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Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
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This document was drafted by and
after recording return to
D. Scott Hargadon
Bryan Cave LLP
161 North Clark Street
Suite 4300
Chicago, Illinois 60601

Recorder Box

FIRST AMENDMENT TO TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

This First Amendment to Temporary Construction Easement (this "Amendment") is made this 14th day of December, 2007 by and between the South Barrington Park District, an Illinois municipal corporation (the "District"), and Arboretum of South Barrington L.L.C., a Delaware limited liability company ("Developer").

RECITALS

- A. District and Developer entered into a Temporary Construction Easement Agreement on the 13th of December, 2006 recorded by the Cook County Recorder of Deeds as Document No. 0711516062 on April 25, 2007 (the "Agreement") with respect to the real estate legally described on the attached Exhibit A.
- B. Pursuant to Paragraph 3 of the Agreement, Developer was to regrade and seed the areas shown on Exhibit C to the Agreement as PD-1 (the "Regrading Work").
- C. Pursuant to Paragraph 8 of the Agreement, the District took security for Developer's performance of the Regrading Work (the "Security Interest").
- D. Developer has completed all work required by Paragraph 3 of the Agreement, and the District desires to release the Security Interest related to the completion of such work.
- E. Pursuant to Paragraph 5 of the Agreement, Developer was to complete the proposed landscaping in the area designated on Exhibit C to the Agreement as PD-5 in accordance with the plantings shown on Exhibit E of the Agreement by November 1, 2007 (the "Landscaping").
- F. Developer used its best efforts to complete the Landscaping but was unable to do so by November 1, 2007.

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G. The District is willing to grant the Developer an extension for the performance of the Landscaping to be performed by Developer.

NOW, THEREFORE, for and in consideration of the Recitals, which by this reference are incorporated herein, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

1. Landscaping Extension. The District hereby grants to Developer until November 30, 2008 to complete the Landscaping required by Paragraph 5 of the Agreement.

2. Completion of Work. The District hereby acknowledges that the Regrading Work described in Section 3 of the Agreement has been completed and Developer is under no further obligation to the District for maintenance of area PD-1.

3. Release of Security. The District hereby allows Developer to reduce its cash bond by the sum of \$75,000, due to Developer's completion of the Regrading Work of area PD-1 (the "Release"). In connection with this Release, the District hereby waives the notice and review periods set forth in Paragraph 8 of the Agreement, and shall refund \$75,000 in cash to the Developer within thirty (30) days of the date of this Amendment.

4. Authority. The District represents and warrants that this Agreement has been duly authorized by its Board, constitutes the lawful act of the District and is enforceable against the District in accordance with its terms. Developer represents and warrants that this Agreement, executed by Developer's manager, is binding upon Developer and enforceable against Developer in accordance with its terms.

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Dated the date first written above.

SOUTH BARRINGTON PARK DISTRICT,
an Illinois municipal corporation

By: *Patricia M. Owens*
President

Attest: *Edward W. Jacobs*
Secretary

ARBORETUM OF SOUTH BARRINGTON L.L.C.,
a Delaware limited liability company

By: RREEF America L.L.C., a Delaware
limited liability company,
Manager

By: *[Signature]*
Name: *Domenic Zanni*
Title: *Vice President*

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STATE OF ILLINOIS)

COUNTY OF COOK)

I, *Karen A. Lamont*, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Patricia M. Provost, President and Edward W. Jacobs, Secretary of the South Barrington Park District, personally known to me to be the same persons whose names are subscribed to the foregoing Temporary Construction Easement Agreement appeared before me this day in person and acknowledged that they signed and delivered the said instrument, on behalf of the Park District and as their free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and seal, this *27TH* day of *March*, 200*8*

Karen A. Lamont
Notary Public

My Commission expires: _____



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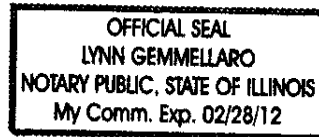
STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, Lynn Gemmellaro, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Domenic Lanni of RREEF America, LLC, manager, personally known to me to be the same person whose name is subscribed to the foregoing Temporary Construction Easement appeared before me this day in person and acknowledged that he signed and delivered the said instrument on behalf of the Arboretum of South Barrington, LLC and as his free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and seal, this 20 day of December, 2007.

Lynn Gemmellaro
Notary Public

My Commission expires: 02/28/12



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UNOFFICIAL COPY**EXHIBIT A****THE PROPERTY
LEGAL DESCRIPTION****PARCEL 1:**

THOSE PORTIONS OF THE NORTHEAST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 42 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 33; THENCE NORTH $89^{\circ} 58' 22''$ WEST ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 508.00 FEET TO A LINE 508.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID SOUTHEAST QUARTER; THENCE SOUTH $00^{\circ} 02' 15''$ WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 428.90 FEET TO A LINE 428.90 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID SOUTHEAST QUARTER; THENCE SOUTH $89^{\circ} 58' 22''$ EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 508.00 FEET TO THE EAST LINE OF SAID SOUTHEAST QUARTER; THENCE SOUTH $00^{\circ} 02' 15''$ WEST ALONG SAID EAST LINE, A DISTANCE OF 351.59 FEET TO THE NORTH LINE OF ILLINOIS ROUTE 72 AS MONUMENTED AND OCCUPIED; THENCE NORTH $69^{\circ} 18' 19''$ WEST ALONG SAID NORTH LINE, A DISTANCE OF 2766.41 FEET TO A POINT ON THE EAST LINE OF ILLINOIS ROUTE 59 ACCORDING TO THE PLAT THEREOF RECORDED AS DOCUMENT NUMBER 11194096; THENCE NORTH $00^{\circ} 11' 17''$ WEST ALONG THE EAST LINE OF SAID ILLINOIS ROUTE 59, A DISTANCE OF 1096.63 FEET TO A POINT ON A NON-TANGENT CURVE; THENCE SOUTHEASTERLY ALONG A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 50.00 FEET WITH AN ARC LENGTH OF 80.49 FEET AND A CHORD BEARING OF SOUTH $46^{\circ} 18' 23''$ EAST TO A POINT OF COMPOUND CURVATURE; THENCE EASTERLY ALONG A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 467.00 FEET AND AN ARC LENGTH OF 68.92 FEET TO A POINT OF REVERSE CURVATURE THENCE EASTERLY ALONG A CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 798.00 FEET AND AN ARC LENGTH OF 365.16 FEET TO A POINT OF REVERSE CURVATURE; THENCE EASTERLY ALONG A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 552.00 FEET AND AN ARC LENGTH OF 125.61 FEET TO A POINT OF REVERSE CURVATURE; THENCE EASTERLY ALONG A CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 198.00 FEET AND AN ARC LENGTH OF 66.38 FEET TO A POINT OF REVERSE CURVATURE; THENCE EASTERLY ALONG A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 30.00 FEET AND AN ARC LENGTH OF 35.16 FEET TO A POINT OF REVERSE CURVATURE; THENCE NORTHEASTERLY ALONG A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 196.00 FEET AND AN ARC LENGTH OF 39.98 FEET TO A POINT OF REVERSE CURVATURE; THENCE NORTHEASTERLY ALONG A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 232.00 FEET AND AN ARC LENGTH OF 125.75 FEET TO A POINT OF COMPOUND CURVATURE; THENCE NORTHEASTERLY ALONG A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 754.00 FEET WITH AN ARC LENGTH OF

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60.64 FEET AND A CHORD BEARING OF NORTH 22° 40' 42" EAST TO A POINT OF NON-TANGENCY; THENCE SOUTH 51° 22' 16" EAST, A DISTANCE OF 822.83 FEET; THENCE SOUTH 65° 47' 33" EAST, A DISTANCE OF 381.45 FEET; THENCE SOUTH 00° 02' 39" EAST, A DISTANCE OF 557.45 FEET TO A LINE 160.00 FEET NORTH OF AND PARALLEL WITH THE NORTH LINE OF SAID SOUTHEAST QUARTER; THENCE SOUTH 89° 58' 22" EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 762.78 FEET TO THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 33; THENCE SOUTH 00° 04' 45" EAST ALONG SAID EAST LINE, A DISTANCE OF 160.00 FEET TO THE POINT OF BEGINNING, CONTAINING 62.179 ACRES OF LAND MORE OR LESS, ALL IN COOK COUNTY, ILLINOIS.

PARCEL 2:

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, 557.45 FEET; THENCE NORTH 65 DEGREES 47 MINUTES 33 SECONDS WEST, 381.45 FEET; 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 SECTION 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 EAST, 455.10 FEET; THENCE SOUTH 00 DEGREES 04 MINUTES 45 SECONDS EAST PARALLEL WITH THE EAST LINE OF SAID NORTHEAST QUARTER, 422.20 FEET; THENCE SOUTH 45 DEGREES 12 MINUTES 05 SECONDS, EAST, 141.12 FEET; THENCE NORTH 89 DEGREES 40 MINUTES 35 SECONDS EAST, 524.10 FEET TO THE EAST LINE OF SAID NORTHEAST QUARTER; THENCE SOUTH 00 DEGREES 04 MINUTES 45 SECONDS EAST ALONG SAID EAST LINE, 756.39 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

THE NORTH 428.9 FEET OF THE EAST 508 FEET OF THE SOUTHEAST 1/4 OF SECTION 33, TOWNSHIP 42 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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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 $00^{\circ} 04' 45''$ WEST ALONG THE EAST LINE OF THE SAID NORTHEAST QUARTER, A DISTANCE OF 160.00 FEET TO A POINT ON THE LINE 160.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SAID NORTHEAST QUARTER; THENCE NORTH $89^{\circ} 58' 22''$ WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 762.78 FEET; THENCE NORTH $00^{\circ} 02' 39''$ WEST, A DISTANCE OF 557.45 FEET; THENCE NORTH $65^{\circ} 47' 33''$ WEST, A DISTANCE OF 381.45 FEET; THENCE NORTH $51^{\circ} 22' 16''$ WEST, A DISTANCE OF 26.87 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH $51^{\circ} 22' 16''$ 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 $11^{\circ} 22' 09''$ 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 $77^{\circ} 21' 49''$ EAST, A DISTANCE OF 193.37 FEET TO A POINT OF CURVATURE; THENCE EASTERLY ALONG A CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 342.00 FEET, AN ARC LENGTH OF 54.67 FEET TO A POINT ON THE WEST LINE OF THE EAST 16.35 CHAINS OF SAID NORTHEAST QUARTER; THENCE SOUTH $00^{\circ} 04' 45''$ EAST ALONG THE WEST LINE OF THE EAST 16.35 CHAINS OF SAID NORTHEAST QUARTER, A DISTANCE OF 1158.05 FEET; THENCE SOUTH $38^{\circ} 37' 44''$ WEST, A DISTANCE OF 83.15 FEET TO THE POINT OF BEGINNING; CONTAINING 12.513 ACRES OF LAND, MORE OR LESS, ALL IN COOK COUNTY, ILLINOIS.