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Doc# 2327734018 Fee \$88.00

RHSP FEE:\$18.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 10/04/2023 09:54 AM PG: 1 OF 14

Property of Cook County Clerk's Office

5 of 8

CCH12206115LD P6

This document was prepared by and after recording return to:

Adam R. Walker, Esq.  
City of Chicago Law Department  
Finance and Economic Development Division  
121 North LaSalle Street, Room 600  
Chicago, IL 60602

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## ASSIGNMENT AND ASSUMPTION OF PULASKI PROMENADE REDEVELOPMENT AGREEMENT

This Assignment and Assumption of Pulaski Promenade Redevelopment Agreement (the "**Agreement**") is made and entered into as of the [ 29 ] day of [ Sept. ], 2023 (the "**Effective Date**"), by and among **PULASKI PROMENADE LLC**, a Delaware limited liability company (the "**Assignor**"), and **RICH LAWDALE, LLC**, a California limited liability company, and **15501 GARDENA, LLC**, a California limited liability company (collectively, the "**Assignee**"), and consented to by the **CITY OF CHICAGO**, an Illinois municipal corporation, acting by and through its Department of Planning and Development ("**DPD**"), formerly known as the Department of Community Development (the "**City**").

### RECITALS

- A. Assignor and the City entered into a Pulaski Promenade Redevelopment Agreement dated as of September 10, 2014, and recorded with the Office of the Recorder of Deeds in Cook County, Illinois, whose functions are now performed by the Cook County Clerk's Recordings Division (the "**Recorder's Office**"), on September 10, 2014, as Document No. 1425322086 (the "**RDA**"), pursuant to which the City provided financing to assist Assignor in completing the Project (as defined in the RDA), which is located on the property described in Exhibit A attached hereto (the "**Property**").

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- B. Assignor and Rich Development Enterprises, LLC, a California limited liability company (the "**Interim Assignor**"), entered into that certain Contract of Sale dated February 24, 2023, as amended by that certain Reinstatement and First Amendment to Contract of Sale dated August 14, 2023 (as amended, supplemented or modified, the "**Purchase Contract**"). Assignor and Interim Assignor have assigned the Purchase Contract to Assignee, under which Assignor and Interim Assignor agree to sell, assign, and transfer all of their right, title and interest in and to the Project and Property to Assignee as of the Effective Date, and Assignee agrees to acquire the same from Assignor and Interim Assignor (the "**Purchase and Sale**").
- C. Pursuant to Section 18.15 of the RDA, Assignor may not sell, assign or otherwise transfer their interest in the RDA to Assignee without the City's written consent.
- D. Pursuant to the Purchase Contract, Assignor intends to sell, assign, and transfer to Assignee all of its rights, obligations, and duties under the RDA related to the Project, and Assignee has read and understands the RDA and desires to assume all of Assignor's rights, obligations and duties under the RDA upon the Effective Date.
- E. The Assignee is funding the Purchase and Sale of the Project and Property with (i) owner equity, and (ii) a loan from United of Omaha Life Insurance Company ("**Lender**") pursuant to a certain Mortgage, Security Agreement, and Financing Statement dated as of the date hereof with the Lender, pursuant to which the Lender has agreed to make a loan to the Assignee in an amount not to exceed \$11,800,000 (the "**Loan**"), which Loan is evidenced by a Promissory Note executed by the Assignee in favor of the Lender.
- F. It is a condition of the City's consent to the Purchase and Sale that the Assignor and Interim Assignor assign, and that the Assignee assumes, the Assignor's obligations under the RDA.
- G. The Assignee desires to (i) consummate the Purchase and Sale and (ii) assume the RDA.

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:

## ARTICLE I. CONSENT; COVENANTS

- A. The foregoing recitals are hereby incorporated into this Agreement by reference and made a contractual part hereof.
- B. In accordance with Section 18.15 of the RDA and pursuant to the powers granted to the City under the RDA, the City hereby grants its consent to the Purchase and Sale pursuant to the Purchase Contract and subject to the covenants and agreements in this Agreement. In accordance with Section 16 of the RDA, the City hereby grants its consent to the Loan and agrees that the mortgage and other recorded documents associated with the Loan shall be treated as a Permitted Mortgage, as that term is defined in the RDA. Furthermore, the City hereby consents to the Assignee's collateral assignment of the RDA, as affected by this Agreement, and its rights thereunder to Lender for the purpose of securing the Loan.

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- C. Pursuant to Section 18.15 of the RDA, as a permitted assignee of Assignor, the Assignee hereby agrees that, upon the Effective Date, the Assignee will assume and agree to abide by all remaining executory terms and conditions of the RDA and all duties, obligations, representations, warranties, covenants and/or interest of Assignor under the RDA for the term of the RDA.
- D. Pursuant to Section 8.21 of the RDA, Assignor hereby agrees to submit to DPD, not later than February 1, 2024, an Annual Compliance Report (as defined in the RDA) for calendar year 2023, and Assignee agrees to cooperate with the Assignor as necessary for this purpose.

## ARTICLE II. CLOSING CONDITIONS

This Agreement is subject to the covenants and agreements contained herein and the satisfaction of the following conditions and deliveries to the City on or before the Effective Date (collectively, the "**Closing Conditions**"):

- A. Agreement. The execution of this Agreement by all parties and the recording of this Agreement;
- B. Title.
1. The Assignee has furnished the City with a copy of the final marked-up pro forma owner's title policy for the Property, certified by the Chicago Title Insurance Company (the "**Title Company**"), showing the Assignee as the named insured, containing only those title exceptions listed as Permitted Liens on **Exhibit B** hereto (the "**Permitted Liens**"), and showing the recording of this Agreement. The Assignee affirms that the mortgage and other recorded documents associated with the Loan and this Agreement, shall all remain junior to the lien of the RDA. The final owner's title policy shall be dated as of the date of the recording of the deed conveying title to Assignee. The final owner's title policy must also contain such endorsements as shall be required by Corporation Counsel, including but not limited to a owner's comprehensive endorsement and satisfactory endorsements regarding zoning (3.1 with parking), contiguity (if applicable), location, access and survey (the "**Title Policy**"). The Assignee shall provide a copy of the Title Policy to the City promptly after the same is received by Assignee from the Title Company, which delivery shall occur after the Effective Date hereof.
  2. The Assignee or Assignor has provided to DPD, on or prior to the Effective Date, a copy of the signed special warranty deed conveying title of the Property to Assignee in relation to the Purchase and Sale.
- C. Other Documents. The Assignee has delivered the following documents accompanied by a certificate of the secretary or authorized officer of each entity certifying them as true, correct and complete copies that have not been amended or modified: (i) Articles of Incorporation, (ii) evidence of Admission to Transact Business in the State of Illinois; (iii) Illinois and California good standing certificates; (iv) written consent or resolutions authorizing the execution of this Agreement; (iv) evidence of incumbency; and (v) operating agreement. On or prior to the Effective Date, Assignee has delivered to DPD or the City, an Economic Disclosure Statement(s), in the City's then current form.

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## ARTICLE III. COVENANTS, REPRESENTATIONS AND WARRANTIES OF THE ASSIGNOR AND ASSIGNEE

A. The Assignor and Assignee each covenant, represent and warrant that:

- (a) each party has the right, power and authority to enter into, execute, deliver and perform this Agreement. The execution, delivery and performance by such party of this Agreement have been duly authorized by all necessary action, and do not and will not violate its Articles of Organization, Articles of Incorporation, Certificate of Formation, Operating Agreement or Bylaws, as applicable, any applicable provision of law, or constitute a breach of, default under or require the consent under any agreement, instrument or document to which such party is now a party or by which such party is now or may become bound;
- (b) such party is not in default with respect to any provision of the RDA, the agreements evidencing the Purchase and Sale, or any related agreements, as applicable.

## ARTICLE IV. MISCELLANEOUS

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

B. No Effect on Recording Priority of RDA. The parties agree that entering into this Agreement shall have no effect on the recording priority of the RDA and that this Agreement shall relate back to the date that the RDA was originally recorded with the Recorder's Office.

C. No Change in Defined Terms. Capitalized terms not otherwise defined in this Agreement shall have the meanings given them in the RDA.

D. Other Terms in the RDA Remain; Conflict.

(a) The parties acknowledge that no Note (as such term is defined in the RDA) is being assigned to Assignee under this Agreement.

(b) Except as explicitly provided in this Agreement, all other provisions and terms of the RDA shall remain unchanged.

(c) In the event of a conflict between any provisions of this Agreement and the provisions of the RDA, the provisions of this Agreement shall control. Other than as specifically modified hereby, the terms and conditions of the RDA shall remain in effect with respect to the parties thereto.

E. Representations and Warranties of Assignor. Assignor hereby assigns and conveys to Assignee all right, title, and interest of Assignor in, to and under the RDA. Assignee hereby acknowledges and accepts the transfer and assignment from Assignor of the RDA and assumes all of the obligations of Assignor under the RDA to be observed, performed, or discharged on, or relating

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to, or accruing with respect to the period from and after the Effective Date, each of which Assignee agrees to perform and observe. Assignor acknowledges and agrees that, notwithstanding any other terms or provisions of this Agreement to the contrary, Assignor shall remain liable for all of the obligations of Assignor under the RDA to be observed, performed, or discharged on, or relating to, or accruing with respect to the period before the Effective Date, each of which Assignor agrees to perform and observe.

F. 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.

G. Recording and Filing. Assignee shall cause this Agreement to be recorded and filed on the date hereof against the Property legally described in **Exhibit A** hereto with the Recorder's Office. Assignee shall pay all fees and charges incurred in connection with any such recording. Upon recording, Assignee shall immediately transmit to the City an executed original of this Agreement showing the date and recording number of record.

H. 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.

I. 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.

J. 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.

K. Binding Effect. This Agreement shall be binding upon Assignee and the City and their respective successors and permitted assigns (as provided herein) and shall inure to the benefit of Assignee and the City and their respective successors and permitted assigns (as provided herein).

L. 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 of any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a Business Relationship. Violation of Section 2-156-030(b) by any elected official, or any person acting at the direction of such official, with respect to the RDA or this Agreement or in connection with the transactions contemplated hereby and thereby, shall be grounds for termination of the RDA or this Agreement and the transactions contemplated hereby and thereby. Assignee hereby represents and warrants that, to the best of its knowledge after due inquiry, no violation of Section 2-156-030(b) has occurred with respect to this Agreement or the transactions contemplated thereby.

M. 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.

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N. Notices. Any notice, demand, request or other communication that any party may desire or may be required to give to any other party under this Assignment and Assumption 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 United States mail, postage prepaid, return receipt requested.

a. If to the Assignor: Pulaski Promenade LLC  
c/o Pine Tree  
814 Commerce Drive, Suite 300  
Oak Brook, Illinois 60523  
Attn: Peter Foran  
Email: pforan@pinetree.com

With a copy to Winston & Strawn LLP  
35 W Wacker Drive  
Chicago, Illinois 60601  
Attn: Daniel Murow, Esq.  
Email: dmurow@winston.com

b. If to the Assignee: c/o Rich Development Enterprises, LLC  
1000 N Western Ave. Suite 200  
San Pedro, California 90732  
Attn: Joseph Rich  
Email: joe@richdevelopment.com

With a copy to Corfield Feld LLP  
30320 Rancho Viejo Road, Suite 101  
San Juan Capistrano, California 92675  
Attn: Richard Feld, Esq.  
Email: rfeld@corfieldclaw.com

c. If to City: City of Chicago, Illinois  
c/o Department of Planning and Development  
121 N. LaSalle Street, 10th Floor  
Chicago, Illinois 60602  
Attn: Commissioner

With a copy to Office of the Corporation Counsel  
City Hall, Room 600  
121 North LaSalle Street  
Chicago, Illinois 60602  
Attn: Finance and Economic Development Division

O. Exhibits. All of the exhibits attached hereto are incorporated herein by reference.

P. Release. If the Purchase Contract is amended without the prior notification to the City or if the sale of the Project and Property pursuant to the Purchase Contract does not occur and the Purchase Contract is terminated, Assignor shall prepare a document to be executed by Assignor, Assignee and the City which shall nullify this Agreement and restore the RDA to the form existing prior to the date hereof as if this Agreement had never been executed. Such

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document (if necessary) shall be recorded by Assignor at Assignor's expense and Assignor shall provide the City with a copy accordingly, showing the date and recording number of record.

Q. No Release. Nothing in this Assignment and Assumption shall act as a release or waiver of any claim that may arise in connection with the Assignor's failure to have faithfully discharged all of its duties and responsibilities under the RDA prior to the date of this Agreement. However, the Assignor shall have no obligation for the performance of any rights, duties and obligations that accrue under the RDA, as amended by this Agreement, subsequent to the date of this Agreement.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

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

**ASSIGNOR:**

**PULASKI PROMENADE LLC,**  
a Delaware limited liability company

By: IRC Pulaski Promenade, L.L.C., a  
Delaware limited liability company, its manager

By: IRC Retail Centers LLC, a Delaware  
limited liability company, its manager

By: Peter Foran

Name: Peter Foran

Title: Authorized Signatory

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**NOTARY CERTIFICATION**

STATE OF Illinois )  
                                  ) )  
COUNTY OF DuPage ) )

ss

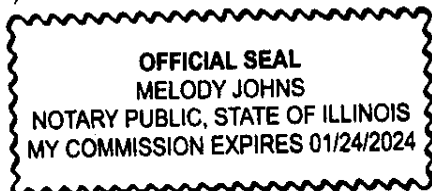
I, Melody A. Johns, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that **Peter Foran**, personally known to me to be an Authorized Signatory of **IRC Retail Centers, LLC**, a Delaware limited liability company, which is the manager of IRC Pulaski Promenade, L.L.C., the manager of **Pulaski Promenade LLC**, a Delaware limited liability company (the "**Assignor**"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument, pursuant to the authority given to him/her by the Assignor, as his/her free and voluntary act and as the free and voluntary act of the Assignor, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 25<sup>th</sup> day of September 2023.

Melody A. Johns  
Notary Public

My Commission Expires 1/24/2024

(SEAL)





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**ASSIGNEE:**

**RICH LAWDALE, LLC**, a California limited liability company

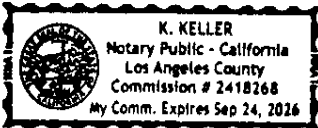
By: \_\_\_\_\_  
Name: Joseph Rich  
Title: Manager

**NOTARY CERTIFICATION**

STATE OF California )  
  )  
COUNTY OF Los Angeles )

I, K. Keller, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that **Joseph Rich**, personally known to me to be the Manager of **RICH LAWDALE, LLC**, a California limited liability company (the "Assignee"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument, pursuant to the authority given to him/her by the Assignee, as his/her free and voluntary act and as the free and voluntary act of the Assignee, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 25 day of Sept, 2023.



K. Keller  
Notary Public

My Commission Expires 9-24-2026

(SEAL)

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**ASSIGNEE:**

**15501 GARDENA, LLC**, a California limited liability company

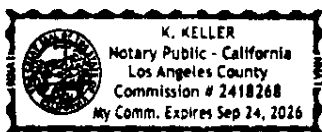
By: \_\_\_\_\_  
Name: Joseph Rich  
Title: Manager

**NOTARY CERTIFICATION**

STATE OF California )  
  ) ss  
COUNTY OF Los Angeles )

I, R. Keller, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that **Joseph Rich**, personally known to me to be the Manager of **15501 GARDENA, LLC**, a California limited liability company (the "**Assignee**"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument, pursuant to the authority given to him/her by the Assignee, as his/her free and voluntary act and as the free and voluntary act of the Assignee, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 25 day of Sept., 2023.



R. Keller  
Notary Public

My Commission Expires 9-24-2026

(SEAL)

# UNOFFICIAL COPY

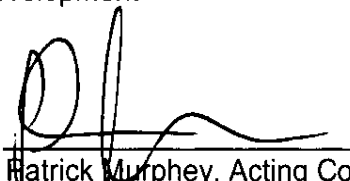
CONSENTED TO:

CITY:

**CITY OF CHICAGO,**  
acting by and through its Department of Planning  
and Development

By:

Name: Patrick Murphey, Acting Commissioner



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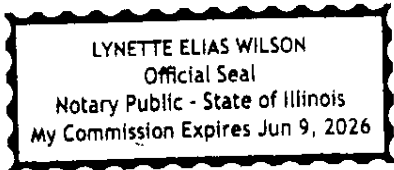
### NOTARY CERTIFICATION

STATE OF ILLINOIS        )  
  ) SS  
COUNTY OF COOK        )

I, the undersigned, a notary public in and for the County and State aforesaid, do hereby certify that Patrick Murphey, personally known to me to be the Acting Commissioner of the **DEPARTMENT OF PLANNING AND DEVELOPMENT OF THE CITY OF CHICAGO**, Illinois (the "**City**") and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such Acting Commissioner, he signed and delivered the said instrument pursuant to authority, as his free and voluntary act, and as the free and voluntary act and deed of said City, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 27 day of September 2023.

Lynette Elias Wilson  
Notary Public



(SEAL)

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## EXHIBIT A

### Legal Description

(attached)

PROPERTY OF COOK COUNTY CLERK'S OFFICE

COOK COUNTY CLERK OFFICE  
RECORDING DIVISION  
118 N. CLARK ST. ROOM 120  
CHICAGO, IL 60602-1387

RECORDING DIVISION  
118 N. CLARK ST. ROOM 120  
CHICAGO, IL 60602-1387

COOK COUNTY CLERK OFFICE  
RECORDING DIVISION  
118 N. CLARK ST. ROOM 120  
CHICAGO, IL 60602-1387

RECORDING DIVISION  
118 N. CLARK ST. ROOM 120  
CHICAGO, IL 60602-1387

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PARCEL 1:

LOTS 1 AND 3 IN PULASKI PROMENADE SUBDIVISION, BEING A SUBDIVISION OF THAT PART OF THE NORTHEAST QUARTER OF SECTION 3, LYING SOUTH OF THE ILLINOIS AND MICHIGAN CANAL RESERVE, IN TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 14, 2019 AS DOCUMENT 1916516052, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

NON-EXCLUSIVE EASEMENTS FOR THE BENEFIT OF PARCEL 1 DATED SEPTEMBER 10, 2019 AND RECORDED SEPTEMBER 12, 2019 AS DOCUMENT NUMBER 1925534066 CREATED BY THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RECIPROCAL RIGHTS MADE BY PULASKI PROMENADE, LLC FOR THE PURPOSE OF ACCESS, INGRESS AND EGRESS.

PARCEL 3:

NON-EXCLUSIVE EASEMENTS FOR THE BENEFIT OF PARCEL 1 AS GRANTED BY THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RECIPROCAL RIGHTS RECORDED FEBRUARY 10, 2022 AS DOCUMENT NUMBER 2204112280 FOR THE PURPOSE OF (i) REASONABLE ACCESS, INGRESS AND EGRESS OVER ALL PAVED DRIVEWAYS, ROADWAYS AND WALKWAYS AND (ii) INSTALLING, MAINTAINING, REPAIRING AND REPLACING WATER MAINS, STORM DRAINS, SEWERS, WATER SPRINKLER SYSTEMS LINES, TELEPHONE OR ELECTRICAL CONDUITS OR SYSTEMS, CABLE, GAS MAINS, OTHER UTILITY FACILITIES AND SIGNAGE.

Address: 4110 ; 4150 South Pulaski Road, Chicago, IL 60632

Pins: 19-03-201-059

19-03-201-061

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## EXHIBIT B

### Permitted Liens

Those matters set forth as Schedule B title exceptions in the Title Policy, but only so long as applicable title endorsements issued in conjunction therewith on the date hereof, if any, continue to remain in full force and effect.

Property of Cook County Clerk's Office

PROPERTY DIVISION  
118 N. CLARK ST. ROOM 120  
CHICAGO, IL 60602-1387

PROPERTY DIVISION  
118 N. CLARK ST. ROOM 120  
CHICAGO, IL 60602-1387