26152.12132

This document was prepared by and following recording return to:

D. Scott Hargadon Bryan Cave LLP 161 N. Clark Street, Suite 4300 Chicago, IL 60601

1000 M

Doc#: 0615210130 Fee: \$38.50 Eugene "Gene" Moore RHSP Fee:\$10.00 Cook County Recorder of Deeds Date: 06/01/2006 01:42 PM Pg: 1 of 8

Space above reserved for use by Recorder of Deeds

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT ("Agreement") is made and entered into effective as of the day of November, 2005, by and itetween Arboretum of South Barrington, LLC, a Delaware limited liability corporation ("Arthretum") and the South Barrington Park District, a municipal corporation (the "District").

<u>RECITALS</u>

- A. Arboretum purchased certain real property from the Village of South Barrington, Illinois, pursuant to a Real Estate Purchase and Sale Agreement dated June 30, 2005 (the "PSA"), which property is legally described on Exhibit A attached herete and incorporated herein (the "Detention Parcel").
- B. Arboretum desires to construct certain storm water improvements on the Detention Parcel.
- C. Arboretum desires to perform certain grading of the Easement Azer (c'efined below) which will allow the stormwater improvements to have increased capacity to receive sommwater from the property owned by the District (which property is legally described on Exhibit B attached hereto and incorporated herein (the "District Property")). Such increased capacity will allow the District Property to be developed up to an impervious surface coverage ratio at sixty-five percent (65%), as opposed to thirty percent (30%) without the grant of the Easement (defined below) pursuant to this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the parties agree as follows:

0615210130 Page: 2 of 8

UNOFFICIAL COPY

AGREEMENTS

Grant of Easement. The District does hereby grant to Arboretum, a perpetual, nonexclusive easement (the "Easement") to enter upon and occupy with workmen and equipment reasonably necessary for the purpose of making cuts, fills, and grading over a strip of land fifty (50) feet in width along the southeast and east property lines of the District Property (the "Easement Area"). A plat of the Easement Area is attached hereto as Exhibit C. Grading shall conform to the grades approved by the Village of South Barrington, in "THE ARBORETUM OF SOUTH BARRINGTON-POND RELOCATION PLANS" prepared by Haeger Engineering, LLC dated 06/20/05, with latest revision date of 08-02-05. Arboretum agrees to construct the Easement Area to the are roved grade and to plant plantings on the disturbed areas in accordance with the approved landscaping plans within 30 days of conclusion of construction activities on the Detention Parcel or as soon thereafter as is practicable taking into account weather conditions, applicable ordinances and the recommendations of the District's landscaping consultant. Arboretum agrees to maintain the grading and plantings of the Easement Area; provided, however, that in the event that the District or its successors or assign's changes the grading or otherwise improves the Easement Area, Arboretum's maintenance obligations shall immediately terminate with respect to the portion of the Easement Area so altered or increoved.

Arboretum agrees to provide and maintain storm water storage capacity on the Detention Parcel at its cost, in a quantity sufficient to allow the District to develop the District property to the 65% impervious surface coverage ratio.

- 2. <u>Default</u>. If a party to this Agreement alleges that the other party is in breach hereof, the party alleging breach shall give written notice to the other party, such notice specifying the nature of the alleged breach. Unless otherwise set forth herein, and except in the case of an emergency where persons or property are in immediate peril, the party in breach shall have ninety (90) days after receipt of the notice to effect a cure; in an entergency, all reasonable steps to cure shall be taken immediately.
- 3. Reservation of Rights. The District reserves and retains all uses, rights and privileges as may be exercised and enjoyed without interference with the Easement granted herein.
- 4. <u>Successors</u>. The Easement shall run with the land and shall bind. Lurden and benefit the parties hereto and their respective successors and assigns.
- 5. Notice. In the event that any notice or consent is required hereunder, it e same shall be in writing and sent, postage prepaid, certified mail, return receipt requested, addressed is set forth below:

If to the District:

South Barrington Park District

Three Tennis Club Lane South Barrington, IL 60010 Attention: SBPD President

With a copy to:

Karen A. Lamont

1824 W. Stewart Avenue Park Ridge, IL 60068 0615210130 Page: 3 of 8

UNOFFICIAL COPY

If to Arboretum:

Arboretum of South Barrington, LLC

c/o WSB Development Partners LLC

5301 Virginia Way, Suite 155

Brentwood, TN 37027

With a Copy to:

D. Scott Hargadon

Bryan Cave LLP

161 North Clark Street, Suite 4800

Chicago, Illinois 60601

- 6. <u>Choice of Law</u>. This Agreement shall be construed and governed according to the laws of the State of Illinois.
- 7. Entire Agreement. This Agreement constitutes the entire agreement of the parties and may not be modified except by express written amendment by the parties hereto.
- 8. Attorneys, Free, Costs. In the event suit is brought to enforce the provisions of this Agreement, the prevailing party shall be entitled to recover all of its reasonable costs and expenses incurred in connection therewith, including but not limited to its court costs, reasonable attorneys fees, and survey or engineering reports.
- 9. Recording. This Agreement may be recorded in the office of the Cook County Recorder of Deeds, by either party hereto.

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

ARBORETUM:

ARBORETUM OF SOUTH BARRINGTON, LLC, a Delaware limited liability corporation

By:

RREEF AMERICA, L.L.C., an Illinois limited liability company

Its: Authorized Agent

By: Mame: Michael J. Dunigar,
Title: Director

VILLAGE:

SOUTH BARRING TON PARK DISTRICT, a municipal corporation

Name: PATRICIA M PK

3

STATE OF ILLINOIS))SS
COUNTY OF COOK)
I, the undersigned, a Novary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that ATRICIAM PRO personally known to be to be the PRESIDENT of the SOUTH BARRINGTON TARK DISTRICT, and personally known to me to be the same person whose name is subscribed to the foregoing instrument as such PRESIDENT of the SOUTH BARRINGTON PARK DISTRICT, and that SIME appeared before me this day in person and acknowledged that as such RESIDENT for the SOUTH BARRINGTON PARK DISTRICT AS HERE and voluntary given by the SOUTH BARRINGTON PARK DISTRICT as HERE free and voluntary act, and as the free and voluntary act and deed of said municipality, for the uses and purposes therein set forth. GIVEN under my hand and Notary Seal this Aday of Aday of Aday of Aday of Aday.
MY COMMISSION EXPIRES 12-23-2006

0615210130 Page: 5 of 8

UNOFFICIAL COPY

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 Muchus Sciency is personally known to me to be the week of RREEF America, L.L.C., the Authorized Agent of Arboretum of South Barrington, LLC and personally known by me to be the same person whose name is subscribed to the foregoing instrument as such of RREEF America, L.L.C., the Authorized Agent of Arboretum of South Barrington, LLC, and that Authorized Agent of Arboretum of South Barrington, LLC and the Authorized Agent of Arboretum of South Barrington, LLC signed and delivered the said instrument, pursuant to the authority given by RREEF America, L.L.C., the Authorized Agent of Arboretum of South Barrington, LLC and personally known by me to be and as the free and voluntary act and deed of said limited liability company, for the uses and purposes therein set forth. Given under my hand and official seal, this 17th day of 1200 16. Commission expires 2007.
My Commission Expires 02/21/07

EXHIBIT A

DETENTION PARCEL

THAT PART OF THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 42 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 33; THENCE NORTH 00 DEGREES 04 MINUTES 45 SECONDS WEST ALONG THE EAST LINE OF SAID NORTHEAST QUARTER, 160.00 FEET TO A POINT ON A LINE THAT IS 160.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID NORTHEAST QUARTER, SAID POINT BEING ALSO THE POINT OF BEGINNING; THENCE NORTH 89 DEGREES 58 MINUTES 22 SECONDS WEST ALONG SAID PARALLEL LINE, 762.68 FEET; THENCE NORTH 00 DEGREES 02 MINUTES 39 SECONDS WEST, 557 1/3 FEET; THENCE NORTH 65 DEGREES 47 MINUTES 33 SECONDS WEST, 381.45 I/E IT; THENCE NORTH 51 DEGREES 22 MINUTES 16 SECONDS WEST, 26.87 FEET; THENCE NORTH 38 DEGREES 37 MINUTES 44 SECONDS EAST, 83.15 FEET TO THE WEST LINE OF THE EAST 16.35 CHAINS OF SAID NORTHEAST QUARTER OF SECITON 33; THENCE NORTH 00 DEGREES 04 MINUTES 45 SECONDS WEST ALONG SAID WEST LINE, 476.54 FEET; THENCE NORTH 89 DEGREES 40 MINUTES 35 SECONDS LAST, 455.10 FEET; THENCE SOUTH 00 DEGREES 04 MINUTES 45 SECONDS EAST FARALLEL WITH THE EAST LINE OF SAID NORTHEAST QUARTER, 422.20 FEET; THE ICE SOUTH 45 DEGREES 12 MINUTES 05 SECONDS EAST, 141.12 FEET; THENCE NORTH 39 DEGREES 40 MINUTES 35 SECONDS EAST, 524.01 FEET TO THE EAST LINE OF SAID NORTHEAST QUARTER; THENCE SOUTH 00 DEGREES 04 MINUTES 45 SECONDS EAST ALONG SAID EAST DDK 10/45 OFFICE LINE, 756.39 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

EXHIBIT B

DISTRICT PROPERTY

THAT PART OF THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 42 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 33; THENCE NORTH 00°04' 45" WEST ALONG THE EAST LINE OF THE SAID NORTHEAST QUARTER, A DISTANCE OF 160.00 FEET TO A POINT ON A LINE 160.00 FLET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SAID NORTHEAST QUARTER, THENCE NORTH 89°58' 22" WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 762.78 FEET; THENCE NORTH 00° 02' 39" WEST, A DISTANCE OF 557.45 FEET; THENCE NORTH 65°47' 33" WEST, A DISTANCE OF 381.45 FEET: THENCE NORTH 51°22" 16" WEST, A DISTANCE OF 26.87 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 51°22" 16" WEST, A DISTANCE OF 761.28 FEET TO A POINT ON A NON-TANGENT CURVE; THENCE NORTHERLY ALONG A CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 787.00 FEET AND A CHORD BEARING OF NORTH 11°22' 09" EAST, AN ARC LENGTH OF 269.11 FEET TO A POINT OF REVERSE CURVATURE; THENCE NORTHEASTERLY ALONG A CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 450,00 FEET, AN ARC LENGTH OF 595.26 FEET TO A POINT OF TANGENCY; THENCE NORTH 77°21' 49" EAST, A DISTANCE OF 193.37 I EE I TO A POINT OF CURVATURE; THENCE EASTERLY ALONG A CURVE CONCAVE NOT THWESTERLY AND HAVING A RADIUS OF 342.00 FEET, AN ARC LENGTH OF 54.67 FLFT TO A POINT ON THE WEST LINE OF THE EAST 16.35 CHAINS OF SAID NORTHEAST QUARTER; THENCE SOUTH 00°04'45" EAST ALONG THE WEST LINE OF THE FAST 16.35 CHAINS OF SAID NORTHEAST QUARTER, A DISTANCE OF 1158.05 FEET: THENCE SOUTH 38°37' 44" WEST, A DISTANCE OF 83.15 FEET TO THE POINT OF BECTINING; CONTAINING 12.513 ACRES OF LAND, MORE OR LESS, ALL IN COOK COUNTY, ILLINOIS. SOME CO

