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**THIS INSTRUMENT PREPARED BY, AND
AFTER RECORDING, RETURN TO:**

Doc#: 1315633111 Fee: \$110.00
RHSP Fee: \$10.00 Affidavit Fee:
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 08/05/2013 01:12 PM Pg: 1 of 14

DLA Piper LLP (US)
Attn: Erica Sitkoff
203 North LaSalle Street, Suite 1900
Chicago, Illinois 60601-1293

AMENDED AND RESTATED DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS

THIS AMENDED AND RESTATED DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS (this "Declaration") is made and entered into as of the 20 day of May, 2013, by and among **220 WEST ILLINOIS OWNER, LLC**, a Delaware limited liability company ("220"), **ILLINOIS FRANKLIN ASSOCIATES, LLC**, an Illinois limited liability company ("IFA"), and **500 NORTH FRANKLIN STREET, L.L.C.**, an Illinois limited liability company ("500"). For purposes hereof, 220, IFA, and 500 shall sometimes hereinafter be referred individually, as an "Owner" and collectively, as the "Owners," as the context may require.

RECITALS

WHEREAS, 220 is the owner of certain real property located in Chicago, Illinois, as more fully described in Exhibit A attached hereto (the "220 Parcel").

WHEREAS, IFA is the owner of certain real property located in Chicago, Illinois, as more fully described in Exhibit B attached hereto (the "IFA Parcel").

WHEREAS, 500 is the owner of certain real property located in Chicago, Illinois, as more fully described in Exhibit C attached hereto (the "500 Parcel"). For purposes hereof, the 220 Parcel, the IFA Parcel, and the 500 Parcel shall sometimes hereinafter be referred to individually, as a "Parcel" and collectively, as the "Parcels," as the context may require.

WHEREAS, the IFA Parcel and the 220 Parcel are encumbered by that certain Real Estate Contract recorded with the Cook County Recorder of Deeds (the "Recorder") on January 13, 2012 as Document Number 1201356041, by and between 212-232 West Illinois Street, L.L.C., an Illinois company an affiliate of 500 ("212-232"), and a predecessor-in-interest of IFA (the "Contract"), and that certain Declaration of Easements, Covenants, Conditions, and Restrictions by and between IFA and 212-232, recorded with the Recorder on March 8, 2008 as Document Number 0806603037 (the "Existing Declaration").

WHEREAS, 212-232, the entity that sold the IFA Parcel to IFA, mistakenly executed the Contract and the Existing Declaration as the owner of the 500 Parcel, but 500 was, and remains, the owner of the 500 Parcel.

WHEREAS, 212-232 has since been dissolved.

Box 400-CTCC

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WHEREAS, the Owners desire to release the Contract of record and amend and restate the Existing Declaration in its entirety.

NOW, THEREFORE, in consideration of the premises, and in consideration of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owners, their successors, agents and assigns hereby agree and declare as follows.

AGREEMENT

1. **Contract and Existing Declaration**. The Contract is hereby released of record, and the Existing Declaration is hereby amended and restated in its entirety.

2. **Parking Spaces**. In the event that 220 completes construction of the multi-family residential building intended to be built on the 220 Parcel (the "**220 Building**"), after the completion of construction, 220 shall cause the nineteen (19) parking spaces shown on the Site Plan attached hereto as **Exhibit D** (the "**Parking Spaces**") to be separately subdivided of record, and shall convey fee title to the Parking Spaces, at 220's sole cost and expense, to 500. Neither 220 nor IFA shall have any obligation to convey any parking spaces to 500 other than the Parking Spaces. 500 may not construct any improvements on or within the Parking Spaces other than the Trash Facilities (as defined below). After the Parking Spaces have been conveyed to 500, 220 shall have no obligation for any maintenance, insurance, or payment of real estate taxes with respect to the Parking Spaces, and 500 shall maintain the Parking Spaces in good repair, in a condition in accordance with that of the 220 Parcel. 220 shall retain all air rights above ten (10) feet above grade over the Parking Spaces, as well as all rights to the land underneath the Parking Spaces, and the land within the Parking Spaces on which the buttresses for the 220 Building are located. The Owners agree to enter into and record an amendment to this Declaration setting forth the legal description of the Parking Spaces after the completion of construction of the 220 Building. In addition, in the event that 220 completes construction of the 220 Building and the 220 Building includes a parking garage (the "**220 Garage**"), 220 will rent three (3) parking spaces within the 220 Garage (the "**Garage Spaces**") to 500 for One and No/100 Dollar (\$1.00) per Garage Space per year, which leases may be renewed annually for so long as Gene & Georgetti's is being operated on the 500 Parcel. Other than the rental rate, the leases for the Garage Spaces shall be consistent with the other leases for parking spaces in the 220 Garage, and 500 shall be required to comply with all rules and regulations for the 220 Garage then in effect.

3. **Trash Facilities**. Prior to the commencement of construction on the IFA Parcel, 500 may maintain its trash dumpster in its existing location behind the firehouse on the IFA Parcel. During the construction of the improvements on the IFA Parcel, IFA shall make an alternate location for the dumpster available to 212-23, which location may change from time to time upon written notice from IFA to 500. In the event that 220 completes construction of the 220 Building and conveys the Parking Spaces to 500, 500 may locate one trash dumpster and related facilities (collectively, the "**Trash Facilities**") enclosed and operated pursuant to the Chicago Municipal Code and all other legal requirements, to hold garbage pending daily pick-up by 500's scavenger, within one of the Parking Spaces in a location to be agreed on by the Owners, but shall not have the right to locate any Trash Facilities on the 220 Parcel or, except as

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expressly provided above, the IFA Parcel. 500 shall be responsible for any costs of moving the dumpster and Trash Facilities between the locations permitted by this Declaration.

In the event that construction of the 220 Building has not commenced by March 31, 2016, Paragraphs 2 and 3 shall be of no force and effect.

4. **Parking Spaces Easement.** Concurrently with the conveyance of the Parking Spaces to 500, 500 shall grant 220 an easement over, across, and through the Parking Spaces for the maintenance and repair of the 220 Building (the "**Parking Spaces Easement**"). Without limitation, the Parking Spaces Easement shall expressly permit 220 to require 500 to temporarily prohibit the use of the Parking Spaces when necessary for the repair and/or maintenance of the 220 Building.

5. **Restaurant Restriction.** For so long as Gene & Georgetti's is being operated on the 500 Parcel, 220 hereby covenants and agrees not to operate a Steakhouse or an Italian restaurant in the style of Stefani's or Rosebud on the 220 Parcel (for purposes of clarification and not limitation, an Italian restaurant in the style of Piccolo Sogno and Coco Pazzo shall be permitted on the 220 Parcel). For so long as Gene & Georgetti's is being operated on the 500 Parcel, IFA hereby covenants and agrees not to operate a Steakhouse or an Italian restaurant in the style of Stefani's or Rosebud on the IFA Parcel (for purposes of clarification and not limitation, an Italian restaurant in the style of Piccolo Sogno and Coco Pazzo shall be permitted on the IFA Parcel). For the purposes of this Declaration, a "**Steakhouse**" shall be defined as a sit-down, full-service white tablecloth restaurant serving primarily a menu of high quality steaks and other prime meats of a quality comparable to the following restaurants in Chicago, Illinois as they exist as of the execution and delivery of this OEA: Gene & Georgetti's, Gibsons, Smith & Wollensky, Morton's, Del Frisco's, and Ruth's Chris.

6. **Insurance.**

(a) **Commercial Liability.** After the Parking Spaces are conveyed to 500, 500 shall provide the Owners with evidence of, and shall maintain, a Commercial General Liability Insurance policy providing coverage against claims arising out of bodily injury, death, damage to or destruction of the property of others, including loss of use thereof, and including products and completed operations in an amount not less than Two Million Dollars (\$2,000,000.00) per occurrence and Four Million Dollars (\$4,000,000.00) general aggregate, and personal and advertising injury in an amount not less than One Million Dollars (\$1,000,000.00).

(b) **Excess or Umbrella Liability.** After the Parking Spaces are conveyed to 500, 500 shall provide the Owners with evidence of, and shall maintain an Excess or Umbrella Liability on an occurrence basis in excess of the underlying insurance described in (b), which has coverages as broad as the underlying policies, with a limit of Five Million Dollars (\$5,000,000.00) or an amount which is reasonable and customary in Chicago, Illinois.

7. **Indemnity.** 500 agrees to defend, protect, indemnify and hold harmless each other Owner from and against all claims and demands, including any action or proceeding

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brought thereon, and all costs, losses, expenses and liabilities of any kind relating thereto, including reasonable attorney's fees and cost of suit, arising out of or resulting from any damage or destruction to such other Owner's Parcel arising out of the Parking Spaces and the use thereof by 500 and the invitees and licensees of 500.

8. **No Rights in Public; No Implied Easements.** Nothing contained herein shall be construed as creating any rights in the general public or as dedicating for public use any portion of the Redevelopment Parcel. No easements, except those expressly set forth herein, shall be implied by this Declaration.

9. **Term.** Except as otherwise stated herein or unless this Declaration is modified, amended, canceled or terminated by the written consent of all Owners in accordance with Section 11 below the covenants, conditions, restrictions and easements granted in this Declaration shall be permanent and perpetual. In the event that the easements, covenants, conditions and/or restrictions contained within this Declaration are terminated, each Owner hereby agrees to execute a release or termination of this Declaration upon written request of the other Owner.

10. **Notices.** All notices, demands or communications permitted or required to be given hereunder shall be in writing and sent by a nationally recognized overnight courier. Such notices shall be deemed given and received on the date of actual receipt or refusal to accept delivery. Notices shall be addressed to a party hereto, at the address shown below or to such other address within the United States as either party shall notify the other in accordance with the provisions hereof:

If to Lot 220:

220 West Illinois Member, LLC
 c/o Gerding Edlen
 1477 NW Everett Street
 Portland, Oregon 97209
 Attn: Roger Krage
 Fax Number: (503) 299 6703
 e-mail: roger.krage@gerdingedlen.com

With a copy to:
 DLA Piper LLP (US)
 203 North LaSalle Street, Suite 1900
 Chicago, Illinois 60601
 Attention: Peter Ross
 Telephone: 312/368 2178
 Facsimile: 312/630 7332

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It to IFA: Illinois Franklin Associates, LLC
 c/o Structure Management Midwest, LLC
 908 N. Halsted Street
 Chicago, Illinois 60642
 Attn: Frederick S. Latsko
 Fax Number: (312) 337-4002
 e-mail: flatsko@smm-llc.com

With a copy to:
 Warren C. Laski
 1751 West Surf Street
 Chicago, Illinois 60657
 Facsimile: (773) 868-1102

If to 500: 500 North Franklin Street, L.L.C.
 111 West Washington Street
 Suite 1920
 Chicago, Illinois 60602
 Attention: Thomas J. Murphy
 Facsimile: (312) 750-9273
 E-mail: tjm@tjmurphylaw.com

with a copy to: Law Offices of Robert A. Motel
 4433 West Touhy Avenue
 Suite 465
 Lincolnwood, Illinois 60712
 Attention: Robert A. Motel
 Facsimile: (847) 674-2590
 E-mail: ram@ramotellaw.com

11. **Amendments: Waivers.** No change or modification of this Declaration shall be valid unless the same is in writing and signed by the parties hereto and recorded with the Recorder. No purported or alleged waiver of any of the provisions of this Declaration shall be binding or effective unless in writing and signed by the party against whom it is sought to be enforced.

12. **Governing Law.** This Declaration shall be governed by the laws of the State of Illinois.

13. **Relationship of the Parties.** Nothing herein shall be construed to make the parties hereto partners or joint venturers, or to render either party liable for any of the debts or obligations of the other party.

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14. **Provisions Run with the Land.** The terms of this Declaration shall be deemed real covenants running with the land and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

15. **Estoppel Certificates.** Each Owner agrees to execute, acknowledge and deliver to the other Owner, or to any mortgagee or purchaser of such other Owner's Parcel upon not less than ten (10) days' prior written notice by the other Owner, a certificate in recordable form stating that (i) this Declaration is unmodified and in full force and effect (or if modified, that this Declaration is in full, force and effect, as modified, and identifying such modification), (ii) whether there is any existing default under this Declaration, and if so specifying such default, and (iii) the current addresses to which notices given to the Owner executing such certificate are required to be served under this Declaration.

No mortgagee shall be required to deliver an estoppel certificate unless such mortgagee becomes the owner of a Parcel, in which event, such mortgagee shall be required to deliver an estoppel certificate on and after the date it becomes the owner in accordance with the provisions of this Section 15. No certifications or statements made by an Owner in an estoppel certificate delivered pursuant to the terms hereof shall be deemed to be made by such Owner's mortgagee.

16. **Miscellaneous.**

(a) **Attorneys' Fees.** In the event a party institutes any legal action or proceeding for the enforcement of any right or obligation herein contained, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.

(b) **Severability.** If any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, such holding shall not affect the validity or enforceability of the remainder of this Declaration. In the event the validity or enforceability of any provision of this Declaration is held to be dependent upon the existence of a specific legal description, the parties agree to promptly cause such legal description to be prepared. Ownership of both Parcels by the same person or entity, at the time of this Declaration or in the future, shall not terminate this Declaration nor in any manner affect or impair the validity or enforceability of this Declaration.

17. **Ability to Sell, Mortgage and Encumber.** The Owners shall have the ability to sell, mortgage, or in any other way encumber their respective Parcels, without constraint; provided, however, that in all cases any and all such future sales, mortgages and encumbrances shall be expressly subject and subordinate to this Declaration.

[Signature Page Follows]

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IN WITNESS WHEREOF, the Owners have caused this Declaration to be signed in their names, intending to be legally bound by the terms and provisions hereof.

220 West Illinois Owner, LLC, a Delaware limited liability company


By: 220 West Illinois Member, LLC, a Delaware limited liability company
Its: Managing Member

By: Gerding Edlen Green Cities II, L.P., a Delaware limited partnership
Its: Sole Member

By: Gerding Edlen Fund Management II, LLC, a Delaware limited liability company
Its: General Partner

By: Gerding Edlen Investment Management, LLC, a Delaware limited liability company
Its: Sole Member

Property of Cook County Clerk's Office

By: 
Name: KEWY SAITO
Title: MANAGER

ILLINOIS FRANKLIN ASSOCIATES, LLC, an Illinois limited liability company

By: _____
Name: _____
Title: _____

212-232 WEST ILLINOIS STREET L.L.C., an Illinois limited liability company

By: _____
Name: _____
Title: _____

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IN WITNESS WHEREOF, the Owners have caused this Declaration to be signed in their names, intending to be legally bound by the terms and provisions hereof.

220 West Illinois Owner, LLC, a Delaware limited liability company

By: 220 West Illinois Member, LLC, a Delaware limited liability company
Its: Managing Member

By: Gerding Edlen Green Cities II, L.P., a Delaware limited partnership
Its: Sole Member

By: Gerding Edlen Fund Management II, LLC, a Delaware limited liability company
Its: General Partner

By: Gerding Edlen Investment Management, LLC, a Delaware limited liability company
Its: Sole Member

By: _____
Name: _____
Title: _____

ILLINOIS FRANKLIN ASSOCIATES, LLC, an Illinois limited liability company

By: _____
Name: _____
Title: _____

500 NORTH FRANKLIN STREET, L.L.C., an Illinois limited liability company

By: Anthony A. Durpetti
Name: Anthony A. Durpetti
Title: Member and Manager

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STATE OF Illinois)
) ss.
COUNTY OF Cook)

The foregoing instrument was acknowledged before me this 17 day of May, 2013, by Kelly Saito, manager of Gerding Edlen Investment Management, LLC, the sole member of Gerding Edlen Fund Management II, LLC, the general partner of Gerding Edlen Green Cities II, L.P., the sole member of 220 West Illinois Member, LLC, the managing member of 220 West Illinois Owner, LLC, a Delaware limited liability company.

Beth Harrington
Notary Public

My commission expires: 7/29/13



STATE OF Illinois)
) ss.
COUNTY OF Cook)

The foregoing instrument was acknowledged before me this 17 day of May, 2013, by Fred Labito, manager of Illinois Franklin Associates, LLC, an Illinois limited liability company.

Beth Harrington
Notary Public

My commission expires: 7/29/13

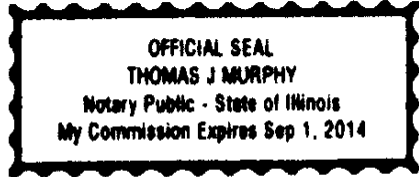


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STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

The foregoing instrument was acknowledged before me this 18th day of MAY, 2013,
by Anthony R. Durbin, MEMBER/OWNER of 500 North Franklin Street,
L.L.C., an Illinois limited liability company.

Thomas J. Murphy
Notary Public
My commission expires 9/1/14



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EXHIBIT A

220 PARCEL LEGAL DESCRIPTION

LOTS 20 (EXCEPT THE WEST 11.49 FEET THEREOF), 21, 22, 23, 24, 25 AND 26 IN BLOCK 12 IN NEWBERRY'S ADDITION TO CHICAGO IN THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

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212-226 W. Illinois Street
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EXHIBIT B

IFA PARCEL LEGAL DESCRIPTION

LOTS 18, 19 AND THE WEST 11.49 FEET OF LOT 20 IN BLOCK 12 IN NEWBERRY'S ADDITION TO CHICAGO IN THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

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EXHIBIT C

500 PARCEL LEGAL DESCRIPTION

THE SOUTH 40 FEET OF LOTS 25 AND 26 IN BLOCK 5 IN BUTLER, WRIGHT AND WEBSTER'S ADDITION IN SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

AND

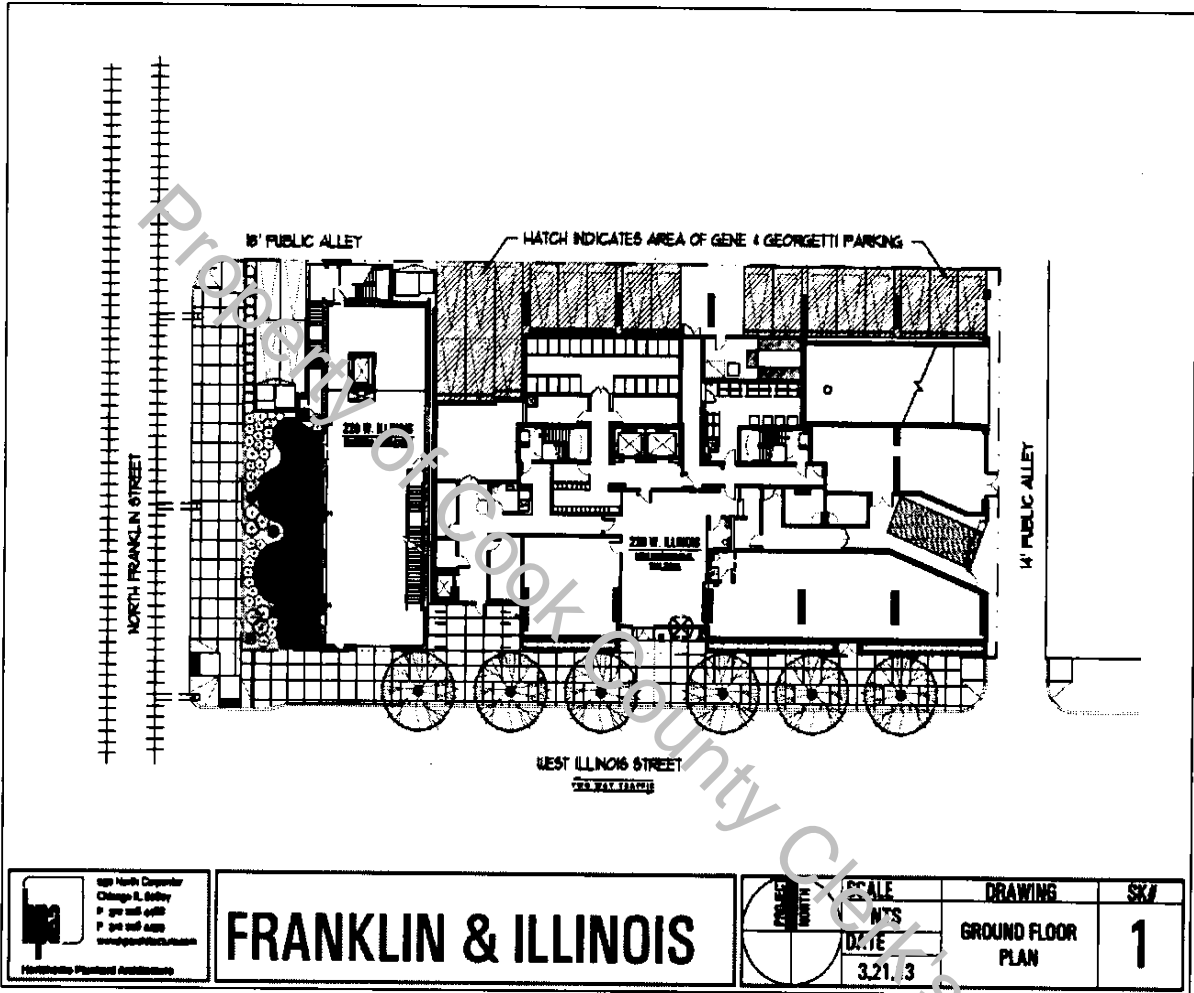
THE NORTH 10.00 FEET OF THE SOUTH 57.81 FEET OF LOT 26; ALSO, THE EAST 13.555 FEET OF THE NORTH 10.00 FEET OF THE SOUTH 57.81 OF LOT 25; ALSO, THAT PART OF LOTS 25 AND 26 LYING SOUTH 47.81 FEET OF SAID LOTS AND LYING NORTH OF THE SOUTH LINE OF THE NORTH 60.00 FEET OF SAID LOTS; ALSO, THE EAST 18.39 FEET OF THE SOUTH 47.81 FEET OF LOT 24, ALL IN BLOCK 5 IN BUTLER, WRIGHT AND WEBSTER'S ADDITION TO CHICAGO IN SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.


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500 N Franklin
Cly JH*

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EXHIBIT D

SITE PLAN




 831 North Dearborn
 Chicago, IL 60610
 P: 312.467.4400
 F: 312.467.4401
 www.parklandarchitecture.com
 Parkland Architecture

FRANKLIN & ILLINOIS

	SCALE	DRAWING	SK#
	1" = 10'-0"	GROUND FLOOR PLAN	1
	DATE		
	3.21.13		