

This agreement was prepared by
and after recording return to:

Ann R. Perkins
City of Chicago Law Department
121 North LaSalle Street, Room 600
Chicago, IL 60602

**ARCHES RETAIL DEVELOPMENT LLC
REDEVELOPMENT AGREEMENT**

CITY OF CHICAGO

AND

ARCHES RETAIL DEVELOPMENT LLC

LIST OF EXHIBITS

Exhibit A	*Redevelopment Area Legal Description
Exhibit B-1	Project Legal Description
Exhibit B-2	Site Plan
Exhibit C	*Redevelopment Plan
Exhibit D-1A	Form of City Note A
Exhibit D-1B	Form of City Note 1
Exhibit D-2	Form of City Note 2
Exhibit E-1	Project Budget
Exhibit E-2	MBE/WBE Project Budget
Exhibit F	*Plans and Specifications
Exhibit G	TIF-Funded Improvements
Exhibit H	*Requisition Form for TIF-Funded Interest Costs
Exhibit I	Schedule of Maximum Amount of TIF-Funded Interest Costs
Exhibit J	*Approved Prior Expenditures
Exhibit K	Permitted Liens
Exhibit L	Form of Developer's Counsel Opinion
Exhibit M	Real Estate Provisions (EAV)
Exhibit N	Prohibited Uses
Exhibit O	Prior TIF Obligations

* indicates documents that are not recorded

**ARCHES RETAIL DEVELOPMENT LLC
REDEVELOPMENT AGREEMENT**

This Redevelopment Agreement (the "Agreement") is made as of this ____ day of _____, 2010, by and between the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Community Development ("DCD"), and Arches Retail Development LLC, an Illinois limited liability company (the "Developer").

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 authority to promote the health, safety and welfare of the City and its inhabitants, to encourage private development in order to enhance the local tax base, 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., as amended (the "Act"), to finance the redevelopment of conservation areas.

C. City Council Authority: To induce redevelopment pursuant to the Act, the City Council of City (the "City Council") adopted the following ordinances on November 6, 2002: (1) "An Ordinance of the City of Chicago, Illinois, Approving a Redevelopment Plan for the Madden/Wells Tax Increment Financing Redevelopment Project Area;" (2) "An Ordinance of the City of Chicago, Illinois, Designating the Madden/Wells Tax Increment Financing Redevelopment Project Area a Redevelopment Project Area Pursuant to the Tax Increment Allocation Redevelopment Act;" and (3) "An Ordinance of the City of Chicago, Illinois, Adopting Tax Increment Allocation Financing for the Madden/Wells Tax Increment Financing Redevelopment Project Area Project". Collectively, these ordinances shall be referred to herein as the "TIF Ordinances." The redevelopment project area (the "Redevelopment Area") is legally described in Exhibit A hereto.

D. The Project: The Developer will acquire rights to portions of certain real property parcels located in the Redevelopment Area and legally described on Exhibit B-1 and depicted on Exhibit B-2 (each parcel individually, and the sites collectively, the "Retail Property"). The Developer will also acquire certain easements with respect to certain real property parcels adjacent to the Retail Property for purposes of site preparation and remediation, which parcels are legally described on Exhibit B-3 (the "Housing Property", and together with the Retail Property, the "Property"). Within the time frames set forth in Section 3.01 hereof, the Developer shall commence and complete the construction of approximately 28,000 square feet of retail space (the "Facility") on the Retail Property for use as a medical clinic, medical suites and offices as set forth hereinafter. The Facility and improvements related to the retail space are referred to herein as the "Project".

E. The Housing Project: A project to construct housing units on the Housing Property is being undertaken pursuant to a Real Estate Redevelopment Agreement of even date herewith among the City, Arches, Oakwood Shores Terrace Associates Limited Partnership and The Community Builders, Inc. (the "Housing Agreement").

F. Redevelopment Plan: The Project will be carried out in accordance with this

Agreement and the City of Chicago Madden/Wells Tax Increment Financing Redevelopment Project and Plan (the "Redevelopment Plan") attached hereto as Exhibit C.

G. City Financing: Pursuant to the terms and conditions of this Agreement, the City will pay or reimburse the Developer for the TIF-Funded Improvements and TIF-Funded Interest Costs (as defined below) from Available Incremental Revenues (the "City Funds") in the manner set forth in the TIF Ordinances (as defined below).

Now, therefore, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. RECITALS

The foregoing recitals are hereby incorporated into this Agreement by reference.

SECTION 2. DEFINITIONS

For purposes of this Agreement, in addition to the terms defined in the foregoing recitals, the following terms shall have the meanings set forth below:

"Act" shall have the meaning set forth in Paragraph B of the Recitals hereto.

"Affiliate" shall mean any person or entity directly or indirectly controlling, controlled by or under common control with the Developer.

"Available Incremental Revenues" shall mean 90% of those Incremental Taxes deposited in the Incremental Taxes Fund attributable to the taxes levied on the Property, to the extent available, allocated by the City in each fiscal year for payment of the TIF-Funded Improvements.

"Annual Compliance Report" shall mean a signed report from the Developer to the City (a) itemizing each of the Developer's obligations under this Agreement 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 this Agreement, 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) delivery of Financial Statements and unaudited financial statements (Section 8.08); (2) delivery of updated insurance certificates, if applicable (Section 8.12); (3) delivery of evidence of payment of Non-Governmental Charges, if applicable (Section 8.13); (4) delivery of Occupancy Reports (Section 8.15); and (5) compliance with all other executory provisions of this Agreement.

"City Funds" has the meaning defined in Section 4.03(b).

"City Note 1" means the tax-exempt City of Chicago Tax Increment Allocation Revenue Obligation Madden/Wells Redevelopment Project Area (Arches Retail Development LLC Redevelopment Project), Registered No. R-1 Tax Exempt Series A to be in the form attached hereto as Exhibit D-1B and otherwise in accordance with the terms set forth in Section 4.03(d), in the maximum principal amount of \$1,950,000, subject to reduction as set forth in Section 4.03 herein,

issued by the City to the Developer as of the City Note A Refunding Date. The payment of the amounts due under City Note 1 will be secured only by Available Incremental Taxes, unless the City, in its sole discretion, elects to use other legally available funds to make payments with respect to City Note 1.

"City Note 1 Lock-Out Period" has the meaning defined in Section 4.03(d).

"City Note 2" means the taxable City of Chicago Tax Increment Allocation Revenue Note Madden/Wells Redevelopment Project Area (Arches Retail Development LLC Redevelopment Project), Registered No. R-2 Taxable Series B to be in the form attached hereto as Exhibit D-2 and otherwise in accordance with the terms set forth in Section 4.03(e). The payment of the amounts due under City Note 2 will be secured only by the Available Incremental Taxes, unless the City, in its sole discretion, elects to use other legally available funds to make payments with respect to City Note 2.

"City Note 2 Lockout Period" has the meaning defined in Section 4.03(e).

"City Note A" means the taxable City of Chicago Tax Increment Allocation Revenue Note Madden/Wells Redevelopment Project Area (Arches Retail Development LLC Redevelopment Project), Registered No. R-1A Taxable Series A, to be in the form attached hereto as Exhibit D-1A otherwise in accordance with the terms set forth in Section 4.03(c). The payment of the amounts due under City Note A will be secured only by Available Incremental Taxes, unless the City, in its sole discretion, elects to use other legally available funds to make payments with respect to City Note A.

"City Note A Refunding Date" has the meaning defined in Section 4.03(c).

"Commissioner" shall mean the Commissioner or Acting Commissioner of DCD.

"Corporation Counsel" shall mean City's Office of Corporation Counsel.

"Davis-Bacon Act" shall mean 40 U.S.C. Section 276a et seq.

"Employer(s)" shall have the meaning set forth in Section 10 hereof.

"Environmental Laws" shall mean 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.

"Event of Default" shall have the meaning set forth in Section 15 hereof.

"Final Certificate" shall mean the Final Certificate of Completion described in Section 7 hereof.

"Financial Statements" shall mean complete audited financial statements of the Developer prepared by a certified public accountant in accordance with generally accepted accounting principles and practices.

"General Contractor" shall mean McShane Construction Company (or such other contractor acceptable to DCD).

"Hazardous Materials" shall mean 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.

"Incremental Taxes" shall mean such ad valorem taxes which, pursuant to the TIF Ordinances 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 of Chicago for deposit by Treasurer into the Incremental Taxes Fund.

"Incremental Taxes Fund" shall mean the Madden/Wells Redevelopment Project Area Special Tax Allocation Fund created pursuant to the TIF Ordinances.

"Initial Certificate" shall mean the Initial Certificate of Completion described in Section 7 hereof.

"Lender Financing" shall mean funds borrowed by the Developer from lenders and irrevocably available to pay for Project Costs in the amount set forth in Section 4.01 hereof.

"Lenders" shall mean the providers of the Lender Financing.

"MBE(s)" or minority-owned business enterprise shall mean a business enterprise identified in the Directory of Certified Minority Business Enterprises published by the City's Purchasing Department, or otherwise certified by the City's Purchasing Department as a minority business enterprise.

"MBE/WBE Budget" shall mean the budget attached hereto as Exhibit E-2, as described in Section 10.

"MBE/WBE Program" shall have the meaning set forth in Section 10.03 hereof.

"Note" means, as applicable, City Note A, City Note 1 or City Note 2, and "Notes" means all such notes.

"Plans and Specifications" shall mean final construction documents containing a site plan and working drawings and specifications for the Project prepared by Stull & Lee.

"Project" shall have the meaning set forth in Paragraph D of the recitals.

E-1. "Project Budget" shall mean the budget for the Developer Project attached hereto as Exhibit

"Project Costs" shall mean all of the costs incurred in connection with the Project.

"Property" shall have the meaning set forth in paragraph D of the recitals.

"Qualified Investor" means a qualified institutional buyer (QIB) or a registered investment company, or a trust where certificates of participation are sold to QIBs or registered investment companies.

"Qualified Transfer of City Note A" means the pledge of City Note A to a lender providing Lender Financing.

"Qualified Transfer of City Note 1" means (i) the pledge of City Note 1 to a Lender providing Lender Financing or (ii) the sale or assignment of City Note 1 as long as (a) any sale or assignment is to a Qualified Investor with no view to resale or reassignment, or the City has given its prior written consent to such proposed sale or assignment and (b) any sale or assignment is subject to the terms and procedures of an acceptable investment letter, and (c) any such sale or assignment occurs after the issuance of the Final Certificate.

"Qualified Transfer of City Note 2" means (i) the pledge of City Note 2 to a Lender providing Lender Financing or (ii) the sale or assignment of City Note 2 as long as (a) any sale or assignment is to a Qualified Investor with no view to resale or reassignment, or the City has given its prior written consent to such proposed sale or assignment and (b) any sale or assignment is subject to the terms and procedures of an acceptable investment letter, and (c) any such sale or assignment occurs after the issuance of the Final Certificate.

"Senior Lender" shall mean JPMorgan Chase (or another entity acceptable to the City), or its respective successors or assigns, who is providing the construction and permanent senior loans.

"Senior Loan" shall mean the loans made by the Senior Lender, or a financial institution or other entity acceptable to the Commissioner, for the Project.

"Survey" shall mean a plat of an ALTA survey of the Property acceptable in form and content to the City and the Title Company.

"Term of the Agreement" shall mean the term commencing on the date of execution of this Agreement and ending December 31, 2026.

"TIF-Funded Improvements" shall mean those costs which (i) are included within the definition of redevelopment project costs in Section 5/11-74.4-3(q) of the Act and are included in the Plan, and (ii) have the meaning set forth in Section 4.03 hereof.

"TIF-Funded Interest Costs" shall have the meaning set forth in Section 4.03(f) hereof.

"TIF Ordinances" shall have the meaning set forth in paragraph C of the recitals hereto.

"Title Company" shall mean _____.

"Title Policy" shall mean a title insurance policy in the most recently revised ALTA or equivalent form, showing the Developer as the insured, issued by the Title Company.

"WBE(s)" or women's business enterprise shall mean a business enterprise identified in the Directory of Certified Women's Business Enterprises published by the City's Purchasing Department, or otherwise certified by the City's Purchasing Department as a women's business enterprise.

SECTION 3. THE PROJECT

3.01 The Project. The Developer shall: (a) commence construction of the Project no later than June 1, 2011, subject to such extension, if any, as the City, in its sole discretion, may grant; and (b) complete construction of the Project no later than December 31, 2012, subject to the provisions of Section 17.16 of this Agreement. The Project shall be carried out in accordance with the Plans and Specifications for the Project.

3.02 Plans and Specifications. The Plans and Specifications shall conform to the Redevelopment Plan as amended from time to time and shall comply with all applicable state and local laws, ordinances and regulations. As of the date hereof, the Developer has delivered to DCD, and DCD has approved, the Plans and Specifications, a list of which are attached hereto as Exhibit E. The Developer has submitted also all such documents to the City's Building Department, Department of Transportation and such other City departments or governmental authorities as may be necessary to acquire building permits and other required approvals for the Project.

Any material amendment to the Plans and Specifications must be submitted to DCD for its approval.

3.03 Project Budget. The Developer has furnished to DCD, and DCD has approved, the Project Budget. The Developer hereby certifies to the City that (a) to the best of the Developer's knowledge, after diligent inquiry, the Lender Financing and equity shall be sufficient to pay all Project Costs (other than the TIF-Funded Interest Costs) and (b) to the best of the Developer's knowledge after diligent inquiry, the Project Budget is true, correct and complete in all material respects. The Developer hereby represents to the City that the Lender Financing is (a) along with the City Funds, necessary to pay for all Project Costs and (b) available to be drawn upon to pay for certain Project Costs in accordance with the terms of the documents securing the Lender Financing.

3.04 Change Orders. Except as provided 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 the Developer to DCD concurrently with the progress reports described in Section 3.07 hereof; provided, that any Change Order relating to any of the following must be submitted by the Developer to DCD for DCD's prior written approval: (a) a reduction in the square footage of the Project of more than 10%; (b) a change in the use of more than 50% of the Retail Property to a use other than retail space for medical offices; (c) a delay of greater than 60 days in the completion of the Project; or (d) Change Orders costing more than \$25,000 each, to an aggregate amount of \$100,000. The Developer shall not authorize or permit the performance of any work relating to any Change Order or the furnishing of materials in connection therewith prior to the receipt by the Developer of DCD's written approval (to the extent required in this section). The Construction Contract, and each contract between the General Contractor and any subcontractor,

shall contain a provision to this effect. An approved Change Order shall not be deemed to imply any obligation on the part of the City to increase the amount of City Funds which the City has pledged pursuant to this Agreement or provide any other additional assistance to the Developer. Notwithstanding anything to the contrary in this Section 3.04, Change Orders costing less than Twenty-Five Thousand Dollars (\$25,000.00) each, to an aggregate amount of One Hundred Thousand Dollars (\$100,000.00), do not require DCD's prior written approval as set forth in this Section 3.04, but DCD shall be notified in writing of all such Change Orders and the Developer, in connection with such notice, shall identify to DCD the source of funding therefor.

3.05 DCD Approval. Any approval granted by DCD of the Scope Drawings, Plans and Specifications and the Change Orders is for the purposes of this Agreement only and does not affect or constitute any approval required by any other City department or pursuant to any City ordinance, code, regulation or any other governmental approval, nor does any approval by DCD pursuant to this Agreement constitute approval of the quality, structural soundness or safety of the Property or the Project.

3.06 Other Approvals. Construction of the Project shall not commence until the Developer has obtained all permits and approvals required by state, federal or local statute, ordinance or regulation and the General Contractor has delivered to the Developer performance and payment bonds in the full amount of the construction contract.

3.07 Progress Reports and Survey Updates. The Developer shall provide DCD with written quarterly progress reports detailing the status of the Project, including a revised completion date, if necessary (with any change in completion date being considered a Change Order, requiring DCD's written approval pursuant to Section 3.04). The Developer shall provide three (3) copies of an updated Survey to DCD upon the request of DCD or any lender providing Lender Financing, reflecting improvements made to the Property.

3.08 Inspecting Agent or Architect. An independent agent or architect (other than the Developer's architect) selected by the Senior Lender will act as the inspecting agent or architect, at the Developer's expense, for the Project. The inspecting agent or architect shall perform periodic inspections with respect to the Project, providing certifications with respect thereto to DCD upon request.

3.09 Barricades. Prior to commencing any construction requiring barricades, the Developer shall 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 and regulations. DCD retains the right to approve the maintenance, appearance, color scheme, painting, nature, type, content and design of all barricades.

3.10 Signs and Public Relations. The Developer shall erect a sign of size and style approved by the City in a conspicuous location on the Property during the Project, 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 other pertinent information regarding the Developer, the Property and the Project in the City's promotional literature and communications.

3.11 Utility Connections. The Developer may connect all on-site water, sanitary, storm and sewer lines constructed on the Property to City utility lines existing on or near the perimeter of the

Property, provided the 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, the Developer shall be 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.

SECTION 4. FINANCING FOR THE PROJECT COSTS

4.01 Total Project Cost and Sources of Funds. The cost of the Project is estimated to be \$8,660,354, to be applied in the manner set forth in the Project Budget. Such costs shall be funded from the following sources:

Equity (subject to <u>Sections 4.03 and 4.06</u>)	\$
Lender Financing	\$
City Funds (subject to <u>Section 4.03</u>)	\$2,100,000
ESTIMATED TOTAL	\$8,660,354

4.02 Developer Funds. The Developer shall pay for all of the Project Costs, except the TIF-Funded Interest Costs, using the proceeds of the Lender Financing and Equity.

4.03 City Funds.

(a) Uses of City Funds. City Funds may only be used to pay directly or reimburse the Developer for costs of TIF-Funded Improvements and TIF-Funded Interest Costs that constitute redevelopment project costs under the Act. Exhibit G sets forth, by line item, the TIF-Funded Improvements for the Project, and the maximum amount of costs that may be paid by or reimbursed from City Funds for each line item therein (subject to Sections 4.03 and 4.05(c)), contingent upon receipt by the City of documentation satisfactory in form and substance to DCD evidencing such cost and its eligibility as a Redevelopment Project Cost.

(b) Sources of City Funds. Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.03 and Section 5 hereof, the City hereby agrees to provide City funds from the sources and in the amounts described directly below (the "City Funds") to pay for or reimburse the Developer for the costs of the TIF-Funded Improvements as follows: (1) City Note A for up to \$1,950,000 to be issued on the Closing Date; (2) City Note 1 for up to \$1,500,000, plus any accrued interest on City Note A (simultaneous with the refunding of City Note A), to be issued following the issuance of the Final Certificate; (3) City Note 2 for up to \$450,000 to be issued following the issuance of the Final Certificate; and (4) up to \$150,000 of Available Incremental Taxes for TIF-Funded Interest Costs (defined below). The principal amount of each Note will be in an amount not greater than the costs of the TIF-Funded Improvements which have been incurred by Developer (and which have not previously been counted in determining the balance of the other Note(s)) and are to be reimbursed by the City through payments of principal and interest on the Notes, subject to the provisions of this Agreement. Any payments under the Notes are subject to the amount of Available Incremental Taxes and Incremental Taxes for the Madden/Wells Redevelopment Area, as applicable, being sufficient for such payments, as well as the Prior TIF Obligations listed on Exhibit O attached hereto. The maximum total principal amount of City Funds

will be \$2,100,000.

(c) Issuance of the \$1,950,000 City Note A. On the Closing Date, the City will issue to Developer City Note A with the following terms and conditions:

(i) Principal. The principal balance for City Note A will be equal to the cost of TIF-Funded Improvements incurred by Developer prior to the issuance date, up to a maximum amount of \$1,950,000. Such balance will be determined by the Certificate(s) of Expenditure issued by the City in the form of Exhibit D-1A, upon Developer providing satisfactory evidence of expenditures for TIF-Funded Improvements and compliance with the applicable requirements and terms and conditions of this Agreement. After issuance of City Note A, if the principal balance of City Note A is less than \$1,950,000, then the principal balance of City Note A will be increased when the City issues additional Certificate(s) of Expenditure in the form of Exhibit D-1A up to a maximum amount of \$1,950,000. Following the issuance of the Final Certificate (the "City Note A Refunding Date"), to refund City Note A, the City shall issue City Note 1 in the form of Exhibit D-1B as set forth below.

(ii) Interest. Upon issuance of the Initial Certificate, the interest rate for City Note A will be an annual rate equal to the Bloomberg corporate BBB rate published as of the date of the Initial Certificate plus 200 basis points, and shall provide for accrued, but unpaid, interest to bear interest at the same annual rate (the "City Note A Interest Rate") but in no event will such interest rate be greater than 9%.

(iii) Term. City Note A will be issued on the Closing Date and will have a term of 20 years.

(iv) Payments of Principal and Interest.

(A) Interest on City Note A will begin to accrue upon the issuance of the Initial Certificate. Amortization of principal and interest will be over the term of the City Note A as provided in the debt service schedule attached to City Note A.

(B) Payments of principal and interest on City Note A shall commence upon the issuance of the Final Certificate.

(C) Except as may be otherwise provided in this Agreement, Available Incremental Taxes only will be used to pay the principal of and interest on City Note A and on unpaid interest, if any. In the ordinance authorizing the issuance of the Notes, the City established an account denominated the "Arches Retail Development LLC Project Account" within the Madden/Wells Redevelopment Project Area Special Tax Allocation Fund. All Available Incremental Taxes will be deposited into the Arches Retail Development LLC Project Account.

(D) Payments of principal and interest on the Notes will be made from Available Incremental Taxes deposited into the Arches Retail Development LLC Project Account as follows:

(i) First to interest due under City Note A or, once issued, City Note 1;

- (ii) Next to interest due under City Note 2;
 - (iii) Next to due but unpaid principal or interest payments on City Note A or, once issued, City Note 1 or City Note 2;
 - (iv) Next to scheduled principal payments on City Note A or, once issued, City Note 1; and
 - (v) Next to payment of principal of City Note 2.
- (E) After the principal and interest on City Note A (or, when issued, City Note 1) and City Note 2, have been paid in full and all Notes canceled according to their terms, and the reimbursement of TIF-Funded Interest Costs (as defined below) has occurred, then the Arches Retail Development LLC Project Account will be closed and all subsequent Available Incremental Taxes will be deposited by the City in the Madden/Wells Redevelopment Project Area Special Tax Allocation Fund.
- (v) Insufficient Available Incremental Taxes. If the amount of Available Incremental Taxes pledged under this Agreement is insufficient to make any scheduled payment on City Note A (or, when issued, City Note 1), then: (a) the City will not be in default under this Agreement or City Note A (or, when issued, City Note 1), and (b) due but unpaid scheduled payments (or portions thereof) on City Note A (or, when issued, City Note 1) will be paid as provided in this Section 4.03 as promptly as funds become available for their payment. Interest per annum at the rate set when City Note A (or, when issued, City Note 1) will accrue on any principal or interest payments which are unpaid because of insufficient Available Incremental Taxes.
- (vi) Sale or Transfer of City Note A. After the issuance of City Note A, City Note A may be pledged in a Qualified Transfer of City Note A. The pledge of the City Note A to the Senior Lender to secure a portion of Lender Financing is hereby approved. Notwithstanding any such permitted pledge, the City shall have no obligation to make any payments with respect to the City Note A except to the Developer, and then subject to the conditions set forth in this Agreement, including but not limited to Section 18.15, and in the City Note A.
- (vii) Cessation of City Note A Payments. If an Event of Default occurs, the City will have no further obligations to make any payments with respect to City Note A and the City will have the remedies stated in Sections 7.03 and 15.02.
- (viii) Costs of Issuance of City Note A. Developer will be responsible for paying all legal and issuance costs in relation to City Note A, including all costs of bond counsel.
- (ix) City Note A Refunding Date. On the City Note A Refunding Date, the City will cancel City Note A and issue to Developer City Note 1 and City Note 2 with the terms and conditions set forth below.
- (d) Issuance of the \$1,500,000 City Note 1.

- (i) Principal and Interest. The principal for City Note 1 will be equal to the cost of TIF-Funded Improvements incurred by Developer prior to the issuance date, up to a maximum amount of \$1,500,000. If there is principal or accrued interest on City Note A in excess of \$1,500,000, such excess amounts will be added to the principal of City Note 2 on the terms and conditions set forth below. The interest rate for City Note 1 will be equal to the Bloomberg corporate BBB rate published as of the City Note A Refunding Date plus 200 basis points, and shall provide for accrued, but unpaid, interest to bear interest at the same annual rate (the "City Note 1 Interest Rate") but in no event will such interest rate be greater than 9%.
- (ii) Term. City Note 1 will be issued on the City Note A Refunding Date and shall have a term of the earlier of 20 years and December 31, 2027.
- (iii) Payments of Principal and Interest.
- (A) Interest on City Note 1 will begin to accrue at the date of issuance. Amortization of principal and interest will be over the term of City Note 1 as provided in the debt service schedule attached to City Note 1.
- (B) Except as may be otherwise provided in this Agreement, Available Incremental Taxes only will be used to pay the principal of and interest on City Note 1 and on unpaid interest, if any. In the ordinance authorizing the issuance of City Note 1, the City will establish an account denominated the: "Arches Retail Development LLC Project Account" within the Madden/Wells Redevelopment Project Area Special Tax Allocation Fund. All available Incremental Taxes will be deposited into the Arches Retail Development LLC Project Account.
- (C) Payments of principal and interest will be made annually on or before May 1 in the year following the date of issuance of City Note 1.
- (D) Except as may be otherwise provided in this Agreement, Available Incremental Taxes only will be used to pay the principal of and interest on City Note 1 and on unpaid interest, if any.
- (iv) Insufficient Available Incremental Taxes. If the amount of Available Incremental Taxes pledged under this Agreement is insufficient to make any scheduled payment on the City Note 1, then: (1) the City will not be in default under this Agreement or City Note 1, and (2) due but unpaid scheduled payments (or portions thereof) on City Note 1 will be paid as provided in this Section 4.03 as promptly as funds become available for their payment. Interest per annum at the rate set when City Note 1 is issued will accrue on any principal or interest payments which are unpaid because of insufficient Available Incremental Taxes.
- (v) Prepayment of City Note 1 by the City and Related Lock Out Period. The City may prepay City Note 1 at any time without premium or penalty, subject to the following: a three-year (36 month) period, subject to extension to 60 months in the discretion of the Commissioner (the "City Note 1 Lock-Out Period") will begin on the City Note A Refunding Date. During the City Note 1 Lock-Out Period, the City will not prepay City Note 1, unless this City Note 1 Lock-Out Period restriction is formally waived by the

City Note 1 holder(s). Upon expiration of the City Note 1 Lock-Out Period, the City may prepay the then current balance of City Note 1 without any restrictions or conditions, together with any accrued interest.

- (vi) Sale or Transfer of City Note 1. After the issuance of City Note 1, City Note 1 may be pledged, sold or assigned in a Qualified Transfer of City Note 1. Thereafter, City Note 1 may again be pledged, sold or assigned in a Qualified Transfer of City Note 1.
- (vii) No Cessation of City Note 1 Payments. Notwithstanding anything to the contrary contained in this Agreement, after issuance of City Note 1, if an Event of Default occurs, the City will, notwithstanding such Event of Default, continue to make payments with respect to City Note 1.
- (viii) Costs of Issuance of City Note 1. Developer will be responsible for paying all legal and issuance costs in relation to City Note 1, including all costs of bond counsel.
- (e) Issuance of the \$450,000 City Note 2. City Note 2 will be issued on even date with the Final Certificate with the following terms and conditions:
 - (i) Principal. The initial principal balance of City Note 2 will equal the amount, if any, that the principal amount of City Note A plus accrued interest immediately prior to its refunding exceeds \$1,500,000, plus any amount established by the Certificate(s) of Expenditure issued by the City in the form of Exhibit D-2 at the date of issuance, upon Developer providing satisfactory evidence of expenditures for TIF-Funded Improvements and compliance with the applicable requirements and terms and conditions of this Agreement. After issuance of City Note 2, if the principal balance of City Note 2 is less than \$450,000, then the principal balance of City Note 2 may be increased when the City issues additional Certificate(s) of Expenditure in the form of Exhibit D-2 up to a maximum amount of \$450,000.
 - (ii) Interest. When issued, the interest rate for City Note 2 will be equal to the Bloomberg corporate BBB rate published as of the City Note A Refunding Date plus 200 basis points, and shall provide for accrued, but unpaid, interest to bear interest at the same annual rate (the "City Note 2 Interest Rate") but in no event will such interest rate be greater than 9%.
 - (iii) Term. City Note 2 will be issued on even date with the Final Certificate and will have a term of the earlier of 20 years and December 31, 2027.
 - (iv) Payments of Principal and Interest.
 - (A) Interest on City Note 2 will begin to accrue at the date of issuance. Amortization of principal and interest will be over the term of City Note 2 as provided in the debt service schedule attached to City Note 2. Payments of principal and interest will be made annually on or before May 1 of each year commencing the year following the issuance of the Final Certificate.
 - (B) Except as may be otherwise provided in this Agreement, Available

Incremental Taxes only will be used to pay the principal of and interest on City Note 2 and on unpaid interest, if any. In the ordinance authorizing the issuance of City Note 2, the City will establish an account denominated the: "Arches Retail Development LLC Project Account" within the Madden/Wells Redevelopment Project Area Special Tax Allocation Fund. All available Incremental Taxes will be deposited into the Arches Retail Development LLC Project Account.

(C) After the principal and interest on the Notes have been paid in full, and each Note canceled according to its terms, and the reimbursement of TIF-Funded Interest Costs (as defined below) has occurred, then the Arches Retail Development LLC Project Account will be closed and all subsequent Available Incremental Taxes will be deposited by the City in the Madden/Wells Redevelopment Project Area Special Tax Allocation Fund.

- (v) Insufficient Available Incremental Taxes. If the amount of Available Incremental Taxes pledged under this Agreement is insufficient to make any scheduled payment on City Note 2, then: (1) the City will not be in default under this Agreement or City Note 2, and (2) due but unpaid scheduled payments (or portions thereof) on City Note 2 will be paid as provided in this Section 4.03 as promptly as funds become available for their payment. Interest per annum at the rate set when City Note 2 is issued will accrue on any principal or interest payments which are unpaid because of insufficient Available Incremental Taxes.
- (vi) Prepayment of City Note 2 by the City and Related Lock Out Period. The City may prepay City Note 2 at any time without premium or penalty, subject to the following: a three-year (36 month) period, subject to extension to 60 months in the discretion of the Commissioner (the "City Note 2 Lock-Out Period") will begin on issuance date of City Note 2. During City Note 2 Lock-Out Period, the City will not prepay City Note 2 unless this City Note 2 Lock-Out Period restriction is formally waived by City Note 2 holder(s). Upon expiration of City Note 2 Lock-Out Period, the City may prepay the then-current balance of City Note 2 without any restrictions or conditions, together with any accrued interest.
- (vii) Sale or Transfer of City Note 2. After the issuance of City Note 2, City Note 2 may be pledged, sold or assigned in a Qualified Transfer of City Note 2. Thereafter, City Note 2 may again be pledged, sold or assigned in a Qualified Transfer of City Note 2.
- (viii) Cessation of City Note 2 Payments. If an Event of Default occurs, the City will have no further obligations to make any payments with respect to City Note 2 and the City will have the remedies stated in Sections 7.03 and 15.02. If the Developer defaults pursuant to Section 15.01, interest shall immediately cease to accrue on the City Note 2 effective as of the date on which the Event of Default is deemed to have occurred pursuant to Section 15.03, and no payments shall be made with respect to the City Note 2 during any cure period applicable to such default. Any Available Incremental Taxes that would have been used to make payments during such time period shall, however, be reserved by the City pending the possible cure of such default. If such default is cured, interest shall again begin to accrue on the City Note 2 effective as of the actual date on which the default is cured and any reserved

payments of Available Incremental Taxes shall be released by the City and used to pay the City Note 2. If such default is not cured or is not subject to a cure period, the City shall have the remedies set forth in Section 15.02.

(f) TIF-Funded Interest Costs. The City hereby agrees to pay or reimburse the Developer from Available Incremental Revenues, if any, for up to the lesser of \$150,000 or 30% of the interest costs incurred by the Developer that will accrue on the Senior Loan (the "TIF-Funded Interest Costs") at the request of Developer as set forth below. The amounts payable pursuant to this Section 4.03(f) shall be paid by the City into escrow in accordance with this Agreement and the Escrow Agreement while the Lender Financing remains outstanding and so long as the TIF-Funded Interest Costs may, under the Act, be legally paid out of Available Incremental Revenues. The City will pay into escrow for the benefit of the Developer for the TIF-Funded Interest Costs for the Project upon submission by the Developer to the DCD of an executed Requisition Form for TIF-Funded Interest Costs in the form attached hereto as Exhibit H. The Requisition Form for TIF-Funded Interest Costs shall be sent to DCD on or after March 1 of each year that payment into escrow is requested, and shall set forth the date for payment into escrow which shall be not less than 60 days from the date of its receipt by the DCD. The City Comptroller shall pay, to the extent of any Available Incremental Revenues then available in the Incremental Taxes Fund, into escrow the amount requested in the Requisition Form for TIF-Funded Interest Costs within 60 days of its receipt; provided, that the amount so requested shall not exceed the maximum amount payable for such year as shown on Exhibit I attached hereto, plus any portion of such maximum amount for prior years that has not been paid as a result of insufficient funds. The Developer shall submit to the DCD and the Department of Finance at the addresses specified in Section 16 copies of monthly invoices sent to the Developer by the Senior Lender to evidence the accrual of such amounts for TIF-Funded Interest Costs. Upon the City's request, the Senior Lender will provide any additional supporting documentation. Attached as Exhibit I is a schedule of maximum amounts which may be reimbursed as interest cost incurred by the Developer in accordance with the Redevelopment Plan and the limitations provided in Section 11-74.4-3(q)(11) of the Act. The City will release funds to Developer reimbursing TIF-Funded Interest Costs from escrow as follows: fifty percent of the City Funds in such escrow, plus accrued interest, will be released to Developer on the 5th anniversary of the date of the Final Certificate; fifty percent of the City Funds remaining in such escrow, plus accrued interest, will be released to Developer on the 2nd anniversary following such first payment; and the balance of City Funds in such escrow, plus any accrued interest, will be released to Developer on the 3rd anniversary following such second disbursement; provided however that if Developer fails to meet the Average Minimum Occupancy as required by Section 8.15 herein, the release of TIF-Funded Interest Costs out of escrow will be delayed by the number of years such Average Minimum Occupancy was not met.

(g) Other Incremental Taxes. Any Incremental Taxes that either (i) are not Available Incremental Taxes or (ii) are not required to make payments under this Agreement (whether because all currently due payments have been made, because of an Event of Default entitling the City to terminate further payments with respect to the City Note A or the City Note 2, because of the full repayment of the Notes, or otherwise) shall belong to the City and may be pledged or used for such purposes as the City deems necessary or appropriate.

4.04 Construction Escrow. Developer shall provide the City with a copy of its construction escrow agreement with Senior Lender.

4.05 Treatment of Prior Expenditures and Subsequent Disbursements.

(a) Prior Expenditures. Only those expenditures made by the 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, shall be considered previously contributed Equity or Lender Financing hereunder (the "Prior Expenditures"). DCD shall have the right, in its sole discretion, to disallow any such expenditure as a Prior Expenditure. Exhibit J hereto sets forth the prior expenditures approved by DCD as of the date hereof as Prior Expenditures. Prior Expenditures made for items other than TIF-Funded Improvements shall not be reimbursed to the Developer, but shall reduce the amount of Equity and/or Lender Financing required to be contributed by the Developer pursuant to Section 4.01 hereof.

(b) City Fee. Annually, the City may allocate an amount not to exceed ten percent (10%) of the Incremental Taxes for payment of costs incurred by the City for the administration and monitoring of the Redevelopment Area, including the Project. Such fee shall be in addition to and shall not be deducted from or considered a part of the City Funds, and the City shall have the right to receive such funds prior to any payment of City Funds hereunder.

(c) Allocation Among Line Items. Disbursements for expenditures related to TIF-Funded Improvements may be allocated to and charged against the appropriate line only, with transfers of costs and expenses from one line item to another, without the prior written consent of DCD, being prohibited; provided, however, that such transfers among line items, in an amount not to exceed \$25,000 or \$100,000 in the aggregate, may be made without the prior written consent of DCD.

4.06 Cost Overruns. If the aggregate cost of the TIF-Funded Improvements exceeds City Funds available pursuant to Section 4.03 hereof, or if the cost of completing the Project exceeds the Project Budget, the Developer shall be solely responsible for such excess cost, and shall hold the City harmless from any and all costs and expenses of completing the TIF-Funded Improvements in excess of City Funds and of completing the Project.

4.07 Preconditions to Execution of Certificate of Expenditure. Prior to each execution of a Certificate of Expenditure by the City, the Developer shall submit documentation regarding the applicable expenditures to DCD, which shall be satisfactory to DCD in its sole discretion. Delivery by the Developer to DCD of any request for execution by the City of a Certificate of Expenditure hereunder shall, in addition to the items therein expressly set forth, constitute a certification to the City, as of the date of such request for execution of a Certificate of Expenditure, that:

(a) the total amount of the request for Certificate of Expenditure represents the actual amount payable to (or paid to) the General Contractor and/or subcontractors who have performed work on the Project, and/or their payees;

(b) all amounts shown as previous payments on the current request for Certificate of Expenditure have been paid to the parties entitled to such payment;

(c) the Developer has approved all work and materials for the current request for Certificate of Expenditure, and such work and materials conform to the Plans and Specifications;

(d) the representations and warranties contained in this Redevelopment Agreement are true and correct and the Developer is in compliance with all covenants contained herein;

(e) the Developer has received no notice and has no knowledge of any liens or claim of lien either filed or threatened against the Retail Property except for the Permitted Liens;

(f) no Event of Default or condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default exists or has occurred; and

(g) the Project is In Balance. The Project shall be deemed to be in balance ("In Balance") only if the total of the available Project funds equals or exceeds the aggregate of the amount necessary to pay all unpaid Project costs incurred or to be incurred in the completion of the Project. "Available Project Funds" as used herein shall mean: (i) the undisbursed City Funds; (ii) the undisbursed Lender Financing, if any; (iii) the undisbursed Equity and (iv) any other amounts deposited by the Developer pursuant to this Agreement. The Developer hereby agrees that, if the Project is not In Balance, the Developer shall, within 10 days after a written request by the City, deposit with the escrow agent or will make available (in a manner acceptable to the City), cash in an amount that will place the Project In Balance, which deposit shall first be exhausted before any further disbursement of the City Funds shall be made.

The City shall have the right, in its discretion, to require the Developer to submit further documentation as the City may require in order to verify that the matters certified to above are true and correct, and any execution of a Certificate of Expenditure by the City shall be subject to the City's review and approval of such documentation and its satisfaction that such certifications are true and correct; provided, however, that nothing in this sentence shall be deemed to prevent the City from relying on such certifications by the Developer. In addition, the Developer shall have satisfied all other preconditions of execution of a Certificate of Expenditure, including but not limited to requirements set forth in the Bond Ordinance, if any, TIF Bond Ordinance, if any, the Bonds, if any, the TIF Bonds, if any, the TIF Ordinances, this Agreement and/or the Escrow Agreement.

SECTION 5. CONDITIONS PRECEDENT

The following conditions have been complied with to the City's satisfaction on or prior to the Closing Date:

5.01 Project Budget. The Developer has submitted to DCD, and DCD has approved, a Project Budget in accordance with the provisions of Section 3.03 hereof.

5.02 Scope Drawings and Plans and Specifications. The Developer has submitted to DCD, and DCD has approved, the Scope Drawings and Plans and Specifications accordance with the provisions of Section 3.02 hereof.

5.03 Other Governmental Approvals. The Developer has secured all other necessary approvals and permits required by any state, federal, or local statute, ordinance or regulation and has submitted evidence thereof to DCD.

5.04 Financing. The Developer has furnished proof reasonably acceptable to the City that the Developer has Equity and Lender Financing in the amounts set forth in Section 4.01 hereof to complete the Project and satisfy its obligations under this Agreement. If a portion of such funds consists of Lender Financing, the Developer has furnished proof as of the Closing Date that the proceeds thereof are available to be drawn upon by the Developer as needed and are sufficient (along with other sources set forth in Section 4.01) to complete the Project. Any liens against the

Retail Property in existence at the Closing Date have been subordinated to certain encumbrances of the City set forth herein pursuant to a Subordination Agreement, in a form acceptable to the City, executed on or prior to the Closing Date, which is to be recorded, at the expense of the Developer, with the Office of the Recorder of Deeds of Cook County.

5.05 Acquisition and Title. On the Closing Date, the Developer has furnished the City with a copy of the Title Policy for the Retail Property, certified by the Title Company, showing the Developer as the named insured. The Title Policy is dated as of the Closing Date and contains only those title exceptions listed as Permitted Liens on Exhibit K hereto and evidences the recording of this Agreement pursuant to the provisions of Section 8.11 hereof. The Title Policy also contains such endorsements as shall be required by Corporation Counsel, including but not limited to an owner's comprehensive endorsement and satisfactory endorsements regarding zoning (3.1 with parking), contiguity, location, access and survey. The Developer has provided to DCD, on or prior to the Closing Date, documentation related to the purchase of the Retail Property and certified copies of all easements and encumbrances of record with respect to the Property not addressed, to DCD's satisfaction, by the Title Policy and any endorsements thereto.

5.06 Evidence of Clean Title. The Developer, at its own expense, has provided the City with searches under the Developer's name (and the following trade names of the Developer: _____) as follows:

- | | |
|--|-------------------------------|
| Secretary of State | UCC search |
| Secretary of State | Federal tax search |
| Cook County Recorder | UCC search |
| Cook County Recorder | Fixtures search |
| Cook County Recorder | Federal tax search |
| Cook County Recorder | State tax search |
| Cook County Recorder | Memoranda of judgments search |
| U.S. District Court | Pending suits and judgments |
| Clerk of Circuit Court,
Cook County | Pending suits and judgments |

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

5.07 Surveys. The Developer has furnished the City with three (3) copies of the Survey.

5.08 Insurance. The Developer, at its own expense, has insured the Property in accordance with Section 12 hereof, and has delivered certificates required pursuant to Section 12 hereof evidencing the required coverages to DCD.

5.09 Opinion of the Developer's Counsel. On the Closing Date, the Developer has furnished the City with an opinion of counsel, substantially in the form attached hereto as Exhibit L, with such changes as required by or acceptable to Corporation Counsel. If the Developer has engaged special counsel in connection with the Project, and such special counsel is unwilling or unable to give some of the opinions set forth in Exhibit L hereto, such opinions were obtained by the Developer from its general corporate counsel.

5.10 Evidence of Prior Expenditures. The Developer has provided evidence satisfactory to DCD in its sole discretion of the Prior Expenditures in accordance with the provisions of Section 4.05(a) hereof.

5.11 Financial Statements. The Developer has provided Financial Statements to DCD for its most recent fiscal year, and audited or unaudited interim financial statements.

5.12 Documentation. The Developer has provided documentation to DCD, satisfactory in form and substance to DCD, with respect to current employment matters.

5.13 Environmental. The Developer has provided DCD with copies of that certain phase I environmental audit completed with respect to the Property. The Developer has provided the City with a letter from the environmental engineer(s) who completed such audit(s), authorizing the City to rely on such audits.

5.14 Corporate Documents; Economic Disclosure Statement. The Developer has provided a copy of its Articles of Organization 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 all other states in which the Developer is qualified to do business; a secretary's certificate in such form and substance as the Corporation Counsel may require; operating agreement of the Developer; and such other organizational documentation as the City has requested. The Developer has provided to the City an Economic Disclosure Statement, in the City's then current form, dated as of the Closing Date.

5.15 Litigation. The Developer has provided to Corporation Counsel and DCD a description of all pending or threatened litigation or administrative proceedings involving the 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.

SECTION 6. AGREEMENTS WITH CONTRACTORS

6.01 Bid Requirement for General Contractor and Subcontractors. Prior to entering into an agreement with any subcontractor for construction of the Project, the Developer shall cause the General Contractor to solicit bids from qualified contractors eligible to do business with the City of Chicago, and if requested by DCD, shall submit all bids received to DCD for its inspection and written approval. For the TIF-Funded Improvements, the Developer shall select shall cause the General Contractor to select the subcontractor submitting the lowest responsible bid who can complete the Project in a timely manner. 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. The Developer shall submit copies of the Construction Contract to DCD in accordance with Section 6.02 below. Photocopies of all subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DCD upon request. The Developer shall ensure that the General Contractor shall not (and shall cause the General Contractor to ensure that the subcontractors shall not) begin work on the Project until the Plans and Specifications have been approved by DCD and all requisite permits have been obtained.

6.02 Construction Contract. Within ten (10) business days after execution of the Construction Contract by the Developer, the General Contractor and any other parties thereto, the Developer shall 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 the commencement of any portion of the Project which includes work on the public way, the Developer shall require that the General Contractor be bonded for its payment by sureties having an AA rating or better using a bond in such form as is acceptable to the City. The City shall be named as obligee or co-obligee on any such bonds.

6.04 Employment Opportunity. The Developer shall contractually obligate and cause the General Contractor and each subcontractor to agree to the provisions of Section 10 hereof.

6.05 Other Provisions. In addition to the requirements of this Section 6, the Construction Contract and each contract with any subcontractor shall contain provisions required pursuant to Section 3.04 (Change Orders), Section 8.18 (Prevailing Wage), Section 10.01(e) (Employment Opportunity), Section 10.02 (City Resident Employment Requirement), Section 10.03 (MBE/WBE Requirements, as applicable), Section 12 (Insurance) and Section 14.01 (Books and Records) hereof. Photocopies of all contracts or subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DCD within five (5) business days of the execution thereof.

SECTION 7. COMPLETION OF CONSTRUCTION

7.01 Initial Certificate of Completion. (a) Upon completion of the construction of the Project and related redevelopment activities constituting the Project in accordance with the terms of this Agreement, and upon the Developer's written request, DCD shall issue to the Developer an Initial Certificate in recordable form certifying that the Developer has fulfilled its obligation to complete the Project in accordance with the terms of this Agreement, subject to final leasing and occupancy requirements. DCD shall respond to the Developer's written request for an Initial Certificate by issuing either an Initial Certificate 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 the Developer in order to obtain the Initial Certificate. The Developer may resubmit a written request for an Initial Certificate upon completion of such measures.

(b) The Developer acknowledges that the City will not issue an Initial Certificate until the following conditions have been met:

- (i) construction of the 28,000 square feet of retail space has been completed in accordance with the Plans and Specifications; and
- (ii) the Facility is 50% leased by one or more tenants.

7.02 Final Certificate of Completion. (a) After receipt of the Initial Certificate, upon achieving the leasing and occupancy requirements as set forth in (b) below, and upon the Developer's written request, DCD shall issue to the Developer a Final Certificate in recordable form certifying that the Developer has fulfilled its obligation to complete the Project in accordance with the terms of this Agreement. DCD shall respond to the Developer's written request for a Final

Certificate by issuing either a Final Certificate 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 the Developer in order to obtain the Final Certificate. The Developer may resubmit a written request for a Final Certificate upon completion of such measures.

(b) The Developer acknowledges that the City will not issue a Final Certificate until the following conditions have been met:

- (i) construction of the Project, including required parking, has been completed; and
- (ii) a Certificate of Occupancy has been issued for the Facility by the City; and
- (iii) the Facility is 75% leased and 60% occupied by tenants; and
- (iv) the City's monitoring unit has determined in writing that the Developer is in complete compliance with all requirements of Section 8.17 and Section 10.

7.03 Effect of Issuance of Final Certificate; Continuing Obligations. The Final Certificate relates only to the construction of the Project and related redevelopment activities constituting the Project, and upon its issuance, the City will certify that the terms of the Agreement specifically related to the Developer's obligation to complete such activities have been satisfied. After the issuance of a Final Certificate, 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 Final Certificate shall not be construed as a waiver by the City of any of its rights and remedies pursuant to such executory terms.

Those covenants specifically described at Sections 8.02, 8.14 and 8.15 as covenants that run with the land are the only covenants in this Agreement intended to be binding upon any transferee of the Retail Property (including an assignee as described in the following sentence) throughout the Term of the Agreement notwithstanding the issuance of the Final Certificate. The other executory terms of this Agreement that remain after the issuance of a Final Certificate shall be binding only upon the Developer or a permitted assignee of the Developer who, pursuant to Section 17.14 of this Agreement, has contracted to take an assignment of the Developer's rights under this Agreement and assume the Developer's liabilities hereunder.

7.04 Failure to Complete. If the Developer fails to complete the Project in accordance with the terms of the Agreement, following the expiration of applicable grace periods, if any, then the City shall have, but shall not be limited to, any of the following rights and remedies:

(a) subject to the provisions of Section 15.02, the right to terminate this Agreement and cease all disbursement of City Funds not yet disbursed pursuant hereto (provided, however, under no circumstances shall the City suspend or cease disbursement of principal and interest payments on City Note 1);

(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. In the event that the aggregate cost of completing the TIF-Funded Improvements exceeds the amount of City Funds available, the Developer shall

reimburse the City for all reasonable costs and expenses incurred by the City in completing the TIF-Funded Improvements in excess of the available City Funds; and

(c) the right to seek reimbursement of the City Funds from the Developer.

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

SECTION 8. COVENANTS/REPRESENTATIONS/WARRANTIES OF DEVELOPER

The Developer represents, warrants and covenants to the City as follows:

8.01 General. The Developer represents, warrants and covenants that:

(a) the Developer is an Illinois limited liability company duly organized, validly existing, qualified to do business in Illinois, and licensed to do business in every other state where, due to the nature of its activities or properties, such qualification or license is required;

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

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

(d) unless otherwise permitted pursuant to the terms of this Agreement, the Developer shall acquire and shall maintain a good, merchantable fee interest in the Retail Property, subject to those matters shown in the Title Policy;

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

(f) the Developer shall obtain and shall maintain all government permits, certificates and consents (including, without limitation, appropriate environmental approvals) necessary to construct, complete and operate its business at the Retail Property;

(g) the Developer is not aware of any 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 the Developer is a party or by which the Developer is bound which would materially affect its ability to perform hereunder;

(h) the Financial Statements when submitted will be, complete and correct in all material respects and will accurately present the assets, liabilities, results of operations and financial condition of the Developer as of the date of such statements;

(i) prior to the issuance of the Final Certificate, the Developer shall 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 of all or substantially all of its assets or any portion of the Retail Property (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 outside the ordinary course of the 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 the Developer's financial condition;

(j) the Developer is satisfied that it has taken any measures required to be taken to bring the Property and the Project into compliance with Environmental Laws (or, as part of the remediation process to be undertaken in connection with the Property's enrollment in the Illinois Site Remediation Program, the Project will be brought into compliance with such Environmental Laws, as such compliance may be required under one or more "no further remediation" letters to be issued with respect to the Property) and that the Property is suitable for its intended use;

(k) the Developer has not incurred, and, prior to the issuance of the Final Certificate, shall not, without the prior written consent of the Commissioner of DCD, allow the existence of any liens against the Retail Property (or improvements thereon) other than the Permitted Liens; or incur any indebtedness, secured or to be secured by the Retail Property (or improvements thereon) or any fixtures now or hereafter attached thereto, except Lender Financing disclosed in the Project Budget;

(l) 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 pursuant to 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 the Developer in violation of Chapter 2-156-120 of the Municipal Code of the City; and

(m) neither the Developer nor any affiliate of the Developer 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 List, the Unverified List, the Entity List and the Debarred List. For purposes of this subparagraph (m) only, the term "affiliate," 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 persons 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.

8.02 Covenant to Redevelop. The Developer shall redevelop the Retail Property substantially in accordance with the Agreement and all Exhibits attached hereto, the TIF Ordinances, 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 Project, the Retail Property and/or the Developer. Subject to Section 7.03, the covenants set forth in this Section 8.02 shall run with the land and be binding upon any transferee of the Retail Property.

8.03 Redevelopment Plan. The Developer represents that the Project shall be in compliance with all of the terms of the Redevelopment Plan.

8.04 Use of Available Incremental Revenues. Available Incremental Revenues disbursed to, or on behalf of, the Developer shall be used solely to pay or reimburse the Developer for the TIF-Funded Improvements and TIF-Funded Interest Costs as provided in this Agreement.

8.05 Arms-Length Transactions. Unless DCD shall have given its prior written consent with respect thereto, no Affiliate of the Developer may receive any part of the City Funds, directly or indirectly, through reimbursement of the Developer pursuant to Section 4 or otherwise, in payment for work done, services provided or materials supplied in connection with any TIF-Funded Improvements. The Developer shall provide information with respect to any entity to receive the City Funds (by reimbursement or otherwise), upon DCD's request, prior to any such disbursement.

8.06 Conflict of Interest. The Developer represents and warrants that no member, official or employee of the City, or member of any commission or committee exercising authority over the Project or the Redevelopment Plan, or any consultant hired by the City in connection with the Project, owns or controls (or has owned or controlled) any interest, direct or indirect, in the Developer's business or the Property.

8.07 Disclosure of Interest. The Developer's counsel has no direct or indirect financial ownership interest in the Developer, the Property or any other aspect of the Project.

8.08 Financial Statements. The Developer shall maintain and provide to DCD its Financial Statements at the earliest practicable date but no later than 120 days following the end of the Developer's fiscal year, each year for the Term of the Agreement.

8.09 Developer's Liabilities. The Developer shall not enter into any transaction that would materially and adversely affect its ability to perform its obligations hereunder. The Developer shall immediately notify DCD of any and all events or actions which may materially affect the Developer's ability to perform its obligations under this Agreement.

8.10 Compliance with Laws. To the best of the Developer's knowledge, after diligent inquiry, the Property and the Project are and shall be in compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, executive orders and codes (or, as part of the remediation process to be undertaken in connection with the Property's enrollment in the Illinois Site Remediation Program, the Project will be brought compliance with such legal requirements, as such compliance may be required under one or more "no further remediation" letters to be issued with respect to the Property). Upon the City's request, the Developer shall provide copies of any documentary evidence of compliance of such laws which may exist, such as, by way of illustration and not limitation, permits and licenses.

8.11 Recording and Filing. The Developer shall cause this Agreement, certain exhibits (as specified by Corporation Counsel), all amendments and supplements hereto to be recorded against the Retail Property and filed on the date hereof in the conveyance and real property records of the

county in which the Project is located. This Agreement shall be recorded prior to any mortgage made in connection with any Lender Financing. The Developer shall pay all fees and charges incurred in connection with any such recording. Upon recording, the Developer shall immediately transmit to the City an executed original of this Agreement showing the date and recording number of record.

8.12 Insurance. The Developer, at its own expense, shall comply with all provisions of Section 12 hereof

8.13 Non-Governmental Charges. (a) Payment of Non-Governmental Charges. Except for the Permitted Liens, the Developer agrees to pay or cause to be paid when due any Non-Governmental Charge assessed or imposed upon the Project, the Retail Property or any fixtures that are or may become attached thereto, which creates, may create, or appears to create a lien upon all or any portion of the Retail Property or Project; provided however, that if such Non-Governmental Charge may be paid in installments, the 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. The Developer shall furnish to DCD, within thirty (30) days of DCD's request, official receipts from the appropriate entity, or other proof satisfactory to DCD, evidencing payment of the Non-Governmental Charge in question.

(b) Right to Contest. The Developer has the right, before any delinquency occurs:

(i) to contest or object in good faith to the amount or validity of any Non-Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted, in such manner as shall stay the collection of the contested Non-Governmental Charge, prevent the imposition of a lien or remove such lien, or prevent the sale or forfeiture of the Retail Property (so long as no such contest or objection shall be deemed or construed to relieve, modify or extend the Developer's covenants to pay any such Non-Governmental Charge at the time and in the manner provided in this Section 8.13); 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 shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Retail 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 Charge and all interest and penalties upon the adverse determination of such contest.

8.14 Real Estate Provisions

(a) Governmental Charges.

(i) Payment of Governmental Charges. The Developer agrees to pay or cause to be paid when due all Governmental Charges (as defined below) which are assessed or imposed upon the Developer, the Retail Property or the Project, or become due and payable, and which create or may create a lien upon the Developer or all or any portion of the Retail Property or the Project. "Governmental Charge" shall mean 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

(except for those assessed by foreign nations, states other than the State of Illinois, counties of the State other than Cook County, and municipalities other than the City) relating to the Developer, the Retail Property or the Project including but not limited to real estate taxes.

(ii) Right to Contest. The 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 forfeiture of the Retail Property. The Developer's right to challenge real estate taxes applicable to the Retail Property is limited as provided for in Section 8.14(c) below; provided, that such real estate taxes must be paid in full when due and may be disputed only after such payment is made. No such contest or objection shall be deemed or construed in any way as relieving, modifying or extending the Developer's covenants to pay any such Governmental Charge at the time and in the manner provided in this Agreement unless the Developer has given prior written notice to DCD of the Developer's intent to contest or object to a Governmental Charge and, unless, at DCD's sole option,

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

(B) the Developer shall furnish a good and sufficient bond or other security satisfactory to DCD in such form and amounts as DCD shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Retail 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 the Developer fails to pay any Governmental Charge or to obtain discharge of the same, the Developer shall advise DCD thereof in writing, at which time DCD may, but shall not be obligated to, and without waiving or releasing any obligation or liability of the 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, shall be promptly disbursed to DCD by the Developer. Notwithstanding anything contained herein to the contrary, this paragraph shall not be construed to obligate the City to pay any such Governmental Charge. Additionally, if the Developer fails to pay any Governmental Charge, the City, in its sole discretion, may require the Developer to submit to the City audited Financial Statements at the Developer's own expense.

(c) Real Estate Taxes.

(i) Acknowledgment of Real Estate Taxes. The Developer agrees that (A) for the purpose of this Agreement, the total projected minimum assessed value of the Retail Property ("Minimum Assessed Value") is shown on Exhibit M attached hereto and

incorporated herein by reference for the years noted on Exhibit M; and (B) the real estate taxes anticipated to be generated and derived from the respective portions of the Retail Property and the Project for the years shown are fairly and accurately indicated in Exhibit M.

(ii) Real Estate Tax Exemption. With respect to the Retail Property or the Project, neither the Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer shall, 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. Neither the Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer shall, 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 Retail Property or the Project below the amount of the Minimum Assessed Value as shown in Exhibit M for the applicable year.

(iv) No Objections. Neither the Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer, shall object to or in any way seek to interfere with, on procedural or any other grounds, the filing of any Underassessment Complaint 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 "Underassessment Complaint" as used in this Agreement shall mean any complaint seeking to increase the assessed value of the Retail Property up to (but not above) the Minimum Assessed Value as shown in Exhibit M.

(v) Covenants Running with the Land. The parties agree that the restrictions contained in this Section 8.14(c) are covenants running with the land and this Agreement shall be recorded by the Developer as a memorandum thereof, at the Developer's expense, with the Cook County Recorder of Deeds on the Closing Date. These restrictions shall be binding upon the Developer and its agents, representatives, lessees, successors, assigns and transferees from and after the date hereof, provided however, that the covenants shall be released when the Redevelopment Area is no longer in effect. The Developer agrees that any sale, lease, conveyance, or transfer of title to all or any portion of the Retail Property or Redevelopment Area from and after the date hereof shall be made explicitly subject to such covenants and restrictions. Notwithstanding anything contained in this Section 8.14(c) to the contrary, the City, in its sole discretion and by its sole action, without the joinder or concurrence of the Developer, its successors or assigns, may waive and terminate the Developer's covenants and agreements set forth in this Section 8.14(c).

8.15 Commercial/Office Space Covenants.

(a) Approved Uses. Developer shall continue to operate the Facility as a commercial/office center with at least 50% of the Facility operated by medical or medical-related service providers during the ten years following the date of the Final Certificate. Developer shall not permit any of the "Prohibited Uses" set forth on Exhibit N within the Facility.

(b) Minimum Occupancy Requirements. Not later than March 1st of the year following the year of issuance of the Final Certificate, Developer shall lease not less than 75% of the net leasable square footage of the Facility and cause to be occupied not less than 60% of the net leasable square footage of the Facility (such percentages collectively referred to herein as the "Minimum Occupancy"). Thereafter, and as a prerequisite for payments to be made on the City Note 2, Developer shall maintain an average occupancy ("Average Minimum Occupancy") over the twelve-month period preceding Developer's submission of an Occupancy Report (as defined below) equal to the Minimum Occupancy.

(c) Occupancy Reports; Occupancy Defaults. Contemporaneously with Developer's requisition for its annual disbursement under the Notes, Developer shall deliver to DCD an occupancy progress report ("Occupancy Report") detailing compliance with the Average Minimum Occupancy requirement for the 12-month period beginning January 1 of the preceding year. If Developer submits an Occupancy Report that indicates a failure to maintain the Average Minimum Occupancy (an "Occupancy Default"), such Occupancy Default shall not be deemed an Event of Default under this Agreement if: (i) the Developer has maintained the Minimum Occupancy in the 30 days preceding the date of the Occupancy Report and has provided the City with evidence that it has contracted for the Minimum Occupancy for the following year; (ii) the Developer has cured the Occupancy Default within one year following the date of the Occupancy Report specifying such Occupancy Default (such one-year period is referred to as the "Minimum Cure Period"); or (iii) the Developer has commenced to cure an Occupancy Default within the Minimum Cure Period and has cured such Occupancy Default within two years following the date of the Occupancy Report specifying the Occupancy Default (such two-year period is referred to as the "Maximum Cure Period"). Provided Developer has cured all Occupancy Defaults, Developer shall continue to deliver Occupancy Reports and maintain the Average Minimum Occupancy after the 10th anniversary of the issuance of the Final Certificate for the number of years for which Developer did not maintain the Average Minimum Occupancy.

(d) Occupancy Remedies. Upon the occurrence of an Occupancy Default, the City may suspend disbursement of payments due under the City Note 2 until Developer has complied with the occupancy covenants in this Section 8.15. No interest shall accrue on the City Note 2: (i) during the year described in the Occupancy Report with an Occupancy Default beginning on the date Developer falls below the Average Minimum Occupancy; (ii) during the Minimum Cure Period unless Developer commences to cure the Occupancy Default within the Minimum Cure Period; or (iii) during the Maximum Cure Period from the date of the Event of Default through the date the Event of Default is cured. An Occupancy Default that is not cured as set forth in this Section 8.15 shall be an Event of Default hereunder.

8.16 Job Readiness Program. The developer and its major tenants shall agree to meet with the Mayor's Office of Workforce Development, to discuss participation in job training programs to provide job applicants for the jobs created by the Project and the operation of the Developer's business on the Retail Property.

8.17 Annual Compliance Report. Beginning with the issuance of the Initial Certificate 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.

8.18 Prevailing Wage. The Developer covenants and agrees to pay, and to contractually obligate and cause the General Contractor and each subcontractor to pay, the prevailing wage rate as ascertained by the federal government pursuant to the Davis-Bacon Act, to all Project employees. All such contracts shall list the specified rates to be paid to all laborers, workers and mechanics for each craft or type of worker or mechanic employed pursuant to such contract. If such federal prevailing wage rates are revised, the revised rates shall apply to all such contracts. Upon the City's request, the Developer shall provide the City with copies of all such contracts entered into by the Developer or the General Contractor to evidence compliance with this Section 8.18.

8.19 Survival of Covenants. All warranties, representations, covenants and agreements of the Developer contained in this Section 8 or elsewhere in this Agreement shall be true, accurate, and complete at the time of the Developer'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 (except for the covenants set forth in Section 8.15, which survive for the term set forth therein).

SECTION 9. COVENANTS/REPRESENTATIONS/WARRANTIES 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, and covenants that: (a) the Incremental Taxes Fund will be established, (b) the Incremental Taxes will be deposited therein, and (c) such funds shall remain available to pay the City's obligations under Sections 4.02 and 4.04 as the same become due, as long as the TIF-Funded Improvements continue to be payable from Available Incremental Revenues under the Act. The City agrees not to amend the Redevelopment Plan so as to materially impair its ability to pay in full any amounts due from the City under this Agreement without the written consent of the Developer and the Lenders.

9.02 Survival of Covenants. All warranties, representations, and covenants of the City contained in this Section 9 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.

SECTION 10. EMPLOYMENT OPPORTUNITY

10.01 Employment Opportunity. The Developer, on behalf of itself and its successors and assigns, hereby agrees, and shall contractually obligate its or their various contractors, subcontractors or any Affiliate of the Developer operating on the Retail Property (collectively, with the Developer, the "Employers" and individually 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 or occupation of the Retail Property:

(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 shall comply with all 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 Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. (1993), and any subsequent amendments and regulations promulgated thereto.

(d) Each Employer, in order to demonstrate compliance with the terms of this Section, shall 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 shall include the foregoing provisions of subparagraphs (a) through (d) in every contract entered into in connection with the Project, and shall require inclusion of these provisions in every subcontract entered into by any subcontractors, and every agreement with any Affiliate operating on the Retail Property, so that each such provision shall 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 shall be a basis for the City to pursue remedies under the provisions of Section 15.02 hereof.

10.02 City Resident Construction Worker Employment Requirement. The Developer agrees for itself and its successors and assigns, and shall contractually obligate its General Contractor and shall cause the General Contractor to contractually obligate its subcontractors, as applicable, to agree, that during the construction of the Project they shall 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 shall be performed by actual residents of the City); provided, however, that in addition to complying with this percentage, the Developer, its General Contractor and each subcontractor shall be required to make good faith efforts to utilize qualified residents of the City in both unskilled and skilled labor positions.

The 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.

"Actual residents of the City" shall mean persons domiciled within the City. The domicile is an individual's one and only true, fixed and permanent home and principal establishment.

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

Weekly certified payroll reports (U.S. Department of Labor Form WH-347 or equivalent) shall be submitted to the Commissioner of DCD in triplicate, which shall 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.

The Developer, the General Contractor and each subcontractor shall provide full access to their employment records 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. The Developer, the General Contractor and each subcontractor shall maintain all relevant personnel data and records for a period of at least three (3) years after final acceptance of the work constituting the Project.

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

Good faith efforts on the part of the 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) shall not suffice to replace the actual, verified achievement of the requirements of this Section concerning the worker hours performed by actual Chicago residents.

When work at the Project is completed, in the event that the City has determined that the Developer has failed to ensure the fulfillment of the requirement of this Section concerning the worker hours performed by actual Chicago residents 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 Section. 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 shall be evidenced by approved contract value for the actual contracts) shall be surrendered by the 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 shall 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 the Developer, the General Contractor and/or the subcontractors to prosecution. Any retainage to cover contract performance that may become due to the 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 the Developer must surrender damages as provided in this paragraph.

Nothing herein provided shall 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.

The Developer shall cause or require the provisions of this Section 10.02 to be included in all construction contracts and subcontracts related to the Project.

10.03. MBE/WBE Commitment. The Developer agrees for itself and its successors and assigns, and, if necessary to meet the requirements set forth herein, shall contractually obligate the General Contractor to agree that during 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 percentages of the MBE/WBE Budget as set forth in Exhibit E-2 hereto shall be expended for contract participation by MBEs and by WBEs.

(b) For purposes of this Section 10.03 only, the Developer (and any party to whom a contract is let by the Developer in connection with the Project) shall be deemed a "contractor" and this Agreement (and any contract let by the Developer in connection with the Project) shall be 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.

(c) Consistent with Sections 2-92-440 and 2-92-720, Municipal Code of Chicago, the Developer's MBE/WBE commitment may be achieved in part by the Developer's status as an MBE or WBE (but only to the extent of any actual work performed on the Project by the 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 the 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 accordance with Section 2-92-730, Municipal Code of Chicago, the Developer shall not substitute any MBE or WBE General Contractor or subcontractor without the prior written approval of DCD.

(d) The Developer shall 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 shall include, *inter alia*, the name and business address of each MBE and WBE solicited by the 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. The Developer shall maintain records of all relevant data with respect to the utilization of MBEs and WBEs in connection with the Project for at least five years after completion of the Project, and the City's monitoring staff shall have access to all such records maintained by the Developer, on five Business Days' notice, to allow the City to review the 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, the Developer shall be 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 the 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, the Developer shall be required to meet with the City's monitoring staff with regard to the Developer's compliance with its obligations under this Section 10.03. The General Contractor and all major subcontractors shall be required to attend this pre-construction meeting. During said meeting, the Developer shall demonstrate to the City's monitoring staff its plan to achieve its obligations under this Section 10.03, the sufficiency of which shall be approved by the City's monitoring staff. During the Project, the 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 the Developer is not complying with its obligations under this Section 10.03, shall, upon the delivery of written notice to the 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 the Developer to halt the Project, (2) withhold any further payment of any City Funds to the Developer or the General Contractor, or (3) seek any other remedies against the Developer available at law or in equity.

SECTION 11. ENVIRONMENTAL MATTERS

The Developer hereby represents and warrants to the City that the Developer has undertaken sufficient environmental due diligence to conclude that the Project may be constructed, completed

and operated in accordance with all Environmental Laws (as the same may be modified by one or more "no further remediation" letters to be issued with respect to the Property) and this Agreement and all Exhibits attached hereto, and the Redevelopment Plan.

Without limiting any other provisions hereof, Developer agrees to indemnify, defend and hold 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 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 Material on or under, or the escape, seepage, leakage, spillage, emission, discharge or release of any Hazardous Material 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 City or Developer or any of its subsidiaries under any Environmental Laws relating to the Property.

SECTION 12. INSURANCE

The Developer shall procure and maintain, or cause to be maintained, at its sole cost and expense, at all times throughout the Term of the Agreement, and until each and every obligation of the Developer contained in the Agreement has been fully performed, the types of insurance specified below, with insurance companies authorized to do business in the State of Illinois covering all operations under this Agreement, whether performed by the Developer, any contractor or subcontractor:

- (a) Prior to Execution and Delivery of this Agreement: At least 10 business days prior to the execution of this Agreement, the Developer shall procure and maintain the following kinds and amounts of insurance:
 - (i) Workers' Compensation and Occupational Disease Insurance
Workers' Compensation and Occupational Disease Insurance, in statutory amounts, covering all employees who are to provide a service under this Agreement. Employer's liability coverage with limits of not less than \$100,000.00 for each accident or illness shall be included.
 - (ii) Commercial Liability Insurance (Primary and Umbrella)
Commercial Liability Insurance or equivalent with limits of not less than \$1,000,000.00 per occurrence, combined single limit, for bodily injury, personal injury and property damage liability. Products/completed operations, independent contractors, broad form property damage and contractual liability coverages are to be included.
- (b) Construction: Prior to the construction of any portion of the Project, the Developer shall procure and maintain, or cause to be maintained, the following

kinds and amounts of insurance:

(i) Workers' Compensation and Occupational Disease Insurance

Workers' Compensation and Occupational Disease Insurance, in statutory amounts, covering all employees who are to provide a service under or in connection with this Agreement. Employer's liability coverage with limits of not less than \$100,000.00 for each accident or illness shall be included.

(ii) Commercial Liability Insurance (Primary and Umbrella)

Commercial Liability Insurance or equivalent with limits of not less than \$2,000,000.00 per occurrence, combined single limit, for bodily injury, personal injury and property damage liability. Products/completed operations, explosion, collapse, underground, independent contractors, broad form property damage and contractual liability coverages are to be included.

(iii) Automobile Liability Insurance

When any motor vehicles are used in connection with work to be performed in connection with this Agreement, the Developer shall provide Automobile Liability Insurance with limits of not less than \$1,000,000.00 per occurrence combined single limit, for bodily injury and property damage.

(iv) All Risk Builders Risk Insurance

When the Developer, any contractor or subcontractor undertakes any construction, including improvements, betterments, and/or repairs, Developer, such contractor or subcontractor shall provide All Risk Blanket Builder's Risk Insurance to cover the materials, equipment, machinery and fixtures that are or will be part of the permanent facilities. Coverage extensions shall include boiler and machinery, and flood.

(v) Professional Liability

When any architects, engineers or consulting firms perform work in connection with this Agreement, Professional Liability insurance shall be maintained with limits of \$1,000,000.00. The policy shall have an extended reporting period of two years. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Project.

(c) Other Provisions

Upon DCD's request, the Developer shall provide DCD with copies of insurance policies or certificates evidencing the coverage specified above. If the Developer fails to obtain or maintain any of the insurance policies required under this

Agreement or to pay any insurance policies required under this Agreement, or to pay any premium in whole or in part when due, the City may (without waiving or releasing any obligation or Event of Default by the Developer hereunder) obtain and maintain such insurance policies and take any other action which the City deems advisable to protect its interest in the Property and/or the Project. All sums so disbursed by the City including reasonable attorneys' fees, court costs and expenses, shall be reimbursed by the Developer upon demand by the City.

The Developer agrees, and shall cause each contractor and subcontractor to agree, that any insurance coverages and limits furnished by the Developer and such contractors or subcontractors shall in no way limit the Developer's liabilities and responsibilities specified under this Agreement or any related documents or by law, or such contractor's or subcontractor's liabilities and responsibilities specified under any related documents or by law. The Developer shall require all contractors and subcontractors to carry the insurance required herein, or the Developer may provide the coverage for any or all contractors and subcontractors, and if so, the evidence of insurance submitted shall so stipulate.

The Developer agrees, and shall cause its insurers and the insurers of each contractor and subcontractor engaged after the date hereof in connection with the Project to agree, that all such insurers shall waive their rights of subrogation against the City.

The Developer shall comply with any additional insurance requirements that are stipulated by the Interstate Commerce Commission's Regulations, Title 49 of the Code of Federal Regulations, Department of Transportation; Title 40 of the Code of Federal Regulations, Protection of the Environment and any other federal, state or local regulations concerning the removal and transport of Hazardous Materials.

The City maintains the right to modify, delete, alter or change the provisions of this Section 12 and so long as such action does not, without the Developer's prior written consent, increase the requirements set forth in this Section 12 beyond that which is reasonably customary at such time.

SECTION 13. INDEMNIFICATION

The Developer agrees to indemnify, defend and hold the City harmless from and against any losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses including, without limitation, reasonable attorneys' fees and court costs, suffered or incurred by the City arising from or in connection with (i) the Developer's failure to comply with any of the terms, covenants and conditions contained within this Agreement, or (ii) the Developer's or any contractor's failure to pay contractors or materialmen in connection with the Project, or (iii) the existence of any material misrepresentation or omission in the Redevelopment Plan or any other document related to this Agreement and executed by the Developer that is the result of information supplied or omitted by the Developer or its agents, employees, contractors or persons acting under the control or at the request of the Developer or (iv) the Developer's failure to cure its misrepresentation in this Agreement or any other agreement relating thereto within the cure period provided.

SECTION 14. MAINTAINING RECORDS/RIGHT TO INSPECT

14.01 Books and Records. The Developer shall keep and maintain separate, complete, accurate and detailed books and records necessary to reflect and fully disclose the total actual cost

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 the Developer's loan statements, General Contractors' and contractors' sworn statements, general contracts, subcontracts, purchase orders, waivers of lien, paid receipts and invoices, shall be available at the Developer's offices for inspection, copying, audit and examination by an authorized representative of the City, at the Developer's expense. The Developer shall incorporate this right to inspect, copy, audit and examine all books and records into all contracts entered into by the Developer with respect to the Project.

14.02 Inspection Rights. Any authorized representative of the City shall have access to all portions of the Project and the Retail Property during normal business hours for the Term of the Agreement.

SECTION 15. DEFAULT AND REMEDIES

15.01 Events of Default. The occurrence of any one or more of the following events, following expiration of applicable cure periods under Sections 15.03 and subject further to Section 17.16, shall constitute an "Event of Default" by the Developer hereunder:

(a) the failure of the Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Developer under this Agreement or any related agreement;

(b) the failure of the 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 the Developer's business, property, assets, operations or condition, financial or otherwise;

(c) the making or furnishing by the 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 when made;

(d) except as otherwise permitted hereunder, the creation (whether voluntary or involuntary) of, or any attempt to create, any lien or other encumbrance upon the Retail Property, including any fixtures now or hereafter attached thereto, other than the Permitted Liens;

(e) the commencement of any proceedings in bankruptcy by or against the Developer or for the liquidation or reorganization of the Developer, or alleging that the Developer is insolvent or unable to pay its debts as they mature, or for the readjustment or arrangement of the Developer's 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 the Developer; provided, however, that if such commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such proceedings are not dismissed within 90 days after the commencement of such proceedings;

(f) the appointment of a receiver or trustee for the Developer, for any substantial part of the Developer's assets or the institution of any proceedings for the dissolution, or the full or partial liquidation, or the merger or consolidation, of the Developer; provided, however, that if such

appointment or commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such appointment is not revoked or such proceedings are not dismissed within 90 days after the commencement thereof;

(g) the entry of any judgment or order against the Developer which remains unsatisfied or undischarged and in effect for 30 days after such entry without a stay of enforcement or execution;

(h) a change in the Developer's general partner (except a "for cause" replacement of such general partner by the limited partner in accordance with the Developer's partnership agreement), addition of a general partner or sale or other transfer of all or a controlling interest in the ownership of the general partner without DCD's prior written consent; or

(i) a change in the ownership of the Project without DCD's prior written consent.

15.02 Remedies. (a) Subject to the provisions of paragraph (b) of this section, upon the occurrence of an Event of Default, the City may terminate this Agreement and all related agreements, and may suspend disbursement of the City Funds. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, secure the specific performance of the agreements contained herein, or may be awarded damages for failure of performance, or both, provided, however, that the City shall not obtain a lien against the Retail Property.

(b) Notwithstanding any other provision in this Agreement, the City shall not terminate this Agreement or suspend disbursement of the City Funds upon the occurrence of an Event of Default unless foreclosure proceedings have been commenced under the mortgage securing the Senior Loan or a deed in lieu of such foreclosure has been executed and delivered and provided that Senior Lender has not cured the Event of Default within the curative time period provided allowed under Section 15.04(b).

(c) The City's obligation under City Note 1 shall survive termination of this Agreement.

15.03 Curative Period. In the event the Developer shall fail to perform a covenant which Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless Developer shall have failed to perform such covenant 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 defaults which are not reasonably capable of being cured within such 30-day period, if the Developer has commenced to cure the alleged default within such 30-day period and thereafter continues diligently to effect such cure, then said 30-day period shall be extended to 60 days upon written request from the Developer to the City delivered during such 30-day period, and upon further written request from the Developer to the City delivered during such 60-day period, said 60-day period shall be extended to 90 days; provided, further, that such default is cured in any event within 120 days of the date of the Developer's receipt of a written default notice.

15.04 Right to Cure by Lenders and Investors. Except for an Event of Default arising in connection with the covenants of Section 8.15 which section has cure rights set forth therein, in the event that an Event of Default occurs under this Agreement, and if, as a result thereof, the City intends to exercise any right or remedy available to it that could result in the termination of this Agreement or the cancellation, suspension, or reduction of any payment due from the City under this

Agreement, the City shall send notice of such intended exercise to the parties identified in Section 16 and the Lenders and the limited partner investor(s) in the Developer shall have the right (but not the obligation) to cure such an Event of Default under the following conditions:

(a) if the Event of Default is a monetary default, any party entitled to cure such default may cure it within 30 days after the later of: (i) the expiration of the cure period, if any, granted to the Developer with respect to such monetary default; or (ii) receipt by the Lenders of such notice from the City; and

(b) if the Event of Default is of a non-monetary nature, any party entitled to cure such default shall have the right to cure it within 30 days after the later of: (i) the expiration of the cure period, if any, granted to the Developer with respect to such non-monetary default; or (ii) receipt of such notice from the City; provided, however, that if such non-monetary default is not reasonably capable of being cured by the Lenders within such 30-day period, such period shall be extended for such reasonable period of time as may be necessary to cure such default, provided that the party seeking such cure must continue diligently to pursue such cure and, if possession of the Project is necessary to effect such cure, the party seeking such cure must have instituted appropriate legal proceedings to obtain possession.

SECTION 16. NOTICE

Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal service; (b) overnight courier, or (c) registered or certified or facsimile mail, return receipt requested.

If to City: City of Chicago
Department of Community Development
121 North LaSalle Street, 10th Floor
Chicago, Illinois 60602
Attention: Acting Commissioner
cc: Manager of Special Finance

With Copies To: City of Chicago
Department of Law
Finance and Economic Development Division
121 North LaSalle Street, Room 600
Chicago, IL 60602

and: Department of Finance
City of Chicago
121 North LaSalle Street, Room 501
Chicago, Illinois 60602
Attn: City Comptroller

If to Developer: Arches Retail Development LLC
330 S. Wells, Suite 400
Chicago, IL 60606
Attention: _____

with a copy to: DLA Piper US LLP
203 North LaSalle Street, 19th Floor
Chicago, IL 60601
Attention: Andrew Scott

and to: Oakwood Shores Terrace Associates Limited Partnership

Attention: _____

and to: Applegate & Thorne-Thomsen
322 South Green Street, Suite 400
Chicago, IL 60607
Attention: Paul Davis

To Senior Lender: _____

Attn: _____

With copy to: _____

Attn: _____

To Investor Limited Partner: _____

Attn: _____

and with a copy to: _____

Attn: _____

Such addresses may be changed by notice to the other parties given in the same manner provided above. Any notice, demand, or request sent pursuant to either clause (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch. Any notice, demand or request sent pursuant to clause (c) shall be deemed received on the business day immediately following deposit with the overnight courier and any notices, demands or requests sent pursuant to subsection (d) shall be deemed received two business days following deposit in the mail.

SECTION 17. MISCELLANEOUS

17.01 Amendment. This Agreement and the Exhibits attached hereto may not be amended without the prior written consent of the City and the Developer.

17.02 Entire Agreement. This Agreement (including each Exhibit attached hereto, which is hereby incorporated herein by reference) constitutes the entire Agreement between the parties hereto and it supersedes all prior agreements, negotiations and discussions between the parties relative to the subject matter hereof.

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

17.04 Further Assurances. The 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.

17.05 Waiver. Waiver by the City or the Developer with respect to any breach of this Agreement shall not be considered or treated as a waiver of the rights of the respective party with respect to any other default or with respect to any particular default, except to the extent specifically waived by the City or the Developer in writing.

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

17.07 Disclaimer. Nothing contained in this Agreement nor any act of the City shall be deemed or construed by any of the parties, or by any third person, to create or imply any relationship of third-party beneficiary, principal or agent, limited or general partnership or joint venture, or to create or imply any association or relationship involving the City.

17.08 Headings. The paragraph and section headings contained herein are for convenience only and are not intended to limit, vary, define or expand the content thereof.

17.09 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement.

17.10 Severability. If any provision in this Agreement, or any paragraph, sentence, clause, phrase, word or the application thereof, in any circumstance, is held invalid, this Agreement shall be construed as if such invalid part were never included herein and the remainder of this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

17.11 Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Illinois, without regard to its conflicts of law principles.

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

17.13 Approval. Wherever this Agreement provides for the approval or consent of the City or DCD, or any matter is to be to the City's or DCD's satisfaction, unless specifically stated to the contrary, such approval, consent or satisfaction shall be made, given or determined by the City or DCD in writing and in its 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 Initial Certificate or the Final Certificate or otherwise administering this Agreement for the City.

17.14 Assignment. The 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, except that the Developer may collaterally assign its interest in the Redevelopment Agreement to the Senior Lender, if the Senior Lender requires such collateral assignment. Any successor in interest to the Developer under this Agreement shall certify in writing to the City its agreement to abide by all terms of this Agreement for the Term of the Agreement, and shall execute an affidavit to the effect that it is in compliance with all applicable City ordinances and is otherwise qualified to do business with the City.

17.15 Binding Effect. This Agreement shall be binding upon the Developer and its successors and permitted assigns and shall inure to the benefit of the City, its successors and assigns. The provisions of this Agreement pertaining to the obligations of the City shall be binding upon the City.

17.16 Force Majeure. For the purposes of any of the provisions of this Agreement, neither the City nor the Developer, as the case may be, nor any successor in interest, shall 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, strike, shortage of material, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or quantity 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 respective obligations hereunder.

17.17 Business Economic Support Act. Pursuant to the Business Economic Support Act (30 ILCS 760/1 et seq.), if the Developer is required to provide notice under the WARN Act, the Developer shall, 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 the Developer has locations in the State. Failure by the 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.

17.18. No Business Relationship with City Elected Officials. Pursuant to 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 of the Municipal Code of Chicago), or to participate in any discussion in 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 any of the Loan Documents, or in connection with the transactions contemplated thereby, shall be grounds for termination of the Redevelopment Agreement and the transactions contemplated thereby. The 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 the Redevelopment Agreement or the transactions contemplated thereby.

SECTION 18. MORTGAGING OF THE PROJECT

All mortgages or deeds of trust in place as of the date hereof with respect to the Retail Property or any portion thereof are listed as Permitted Liens on Exhibit K hereto (including but not limited to mortgages made prior to or on the date hereof in connection with Lender Financing) and are referred to herein as the "Existing Mortgages." Any mortgage or deed of trust that the Developer may hereafter elect to execute and record or permit to be recorded against the Retail Property or any portion thereof is referred to herein as a "New Mortgage." Any New Mortgage that the Developer may hereafter elect to execute and record or permit to be recorded against the Retail Property or any portion thereof with the prior written consent of the City is referred to herein as a "Permitted Mortgage" including the proposed permanent senior loan to be made by Enterprise Mortgage Investments, Inc., and the mortgage securing the permanent loan. It is hereby agreed by and between the City and the Developer as follows:

(a) In the event that a mortgagee or any other party shall succeed to the Developer's interest in the Retail Property or any portion thereof pursuant to the exercise of remedies under a New Mortgage (other than a Permitted Mortgage), whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of the Developer's interest hereunder in accordance with Section 17.14 hereof, the City may, but shall not be obligated to, attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement and, unless so recognized by the City as the successor in interest, such party shall be entitled to no rights or benefits under this Agreement, but such party shall be bound by those provisions of this Agreement that are covenants expressly running with the land.

(b) In the event that any mortgagee shall succeed to the Developer's interest in the Retail Property or any portion thereof pursuant to 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 the Developer's interest hereunder in accordance with Section 17.14 hereof, the City hereby agrees to attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement so long as such party accepts all of the obligations and liabilities of "the Developer" hereunder; provided, however, that, notwithstanding any other provision of this Agreement to the contrary, it is understood and agreed that if such party accepts an assignment of the Developer's interest under this Agreement, such party has no liability under this Agreement for any Event of Default of the Developer which accrued prior to the time such party succeeded to the interest of the Developer under this Agreement, in which case the Developer shall be solely responsible. However, if such mortgagee under a Permitted Mortgage or an Existing Mortgage does not expressly accept an assignment of the Developer's interest hereunder, such party shall be entitled to no rights and benefits under this Agreement, and such party shall 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 the Developer of a Final Certificate pursuant to Section 7 hereof, no New Mortgage shall be executed with respect to the Retail Property or any portion thereof without the prior written consent of the Commissioner.

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

ARCHES RETAIL DEVELOPMENT LLC, an Illinois limited liability company

By: Granite Madden Wells Retail, LLC, an Illinois limited liability company and its managing member

By: _____
Name: _____
Title: _____

CITY OF CHICAGO, ILLINOIS, acting by and through its Department of Community Development

By: _____
Christine Raguso, Acting Commissioner

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

I, _____, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that _____, personally known to me to be the _____ of Granite Madden Wells Retail, LLC, an Illinois limited liability company and the managing member (the "Manager") of Arches Retail 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 in person and acknowledged that s/he signed, sealed, and delivered said instrument, pursuant to the authority given to her/him by the Manager and the Developer as her/his free and voluntary act and as the free and voluntary act of the above-named entities, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this ____ day of _____, 2010.

Notary Public

My commission expires _____
(SEAL)

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

I, _____, 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 Housing 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 in person and acknowledged that she signed, sealed, and delivered said instrument pursuant to the authority given to her by the City, as her free and voluntary act and as the free and voluntary act of the City, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this ____ day of _____, 2010.

Notary Public

My commission expires _____

(SEAL)

EXHIBIT A

MADDEN/WELLS REDEVELOPMENT AREA LEGAL DESCRIPTION

[Not attached for ordinance]

EXHIBIT B-1
RETAIL PROPERTY LEGAL DESCRIPTION
(Oakwood Shores Phase 2C)

[Not attached for ordinance]

EXHIBIT B-2

SITE PLAN

[Not attached for ordinance]

EXHIBIT B-3
HOUSING PROPERTY LEGAL DESCRIPTION
(Oakwood Shores Phase 2C)

[Not attached for ordinance]

EXHIBIT C

REDEVELOPMENT PLAN

[Not attached for ordinance]

EXHIBIT D-1A

FORM OF CITY NOTE A

See Attached

EXHIBIT D-1B

FORM OF CITY NOTE 1

See Attached

EXHIBIT D-2

FORM OF CITY NOTE 2

See Attached

EXHIBIT E-1
PROJECT BUDGET

Total: \$8,660,354

EXHIBIT E-2

MBE/WBE BUDGET

See MBE/WBE Budget Exhibit to the Housing Agreement

EXHIBIT F
LIST OF PLANS AND SPECIFICATIONS

[See Exhibit to the General Contract]

EXHIBIT G

TIF-FUNDED IMPROVEMENTS

[Not attached for ordinance]

EXHIBIT H

REQUISITION FORM FOR TIF-FUNDED INTEREST COSTS

The undersigned, _____ [Name] _____, _____ [Title] _____ of _____ [Name] _____ (the "Developer"), does hereby certify to the City of Chicago, Illinois (the "City") as follows (any term which is capitalized but not specifically defined herein shall have the same meaning as set forth in that certain Redevelopment Agreement ("Agreement") dated _____, 2010, by and between the City and Developer:

1. That the Developer has incurred, accrued and/or paid the following parties for the listed items, each of which constitutes interest related to the construction of the Project:

Senior Lender _____ \$ _____

2. That none of the items listed in paragraph 1, above, has been the subject of any other requisition for payment;

3. That including the payment requested hereunder, the payments from the City during this year for interest costs do not exceed 75 percent of the interest costs incurred by the Developer with regard to Project during this year [, plus accruals];

4. That including the payment requested hereunder, the total of interest payments to date from the City does not exceed 75 percent of the total Project Costs actually incurred by the Developer;

5. That the remaining balance of the TIF-Funded Interest Costs which are eligible for reimbursement under the Redevelopment Agreement taking this requisition into account are as follows:

<u>Maximum Amount</u>	<u>Current Annual Unpaid Amount Accrued</u>	<u>Accrued and Balance Amount Prior Requisitions¹</u>	<u>Accrued and Unpaid²</u>	<u>Paid To Date³</u>
\$ _____ ⁴	_____	_____	_____	_____

6. That attached as Exhibit 1 are true and correct copies of monthly invoices for the Senior Loan sent to the Developer by the Senior Lender;

IN WITNESS WHEREOF, I have hereunto affixed my signature this _____ day of _____, _____.

By: _____
Its: _____

cc:

¹ Represents the sum of the following unpaid amounts for the specified years: \$ _____ for 200__ ; \$ _____ for 200__ ; \$ _____ for 200__ .

² Sum of columns 2 and 3.

³ After giving effect to the payment covered by this Requisition Form.

⁴ Subject to reduction if general real estate taxes are abated, as described in the Agreement.

EXHIBIT I

SCHEDULE OF MAXIMUM AMOUNT OF TIF-FUNDED INTEREST COSTS

[Not attached for ordinance]

EXHIBIT J

APPROVED PRIOR EXPENDITURES

[Not attached for ordinance]

EXHIBIT K

PERMITTED LIENS

[Not attached for ordinance]

EXHIBIT L

FORM OF DEVELOPER'S COUNSEL OPINION

[Not attached for ordinance]

EXHIBIT M
REAL ESTATE PROVISIONS (EAV)

[Not attached for ordinance]

EXHIBIT N

PROHIBITED USES

[Not attached for ordinance]

EXHIBIT O

PRIOR TIF OBLIGATIONS

[Not attached for ordinance]