the Scope Drawings and Plans and Specifications, and the Project Budget as provided in Sections 3.02 and 3.03, and Developer's receipt of all required building permits and governmental approvals, Developer will redevelop the Property in compliance with this Agreement and all exhibits attached hereto, the TIF Ordinances, the Scope Drawings, the Plans and Specifications, the Project Budget and all amendments thereto, and all Federal, State and local laws, ordinances, rules, regulations, executive orders and codes applicable to the Property, the Project and/or Developer. The covenants set forth in this Section 8.02 will run with the land and will be binding upon any transferee, until fulfilled as evidenced by the issuance of a COC.

8.03 **Redevelopment Plan.** Developer represents that the Project is and will be in compliance with all applicable terms of the Redevelopment Plan, as in effect on the date of this Agreement.

8.04 **Use of City Funds.** City Funds disbursed to Developer will be used by Developer solely to reimburse Developer for its payment for the TIF-Funded Improvements as provided in this Agreement.

8.05 **Other Bonds.** At the request of the City, Developer will agree to any reasonable amendments to this Agreement that are necessary or desirable in order for the City to issue (in its sole and absolute discretion) TIF Bonds or other bonds ("**Bonds**") in connection with the Project or the Redevelopment Area, the proceeds of which are to be used to reimburse the City for expenditures made in connection with the TIF-Funded Improvements; provided, however, that any such amendments will not have a material adverse effect on Developer or the Project. Developer will, at Developer's expense, cooperate and provide reasonable assistance in connection with the marketing of any such Bonds, including but not limited to providing written descriptions of the Project, making representations, providing information regarding its financial

condition (but not including proprietary sales and operating information), and assisting the City in its preparation of an offering statement with respect thereto. Developer will not have any liability with respect to any disclosures made in connection with any such issuance that are actionable under applicable securities laws unless such disclosures are based on factual information provided by Developer that is determined to be false and misleading.

8.06 Employment Opportunity.

(a) Developer covenants and agrees to abide by, and contractually obligate and use reasonable efforts to cause the General Contractor and, as applicable, to cause the General Contractor to contractually obligate each subcontractor to abide by the terms set forth in Section 8.08 and Article Ten. Developer will submit to DCD a plan describing its compliance program prior to the Closing Date.

(b) Developer will deliver to the City written progress reports by draw, but not less than quarterly, detailing compliance with the requirements of Sections 8.08, (Prevailing Wage) 10.02 (City Resident Construction Worker Employment Requirement) and 10.03 (Developer's MBE/WBE Commitment) of this Agreement. If any such reports indicate a shortfall in compliance, Developer will also deliver a plan to DCD which will outline, to DCD's satisfaction, the manner in which Developer will correct any shortfall.

8.07 Employment Profile. Developer will submit, and contractually obligate and cause the General Contractor to submit and contractually obligate any subcontractor to submit, to DCD, from time to time, statements of its employment profile upon DCD's request.

8.08 Prevailing Wage. Developer covenants and agrees to pay, and to contractually obligate and cause the General Contractor to pay and to contractually cause each subcontractor to pay, the prevailing wage rate as ascertained by the State Department of Labor (the "**Labor Department**"), to all of their respective employees working on constructing the Project or otherwise completing the TIF-Funded Improvements. All such contracts will list the specified rates to be paid to all laborers, workers and mechanics for each craft or type of worker or mechanic employed under such contract, or alternatively Developer will provide applicable schedules evidencing wage rates paid. If the Labor Department revises such prevailing wage rates, the revised rates will apply to all such contracts. Upon the City's request, Developer will provide the City with copies of all such contracts entered into by Developer or the General Contractor to evidence compliance with this Section 8.08.

8.09 Arms-Length Transactions. Unless DCD shall have given its prior written consent with respect thereto, no Affiliate of Developer may receive any portion of City Funds, directly or indirectly, in payment for work done, services provided or materials supplied in connection with any TIF-Funded Improvement, except for the General Contractor. Developer will provide information with respect to any entity (other than the General Contractor) to receive City Funds directly or indirectly (whether through payment to an Affiliate by Developer and

reimbursement to Developer for such costs using City Funds, or otherwise), upon DCD's request, prior to any such disbursement.

8.10 **Financial Statements.** Developer will obtain and provide to DCD Financial Statements for 2007 and 2008, and each year thereafter for the Term of the Agreement.

8.11 **Insurance.** Solely at its own expense, Developer will comply with all applicable provisions of Article Twelve (Insurance) hereof.

8.12 **Non-Governmental Charges.**

(a) **Payment of Non-Governmental Charges.** Except for the Permitted Liens, and subject to subsection (b) below, Developer agrees to pay or cause to be paid when due any Non-Governmental Charges assessed or imposed upon the Property or any fixtures that are or may become attached thereto and which are owned by Developer, which creates, may create, or appears to create a lien upon all or any portion of the Property; provided however, that if such Non-Governmental Charges may be paid in installments, Developer may pay the same together with any accrued interest thereon in installments as they become due and before any fine, penalty, interest, or cost may be added thereto for nonpayment. Developer will furnish to DCD, within thirty (30) days of DCD's request, official receipts from the appropriate entity, or other evidence satisfactory to DCD, evidencing payment of the Non-Governmental Charges in question.

(b) **Right to Contest.** Developer will have the right, before any delinquency occurs:

(i) to contest or object in good faith to the amount or validity of any Non-Governmental Charges by appropriate legal proceedings properly and diligently instituted and prosecuted, in such manner as shall stay the collection of the contested Non-Governmental Charges, prevent the imposition of a lien or remove such lien, or prevent the transfer or forfeiture of the Property (so long as no such contest or objection shall be deemed or construed to relieve, modify or extend Developer's covenants to pay any such Non-Governmental Charges at the time and in the manner provided in this Section 8.12); or

(ii) at DCD's sole option, to furnish a good and sufficient bond or other security satisfactory to DCD in such form and amounts as DCD will require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such transfer or forfeiture of the Property or any portion thereof or any fixtures that are or may be attached thereto, during the pendency of such contest, adequate to pay fully any such contested Non-Governmental Charges and all interest and penalties upon the adverse determination of such contest.

8.13 **Developer's Liabilities.** Developer will not enter into any transaction that would materially and adversely affect its ability to: (i) perform its obligations under this Agreement or

(ii) repay any material liabilities or perform any material obligations of Developer to any other person or entity. Developer will immediately notify DCD of any and all events or actions which may materially affect Developer's ability to carry on its business operations or perform its obligations under this Agreement or under any other documents and agreements related to this Agreement or the Project.

8.14 Compliance with Laws.

(a) Representation. To Developer's knowledge, after diligent inquiry, the Property and the Project are in compliance with all applicable Federal, State and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Property and the Project. Upon the City's request, Developer will provide evidence reasonably satisfactory to the City of such current compliance.

(b) Covenant. Developer covenants that the Property and the Project will be operated and managed in compliance with all applicable Federal, State and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Property or the Project, including the following Municipal Code Sections: 7-28-390, 7-28-440, 11-4-1410, 11-4-1420, 11-4-1450, 11-4-1500, 11-4-1530, 11-4-1550 or 11-4-1560, whether or not in performance of this Agreement. Upon the City's request, Developer will provide evidence to the City of its compliance with this covenant.

8.15 Recording and Filing. Developer will cause this Agreement, certain exhibits (as specified by Corporation Counsel) and all amendments and supplements hereto to be recorded and filed on the date hereof in the conveyance and real property records of Cook County, Illinois against the Property. Developer will pay all fees and charges incurred in connection with any such recording. Upon recording, Developer will immediately transmit to the City an executed original of this Agreement showing the date and recording number of record.

8.16 Real Estate Provisions.

(a) Governmental Charges.

(i) Payment of Governmental Charges. Subject to subsection (ii) below, Developer agrees to pay or cause to be paid when due all Governmental Charges (as defined below) which are assessed or imposed upon Developer, the Property or the Project, or become due and payable, and which create, may create, or appear to create a lien upon Developer or all or any portion of the Property or the Project. "**Governmental Charge**" means all Federal, State, county, the City, or other governmental (or any instrumentality, division, agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances relating to Developer, the Property or the Project, including but not limited to real estate taxes.

(ii) Right to Contest. Developer has the right before any delinquency occurs to contest or object in good faith to the amount or validity of any Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted in such manner as shall stay the collection of the contested Governmental Charge and prevent the imposition of a lien or the sale or transfer or forfeiture of the Property. Developer's right to challenge real estate taxes applicable to the Property is limited as provided for in Section 8.16(c) below; provided, that such real estate taxes must be paid in full when due. No such contest or objection will be deemed or construed in any way as relieving, modifying or extending Developer's covenants to pay any such Governmental Charge at the time and in the manner provided in this Agreement unless Developer has given prior written notice to DCD of Developer's intent to contest or object to a Governmental Charge and, unless, at DCD's sole option:

(x) Developer will demonstrate to DCD's satisfaction that legal proceedings instituted by Developer contesting or objecting to a Governmental Charge will conclusively operate to prevent or remove a lien against, or the sale or transfer or forfeiture of, all or any part of the Property to satisfy such Governmental Charge prior to final determination of such proceedings, and/or;

(y) Developer will furnish a good and sufficient bond or other security satisfactory to DCD in such form and amounts as DCD may require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or transfer or forfeiture of the Property during the pendency of such contest, adequate to pay fully any such contested Governmental Charge and all interest and penalties upon the adverse determination of such contest.

(b) Developer's Failure To Pay Or Discharge Lien. If Developer fails to pay or contest any Governmental Charge or to obtain discharge of the same, Developer will advise DCD thereof in writing, at which time DCD may, but will not be obligated to, and without waiving or releasing any obligation or liability of Developer under this Agreement, in DCD's sole discretion, make such payment, or any part thereof, or obtain such discharge and take any other action with respect thereto which DCD deems advisable. All sums so paid by DCD, if any, and any expenses, if any, including reasonable attorneys' fees, court costs, expenses and other charges relating thereto, will be promptly disbursed to DCD by Developer. Notwithstanding anything contained herein to the contrary, this paragraph must not be construed to obligate the City to pay any such Governmental Charge. Additionally, if Developer fails to pay any Governmental Charge, the City, in its sole discretion, may require Developer to submit to the City audited Financial Statements at Developer's own expense.

(c) Real Estate Taxes.

(i) Acknowledgment of Real Estate Taxes. Developer agrees that: (A) for the

purposes of this Agreement, the total projected minimum assessed value of the Property (and related improvements) ("**Minimum Assessed Value**") is shown on Exhibit K for the years noted on Exhibit K.

(ii) Real Estate Tax Exemption. With respect to the Property (and related improvements) or the Project, neither Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to Developer will, during the Term of this Agreement, seek or authorize any exemption (as such term is used and defined in the Illinois Constitution, Article IX, Section 6 (1970)) for any year that the Redevelopment Plan is in effect.

(iii) No Reduction in Real Estate Taxes.

(A) Neither Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to Developer will, during the Term of this Agreement, directly or indirectly, initiate, seek or apply for proceedings in order to lower the assessed value of all or any portion of the Property or the Project below the amount of the Minimum Assessed Value as shown in Exhibit K for the applicable year.

(B) After diligent inquiry, Developer knows of no pending application, appeal or request for reduction of the assessed value of all or any portion of the Property, filed by Developer or the Developer's predecessor in interest for any tax year prior to or including the tax year in which this Agreement is executed.

(iv) No Objections. Neither Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to Developer, will object to or in any way seek to interfere with, on procedural or any other grounds, the filing of any Under Assessment Complaint (as defined below) or subsequent proceedings related thereto with the Cook County Assessor or with the Cook County Board of Appeals, by either the City or any taxpayer. The term "**Under Assessment Complaint**" as used in this Agreement means any complaint seeking to increase the assessed value of the Property (and related improvements) or the Project up to (but not above) the Minimum Assessed Value as shown in Exhibit K.

(v) Covenants Running with the Land. The parties agree that the restrictions contained in this Section 8.16(c) are covenants running with the land. This Agreement will be recorded by Developer as a memorandum thereof, at Developer's expense, with the Cook County Recorder of Deeds on the Closing Date. These restrictions will be binding upon Developer and its agents, representatives, lessees, successors, assigns and transferees from and after the date hereof, provided however, that the covenants will be released when the Redevelopment Area is no longer in effect, or upon termination of this Agreement. Developer agrees that any sale, transfer, lease, conveyance, or transfer of title

to all or any portion of the Property or the Project from and after the date hereof shall be made explicitly subject to such covenants and restrictions. Notwithstanding anything contained in this Section 8.16 (c) to the contrary, the City, in its sole discretion and by its sole action, without the joinder or concurrence of Developer, its successors or assigns, may waive and terminate Developer's covenants and agreements set forth in this Section 8.16(c).

8.17 Job Recruitment, Training and Hiring Plan. Developer agrees to work with the Workforce Solutions Unit of DCD to create and implement a mutually acceptable plan for the recruitment, training and hiring of City of Chicago residents. Such plan will have as one of its goals, an objective to maximize the number of local residents from the Garfield Ridge and adjacent communities participating in the plan. Developer will develop job criteria and qualifications for plan use and will consult with the Workforce Solutions Unit as necessary in this process. The Workforce Solutions Unit will refer qualified candidates to Developer consistent with the grocery operations timing objectives contained in the plan, and Developer will interview such qualified candidates. Developer will not be required to hire any specified number of candidates.

8.18 Occupancy, Operations and Land Use Covenants.

(a) Occupancy and Operations Covenant. Developer covenants that it will occupy the Property and Project and operate a full service grocery store on the Property for the Term of the Agreement, subject to the provisions of Section 18.17 (Force Majeure); provided, however, that temporary closures for reconstructions, expansion, alterations or remodeling are permitted exceptions to this covenant.

(b) Land Use Compliance. Developer covenants that its use of the Property and the Project will be in compliance with the Redevelopment Plan, and applicable zoning laws.

(c) Run With The Land. The covenants stated in this Section 8.18 run with the land and are intended to be binding on any transferee of the Property or the Project.

8.19 Annual Compliance Report. Beginning with the issuance of the COC and continuing throughout the Term of the Agreement, the Developer shall submit to DCD the Annual Compliance Report within 30 days after the end of the calendar year to which the Annual Compliance Report relates.

8.20 Reserved.

8.21 Broker's Fees. Developer has no liability or obligation to pay any fees or commissions to any broker, finder, or agent with respect to any of the transactions contemplated by this Agreement for which the City could become liable or obligated.

8.22 No Conflict of Interest. Under Section 5/11-74.4-4(n) of the Act, Developer

represents, warrants and covenants that to the best of its knowledge, no member, official, or employee of the City, or of any commission or committee exercising authority over the Project, the Redevelopment Area or the Redevelopment Plan, or any consultant hired by the City, (a **"City Group Member"**) owns or controls, has owned or controlled or will own or control any interest, and no such City Group Member will represent any person, as agent or otherwise, who owns or controls, has owned or controlled, or will own or control any interest, direct or indirect, in Developer, the Property, the Project, or to the Developer's actual knowledge, any other property in the Redevelopment Area.

8.23 **Disclosure of Interest.** Developer's counsel has no direct or indirect financial ownership interest in Developer, the Property or any other feature of the Project.

8.24 **No Business Relationship with City Elected Officials.** Developer acknowledges receipt of a copy of Section 2-156-030(b) of the Municipal Code and that Developer has read and understands such provision. Under Section 2-156-030(b) of the Municipal Code of Chicago, it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected official has a "Business Relationship" (as defined in Section 2-156-080(b)(2) of the Municipal Code), or to participate in any discussion of any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a Business Relationship. Violation of Section 2-156-030(b) by any elected official, or any person acting at the direction of such official, with respect to this Agreement, or in connection with the transactions contemplated thereby, will be grounds for termination of this Agreement and the transactions contemplated thereby. Developer hereby represents and warrants that, to the best of its knowledge after due inquiry, no violation of Section 2-156-030(b) has occurred with respect to this Agreement or the transactions contemplated thereby.

8.25 **Prohibition on Certain Contributions – Mayoral Executive Order No. 05-1.** Developer agrees that Developer, any person or entity who directly or indirectly has an ownership or beneficial interest in Developer of more than 7.5 percent (**"Owners"**), spouses and domestic partners of such Owners, Developer's contractors (i.e., any person or entity in direct contractual privity with Developer regarding the subject matter of this Agreement) (**"Contractors"**), any person or entity who directly or indirectly has an ownership or beneficial interest in any Contractor of more than 7.5 percent (**"Sub-owners"**) and spouses and domestic partners of such Sub-owners (Developer and all the other preceding classes of persons and entities are together, the **"Identified Parties"**), will not make a contribution of any amount to the Mayor of the City of Chicago (the **"Mayor"**) or to his political fundraising committee: (i) after execution of this Agreement by Developer, (ii) while this Agreement or any Other Contract is executory, (iii) during the Term of this Agreement or any Other Contract between Developer and the City, or (iv) during any period while an extension of this Agreement or any Other Contract is being sought or negotiated.

Developer represents and warrants that from the later of: (i) February 10, 2005, or (ii) the

date the City approached the Developer or the date the Developer approached the City, as applicable, regarding the formulation of this Agreement, no Identified Parties have made a contribution of any amount to the Mayor or to his political fundraising committee.

Developer agrees that it will not: (a) coerce, compel or intimidate its employees to make a contribution of any amount to the Mayor or to the Mayor's political fundraising committee; (b) reimburse its employees for a contribution of any amount made to the Mayor or to the Mayor's political fundraising committee; or (c) bundle or solicit others to bundle contributions to the Mayor or to his political fundraising committee.

Developer agrees that the Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 05-1 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 05-1.

Developer agrees that a violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this provision or violation of Mayoral Executive Order No. 05-1 constitutes a breach and default under this Agreement, and under any Other Contract for which no opportunity to cure will be granted, unless the City, in its sole discretion, elects to grant such an opportunity to cure. Such breach and default entitles the City to all remedies (including without limitation termination for default) under this Agreement, under any Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

If Developer intentionally violates this provision or Mayoral Executive Order No. 05-1 prior to the closing of this Agreement, the City may elect to decline to close the transaction contemplated by this Agreement.

For purposes of this provision:

"Bundle" means to collect contributions from more than one source which are then delivered by one person to the Mayor or to his political fundraising committee.

"Other Contract" means any other agreement with the City of Chicago to which Developer is a party that is: (i) formed under the authority of chapter 2-92 of the Municipal Code of Chicago; (ii) entered into for the purchase or lease of real or personal property; or (iii) for materials, supplies, equipment or services which are approved or authorized by the City Council of the City of Chicago.

"Contribution" means a "political contribution" as defined in Chapter 2-156 of the Municipal Code of Chicago, as amended.

Individuals are **"Domestic Partners"** if they satisfy the following criteria:

- (A) they are each other's sole domestic partner, responsible for each other's common welfare; and
- (B) neither party is married; and
- (C) the partners are not related by blood closer than would bar marriage in the State of Illinois; and
- (D) each partner is at least 18 years of age, and the partners are the same sex, and the partners reside at the same residence; and
- (E) two of the following four conditions exist for the partners:
 - 1. The partners have been residing together for at least 12 months.
 - 2. The partners have common or joint ownership of a residence.
 - 3. The partners have at least two of the following arrangements:
 - a. joint ownership of a motor vehicle;
 - b. a joint credit account;
 - c. a joint checking account;
 - d. a lease for a residence identifying both domestic partners as tenants.
 - 4. Each partner identifies the other partner as a primary beneficiary in a will.

“Political fundraising committee” means a “political fundraising committee” as defined in Chapter 2-156 of the Municipal Code of Chicago, as amended.

8.26 **Survival of Covenants.** All warranties, representations, covenants and agreements of Developer contained in this Article Eight and elsewhere in this Agreement are true, accurate and complete at the time of Developer's execution of this Agreement, and will survive the execution, delivery and acceptance by the parties and (except as provided in Article Seven upon the issuance of a COC) will be in effect throughout the Term of the Agreement.

ARTICLE NINE: REPRESENTATIONS, WARRANTIES AND COVENANTS OF CITY

9.01 **General Covenants.** The City represents that it has the authority as a home rule unit of local government to execute and deliver this Agreement and to perform its obligations hereunder.

9.02 **Survival of Covenants.** All warranties, representations, and covenants of the City contained in this Article Nine or elsewhere in this Agreement shall be true, accurate, and complete at the time of the City's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and be in effect throughout the Term of the Agreement.

ARTICLE TEN: DEVELOPER'S EMPLOYMENT OBLIGATIONS

10.01 **Employment Opportunity.** Developer, on behalf of itself and its successors and assigns, hereby agrees, and will contractually obligate its or their various contractors,

subcontractors or any Affiliate of Developer on the Project (collectively, with Developer, such parties are defined herein as the "**Employers**", and individually defined herein as an "**Employer**") to agree, that for the Term of this Agreement with respect to Developer and during the period of any other party's provision of services in connection with the construction of the Project:

(a) No Employer shall discriminate against any employee or applicant for employment based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income as defined in the City of Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 *et seq.*, Municipal Code, except as otherwise provided by said ordinance and as amended from time-to-time (the "**Human Rights Ordinance**"). Each Employer shall take affirmative action to ensure that applicants are hired and employed without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income and are treated in a non-discriminatory manner with regard to all job-related matters, including without limitation: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Each Employer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause. In addition, the Employers, in all solicitations or advertisements for employees, shall state that all qualified applicants shall receive consideration for employment without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income.

(b) To the greatest extent feasible, each Employer is required to present opportunities for training and employment of low- and moderate-income residents of the City and preferably of the Redevelopment Area; and to provide that contracts for work in connection with the construction of the Project be awarded to business concerns that are located in, or owned in substantial part by persons residing in, the City and preferably in the Redevelopment Area.

(c) Each Employer will comply with all applicable Federal, State and local equal employment and affirmative action statutes, rules and regulations, including but not limited to the City's Human Rights Ordinance and the State Human Rights Act, 775 ILCS 5/1-101 *et seq.* (2006 State Bar Edition), as amended, and any subsequent amendments and regulations promulgated thereto.

(d) Each Employer, in order to demonstrate compliance with the terms of this Section, will cooperate with and promptly and accurately respond to inquiries by the City, which has the responsibility to observe and report compliance with equal employment opportunity regulations of Federal, State and municipal agencies.

(e) Each Employer will include the foregoing provisions of subparagraphs (a) through

(d) in every construction contract entered into in connection with the Project, after the Closing Date, and will require inclusion of these provisions in every subcontract entered into by any subcontractors, after the Closing Date, and every agreement with any Affiliate operating on the Property or at the Project, after the Closing Date, so that each such provision will be binding upon each contractor, subcontractor or Affiliate, as the case may be.

(f) Failure to comply with the employment obligations described in this Section 10.01 will be a basis for the City to pursue remedies under the provisions of Section 15.02 hereof, subject to the cure rights under Section 15.03.

10.02 City Resident Construction Worker Employment Requirement.

(a) Developer agrees for itself and its successors and assigns, and will contractually obligate its General Contractor and will cause the General Contractor to contractually obligate its subcontractors, as applicable, to agree, that during the construction of the Project they will comply with the minimum percentage of total worker hours performed by actual residents of the City as specified in Section 2-92-330 of the Municipal Code of Chicago (at least 50 percent of the total worker hours worked by persons on the site of the Project will be performed by actual residents of the City); provided, however, that in addition to complying with this percentage, Developer, its General Contractor and each subcontractor will be required to make good faith efforts to utilize qualified residents of the City in both unskilled and skilled labor positions. Developer, the General Contractor and each subcontractor will use their respective best efforts to exceed the minimum percentage of hours stated above, and to employ neighborhood residents in connection with the Project.

(b) Developer may request a reduction or waiver of this minimum percentage level of Chicagoans as provided for in Section 2-92-330 of the Municipal Code of Chicago in accordance with standards and procedures developed by the Chief Procurement Officer of the City.

(c) "**Actual residents of the City**" means persons domiciled within the City. The domicile is an individual's one and only true, fixed and permanent home and principal establishment.

(d) Developer, the General Contractor and each subcontractor will provide for the maintenance of adequate employee residency records to show that actual Chicago residents are employed on the Project. Each Employer will maintain copies of personal documents supportive of every Chicago employee's actual record of residence.

(e) Weekly certified payroll reports (U.S. Department of Labor Form WH-347 or equivalent) will be submitted to the Commissioner of DCD in triplicate, which will identify clearly the actual residence of every employee on each submitted certified payroll. The first time that an employee's name appears on a payroll, the date that the Employer hired the employee should be written in after the employee's name.

(f) Upon 2 Business Days prior written notice, Developer, the General Contractor and each subcontractor will provide full access to their employment records related to the construction of the Project to the Chief Procurement Officer, the Commissioner of DCD, the Superintendent of the Chicago Police Department, the Inspector General or any duly authorized representative of any of them. Developer, the General Contractor and each subcontractor will maintain all relevant personnel data and records related to the construction of the Project for a period of at least 3 years after final acceptance of the work constituting the Project.

(g) At the direction of DCD, affidavits and other supporting documentation will be required of Developer, the General Contractor and each subcontractor to verify or clarify an employee's actual address when doubt or lack of clarity has arisen.

(h) Good faith efforts on the part of Developer, the General Contractor and each subcontractor to provide utilization of actual Chicago residents (but not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the Chief Procurement Officer) will not suffice to replace the actual, verified achievement of the requirements of this Section concerning the worker hours performed by actual Chicago residents.

(i) When work at the Project is completed, in the event that the City has determined that Developer has failed to ensure the fulfillment of the requirement of this Article concerning the worker hours performed by actual residents of the City or failed to report in the manner as indicated above, the City will thereby be damaged in the failure to provide the benefit of demonstrable employment to Chicagoans to the degree stipulated in this Article. Therefore, in such a case of non-compliance, it is agreed that 1/20 of 1 percent (0.0005) of the aggregate hard construction costs set forth in the Project Budget (the product of .0005 x such aggregate hard construction costs) (as the same will be evidenced by approved contract value for the actual contracts) will be surrendered by Developer to the City in payment for each percentage of shortfall toward the stipulated residency requirement. Failure to report the residency of employees entirely and correctly will result in the surrender of the entire liquidated damages as if no Chicago residents were employed in either of the categories. The willful falsification of statements and the certification of payroll data may subject Developer, the General Contractor and/or the subcontractors to prosecution. Any retainage to cover contract performance that may become due to Developer pursuant to Section 2-92-250 of the Municipal Code of Chicago may be withheld by the City pending the Chief Procurement Officer's determination as to whether Developer must surrender damages as provided in this paragraph.

(j) Nothing herein provided will be construed to be a limitation upon the "Notice of Requirements for Affirmative Action to Ensure Equal Employment Opportunity, Executive Order 11246" and "Standard Federal Equal Employment Opportunity, Executive Order 11246," or other affirmative action required for equal opportunity under the provisions of this Agreement or related documents.

(k) Developer will cause or require the provisions of this Section 10.02 to be included in all construction contracts and subcontracts related to the Project, entered into after the Closing

Date.

10.03 Developer's MBE/WBE Commitment. Developer agrees for itself and its successors and assigns, and, if necessary to meet the requirements stated in this section, will contractually obligate the General Contractor to agree that during the construction of the Project:

(a) Consistent with the findings which support, as applicable: (i) the Minority-Owned and Women-Owned Business Enterprise Procurement Program, Section 2-92-420 *et seq.*, Municipal Code of Chicago (the "**Procurement Program**"), and (ii) the Minority- and Women-Owned Business Enterprise Construction Program, Section 2-92-650 *et seq.*, Municipal Code of Chicago (the "**Construction Program**"), and collectively with the Procurement Program, the "**MBE/WBE Program**"), and in reliance upon the provisions of the MBE/WBE Program to the extent contained in, and as qualified by, the provisions of this Section 10.03, during the course of the Project, at least the following percentages of the MBE/WBE Budget (as stated in Exhibit D-2) must be expended for contract participation by Minority-Owned Businesses ("**MBEs**") and by Women-Owned Businesses ("**WBEs**"):

- (1) At least 24 percent by MBEs.
- (2) At least four percent by WBEs.

(b) For purposes of this Section 10.03 only:

(i) Developer (and any party to whom a contract is let by Developer in connection with the Project) is deemed a "**contractor**" and this Agreement (and any contract let by Developer in connection with the Project) is deemed a "**contract**" or a "**construction contract**" as such terms are defined in Sections 2-92-420 and 2-92-670, Municipal Code of Chicago, as applicable.

(ii) The term "**minority-owned business**" or "**MBE**" shall mean a business identified in the Directory of Certified Minority Business Enterprises published by the City's Department of Procurement Services, or otherwise certified by the City's Department of Procurement Services as a minority-owned business enterprise, related to the Procurement Program or the Construction Program, as applicable.

(iii) The term "**women-owned business**" or "**WBE**" shall mean a business identified in the Directory of Certified Women Business Enterprises published by the City's Department of Procurement Services, or otherwise certified by the City's Department of Procurement Services as a women-owned business enterprise, related to the Procurement Program or the Construction Program, as applicable.

(c) Consistent with Sections 2-92-440 and 2-92-720, Municipal Code of Chicago, Developer's MBE/WBE commitment may be achieved in part by Developer's status as an MBE or WBE (but only to the extent of any actual work performed on the Project by Developer) or by a joint venture with one or more MBEs or WBEs (but only to the extent of the lesser of: (i) the

MBE or WBE participation in such joint venture or (ii) the amount of any actual work performed on the Project by the MBE or WBE), by Developer utilizing a MBE or a WBE as the General Contractor (but only to the extent of any actual work performed on the Project by the General Contractor), by subcontracting or causing the General Contractor to subcontract a portion of the Project to one or more MBEs or WBEs, or by the purchase of materials or services used in the Project from one or more MBEs or WBEs, or by any combination of the foregoing. Those entities which constitute both a MBE and a WBE shall not be credited more than once with regard to the Developer's MBE/WBE commitment as described in this Section 10.03. In compliance with Section 2-92-730, Municipal Code of Chicago, Developer will not substitute any MBE or WBE General Contractor or subcontractor without the prior written approval of DCD.

(d) Developer must deliver quarterly reports to the City's monitoring staff during the Project describing its efforts to achieve compliance with this MBE/WBE commitment. Such reports will include, inter alia: the name and business address of each MBE and WBE solicited by Developer or the General Contractor to work on the Project, and the responses received from such solicitation; the name and business address of each MBE or WBE actually involved in the Project; a description of the work performed or products or services supplied; the date and amount of such work, product or service; and such other information as may assist the City's monitoring staff in determining the Developer's compliance with this MBE/WBE commitment. Developer will maintain records of all relevant data with respect to the utilization of MBEs and WBEs in connection with the Project for at least 5 years after completion of the Project, and the City's monitoring staff will have access to all such records maintained by Developer, on 5 Business Days' notice, to allow the City to review Developer's compliance with its commitment to MBE/WBE participation and the status of any MBE or WBE performing any portion of the Project.

(e) Upon the disqualification of any MBE or WBE General Contractor or subcontractor, if such status was misrepresented by the disqualified party, Developer is obligated to discharge or cause to be discharged the disqualified General Contractor or subcontractor, and, if possible, identify and engage a qualified MBE or WBE as a replacement. For purposes of this subsection (e), the disqualification procedures are further described in Sections 2-92-540 and 2-92-730, Municipal Code of Chicago, as applicable.

(f) Any reduction or waiver of Developer's MBE/WBE commitment as described in this Section 10.03 shall be undertaken in accordance with Sections 2-92-450 and 2-92-730, Municipal Code of Chicago, as applicable.

(g) Prior to the commencement of the Project, Developer shall be required to meet with the City's monitoring staff with regard to Developer's compliance with its obligations under this Section 10.03. The General Contractor and all major subcontractors are required to attend this pre-construction meeting. During said meeting, Developer will demonstrate to the City's monitoring staff its plan to achieve its obligations under this Section 10.03, the sufficiency of which will be approved by the City's monitoring staff. During the Project, Developer shall

submit the documentation required by this Section 10.03 to the City's monitoring staff, including the following: (i) subcontractor's activity report; (ii) contractor's certification concerning labor standards and prevailing wage requirements; (iii) contractor letter of understanding; (iv) monthly utilization report; (v) authorization for payroll agent; (vi) certified payroll; (vii) evidence that MBE/WBE contractor associations have been informed of the Project via written notice and hearings; and (viii) evidence of compliance with job creation/job retention requirements. Failure to submit such documentation on a timely basis, or a determination by the City's monitoring staff, upon analysis of the documentation, that Developer is not complying with its obligations under this Section 10.03, will, upon the delivery of written notice to Developer, be deemed an Event of Default. Upon the occurrence of any such Event of Default, in addition to any other remedies provided in this Agreement, the City may: (1) issue a written demand to Developer to halt the Project, (2) withhold any further payment of any City Funds to Developer or the General Contractor, or (3) seek any other remedies against Developer available at law or in equity.

ARTICLE ELEVEN: ENVIRONMENTAL MATTERS

11.01 **Environmental Matters.** Developer hereby represents and warrants to the City that Developer has conducted environmental studies sufficient to conclude that the Project may be constructed, completed and operated in accordance with all Environmental Laws.

Without limiting any other provisions hereof, Developer agrees to indemnify, defend and hold the City harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses or claims of any kind whatsoever including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any Environmental Laws incurred, suffered by or asserted against the City as a direct or indirect result of any of the following, regardless of whether or not caused by, or within the control of Developer: (i) the presence of any Hazardous Materials on or under, or the escape, seepage, leakage, spillage, emission, discharge or release of any Hazardous Materials from: (A) all or any portion of the Property, or (B) any other real property in which Developer, or any person directly or indirectly controlling, controlled by or under common control with Developer, holds any estate or interest whatsoever (including, without limitation, any property owned by a land trust in which the beneficial interest is owned, in whole or in part, by Developer), or (ii) any liens against the Property permitted or imposed by any Environmental Laws, or any actual or asserted liability or obligation of the City or Developer or any of its Affiliates under any Environmental Laws relating to the Property.

ARTICLE TWELVE: INSURANCE

12.01 **Insurance Requirements.** Developer's insurance requirements are stated in Schedule B which is hereby incorporated into this Agreement by reference and made a part of this Agreement.

ARTICLE THIRTEEN: INDEMNIFICATION

13.01 **General Indemnity.** Developer agrees to indemnify, pay and hold the City, and its elected and appointed officials, employees, agents and affiliates (individually an "**Indemnitee**," and collectively the "**Indemnitees**") harmless from and against, any and all liabilities, obligations, losses, damages (arising out of a third party action against the City), penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever, (and including, without limitation, the reasonable fees and disbursements of counsel for such Indemnitees in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not such Indemnitees shall be designated a party thereto), that may be imposed on, suffered, incurred by or asserted against the Indemnitees by a third party in any manner relating to or arising out of:

- (i) Any cost overruns as described in Section 4.06; or
- (ii) Developer's failure to comply with any of the terms, covenants and conditions contained within this Agreement; or
- (iii) Developer's or any contractor's failure to pay General Contractors, subcontractors or materialmen in connection with the TIF-Funded Improvements or any other Project improvement; or
- (iv) the existence of any material misrepresentation or omission in this Agreement, any offering memorandum or the Redevelopment Plan or any other document related to this Agreement that is the result of information supplied or omitted by Developer or its agents, employees, contractors or persons acting under the control or at the request of Developer; or
- (v) Developer's failure to cure any misrepresentation in this Agreement or any other document or agreement relating hereto; or
- (vi) any act or omission by Developer or any Affiliate of Developer.

provided, however, that Developer shall have no obligation to an Indemnitee arising from the wanton or willful misconduct of that Indemnitee. To the extent that the preceding sentence may be unenforceable because it is violative of any law or public policy, Developer will contribute the maximum portion that it is permitted to pay and satisfy under applicable law, to the payment and satisfaction of all indemnified liabilities incurred by the Indemnitees or any of them. The provisions of the undertakings and indemnification set out in this Section 13.01 will survive the termination of this Agreement.

ARTICLE FOURTEEN: MAINTAINING RECORDS/RIGHT TO INSPECT

14.01 **Books and Records.** Developer will keep and maintain separate, complete, accurate and detailed books and records necessary to reflect and fully disclose the total actual costs of the Project and the disposition of all funds from whatever source allocated thereto, and to monitor the Project. All such books, records and other documents, including but not limited to Developer's loan statements, if any, General Contractors' and contractors' sworn statements, general contracts, subcontracts, purchase orders, waivers of lien, paid receipts and invoices, will be available at Developer's offices for inspection, copying, audit and examination by an authorized representative of the City, at Developer's expense. Developer will not pay for salaries or fringe benefits of auditors or examiners. Developer must incorporate this right to inspect, copy, audit and examine all books and records into all contracts entered into by Developer with respect to the Project.

14.02 **Inspection Rights.** Upon 15 Business Days notice, any authorized representative of the City will have access to all portions of the Property or the Project during normal business hours for the Term of the Agreement.

ARTICLE FIFTEEN: DEFAULT AND REMEDIES

15.01 **Events of Default.** The occurrence of any one or more of the following events, subject to the provisions of Section 15.03, will constitute an "Event of Default" by Developer hereunder:

- (a) the failure of Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of Developer under this Agreement or any related agreement;
- (b) the failure of Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of Developer under any other agreement with any person or entity if such failure may have a material adverse effect on Developer's business, property (including the Property or the Project), assets (including the Property or the Project), operations or condition, financial or otherwise;
- (c) the making or furnishing by Developer to the City of any representation, warranty, certificate, schedule, report or other communication within or in connection with this Agreement or any related agreement which is untrue or misleading in any material respect;
- (d) except as otherwise permitted hereunder, the creation (whether voluntary or involuntary) of, or any attempt by Developer to create, any lien or other encumbrance upon the Property or the Project, including any fixtures now or hereafter attached thereto, other than the Permitted Liens or any Permitted Mortgage, or the making or any attempt to make any levy, seizure or attachment thereof;

(e) the commencement of any proceedings in bankruptcy by or against Developer or Developer's ultimate parent entity, if any, or for the liquidation or reorganization of Developer or Developer's ultimate parent entity, if any, or alleging that Developer or Developer's ultimate parent entity, if any, is insolvent or unable to pay its debts as they mature, or for the readjustment or arrangement of Developer's or Developer's ultimate parent entity's, if any, debts, whether under the United States Bankruptcy Code or under any other state or Federal law, now or hereafter existing for the relief of debtors, or the commencement of any analogous statutory or non-statutory proceedings involving Developer or Developer's ultimate parent entity, if any; provided, however, that if such commencement of proceedings is involuntary, such action will not constitute an Event of Default unless such proceedings are not dismissed within 60 days after the commencement of such proceedings;

(f) the appointment of a receiver or trustee for Developer or Developer's ultimate parent entity, if any, for any substantial part of Developer's or Developer's ultimate parent entity's, if any, assets or the institution of any proceedings for the dissolution, or the full or partial liquidation, or the merger or consolidation, of Developer or Developer's ultimate parent entity, if any; provided, however, that if such appointment or commencement of proceedings is involuntary, such action will not constitute an Event of Default unless such appointment is not revoked or such proceedings are not dismissed within 60 days after the commencement thereof;

(g) the entry of any judgment or order against Developer, not covered by insurance for an amount in excess of \$1.0 million which remains unsatisfied or undischarged and in effect for 60 days after such entry without a stay of enforcement or execution;

(h) the occurrence of an event of default under the Lender Financing, if any; or

(i) the dissolution of Developer or Developer's ultimate parent entity, if any; or

(j) the institution in any court of a criminal proceeding (other than a misdemeanor) against Developer or any natural person who owns a material interest in Developer, which is not dismissed within 30 days, or the indictment of Developer or any natural person who owns a material interest in Developer, for any crime (other than a misdemeanor).

For purposes of Sections 15.01(i) and 15.01(j) hereof, a natural person with a material interest in Developer is one owning in excess of fifty percent (50%) of Developer's or Developer's ultimate parent entity issued, if any, and outstanding ownership shares or interests.

15.02 Remedies. Upon the occurrence of an Event of Default, the City may terminate this Agreement and all related agreements, and may suspend disbursement of City Funds. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy, including but not limited to injunctive relief or the specific performance of the agreements contained herein. To the extent permitted by law, the City may also lien the Property.

15.03 Curative Period.

(a) In the event Developer fails to perform a monetary covenant which Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default will not be deemed to have occurred unless Developer has failed to perform such monetary covenant within 10 days of its receipt of a written notice from the City specifying that it has failed to perform such monetary covenant.

(b) In the event Developer fails to perform a non-monetary covenant which Developer is required to perform under this Agreement, an Event of Default will not be deemed to have occurred unless Developer has failed to cure such default within 30 days of its receipt of a written notice from the City specifying the nature of the default; provided, however, with respect to those non-monetary defaults which are not capable of being cured within such 30 day period, Developer will not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such 30 day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured.

15.04 Joint and Several Liability.

(a) By entering into this Agreement, Archer Advisors, LLC and 5829 Archer Development, LLC each specifically agree that the respective undertakings, liabilities and obligations for "Developer" stated in this Agreement are for each entity joint and several with the other entity. Such joint and several undertakings means that each entity is individually responsible to the maximum extent possible at law or in equity for the full, timely and satisfactory performance of each and every obligation, covenant, condition, requirement, undertaking or payment of the "Developer" as stated in this Agreement, and each entity is individually bound by and obligated to each and every term and condition in this Agreement.

(b) The joint and several undertaking of the entities stated in subsection (a) above is intended to be continuing throughout the Term of the Agreement. Such joint and several undertaking will not be changed, modified, reduced or released in any way by:

- (i) any change, amendment, modification or correction to this Agreement, or any other agreement or undertaking contemplated or referenced in this Agreement; or,
- (ii) the existence of any claim, setoff, defense, counter-claim or other right which either Archer Advisors, LLC and 5829 Archer Development, LLC may have or assert against each other or against the City or against any third party.

(c) From time-to-time, and at any time during the Term of the Agreement, the City may assert and pursue one or more of its remedies under this Agreement against either Archer Advisors, LLC alone or 5829 Archer Development, LLC alone or against both entities, jointly

and severally, without waiving or compromising any of the City's other remedies against either of Archer Advisors, LLC or 5829 Archer Development, LLC , as the case maybe, under this Agreement.

ARTICLE SIXTEEN: MORTGAGING OF THE PROJECT

16.01 **Mortgaging of the Project.** Any and all mortgages or deeds of trust in place as of the date hereof with respect to the Property or Project or any portion thereof are listed on Exhibit I hereto (including but not limited to mortgages made prior to or on the date hereof in connection with Lender Financing, if any) and are referred to herein as the "**Existing Mortgages.**" Any mortgage or deed of trust that Developer may hereafter elect to execute and record or execute and permit to be recorded against the Property or Project or any portion thereof without obtaining the prior written consent of the City is referred to herein as a "**New Mortgage.**" Any mortgage or deed of trust that Developer may hereafter elect to execute and record or execute and permit to be recorded against the Property or Project or any portion thereof with the prior written consent of the City is referred to herein as a "**Permitted Mortgage.**" It is hereby agreed by and between the City and Developer as follows:

(a) If a mortgagee or any other party shall succeed to Developer's interest in the Property or any portion thereof by the exercise of remedies under a mortgage or deed of trust (other than an Existing Mortgage or a Permitted Mortgage) whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of Developer's interest hereunder in accordance with Section 18.15 hereof, the City may, but will not be obligated to, attorn to and recognize such party as the successor in interest to Developer for all purposes under this Agreement and, unless so recognized by the City as the successor in interest, such party will be entitled to no rights or benefits under this Agreement, but such party will be bound by those provisions of this Agreement that are covenants expressly running with the land.

(b) If any mortgagee or any other party shall succeed to Developer's interest in the Property or any portion thereof by the exercise of remedies under an Existing Mortgage or a Permitted Mortgage, whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of Developer's interest hereunder in accordance with Section 18.15 hereof, then the City hereby agrees to attorn to and recognize such party as the successor in interest to Developer for all purposes under this Agreement so long as such party accepts all of the executory obligations and liabilities of "Developer" hereunder. Notwithstanding any other provision of this Agreement to the contrary, it is understood and agreed that if such party accepts an assignment of Developer's interest under this Agreement, such party will have no liability under this Agreement for any Event of Default of Developer which occurred prior to the time such party succeeded to the interest of Developer under this Agreement, in which case Developer will be solely responsible. However, if such mortgagee under a Permitted Mortgage or an Existing Mortgage does not expressly accept an assignment of Developer's interest hereunder, such party will be entitled to no rights and benefits under this Agreement, and such party will be bound only by those provisions of this Agreement, if any, which are covenants expressly running with the land.

(c) Prior to the issuance by the City to Developer of a COC under Article Seven hereof, no New Mortgage will be executed with respect to the Property or the Project or any portion thereof without the prior written consent of the Commissioner of DCD. A feature of such consent will be that any New Mortgage will subordinate its mortgage lien to the covenants in favor of the City that run with the land. After the issuance of a COC, consent of the Commissioner of DCD is not required for any such New Mortgage.

ARTICLE SEVENTEEN: NOTICES

17.01 Notices. All notices and any other communications under this Agreement will: (A) be in writing; (B) be sent by: (i) telecopier/fax machine, (ii) delivered by hand, (iii) delivered by an overnight courier service which maintains records confirming the receipt of documents by the receiving party, or (iv) registered or certified U.S. Mail, return receipt requested; (C) be given at the following respective addresses:

If to the City: City of Chicago
Department of Community Development
Attn: Commissioner
121 North LaSalle Street, Room 1000
Chicago, IL 60602
312/744-4190 (Main No.)
312/744-2271 (Fax)

With Copies To: City of Chicago
Corporation Counsel
Attn: Finance and Economic Development Division
121 North LaSalle Street, Room 600
Chicago, IL 60602
312/744-0200 (Main No.)
312/744-8538 (Fax)

If to Developer: Archer Advisors, LLC
5829 Archer Development, LLC
c/o Shop & Save Market
8847 S. Harlem Ave.
Bridgeview, IL 60455
Telephone: 708/398-6600
Fax: 708/398-6609

With Copies To: Bruce N. Tinkoff, Esq.
Tinkoff, Popko & Associates
413 E. Main St.
Barrington, IL 60010

Telephone: 847/381-3202
Fax: 847-381-3248

or at such other address or telecopier/fax or telephone number or to the attention of such other person as the party to whom such information pertains may hereafter specify for the purpose in a notice to the other specifically captioned "Notice of Change of Address" and, (D) be effective or deemed delivered or furnished: (i) if given by telecopier/fax, when such communication is confirmed to have been transmitted to the appropriate telecopier/fax number specified in this section, and confirmation is deposited into the U.S. Mail, postage prepaid to the recipient's address shown herein; (ii) if given by hand delivery or overnight courier service, when left at the address of the addressee, properly addressed as provided above.

17.02 **Developer Requests for City or DCD Approval.** Any request under this Agreement for City or DCD approval submitted by Developer will comply with the following requirements:

- (a) be in writing and otherwise comply with the requirements of Section 17.01 (Notices);
- (b) expressly state the particular document and section thereof relied on by Developer to request City or DCD approval;
- (c) if applicable, note in bold type that failure to respond to Developer's request for approval by a certain date will result in the requested approval being deemed to have been given by the City or DCD;
- (d) if applicable, state the outside date for the City's or DCD's response; and
- (e) be supplemented by a delivery receipt or time/date stamped notice or other documentary evidence showing the date of delivery of Developer's request.

ARTICLE EIGHTEEN: ADDITIONAL PROVISIONS

18.01 **Amendments.** This Agreement and the Schedules and Exhibits attached hereto may not be modified or amended except by an agreement in writing signed by the parties; provided, however, that the City in its sole discretion, may amend, modify or supplement the Redevelopment Plan, which is Exhibit C hereto. For purposes of this Agreement, Developer is only obligated to comply with the Redevelopment Plan as in effect on the date of this Agreement. It is agreed that no material amendment or change to this Agreement shall be made or be effective unless ratified or authorized by an ordinance duly adopted by the City Council. The term "material" for the purpose of this Section 18.01 shall be defined as any deviation from the terms of the Agreement which operates to cancel or otherwise reduce any developmental, construction or job-creating obligations of Developer (including those set forth in Sections 10.02 and 10.03 hereof) by more than five percent (5%) or materially changes the Project site or

**ARCHER/CENTRAL
REDEVELOPMENT PROJECT AREA**

**SHOP & SAVE MARKET
5829 SOUTH ARCHER AVENUE PROJECT
REDEVELOPMENT AGREEMENT**

LIST OF SCHEDULES AND EXHIBITS

Schedules

Schedule A	Definitions
Schedule B	Insurance Requirements

Exhibits

Exhibit A	*Redevelopment Area Legal Description
Exhibit B-1	*Legal Description of the Property
Exhibit B-2	Site Plan for the Project
Exhibit C	Redevelopment Plan
Exhibit D-1	*Project Budget
Exhibit D-2	*Construction (MBE/WBE) Budget
Exhibit E	Schedule of TIF-Funded Improvements
Exhibit F	Form of Letter of Credit
Exhibit G	Construction Contract
Exhibit H	Approved Prior Expenditures
Exhibit I	Permitted Liens
Exhibit J	Opinion of Developer's Counsel
Exhibit K	*Minimum Assessed Value
Exhibit L	Form of Payment and Performance Bond
Exhibit M	Reserved
Exhibit N	City Funds Requisition Form
Exhibit O	Form of City Subordination Agreement

(An asterisk(*) indicates which exhibits are to be recorded.)

character of the Project or any activities undertaken by Developer affecting the Project site, the Project, or both, or increases any time agreed for performance by the Developer by more than 90 days.

18.02 **Complete Agreement, Construction, Modification.** This Agreement, including any exhibits and the other agreements, documents and instruments referred to herein or contemplated hereby, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous negotiations, commitments and writings with respect to such subject matter. This Agreement and the Schedules and Exhibits attached hereto may not be contradicted by evidence of prior, contemporaneous, or subsequent verbal agreements of the parties. There are no unwritten verbal agreements between the parties.

18.03 **Limitation of Liability.** No member, elected or appointed official or employee or agent of the City shall be individually, collectively or personally liable to Developer or any successor in interest to Developer in the event of any default or breach by the City or for any amount which may become due to Developer or any successor in interest, from the City or on any obligation under the terms of this Agreement.

18.04 **Further Assurances.** Developer agrees to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications as may become necessary or appropriate to carry out the terms, provisions and intent of this Agreement, and to accomplish the transactions contemplated in this Agreement.

18.05 **Waivers.** No party hereto will be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by such party. No delay or omission on the part of a party in exercising any right will operate as a waiver of such right or any other right unless pursuant to the specific terms hereof. A waiver by a party of a provision of this Agreement will not prejudice or constitute a waiver of such party's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by a party, nor any course of dealing between the parties hereto, will constitute a waiver of any of such parties' rights or of any obligations of any other party hereto as to any future transactions.

18.06 **Remedies Cumulative.** The remedies of a party hereunder are cumulative and the exercise of any one or more of the remedies provided for herein must not be construed as a waiver of any other remedies of such party unless specifically so provided herein.

18.07 **Parties in Interest/No Third Party Beneficiaries.** The terms and provisions of this Agreement are binding upon and inure to the benefit of, and are enforceable by, the respective successors and permitted assigns of the parties hereto. This Agreement will not run to the benefit of, or be enforceable by, any person or entity other than a party to this Agreement and its successors and permitted assigns. This Agreement should not be deemed to confer upon third parties any remedy, claim, right of reimbursement or other right. Nothing contained in this Agreement, nor any act of the City or the Developer, will be deemed or construed by any of the

parties hereto or by third persons, to create any relationship of third party beneficiary, principal, agent, limited or general partnership, joint venture, or any association or relationship involving the City or Developer.

18.08 **Titles and Headings.** The Article, section and paragraph headings contained herein are for convenience of reference only and are not intended to limit, vary, define or expand the content thereof.

18.09 **Counterparts.** This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, with the same effect as if all parties had signed the same document. All such counterparts shall be deemed an original, must be construed together and will constitute one and the same instrument.

18.10 **Counterpart Facsimile Execution.** For purposes of executing this Agreement, a document signed and transmitted by facsimile machine will be treated as an original document. The signature of any party thereon will be considered as an original signature, and the document transmitted will be considered to have the same binding legal effect as an original signature on an original document. At the request of either party, any facsimile document will be re-executed by other parties in original form. No party hereto may raise the use of a facsimile machine as a defense to the enforcement of this Agreement or any amendment executed in compliance with this section. This section does not supersede the requirements of Article Seventeen: Notices.

18.11 **Severability.** If any provision of this Agreement, or the application thereof, to any person, place or circumstance, is held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such provisions as applied to other persons, places and circumstances will remain in full force and effect only if, after excluding the portion deemed to be unenforceable, the remaining terms will provide for the consummation of the transactions contemplated hereby in substantially the same manner as originally set forth herein. In such event, the parties will negotiate, in good faith, a substitute, valid and enforceable provision or agreement which most nearly affects the parties' intent in entering into this Agreement.

18.12 **Conflict.** In the event of a conflict between any provisions of this Agreement and the provisions of the TIF Ordinances in effect as of the date of this Agreement, such ordinance(s) will prevail and control.

18.13 **Governing Law.** This Agreement is governed by and construed in accordance with the internal laws of the State, without regard to its conflicts of law principles.

18.14 **Form of Documents.** All documents required by this Agreement to be submitted, delivered or furnished to the City will be in form and content satisfactory to the City.

18.15 **Assignment.** Prior to the issuance by the City to Developer of a COC, Developer may not sell, assign or otherwise transfer its interest in this Agreement in whole or in part

without the written consent of the City; provided, however, that Developer may assign, on a collateral basis, the right to receive City Funds to a lender providing Lender Financing, if any, which has been identified to the City as of the Closing Date. Any successor in interest to Developer under this Agreement will certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement, including but not limited to Section 8.16 (Real Estate Provisions) and Section 8.26 (Survival of Covenants) hereof, for the Term of the Agreement. Developer hereby consents to the City's transfer, assignment or other disposal of this Agreement at any time in whole or in part.

18.16 **Binding Effect.** This Agreement is binding upon Developer, the City and their respective successors and permitted assigns (as provided herein) and will inure to the benefit of Developer, the City and their respective successors and permitted assigns (as provided herein).

18.17 **Force Majeure.** Neither the City nor Developer nor any successor in interest to either of them will be considered in breach of or in default of its obligations under this Agreement in the event of any delay caused by damage or destruction by fire or other casualty, war, acts of terrorism, imposition of martial law, plague or other illness, civil disorders, rebellions or revolutions, strike, shortage of material, power interruptions or blackouts, fuel shortages or rationing, adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or for an abnormal duration, tornadoes or cyclones, and other events or conditions beyond the reasonable control of the party affected which in fact interferes with the ability of such party to discharge its obligations hereunder, except to the extent that, the non-performing party is at fault in failing to prevent or causing such default or delay; and provided that such default or delay can not reasonably be circumvented by the non-performing party through the use of alternative sources, work around plans or other means. The individual or entity relying on this section with respect to any such delay will, upon the occurrence of the event causing such delay, immediately give written notice to the other parties to this Agreement. The individual or entity relying on this section with respect to any such delay may rely on this section only to the extent of the actual number of days of delay effected by any such events described above.

18.18 **Exhibits and Schedules.** All of the exhibits and schedules to this Agreement are incorporated herein by reference. Any exhibits and schedules to this Agreement will be construed to be an integral part of this Agreement to the same extent as if the same has been set forth verbatim herein.

18.19 **Business Economic Support Act.** Under the Business Economic Support Act (30 ILCS 760/1 et seq. (2006 State Bar Edition), as amended), if Developer is required to provide notice under the WARN Act, Developer will, in addition to the notice required under the WARN Act, provide at the same time a copy of the WARN Act notice to the Governor of the State, the Speaker and Minority Leader of the House of Representatives of the State, the President and Minority Leader of the Senate of State, and the Mayor of each municipality where Developer has locations in the State. Failure by Developer to provide such notice as described above may result in the termination of all or a part of the payment or reimbursement obligations of the City set

forth herein.

18.20 **Approval.** Wherever this Agreement provides for the approval or consent of the City, DCD or the Commissioner, or any matter is to be to the City's, DCD's or the Commissioner's satisfaction, unless specifically stated to the contrary, such approval, consent or satisfaction shall be made, given or determined by the City, DCD or the Commissioner in writing and in the reasonable discretion thereof. The Commissioner or other person designated by the Mayor of the City shall act for the City or DCD in making all approvals, consents and determinations of satisfaction, granting the COC or otherwise administering this Agreement for the City.

18.21 **Construction of Words.** The use of the singular form of any word herein includes the plural, and vice versa. Masculine, feminine and neuter pronouns are fully interchangeable, where the context so requires. The words "herein", "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision. The term "include" (in all its forms) means "include, without limitation" unless the context clearly states otherwise. The word "shall" means "has a duty to."

18.22 **Date of Performance.** If any date for performance under this Agreement falls on a Saturday, Sunday or other day which is a holiday under Federal law or under State Law, the date for such performance will be the next succeeding Business Day.

18.23 **Survival of Agreements.** Except as otherwise contemplated by this Agreement, all covenants and agreements of the parties contained in this Agreement will survive the Closing Date.

18.24 **Equitable Relief.** In addition to any other available remedy provided for hereunder, at law or in equity, to the extent that a party fails to comply with the terms of this Agreement, any of the other parties hereto shall be entitled to injunctive relief with respect thereto, without the necessity of posting a bond or other security, the damages for such breach hereby being acknowledged as unascertainable.

18.25 **Venue and Consent to Jurisdiction.** If there is a lawsuit under this Agreement, each party hereto agrees to submit to the jurisdiction of the courts of Cook County, the State of Illinois and the United States District Court for the Northern District of Illinois.

18.26 **Costs and Expenses.** In addition to and not in limitation of the other provisions of this Agreement, Developer agrees to pay upon demand the City's out-of-pocket expenses, including attorneys' fees, incurred in connection with the enforcement of the provisions of this Agreement but only if the City is determined to be the prevailing party in an action for enforcement. This includes, subject to any limits under applicable law, reasonable attorneys' fees and legal expenses, whether or not there is a lawsuit, including reasonable attorneys' fees for

bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Developer also will pay any court costs, in addition to all other sums provided by law.

[The remainder of this page is intentionally left
blank and the signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Redevelopment Agreement to be signed on or as of the day and year first above written.

ARCHER ADVISORS, LLC, an Illinois limited liability company

By: _____

Printed

Name: _____

EVA JAKUBOWSKI

Title: _____

MANAGING Member

5829 ARCHER DEVELOPMENT, LLC, an Illinois limited liability company

By: _____

Printed

Name: _____

EVA JAKUBOWSKI

Title: _____

MANAGING Member

CITY OF CHICAGO

By: _____

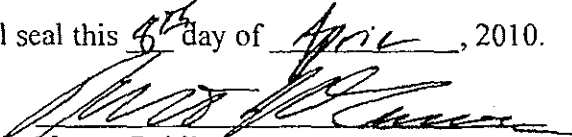
CHRISTINE RAJUSO

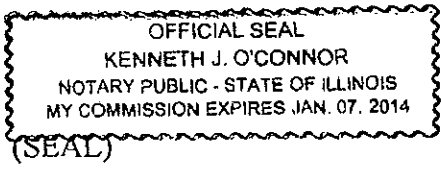
Acting Commissioner,
Department of Community Development

STATE OF Illinois)
) SS
COUNTY OF COOK)

I, Kenneth J. O'Connor, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that EVA JAKUBOWSKA, personally known to me to be the managing member of Archer Advisors, LLC, an Illinois limited liability company, (the "Developer"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument, pursuant to the authority given to him/her by the Developer, as his/her free and voluntary act and as the free and voluntary act of the Developer, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 5th day of April, 2010.


Notary Public

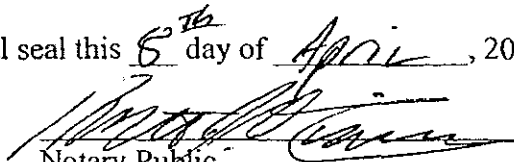


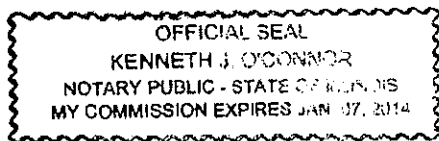
My Commission Expires 1-7-14

STATE OF Illinois)
) SS
COUNTY OF Cook)

I, Kenneth J. O'Connor, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that EVA JAKUBOWSKA, personally known to me to be the Managing member of 5829 Archer Development, LLC, an Illinois limited liability company, (the "Developer"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument, pursuant to the authority given to him/her by the Developer, as his/her free and voluntary act and as the free and voluntary act of the Developer, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 6th day of April, 2010.


Notary Public



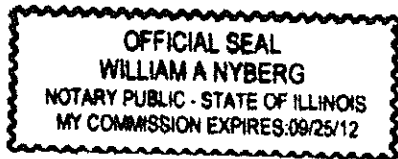
My Commission Expires 1-7-14

(SEAL)

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, William A. Nyberg, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that CHRISTINE RAGUSO, personally known to me to be the Acting Commissioner of the Department of Community Development of the City of Chicago (the "City"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that ~~he~~ she signed, sealed, and delivered said instrument pursuant to the authority given to ~~him~~ her by the City, as ~~his~~ her free and voluntary act of the City, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 8th day of April, 2010.



William A. Nyberg
Notary Public

My Commission Expires 09/25/12

**ARCHER/CENTRAL
REDEVELOPMENT PROJECT AREA**

SHOP & SAVE MARKET

Redevelopment Agreement
dated as of April 8, 2010

SCHEDULE A

DEFINITIONS

For purposes of this Agreement the following terms shall have the meanings stated forth below:

“5829 Development” has the meaning defined in the Agreement preamble.

“Act” has the meaning defined in Recital B.

“Actual Residents of the City” has the meaning defined for such phrase in Section 10.02(c).

“Affiliate(s)” when used to indicate a relationship with a specified person or entity, means a person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified person or entity, and a person or entity shall be deemed to be controlled by another person or entity, if controlled in any manner whatsoever that results in control in fact by that other person or entity (or that other person or entity and any person or entities with whom that other person or entity is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

“Agreement” has the meaning defined in the Agreement preamble.

“Annual Compliance Report” shall mean a signed report from the Developer to the City: (a) itemizing each of the Developer’s obligations under the RDA during the preceding calendar year; (b) certifying the Developer’s compliance or noncompliance with such obligations; (c) attaching evidence (whether or not previously submitted to the City) of such compliance or noncompliance; and (d) certifying that the Developer is not in default with respect to any provision of the RDA, the agreements evidencing the Lender Financing, if any, or any related agreements; provided, that the obligations to be covered by the Annual Compliance Report shall include the following: (1) compliance with the Operating Covenant (**Section 8.18**); (2) delivery of Financial Statements and unaudited financial statements (**Section 8.13**); (3) delivery of updated insurance certificates, if applicable (**Section 8.11**); (4) delivery of evidence of payment of Non-Governmental Charges, if applicable (**Section 8.12**); (5) delivery of a

LEED Certification has been obtained (Section 3.14(b)) and (7) compliance with all other executory provisions of the RDA.

"Archer Advisors" has the meaning defined in the Agreement preamble.

"Archer/Central Redevelopment Project Area Special Tax Allocation Fund" means the special tax allocation fund created by the City in connection with the Redevelopment Area into which the Incremental Taxes (as defined below) will be deposited.

"Bonds" has the meaning defined in Section 8.05.

"Bundle" has the meaning defined in Section 8.25.

"Business Day" means any day other than Saturday, Sunday or a legal holiday in the State.

"Change Order" means any amendment or modification to the Scope Drawings, the Plans and Specifications, or the Project Budget (all as defined below) within the scope of Section 3.04.

"City" has the meaning defined in the Agreement preamble.

"City Contract" has the meaning defined in Section 8.01(1).

"City Council" means the City Council of the City of Chicago as defined in Recital C.

"City Funds" means the funds described in Section 4.03(a).

"City Group Member" has the meaning defined in Section 8.22.

"City Requirements" has the meaning defined in Section 3.07.

"Closing Date" means the date of execution and delivery of this Agreement by all parties hereto.

"COC" (and also from time to time referred to as the **"Certificate"**) has the meaning defined in Section 7.01 and cross-referenced in Section 4.03(b)(ii)(B).

"Commssioner" or **"Commssioner of DCD"** means that individual holding the office and exercising the responsibilities of the Commissioner or Acting Commissioner of the City's Department of Community Development and any successor City Department.

"Construction Contract" means that certain contract substantially in the form of Exhibit G, to be entered into between the Developer and the General Contractor (as defined below) providing for construction of, among other things, the TIF-Funded Improvements. The parties to this Agreement may agree that the Construction Contract may be provided after Closing Date.

"Construction Program" has the meaning defined in Section 10.03(a).

"Contractors" has the meaning defined in Section 8.25.

"Contribution" has the meaning defined in Section 8.25.

"Corporation Counsel" means the City's Office of Corporation Counsel.

"DCD" has the meaning defined in the Agreement preamble.

"Developer" has the meaning defined in the Agreement preamble.

"Domestic Partners" has the meaning defined in Section 8.25.

"Employer(s)" has the meaning defined in Section 10.01.

"Environmental Laws" means any and all Federal, State or local statutes, laws, regulations, ordinances, codes, rules, orders, licenses, judgments, decrees or requirements relating to public health and safety and the environment now or hereafter in force, as amended and hereafter amended, including but not limited to: (i) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.); (ii) any so-called "Superfund" or "Superlien" law; (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 1802 et seq.); (iv) the Resource Conservation and Recovery Act (42 U.S.C. Section 6902 et seq.); (v) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vi) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vii) the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.); (viii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (ix) the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.); and (x) the Municipal Code of Chicago (as defined below), and including the following Municipal Code Sections: 7-28-390, 7-28-440, 11-4-1410, 11-4-1420, 11-4-1450, 11-4-1500, 11-4-1530, 11-4-1550 or 11-4-1560.

"Equity" means funds of Developer (other than funds derived from Lender Financing (as defined below)) irrevocably available for the Project, in the amount stated in Section 4.01 hereof, which amount may be increased under Section 4.06 (Cost Overruns).

"Event of Default" has the meaning defined in Section 15.01.

"Existing Mortgages" has the meaning defined in Section 16.01.

"Financial Statements" means the financial statements regularly prepared by Developer, if any, and including, but not limited to, a balance sheet, income statement and cash-flow statement, in accordance with generally accepted accounting principles and practices consistently applied throughout the appropriate periods, for business enterprises operating for profit in the United States of America, and which are delivered to the lender(s) providing Lender Financing pursuant to Developer's loan agreement(s), if any.

"General Contractor" means the general contractor(s) hired by Developer under Section 6.01.

"Governmental Charge" has the meaning defined in Section 8.16(a)(i).

"Hazardous Materials" means any toxic substance, hazardous substance, hazardous material, hazardous chemical or hazardous, toxic or dangerous waste defined or qualifying as such in (or for the purposes of) any Environmental Law, or any pollutant or contaminant, and shall include, but not be limited to, petroleum (including crude oil), any radioactive material or by-product material, polychlorinated biphenyls and asbestos in any form or condition.

"Human Rights Ordinance" has the meaning defined in Section 10.01(a).

"Identified Parties" has the meaning defined in Section 8.25.

"IEPA" has the meaning defined in Section 5.13.

"Incremental Taxes" means such ad valorem taxes which, pursuant to the TIF Adoption Ordinance and Section 5/11-74.4-8(b) of the Act, are allocated to, and when collected are paid to, the Treasurer of the City for deposit by the Treasurer into a special tax allocation fund established to pay Redevelopment Project Costs (as defined below) and obligations incurred in the payment thereof, such fund for the purposes of this Agreement being the Archer/Central Redevelopment Project Area Special Tax Allocation Fund.

"Indemnitee" and **"Indemnitees"** have the respective meanings defined in Section 13.01.

"Labor Department" has the meaning defined in Section 8.08.

"Landscape Ordinance" has the meaning defined in Section 3.14(a).

"LEED" has the meaning defined in Section 3.14(b).

"LEED-Civ.2" has the meaning defined in Section 3.14(b).

"**Lender Financing**" means funds borrowed by Developer from lenders and available to pay for costs of the Project, in the amount stated in Section 4.01, if any.

"**Letter of Credit**" has the meaning defined in Section 4.03(b)(ii)(A).

"**Mayor**" has the meaning defined in Section 8.25.

"**MBE(s)**" has the meaning defined in Section 10.03(b).

"**MBE/WBE Program**" has the meaning defined in Section 10.03(a).

"**Minimum Assessed Value**" has the meaning defined in Section 8.16(c)(i).

"**Minority-Owned Business**" has the meaning defined in Section 10.03(b).

"**Municipal Code**" means the Municipal Code of the City of Chicago as presently in effect and as hereafter amended from time to time.

"**New Mortgage**" has the meaning defined in Section 16.01.

"**Non-Governmental Charges**" means all non-governmental charges, liens, claims, or encumbrances relating to Developer, the Property or the Project.

"**Other Contract**" has the meaning defined in Section 8.25.

"**Owners**" has the meaning defined in Section 8.25.

"**Permitted Liens**" means those liens and encumbrances against the Property and/or the Project stated in Exhibit H.

"**Permitted Mortgage**" has the meaning defined in Section 16.01.

"**Plans and Specifications**" means final construction documents containing a site plan and working drawings and specifications for the Project.

"**Political fundraising committee**" has the meaning defined in Section 8.25.

"**Prior Expenditure(s)**" has the meaning defined in Section 4.04.

"**Procurement Program**" has the meaning defined in Section 10.03(a).

"**Project**" has the meaning defined in Recital D.

"Project Budget" means the budget stated in Exhibit D-1, showing the total cost of the Project by line item, as furnished by Developer to DCD, in accordance with Section 3.03.

"Property" has the meaning defined in Recital D.

"Public Benefits Program" has the meaning defined in Section 8.20.

"Redevelopment Area" means the redevelopment project area as legally described in Exhibit A.

"Redevelopment Plan" has the meaning defined in Recital E.

"Redevelopment Project Costs" means redevelopment project costs as defined in Section 5/11-74.4-3(q) of the Act that are included in the budget stated in the Redevelopment Plan or otherwise referenced in the Redevelopment Plan.

"Requisition Form" has the meaning defined in Section 4.03(b)(ii)(B)2.

"Scope Drawings" means preliminary construction documents containing a site plan and preliminary drawings and specifications for the Project.

"SRP" has the meaning defined in Section 5.13.

"State" means the State of Illinois as defined in Recital A.

"Sub-owners" has the meaning defined in Section 8.25.

"Survey" means an urban plat of survey in the most recently revised form of ALTA/ACSM land title survey of the Property dated within 45 days prior to the Closing Date, reasonably acceptable in form and content to the City and the Title Company, prepared by a surveyor registered in the State, certified to the City and the Title Company, and indicating whether the Property is in a flood hazard area as identified by the United States Federal Emergency Management Agency (and any updates thereof to reflect improvements to the Property as required by the City or the lender(s) providing Lender Financing, if any).

"Term of the Agreement" means the period of time commencing on the Closing Date and ending on December 31, 2024, being the end date for tax collections applicable to the 23rd year from the date of the Archer/Central TIF Ordinances.

"TIF Adoption Ordinance" has the meaning stated in Recital C.

"TIF Bonds" has the meaning defined for such term in Recital F.

"TIF Bond Ordinance" has the meaning stated in Recital F.

"TIF Bond Proceeds" has the meaning stated in Recital F.

"TIF Ordinances" has the meaning stated in Recital C.

"TIF-Funded Improvements" means those improvements of the Project which: (i) qualify as Redevelopment Project Costs, (ii) are eligible costs under the Redevelopment Plan and (iii) the City has agreed to pay for out of the City Funds, subject to the terms of this Agreement, and (iv) are stated in Exhibit E.

"Title Company" means Chicago Title Insurance Company

"Title Policy" means a title insurance policy in the most recently revised ALTA or equivalent form, showing Developer as the insured, noting the recording of this Agreement as an encumbrance against the Property, and a subordination agreement in favor of the City with respect to previously recorded liens against the Property related to Lender Financing, if any, issued by the Title Company.

"Under Assessment Complaint" has the meaning set forth in Section 8.16(c)(iv).

"USGBC" has the meaning defined in Section 3.14(b).

"WARN Act" means the Worker Adjustment and Retraining Notification Act (29 U.S.C. Section 2101 et seq.).

"WBE(s)" has the meaning defined in Section 10.03(b).

"Women-Owned Business" has the meaning defined in Section 10.03(b).

**ARCHER/CENTRAL
REDEVELOPMENT PROJECT AREA**

SHOP & SAVE MARKET

Redevelopment Agreement
dated as of April 8, 2010

SCHEDULE B

ARTICLE TWELVE: INSURANCE REQUIREMENTS

12.01 **Insurance.** Developer will provide and maintain, or cause to be provided and maintained, at Developer's own expense, during the Term of this Agreement, the insurance coverages and requirements specified below, insuring all operations related to the Agreement.

(a) Prior to Execution and Delivery of this Agreement

(i) Workers' Compensation and Employers Liability Insurance

Workers Compensation and Employers Liability Insurance, as prescribed by applicable law covering all employees who are to provide a service under this Agreement in statutorily prescribed limits and Employers Liability coverage with limits of not less than \$100,000 each accident or illness.

(ii) Commercial General Liability Insurance (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$1,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations, independent contractors, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

(b) Construction. Prior to the construction of any portion of the Project, Developer will cause its architects, contractors, sub-contractors, project managers and other parties constructing the Project to procure and maintain the following kinds and amounts of insurance:

(i) Workers Compensation and Employers Liability Insurance

Workers Compensation and Employers Liability Insurance, as prescribed by applicable law covering all employees who are to provide a service under this Agreement in statutorily prescribed limits and Employers

Liability coverage with limits of not less than \$500,000 each accident or illness.

(ii) Commercial General Liability Insurance (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$2,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations (for a minimum of 2 years following Project completion), explosion, collapse, underground, independent contractors, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

(iii) Automobile Liability Insurance (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, Developer must cause each contractor to provide Automobile Liability Insurance with limits of not less than \$2,000,000 per occurrence for bodily injury and property damage. The City is to be named as an additional insured on a primary, non-contributory basis.

(iv) Railroad Protective Liability Insurance

When any work is to be done adjacent to or on railroad or rail transit property or within 50 feet of railroad or rail transit property, contractor must provide, or cause to be provided with respect to the operations that the contractor performs, Railroad Protective Liability Insurance in the name of railroad or transit entity. The policy must have limits of not less than \$2,000,000 per occurrence and \$6,000,000 in the aggregate for losses arising out of injuries to or death of all persons, and for damage to or destruction of property, including the loss of use thereof.

(v) All Risk Builders Risk Insurance

When the contractor undertakes any construction, including improvements, betterments, and/or repairs, Developer must cause each contractor to provide, or cause to be provided All Risk Blanket Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the Project. Coverages shall include but are not limited to the following: collapse, boiler and machinery if applicable, flood including surface water backup. The City

will be named as an additional insured and loss payee.

(vi) Professional Liability

When any architects, engineers, construction managers or other professional consultants perform work in connection with this Agreement, Developer must cause such parties to maintain Professional Liability Insurance covering acts, errors, or omissions which shall be maintained with limits of not less than \$1,000,000. Coverage must include contractual liability. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work performed in connection with this Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of 2 years.

(vii) Valuable Papers Insurance

When any plans, designs, drawings, specifications and documents are produced or used under this Agreement by Developer's architects, contractors, sub-contractors, project managers and other parties constructing the Project, Developer will cause such parties to maintain Valuable Papers Insurance which must be maintained in an amount to insure against any loss whatsoever, and which must have limits sufficient to pay for the re-creations and reconstruction of such records.

(viii) Contractor's Pollution Liability

When any environmental remediation work is performed which may cause a pollution exposure, Developer will cause the party performing such work to maintain contractor's Pollution Liability insurance with limits of not less than \$1,000,000 insuring bodily injury, property damage and environmental remediation, cleanup costs and disposal. When policies are renewed, the policy retroactive date must coincide with or precede, start of work on the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of 1 year. The City is to be named as an additional insured on a primary, non-contributory basis.

(ix) Blanket Crime

Developer must provide Crime Insurance or equivalent covering all persons handling funds under this Agreement, against loss by dishonesty, robbery, destruction or disappearance, computer fraud, credit card forgery, and other related crime risks. The policy limit must be written to cover losses in the amount of the maximum monies collected or received and in the possession of Developer at any given time.

(c) Other Insurance Required.

- (i) Prior to the execution and delivery of this Agreement and during construction of the Project, All Risk Property Insurance in the amount of the full replacement value of the Project. The City is to be named as an additional insured.
- (ii) Post-construction, throughout the Term of the Agreement, All Risk Property Insurance, including improvements and betterments in the amount of full replacement value of the Project. Coverage extensions shall include business interruption/loss of rents, flood and boiler and machinery, if applicable. The City is to be named as an additional insured.

(d) Other Requirements

- (i) Developer will furnish the City of Chicago, Department of Community Development, City Hall, Room 1000, 121 North LaSalle Street, Chicago, Illinois 60602, original Certificates of Insurance evidencing the required coverage to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the Term of this Agreement. Developer will submit evidence of insurance on the City Insurance Certificate Form or commercial equivalent prior to closing. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the City to obtain certificates or other insurance evidence from Developer must not be deemed to be a waiver by the City. Developer will advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance will not relieve Developer of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to terminate this Agreement until proper evidence of insurance is provided.
- (ii) The insurance will provide for 60 days prior written notice to be given to the City in the event coverage is substantially changed, canceled, or non-renewed.
- (iii) Any and all deductibles or self insured retentions on referenced insurance coverages are borne by Developer.
- (iv) Developer agrees that insurers must waive rights of subrogation against

the City, its employees, elected officials, agents, or representatives.

- (v) Developer expressly understands and agrees that any coverages and limits furnished by Developer will in no way limit Developer's liabilities and responsibilities specified within the Agreement documents or by law.
- (vi) Developer expressly understands and agrees that Developer's insurance is primary and any insurance or self insurance programs maintained by the City will not contribute with insurance provided by Developer under the Agreement.
- (vii) The required insurance will not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law.
- (viii) Developer will require its general contractor and all subcontractors to provide the insurance required herein or Developer may provide the coverages for the contractor or subcontractors. All contractors and subcontractors will be subject to the same requirements of Developer unless otherwise specified herein.
- (ix) If Developer, contractor or subcontractor desires additional coverages, Developer, contractor and each subcontractor will be responsible for the acquisition and cost of such additional protection.
- (x) The City Risk Management Department maintains the right to modify, delete, alter or change these requirements, so long as such action does not, without Developer's written consent, increase such requirements.

**ARCHER/CENTRAL
REDEVELOPMENT PROJECT AREA**

SHOP & SAVE MARKET

Redevelopment Agreement
dated as of April 8, 2010

EXHIBIT A

REDEVELOPMENT AREA LEGAL DESCRIPTION

A legal description of the Redevelopment Area is attached to this exhibit cover sheet.

*Exhibit "C".**Archer/Central Redevelopment Area.*

All that part of Sections 8, 9, 15, 16, 17, 20, 21 and 22 in Township 38 North, Range 13 East of the Third Principal Meridian bounded and described as follows:

beginning at the point of intersection of the southerly line of West Archer Avenue with the west line of South Laramie Avenue; thence south along said west line of South Laramie Avenue to the northerly line of Lot 11 in Block 9 in Hetzel's Archer Avenue Addition, a subdivision of the east half of the southwest quarter of Section 9, Township 38 North, Range 13 East of the Third Principal Meridian, said northerly line of Lot 11 being also the southerly line of the alley south of West Archer Avenue; thence westerly along said southerly line of the alley south of West Archer Avenue to the west line of South Latrobe Avenue; thence north along said west line of South Latrobe Avenue to the southerly line of West Archer Avenue; thence westerly along said southerly line of West Archer Avenue to the westerly line of Lot 4 in Block 10 in said Hetzel's Archer Avenue Addition; thence southerly along said westerly line of Lot 4 in Block 10 in Hetzel's Archer Avenue Addition and along the southerly extension thereof to the north line of Lot 23 in said Block 10 in Hetzel's Archer Avenue Addition, said north line of Lot 23 being also the southerly line of the alley south of West Archer Avenue; thence westerly along said southerly line of the alley south of West Archer Avenue to the east line of South Long Avenue; thence south along said east line of South Long Avenue to the easterly extension of the north line of Lot 1 in Zbigniew Brzezinski's Resubdivision of Lots 11 through 18 together with the alley to the west thereof, all in Crane View Archer Avenue Home Addition to Chicago, a subdivision of that part of the west half of the west half of Section 9, Township 38 North, Range 13 East of the Third Principal Meridian, said north line of Lot 1 being also the southerly line of the alley south of West Archer Avenue; thence westerly along said easterly extension and the southerly line of the alley south of West Archer Avenue to the east line of Lot 25 in Block 25 in said Crane View Archer Avenue Home Addition to Chicago, said east line of Lot 25 being also the west line of the alley west of South Long Avenue; thence south along said west line of the alley west of South Long Avenue to the north line of the Indiana Harbor Belt Rail Road right-of-way; thence east along said north line of the Indiana Harbor Belt Rail Road right-of-way to the east line of South Long Avenue; thence south along said east line of South Long Avenue to the south line of West 54th Street; thence west

along said south line of West 54th Street to the west line of South Linder Avenue; thence north along said west line of South Linder Avenue to the south line of Belt Railway Company of Chicago right-of-way; thence west along said south line of Belt Railway Company of Chicago right-of-way to the east line of South Central Avenue; thence south along said east line of South Central Avenue to the south line of Lot 33 in Block 34 in said Crane View Archer Avenue Home Addition to Chicago; thence east along said south line of Lot 33 in Block 34 in said Crane View Archer Avenue Home Addition to Chicago and along the easterly extension thereof to the west line of Lots 16 and 17 in said Block 34 in Crane View Archer Avenue Home Addition to Chicago, said west line of Lots 16 and 17 being also the east line of the alley east of South Central Avenue; thence south along said east line of the alley east of South Central Avenue to the south line of Lot 21 in said Block 34 in Crane View Archer Avenue Home Addition to Chicago; thence east along said south line of Lot 21 in Block 34 in Crane View Archer Avenue Home Addition to Chicago and along the easterly extension thereof to the east line of South Luna Avenue; thence south along said east line of South Luna Avenue and along the southerly extension thereof to the south line of West 55th Street; thence west along said south line of West 55th Street to the east line of South Central Avenue; thence south along said east line of South Central Avenue to a line 750 feet southwesterly from and parallel with the centerline of Midway Airport Runway 13-R, said line being also the northeasterly line of the parcel of land bearing Permanent Index Number 19-16-100-002-8035; thence southeasterly along said northeasterly line of the parcel of land bearing Permanent Index Number 19-16-100-002-8035 to a line 407.5 feet east of and parallel with the east line of South Central Avenue, said line being also the east line of the parcel of land bearing Permanent Index Number 19-16-100-002-8035; thence south along said line 407.5 feet east of and parallel with the east line of South Central Avenue to a line 3,006.8 feet north of the south line of Section 16, Township 38 North, Range 13 East of the Third Principal Meridian, said line being also the south line of the parcel of land bearing Permanent Index Number 19-16-100-002-8034; thence west along said south line of the parcel of land bearing Permanent Index Number 19-16-100-002-8034 to the east line of South Central Avenue; thence south along said east line of South Central Avenue to the north line of the parcel of land bearing Permanent Index Number 19-16-100-002-8002; thence east along said north line of the parcel of land bearing Permanent Index Number 19-16-100-002-8002 to the east line thereof, said east line being a line 302 feet east of and parallel with the east line of South Central Avenue; thence south along said east line of the parcel of land bearing Permanent Index Number 19-16-100-002-8002 to the south line thereof; thence west along said south line of the parcel of land bearing Permanent Index Number 19-16-100-002-8002 to the east line of South Central Avenue; thence south

along said east line of South Central Avenue to the north line of West 63rd Street; thence east along said north line of West 63rd Street to the west line of the parcel of land bearing Permanent Index Number 19-16-100-002-8016; thence north along said west line of the parcel of land bearing Permanent Index Number 19-16-100-002-8016, a distance of 280.5 feet, to the north line thereof; thence east along said north line of the parcel of land bearing Permanent Index Number 19-16-100-002-8016, a distance of 138.16 feet, to the east line thereof; thence south along said east line of the parcel of land bearing Permanent Index Number 19-16-100-002-8016, a distance of 80.5 feet, to the north line of the parcel of land bearing Permanent Index Number 19-16-100-002-8006; thence east along said north line of the parcel of land bearing Permanent Index Number 19-16-100-002-8006, a distance of 120 feet, to the east line thereof; thence south along said east line of the parcel of land bearing Permanent Index Number 19-16-100-002-8006 to the north line of West 63rd Street; thence east along said north line of West 63rd Street, a distance of 120 feet, to the west line of the parcel of land bearing Permanent Index Number 19-16-100-002-8005; thence north along said west line of the parcel of land bearing Permanent Index Number 19-16-100-002-8005, a distance of 200 feet, to the north line thereof; thence east along said north line of the parcel of land bearing Permanent Index Number 19-16-100-002-8005, a distance of north line of 120 feet to the east line thereof; thence south along said east line of the parcel of land bearing Permanent Index Number 19-16-100-002-8005, a distance of 200 feet, to the north line of West 63rd Street; thence east along said north line of West 63rd Street to the east line of the parcel of land bearing Permanent Index Number 19-16-100-002-8014; thence north along said east line of the parcel of land bearing Permanent Index Number 19-16-100-002-8014, a distance of 280.5 feet, to the north line thereof; thence east along said north line of the parcel of land bearing Permanent Index Number 19-16-100-002-8014 and along the north line of the parcel of land bearing Permanent Index Number 19-16-100-002-8036 to the northeasterly line of said parcel of land bearing Permanent Index Number 19-16-100-002-8036; thence southeast along said northeasterly line of the parcel of land bearing Permanent Index Number 19-16-100-002-8036 to the north line of West 63rd Street; thence east along said north line of West 63rd Street to the westerly line of South Cicero Avenue, as widened and relocated; thence north along said westerly line of South Cicero Avenue, as widened and relocated, to the westerly extension of the north line of Lot 10 in Block 5 in Chicago Title and Trust Company's Subdivision of the west 33 feet south of the north 175.71 feet of the east quarter of the west half of the southwest quarter and that part south of the north 175.71 feet of the west three quarters of the west half of the southwest quarter of Section 15, Township 38 North, Range 13 East of the Third Principal Meridian, said north line of Lot 10 being also the south line of West 60th Street; thence east along said westerly

extension and the south line of West 60th Street to the west line of South Keating Avenue; thence south along said west line of South Keating Avenue to the north line of Lot 3 in Block 4 in said Chicago Title and Trust Company's Subdivision; thence west along said north line of Lot 3 in Block 4 in said Chicago Title and Trust Company's Subdivision to the west line of said Lot 3, said west line of Lot 3 being also the east line of the alley west of South Keating Avenue; thence south along said east line of the alley west of South Keating Avenue to the south line of Lot 4 in Block 10 in said Chicago Title and Trust Company's Subdivision, said south line of Lot 4 being also the north line of the alley north of West 63rd Street; thence east along said north line of the alley north of West 63rd Street to the west line of South Keating Avenue; thence south along said west line of South Keating Avenue to the north line of Lot 43 in Block 4 in Marquette Ridge, a subdivision of the south half of the west half of the northwest quarter and the north half of the west half of the northwest quarter of Section 22, Township 38 North, Range 13 East of the Third Principal Meridian, said north line of Lot 43 being also the south line of the alley south of West 63rd Street; thence west along said north line of Lot 43 in Block 4 in Marquette Ridge to the west line thereof, said west line of Lot 43 being also the east line of the alley east of South Cicero Avenue; thence south along said east line of the alley east of South Cicero Avenue and along the southerly extension thereof to the south line of West Marquette Road; thence west along said south line of West Marquette Road and along the westerly extension thereof to the east line of the east half of the northeast quarter of Section 21, Township 38 North, Range 13 East of the Third Principal Meridian, said east line of the east half of the northeast quarter of Section 21 being also the centerline of South Cicero Avenue; thence north along said east line of the east half of the northeast quarter of Section 21 to south line of the north half of said east half of the northeast quarter of Section 21, said south line being also the centerline of West 65th Street; thence westerly along said centerline of West 65th Street to the southerly extension of the east line of Lot 23 in Block 8 in F. H. Bartlett's Marquette Highlands, a subdivision in the northeast quarter of Section 21, Township 38 North, Range 13 East of the Third Principal Meridian, said east line of Lot 23 being also the west line of the alley west of South Cicero Avenue; thence north along said southerly extension and along the west line of the alley west of South Cicero Avenue to the north line of Lot 8 in Block 1 in said F. H. Bartlett's Marquette Highlands, said north line of Lot 8 being also the south line of the alley south of West 63rd Street; thence west along said south line of the alley south of West 63rd Street to the west line of Lot 26 in Block 3 in said F. H. Bartlett's Marquette Highlands, said west line of Lot 26 being also the east line of the alley east of South Laporte Avenue; thence south along said east line of the alley east of South Laporte Avenue to the south line of West 64th Street; thence west along said south line of West 64th Street to the west line of South Laporte Avenue; thence north along said west line of South Laporte Avenue to the north line of Lot 33 in Block 4 in aforesaid F. H. Bartlett's Marquette Highlands, said north line of Lot 33 being also the south line of the alley south of West 63rd Street; thence west along said south line of the alley

south of West 63rd Street to the west line of Lot 42 in Clearing, a subdivision of part of the west three quarters of the north half of the northwest quarter of the northwest quarter of Section 21, Township 38 North, Range 13 East of the Third Principal Meridian, said west line of Lot 42 being also the east line of the alley east of South Central; thence south along said east line of the alley east of South Central to the south line of West 64th Place; thence west along said south line of West 64th Place to the east line of South Central Avenue; thence south along said east line of South Central Avenue to a line 10 feet south of and parallel with the north line of West 65th Street, said line being the city limits of the City of Chicago; thence west along said line 10 feet south of and parallel with the north line of West 65th Street to the southerly extension of the east line of Lot 46 in Block 4 in First Addition to Clearing, a subdivision of the east half of the northeast quarter of Section 20, Township 38 North, Range 13 East of the Third Principal Meridian, said east line of Lot 46 being also the west line of the alley west of South Central Avenue; thence north along said west line of the alley west of South Central Avenue to the south line of West 63rd Place; thence west along said south line of West 63rd Place to the southerly extension of the east line of Lot 35 in Block 1 in said First Addition to Clearing; thence north along said southerly extension and the east line of Lot 35 in Block 1 in said First Addition to Clearing to the north line thereof, said north line of Lot 35 being also the south line of the alley south of 63rd Street; thence west along said south line of the alley south of West 63rd Street to the west line of South Major Avenue; thence north along said west line of South Major Avenue to the westerly extension of the south line of Lot 27 in Block 7 in the Third Addition to Clearing; a subdivision in the east half of the southeast quarter of Section 17, Township 38 North, Range 13 East of the Third Principal Meridian, said south line of Lot 27 being also the north line of the alley north of West 63rd Street; thence east along said north line of the alley north of West 63rd Street to the east line of Lot 30 in Block 8 in said Third Addition to Clearing, said east line of Lot 30 being also the west line of the alley west of South Central Avenue; thence north along said west line of the alley west of South Central Avenue to the northerly line of Lot 59 in Frederick H. Bartlett's Central Avenue Addition, being a subdivision of part of the northeast quarter of the southeast quarter lying south of the right-of-way of the Chicago & Western Indiana Railroad in Section 17, Township 38 North, Range 13 East of the Third Principal Meridian, said northerly line of Lot 59 in Frederick H. Bartlett's Central Avenue Addition being also the southerly line of the alley north of West 60th Street; thence westerly and southwesterly along said southerly line of the alley north of West 60th Street to the east line of South Menard Avenue; thence north along said east line of South Menard Avenue to the north line of aforesaid alley north of West 60th Street; thence westerly along the westerly extension of said north line of the alley north of West 60th Street to the centerline of South Menard Avenue; thence north along said centerline of South Menard Avenue to the southerly line of the Belt Railway Company of Chicago right-of-way; thence easterly, northeasterly and northerly along said southerly line of the Belt Railway Company of Chicago right-of-way to the

westerly extension of the south line of Block 68 in Frederick H. Bartlett's Third Addition to Garfield Ridge, a subdivision of that part of the east half of Section 17, Township 38 North, Range 13 East of the Third Principal Meridian lying north and west of the right-of-way of the Indiana Harbor Belt Railroad, said south line of Block 68 in Frederick H. Bartlett's Third Addition to Garfield Ridge being also the north line of West 58th Street; thence east along said north line of West 58th Street to the west line of South Central Avenue; thence north along said west line of South Central Avenue to the north line of Lot 11 in Block 73 in said Frederick Bartlett's Third Addition to Garfield Ridge; thence west along said north line of Lot 11 in Block 73 in Frederick H. Bartlett's Third Addition to Garfield Ridge and along the westerly extension thereof to the east line of Lot 28 in said Block 73 in Frederick H. Bartlett's Third Addition to Garfield Ridge, said east line of Lot 28 being also the west line of the alley west of South Central Avenue; thence north along said west line of the alley west of South Central Avenue to the north line of Lot 8 in Block 71 in said Frederick H. Bartlett's Third Addition to Garfield Ridge, said north line of Lot 8 being also the south line of the alley south of West 55th Street; thence west along said south line of the alley south of West 55th Street to the west line of South Parkside Avenue; thence north along said west line of South Parkside Avenue to the south line of West 55th Street; thence west along said south line of West 55th Street to the southerly extension of the east line of Lot 10 in the subdivision of that part of the southeast quarter of Section 8, Township 38 North, Range 13 East of the Third Principal Meridian lying south of the centerline of West Archer Avenue; thence north along said southerly extension and the east line of Lot 10 in aforesaid subdivision to the south line of Lot 46 in aforesaid subdivision; thence east along said south line of Lot 46 in aforesaid subdivision to the east line of the west 125 feet of said Lot 46; thence north along said east line of the west 125 feet of said Lot 46 to the south line of the north 15 feet of said Lot 46; thence west along said south line of the north 15 feet of Lot 46 to the west line of said Lot 46, said west line of Lot 46 being also the east line of South Menard Avenue; thence north along said east line of South Menard Avenue to the north line of said Lot 46; thence east along said north line of Lot 46 to the west line of Lot 36 in aforesaid subdivision; thence north along said west line of Lot 36 to the northerly line of Lot 4 in Bruns Subdivision of Lots 34 and 35 in the subdivision of that part of the southeast quarter of Section 8, Township 38 North, Range 13 East of the Third Principal Meridian lying south of the centerline of West Archer Avenue said northerly line of Lot 4 being also the southerly line of the alley south of West Archer Avenue; thence westerly along said southerly line of the alley south of West Archer Avenue to the east line of Lot 14 in said Bruns Subdivision, said east line of Lot 14 being also the west line of South Massasoit Avenue (formerly 57th Court); thence north along said west line of South Massasoit Avenue (formerly 57th Court) and along the northerly extension thereof to the northerly line of West Archer Avenue; thence easterly along said northerly line of West Archer Avenue to the west line of South Central Avenue; thence north along said westerly line of South Central Avenue to the westerly extension of the

southerly line of Lot 36 in Crane View Archer Avenue Home Addition to Chicago, a subdivision of that part of the west half of the west half of Section 9, Township 38 North, Range 13 East of the Third Principal Meridian, said southerly line of Lot 36 being also the northerly line of the alley north of West Archer Avenue; thence easterly along said westerly extension and the northerly line of the alley north of West Archer Avenue to the northerly extension of the westerly line of the easterly 10 feet of Lot 29 in Block 23 in said Crane View Archer Avenue Home Addition to Chicago; thence southerly along said northerly extension and the westerly line of the easterly 10 feet of Lot 29 in Block 23 in Crane View Archer Avenue Home Addition to Chicago to the northerly line of West Archer Avenue; thence easterly along said northerly line of West Archer Avenue to the easterly line of Lot 27 in Block 24 in said Crane View Archer Avenue Home Addition to Chicago; thence northerly along said easterly line of Lot 27 in Block 24 in Crane View Archer Avenue Home Addition to Chicago and along the northerly extension thereof to the southerly line of Lot 29 in said Block 24 in Crane View Archer Avenue Home Addition to Chicago, said southerly line of Lot 29 being also the northerly line of the alley north of West Archer Avenue; thence easterly along said northerly line of the alley north of West Archer Avenue to the east line of South Laramie Avenue; thence south along said east line of South Laramie Avenue to the southerly line of West Archer Avenue; thence westerly along said southerly line of West Archer Avenue to the point of beginning at the west line of South Laramie Avenue, all in the City of Chicago, Cook County, Illinois.

Exhibit "D".
(To Ordinance)

Proposed Archer/Central T.I.F. District

Street Boundaries Of The Area.

The Redevelopment Project Area contains in most instances both block faces fronting major streets in the area: along South Archer Avenue, from South Laramie Avenue on the east to South Massasoit Avenue on the west; along South Central Avenue, from South Archer Avenue on the north to West 65th Street on the south; along West 63rd Street, from South Major Avenue on the west to South Keating Avenue on the east; and along South Cicero Avenue, from West 60th Street on the north to West Marquette Road on the south.

**ARCHER/CENTRAL
REDEVELOPMENT PROJECT AREA**

SHOP & SAVE MARKET

Redevelopment Agreement
dated as of April 8, 2010

EXHIBIT B-1

LEGAL DESCRIPTION OF THE PROPERTY

A legal description of the Property is as follows:

LOTS 3 (EXCEPT THE SOUTH 66 FEET OF THE EAST 141.70 FEET) AND 4 IN ARCHER/CENTRAL SUBDIVISION, BEING PART OF THE SOUTHWEST 1/4 OF SECTION 9, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 26, 2004 AS DOCUMENT 0414719050, IN COOK COUNTY, ILLINOIS.

SAVE AND EXCEPT THE FOLLOWING:

THE SOUTH 66 FEET OF THE MOST EASTERLY 141.70 FEET OF LOT 3 IN ARCHER/CENTRAL SUBDIVISION, BEING PART OF THE SOUTHWEST 1/4 OF SECTION 9, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 26, 2004 AS DOCUMENT 0414719050, IN COOK COUNTY, ILLINOIS.

PIN: 19-09-317-088-0000
19-09-317-090-0000

**ARCHER/CENTRAL
REDEVELOPMENT PROJECT AREA**

SHOP & SAVE MARKET

Redevelopment Agreement
dated as of April 8, 2010

EXHIBIT D-1

PROJECT BUDGET

Land Acquisition	\$ 8,377,191
Demolition	164,500
Construction Hard Costs (with contingency)	4,009,802
Soft Costs/Fees	
Legal/Consulting	47,210
Permits/Fees	9,177
Environmental/Geotechnical/Surveys	2,525
Architecture/Engineering/Gen'l Contractor)	446,574
Interest & Taxes (previously paid)	1,143,801
Interest & Tax Reserve	68,000
Insurance	18,216
Soft Costs Contingency	<u>23,974</u>
Total Soft Costs/Fees	\$ 1,759,477
Shelving, Refrigeration & Equipment	\$ 1,280,000
Total Project Budget	<u>\$15,590,970</u>

**ARCHER/CENTRAL
REDEVELOPMENT PROJECT AREA**

SHOP & SAVE MARKET

Redevelopment Agreement
dated as of April 8, 2010

EXHIBIT D-2

CONSTRUCTION (MBE/WBE) BUDGET

Demolition	\$ 164,500
Construction Hard Costs (with contingencies)	\$ 4,009,802
Soft Costs / Fees (including Architect & Gen'l Contractor)	\$ 529,461
Store Shelving & Equipment (excluding refrigeration)	\$ <u>50,000</u>
Total MBE / WBE Eligible Costs	\$ <u>4,753,763</u>
Minimum Contract Amount to MBE Contractors (24%)	\$ <u>1,140,903</u>
Minimum Contract Amount to WBE Contractors (4%)	\$ <u>190,151</u>

The above MBE/WBE dollar values are an estimate. If the actual cost of the above applicable MBE/WBE activities increase, the associated MBE/WBE dollar values will increase accordingly.

**ARCHER/CENTRAL
REDEVELOPMENT PROJECT AREA**

SHOP & SAVE MARKET

Redevelopment Agreement
dated as of April 8, 2010

EXHIBIT E

SCHEDULE OF TIF-FUNDED IMPROVEMENTS

<u>Line Item</u>	<u>Cost</u>
Land Acquisition	\$ 8,377,191
TOTAL	\$ 8,377,191

**ARCHER/CENTRAL
REDEVELOPMENT PROJECT AREA**

SHOP & SAVE MARKET

Redevelopment Agreement
dated as of April 8, 2010

EXHIBIT K

MINIMUM ASSESSED VALUE

BASE EAV OF PROJECT PINS

This exhibit is attached to this cover sheet.

EXHIBIT "K"

MINIMUM ASSESSED VALUE/BASE EAV

<u>Permanent Index No.</u>	<u>2009 Assessed Value (38% of Fair Market Value)</u>	<u>2008 Fair Market Value</u>	<u>Min. Assessed Value Base EAV for 2009 and thereafter (25% of 2008 FMV)</u>
19-09-317-088-0000 (5845 S. Archer Ave.)	\$634,237.00	\$1,669,045.00	\$417,261.00
19-09-317-090-0000 (5829 S. Archer Ave.)	\$1,167,307.00	3,071,860.00	767,965.00
	+ _____	+ _____	+ _____
<u>Total:</u>	<u>\$1,801,544.00</u>	<u>\$4,740,905.00</u>	<u>\$1,185,226.00</u>