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EXECUTION VERSION



Doc#: 0832622028 Fee: \$80.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 11/21/2008 10:40 AM Pg: 1 of 23

8454387 01
JFayson

This Mortgage was prepared by and when recorded should be mailed to:
William Bice, Esq.
Milbank, Tweed, Hadley & McCloy LLP
1 Chase Manhattan Plaza
New York, New York 10005

Space above this line for recorder's use

AMENDED AND RESTATED MORTGAGE, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING

KNOW ALL PERSONS BY THESE PRESENTS:

THIS AMENDED AND RESTATED MORTGAGE, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "Mortgage") is made as of November 19, 2008 by ROBBINS COMMUNITY POWER LLC, a limited liability company duly organized and validly existing under the laws of the State of Delaware and having an office at c/o Aspen-Robbins, LLC, 800 Bering Drive, Suite 250, Houston, Texas 77057 (the "Mortgagor"), in favor of CITIGROUP FINANCIAL PRODUCTS INC., a Delaware corporation, having its principal office at 390 Greenwich Street, 2d Floor, New York, New York 10013 (together with its successors in such capacity, the "Mortgagee").

WITNESSETH:

WHEREAS, the Mortgagor and the Mortgagee were previously parties to certain Note Purchase Agreements (the "Original Purchase Agreements") pursuant to which the

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Mortgagee purchased certain promissory notes (the "Original Notes") from the Mortgagor;

WHEREAS, in connection with the Original Purchase Agreements, Mortgagor executed and delivered to the Mortgagee a Mortgage, Assignment of Leases and Rents, Security Agreement and Financing Statement dated as of May 31, 2006 and recorded June 7, 2006 as Document No. 0615831056 in the office of Cook County Recorder of Deeds (as amended, the "Original Mortgage");

WHEREAS, to amend and restate certain terms of the Original Notes and the Original Purchase Agreements, the Mortgagor has entered into that certain Amended and Restated Note Purchase Agreement dated as of the date hereof with the Mortgagee (as amended, supplemented or otherwise modified and in effect from time to time, the "Note Purchase Agreement"), pursuant to which (i) the Original Notes will be amended and restated as the Amended and Restated Secured Promissory Note (as amended, supplemented or otherwise modified and in effect from time to time, the "Note") and (ii) the Mortgagor will sell the Note to the Mortgagee; and

WHEREAS, it is a condition precedent to the effectiveness of the Note and the Note Purchase Agreement that the Mortgagor execute and deliver this Mortgage;

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, and FOR THE PURPOSE OF SECURING the following (collectively, the "Obligations"):

(a) the payment and performance of every obligation, covenant or agreement of the Mortgagor contained herein and all supplements, amendments and modifications hereto and all extensions and renewals hereof;

(b) the payment and performance of every obligation, covenant and agreement of the Mortgagor contained in any of the Loan Instruments (defined below) or any agreement now or hereafter executed by the Mortgagor which recites that the obligations thereunder are secured by this Mortgage; and

(c) the performance and payment of the covenants, agreements and obligations hereinafter contained in the Note and all other monies secured hereby, including, without limitation, any and all sums expended by the Mortgagee pursuant to Section 1.10, together with interest thereon at the rate specified in the Note,

the Mortgagor hereby irrevocably grants, bargains, sells, releases, conveys, warrants, assigns, transfers, mortgages, pledges, sets over and confirms unto the Mortgagee, under

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and subject to the terms and conditions hereinafter set forth, the land and premises (collectively, the "Property") described in Schedule I;

TOGETHER WITH all interests, estates or other claims, both in law and in equity, that the Mortgagor now has or may hereafter acquire in (a) the Property, (b) all easements, rights-of-way and rights used in connection therewith or as a means of access thereto and (c) all tenements, hereditaments and appurtenances in any manner belonging, relating or appertaining thereto (all of the foregoing interests, estates and other claims being hereinafter collectively called "Easements and Rights of Way"); and

TOGETHER WITH all estate, right, title and interest of the Mortgagor, now owned or hereafter acquired, in and to any land lying within the right-of-way of any streets, open or proposed, adjoining the Property, and any and all sidewalks, alleys and strips and gores of land adjacent to or used in connection therewith (all of the foregoing estate, right, title and interest being hereinafter called "Adjacent Rights"); and

TOGETHER WITH all estate, right, title and interest of the Mortgagor, now owned or hereafter acquired, in and to any and all buildings and other improvements now or hereafter located on the Property and all building materials, building equipment and fixtures of every kind and nature located on the Property or attached to, contained in or used in any such buildings and other improvements, and all appurtenances and additions thereto and betterments, substitutions and replacements thereof (all of the foregoing estate, right, title and interest being hereinafter collectively called "Improvements"); and

TOGETHER WITH all estate, right, title and interest of the Mortgagor in and to all such tangible property now owned or hereafter acquired by the Mortgagor (including all machinery, apparatus, equipment, fittings and articles of personal property) and now or hereafter located on or at or attached to the Property such that an interest in such tangible property arises under applicable real estate law, and any and all products and accessions to any such property that may exist at any time (all of the foregoing estate, right, title and interest, and products and accessions being hereinafter called "Fixtures"); and

TOGETHER WITH all estate, right, title and interest of the Mortgagor in and to all rights, royalties and profits in connection with all minerals, oil and gas and other hydrocarbon substances on or in the Property, development rights or credits, air rights, water, water rights (whether riparian, appropriative, or otherwise and whether or not appurtenant) and water stock (all of the foregoing estate, right, title and interest being hereinafter collectively called "Mineral and Related Rights"); and

TOGETHER WITH all reversion or reversions and remainder or remainders of

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the Property and Improvements and all estate, right, title and interest of the Mortgagor in and to any and all present and future leases of space in the Property and Improvements, and all rents, revenues, proceeds, issues, profits, royalties, income and other benefits now or hereafter derived from the Property, the Improvements and the Fixtures, subject to the right, power and authority hereinafter given to the Mortgagor to collect and apply the same (all of the foregoing reversions, remainders, leases of space, rents, revenues, proceeds, issues, profits, royalties, income and other benefits being hereinafter collectively called "Rents"); and

TOGETHER WITH all estate, right, title and interest and other claim or demand that the Mortgagor now has or may hereafter acquire with respect to any damage to the Property, the Improvements or the Fixtures and any and all proceeds of insurance in effect with respect to the Improvements or the Fixtures, including, without limitation, any title insurance, and any and all awards made for the taking by eminent domain, or by any proceeding or purchase in lieu thereof, of the Property, the Improvements or the Fixtures, including without limitation any awards resulting from a change of grade of streets or as the result of any other damage to the Property, the Improvements or the Fixtures for which compensation shall be given by any governmental authority (all of the foregoing estate, right, title and interest and other claims or demand, and any such proceeds or awards being hereinafter collectively called "Damage Rights"); and

TOGETHER WITH all estate, right, title, interest and other claim of the Mortgagor with respect to any parking facilities located other than on the Property and used or intended to be used in connection with the operation, ownership or use of the Property, any and all replacements and substitutions for the same, and any other parking rights, easements, covenants and other interests in parking facilities acquired by the Mortgagor for the use of tenants or occupants of the Improvements (all of the foregoing estate, right, title, interest and other claim being hereinafter collectively called "Parking Rights"); and

TOGETHER WITH all estate, right, title and interest of the Mortgagor in respect of any and all air rights, development rights, zoning rights or other similar rights or interests that benefit or are appurtenant to the Property or the Improvements (all of the foregoing estate, right, title and interest being hereinafter collectively called "Air and Development Rights");

All of the foregoing Easements and Rights of Way, Adjacent Rights, Improvements, Fixtures, Mineral and Related Rights, Rents, Damage Rights, Parking Rights and Air and Development Rights being sometimes hereinafter referred to collectively as the "Ancillary Rights and Properties" and the Property and Ancillary Rights and Properties being sometimes hereinafter referred to collectively as the "Mortgage Estate";

TO HAVE AND TO HOLD the Mortgage Estate with all privileges and

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appurtenances thereunto belonging, to the Mortgagee and its successors and assigns, forever, upon the terms and conditions and for the uses hereinafter set forth;

PROVIDED ALWAYS, that if the principal of and interest on the Note and all of the other Obligations shall be paid in full or the Note Purchase Agreement is otherwise terminated and the Collateral thereunder released, then this Mortgage and the Lien and estate hereby granted shall cease, terminate and become void.

This Mortgage, the Note, the Note Purchase Agreement and any other instrument given to evidence or further secure the payment and performance of any Obligation are sometimes hereinafter collectively referred to as the "Loan Instruments". Capitalized terms used herein and not otherwise defined herein shall have the meaning set forth in the Note Purchase Agreement.

TO PROTECT THE SECURITY OF THIS MORTGAGE, THE MORTGAGOR HEREBY COVENANTS AND AGREES AS FOLLOWS:

ARTICLE 1

Particular Covenants and Agreements of the Mortgagor

Section 1.01. Payment of Secured Obligations. The Mortgagor shall pay when due all Obligations as provided in the Loan Instruments

Section 1.02. Title, Etc. The Mortgagor represents and warrants that it has good and marketable fee simple title in and to the Property, and the related Ancillary Rights and Properties, in each case subject to no mortgage, deed of trust, Lien, pledge, charge, security interest or other encumbrance or adverse claim of any nature, except those permitted under the Note.

The Mortgagor represents and warrants that it has the full power and lawful authority to grant, bargain, sell, release, convey, warrant, assign, transfer, mortgage, pledge, set over and confirm unto the Mortgagee the Mortgage Estate as hereinabove provided and warrants that it will forever defend the title to the Mortgage Estate and the validity and priority of the Lien, subject to Permitted Liens, or estate hereof against the claims and demands of all persons whomsoever.

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Section 1.03. Further Assurances; Filing; Re-Filing; Etc.

(a) Further Instruments. The Mortgagor shall execute, acknowledge and deliver, from time to time, such further instruments as the Mortgagee may reasonably require to accomplish the purposes of this Mortgage.

(b) Filing and Re-Filing. The Mortgagor, promptly upon the execution and delivery of this Mortgage, and thereafter from time to time, shall cause this Mortgage, any security agreement or mortgage supplemental hereto and each instrument of further assurance to be filed, registered or recorded and re-filed, re-registered or re-recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and perfect the Lien or estate of this Mortgage upon the Mortgage Estate.

(c) Fees and Expenses. The Mortgagor shall pay all filing, registration and recording fees, all re-filing, re-registration and re-recording fees, and all reasonable expenses incident to the execution, filing, recording and acknowledgment of this Mortgage, any security agreement or mortgage supplemental hereto and any instrument of further assurance, and all Federal, state, county and municipal stamp taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution, delivery, filing and recording of this Mortgage or any of the other Loan Instruments, any security agreement or mortgage supplemental hereto or any instruments of further assurance.

Section 1.04. Liens. Except as otherwise provided in the Note, but without limiting the obligations of the Mortgagor under Section 1.06 of this Mortgage, the Mortgagor shall not create or suffer to be created any mortgage, deed of trust, Lien, security interest, charge or encumbrance upon the Mortgage Estate prior to, on a parity with, or subordinate to the Lien of this Mortgage. The Mortgagor shall pay and promptly discharge at the Mortgagor's cost and expense, any such mortgages, deeds of trust, Liens, security interests, charges or encumbrances upon the Mortgage Estate or any portion thereof or interest therein.

Section 1.05. Insurance and Casualty and Condemnation Events

(a) Insurance. The Mortgagor shall purchase and maintain in full force and effect policies of insurance in such form and amounts, covering such risks, satisfying such requirements, and issued by such companies, in each case in the manner and to the extent required pursuant to the Note and shall cause each of such policies to name the Mortgagee as loss payee (to the extent covering risk of loss or damage to tangible property) and as an additional named insured as its interests may appear (to the extent covering any other risk). Each policy shall provide that it will not be canceled or reduced, or allowed to lapse without renewal,

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except after not less than 30 days' notice to the Mortgagee. The Mortgagor expressly assumes all risk of loss, including a decrease in the use, enjoyment or value of the Mortgage Estate from any fire or other casualty whatsoever, whether or not insurable or insured against. The Mortgagor will advise the Mortgagee promptly of any policy cancellation, reduction or amendment.

Nothing in this Section 1.05(a) shall be deemed to limit in any respect the obligations under the Note.

(b) Casualty and Condemnation. Should the Mortgage Estate or any part thereof be taken or damaged by reason of any fire or other casualty (collectively, a "Casualty"), or by reason of any public improvement or condemnation proceeding (collectively, a "Condemnation") or should the Mortgagor receive any notice or other information regarding any such proceeding, the Mortgagor shall give prompt notice thereof to the Mortgagee. The Mortgagor shall establish a special segregated account pledged to the Mortgagee into which all proceeds in respect of a Casualty or Condemnation shall be deposited and the Mortgagor shall use such proceeds to restore and repair the Mortgage Estate.

(c) Foreclosure, Etc. In the event of foreclosure of the Lien of this Mortgage or other transfer of title or assignment of the Mortgage Estate in extinguishment, in whole or in part, of the Obligations, all right, title and interest of the Mortgagor in and to all policies of casualty insurance covering all or any part of the Mortgage Estate shall inure to the benefit of and pass to the successors in interest to the Mortgagor or the purchaser or grantee of the Mortgage Estate or any part thereof.

(d) Special Flood Hazards. If any portion of the Property is located in an area identified by the Federal Emergency Management Agency as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968 (or any amendment or successor act thereto), then Mortgagor shall maintain, or cause to be maintained, with a financially sound and reputable insurer, flood insurance in an amount sufficient to comply with all applicable rules and regulations promulgated pursuant to such Act.

Section 1.06. Impositions.

(a) Payment of Impositions. The Mortgagor shall pay or cause to be paid, before any fine, penalty, interest or cost attaches thereto, all taxes, assessments, water and sewer rates, utility charges and all other governmental or non-governmental charges or levies now or hereafter assessed or levied against any part of the Mortgage Estate (including, without limitation, non-governmental levies or assessments such as maintenance charges, owner

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association dues or charges or fees, levies or charges resulting from covenants, conditions and restrictions affecting the Mortgage Estate) or upon the Lien or estate of the Mortgagee therein (collectively, "Impositions"), as well as all claims for labor, materials or supplies that, if unpaid, might by law become a prior Lien thereon, and within 10 days after request by the Mortgagee will exhibit receipts showing payment of any of the foregoing; provided, however, that if by law any such Imposition may be paid in installments (whether or not interest shall accrue on the unpaid balance thereof), the Mortgagor may pay the same in installments (together with accrued interest on the unpaid balance thereof) as the same respectively become due, before any fine, penalty or cost attaches thereto.

(b) Right to Contest Impositions. Notwithstanding anything contained in Section 1.06(a) to the contrary, to the extent not inconsistent with the applicable provisions of the Note, the Mortgagor at its expense may, after prior notice to the Mortgagee, contest by appropriate legal, administrative or other proceedings conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any Imposition or Lien therefor or any claims of mechanics, materialmen, suppliers or vendors or Lien thereof, and may withhold payment of the same pending such proceedings if permitted by law, so long as (i) in the case of any Impositions or Lien therefor or any claims of mechanics, materialmen, suppliers or vendors or Lien thereof, such proceedings shall suspend the collection thereof from the Mortgage Estate, (ii) neither the Mortgage Estate nor any part thereof or interest therein will be sold, forfeited or lost if the Mortgagor pays the amount or satisfies the condition being contested, and the Mortgagor would have the opportunity to do so, in the event of the Mortgagor's failure to prevail in the contest, (iii) the Mortgagee would not, by virtue of such permitted contest, be exposed to any risk of any civil liability for which the Mortgagor has not furnished additional security as provided in clause (iv) below, or to any risk of criminal liability, and neither the Mortgage Estate nor any interest therein would be subject to the imposition of any Lien for which the Mortgagor has not furnished additional security as provided in clause (iv) below, as a result of the failure to comply with such law or of such proceeding and (iv) the Mortgagor shall have furnished to the Mortgagee additional security in respect of the claim being contested or the loss or damage that may result from the Mortgagor's failure to prevail in such contest in such amount as may be reasonably requested by the Mortgagee.

Section 1.07. Maintenance of the Improvements and Fixtures. The Mortgagor shall not permit the Improvements or Fixtures to be removed or demolished (provided, however, that, the Mortgagor may remove or alter such Improvements and Fixtures that become obsolete in the usual conduct of the Mortgagor's business and the removal or alteration of which do not materially detract from the operation of the Mortgagor's business); shall maintain the Mortgage Estate in good repair, working order and condition, except for reasonable wear and use; and shall restore and repair the Improvements and Fixtures or any part thereof now or hereafter affected by any Casualty or Condemnation.

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Section 1.08. Compliance With Laws. The Mortgagor hereby confirms the representations and warranties set forth in the Note Purchase Agreement insofar as such representations and warranties apply to the Mortgage Estate.

Section 1.09. Limitations of Use. The Mortgagor shall not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restrictions limiting or defining the uses that may be made of the Property and the Improvements or any part thereof that would have a material adverse effect on the value of the Property or the Improvements. The Mortgagor shall comply in all material respects with the provisions of all leases, licenses, agreements and private covenants, conditions and restrictions that at any time are applicable to the Mortgage Estate.

Section 1.10. Actions to Protect Mortgage Estate. If the Mortgagor shall fail to (a) effect the insurance required by Section 1.05, (b) make the payments required by Section 1.06 or (c) perform or observe any of its other covenants or agreements hereunder, the Mortgagee may, without obligation to do so, and upon notice to the Mortgagor (except in an emergency) effect or pay the same. To the maximum extent permitted by law, all reasonable sums, including reasonable attorneys' fees and disbursements, so expended or expended to sustain the Lien or estate of this Mortgage or its priority, or to protect or enforce any of the rights hereunder, or to recover any of the Obligations, shall be a Lien on the Mortgage Estate, shall be deemed to be added to the Obligations secured hereby, and shall be paid by the Mortgagor within 10 days after demand therefor, together with interest thereon at the default rate specified in the Note. The Mortgagor acknowledges receipt of a notice required by Section 10 of the Collateral Protection Act (815 ILCS 180/10) regarding such placement of collateral protection insurance by the Mortgagee.

ARTICLE 2

Assignment of Rents, Issues and Profits

Section 2.01. Assignment of Rents, Issues and Profits. The Mortgagor hereby assigns and transfers to the Mortgagee, FOR THE PURPOSE OF SECURING the Obligations, all Rents, and hereby gives to and confers upon the Mortgagee the right, power and authority to collect the same. The Mortgagor irrevocably appoints the Mortgagee its true and lawful attorney-in-fact, at its option at any time and from time to time following the occurrence and during the continuance of a Default, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, in the name of the Mortgagor or otherwise, for Rents and apply the same to the Obligations as provided in paragraph (a) of Section 4.03; provided, however, that the Mortgagor shall have the right to collect Rents at any time prior to the

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occurrence of a Default (but not more than three months in advance, except in the case of security deposits).

Section 2.02. Collection Upon Default. To the extent permitted by law, upon the occurrence of any Default, the Mortgagee may, at any time without notice, either in person, by agent or by a receiver appointed by a court, and without regard to the adequacy of any security for the Obligations or the solvency of the Mortgagor, enter upon and take possession of the Property, the Improvements and the Fixtures or any part thereof, in its own name, sue for or otherwise collect Rents including those past due and unpaid, and, apply the same, less costs and expenses of operation and collection, including attorneys' fees and disbursements, to the payment of the Obligations as provided in paragraph (a) of Section 4.03, and in such order as the Mortgagee may determine. The collection of Rents or the entering upon and taking possession of the Property, the Improvements or the Fixtures or any part thereof, or the application thereof as aforesaid, shall not cure or waive any Default or notice thereof or invalidate any act done in response to such Default or pursuant to notice thereof.

ARTICLE 3

Security Agreement

Section 3.01. Creation of Security Interest. The Mortgagor hereby grants to the Mortgagee a security interest in the Fixtures for the purpose of securing the Obligations. The Mortgagee shall have, in addition to all rights and remedies provided herein and in the other Loan Instruments, all the rights and remedies of a secured party under the Uniform Commercial Code of the state in which the applicable portion of the Fixtures is located. A statement describing the portion of the Mortgage Estate comprising the fixtures hereby secured is set forth in the granting clauses of this Mortgage. The Mortgagor represents and warrants to the Mortgagee that the Mortgagor is the record owner of the Mortgage Estate, the employer identification number of the Mortgagor is 02-0774613.

Section 3.02. Warranties, Representations and Covenants. The Mortgagor hereby warrants, represents and covenants that: (a) the Fixtures will be kept on or at the Property and the Mortgagor will not remove any Fixtures from the Property, except such portions or items of the Fixtures that are consumed or worn out in ordinary usage, all of which shall be promptly replaced by the Mortgagor, except as otherwise expressly provided in Section 1.07, (b) all covenants and obligations of the Mortgagor contained herein relating to the Mortgage Estate shall be deemed to apply to the Fixtures whether or not expressly referred to herein and (c) this Mortgage constitutes a security agreement and "fixture filing" as those terms are used in the applicable Uniform Commercial Code. The Mortgagor is the "Debtor" and its name and mailing

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address are set forth on Page 1 hereof. The Mortgagee is the "Secured Party" and its name and mailing address from which information relative to the security interest created hereby are also set forth on Page 1 hereof. The information provided in this Section 3.02 is provided so that this Mortgage shall comply with the requirements of the Uniform Commercial Code as in effect in the state in which the Mortgage Estate is located for a mortgage instrument to be filed as a financing statement.

ARTICLE 4

Defaults; Remedies

Section 4.01. Defaults. If any Event of Default (herein, a "Default") under the Note shall occur and be continuing and, as more particularly provided in the Note, the principal of and accrued interest on the Note and all other Obligations under the Note shall be declared, or become, due and payable, then the obligations of the Mortgagor under the Note shall become due and payable, without presentment, demand, protest or other formalities of any kind, all of which have been waived pursuant to the Note.

Section 4.02. Default Remedies.

(a) Remedies Generally. If a Default shall have occurred and be continuing, this Mortgage may, to the maximum extent permitted by law, be enforced, and the Mortgagee may exercise any right, power or remedy permitted to it hereunder, under the Note or under any of the other Loan Instruments or by law, and, without limiting the generality of the foregoing, the Mortgagee may, personally or by its agents, to the maximum extent permitted by law:

(i) enter into and take possession of the Mortgage Estate or any part thereof, exclude the Mortgagor and all persons claiming under the Mortgagor whose claims are junior to this Mortgage, wholly or partly therefrom, and use, operate, manage and control the same either in the name of the Mortgagor or otherwise as the Mortgagee shall deem best, and upon such entry, from time to time at the expense of the Mortgagor and the Mortgage Estate, make all such repairs, replacements, alterations, additions or improvements to the Mortgage Estate or any part thereof as the Mortgagee may deem proper and, whether or not the Mortgagee has so entered and taken possession of the Mortgage Estate or any part thereof, collect and receive all Rents and apply the same to the payment of all expenses that the Mortgagee may be authorized to make under this Mortgage, the remainder to be applied to the payment of the Obligations until the same shall have been repaid in full; if the Mortgagee demands or attempts to take possession of the Mortgage Estate or any portion thereof in the exercise of any rights hereunder, the

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Mortgagor shall promptly turn over and deliver complete possession thereof to the Mortgagee; and

(ii) personally or by agents, with or without entry, if the Mortgagee shall deem it advisable:

(x) sell the Mortgage Estate at a sale or sales held at such place or places and time or times and upon such notice and otherwise in such manner as may be required by law, or, in the absence of any such requirement, as the Mortgagee may deem appropriate, and from time to time adjourn any such sale by announcement at the time and place specified for such sale or for such adjourned sale without further notice, except such as may be required by law;

(y) proceed to protect and enforce its rights under this Mortgage, by suit for specific performance of any covenant contained herein or in the Loan Instruments or in aid of the execution of any power granted herein or in the Loan Instruments, or for the foreclosure of this Mortgage (as a mortgage or otherwise) and the sale of the Mortgage Estate under the judgment or decree of a court of competent jurisdiction, or for the enforcement of any other right as the Mortgagee shall deem most effectual for such purpose, provided, that in the event of a sale, by foreclosure or otherwise, of less than all of the Mortgage Estate, this Mortgage shall continue as a Lien on, and security interest in, the remaining portion of the Mortgage Estate; or

(z) exercise any or all of the remedies available to a secured party under the applicable Uniform Commercial Code, including, without limitation:

(1) either personally or by means of a court appointed receiver, take possession of all or any of the Fixtures and exclude therefrom the Mortgagor and all persons claiming under the Mortgagor, and thereafter hold, store, use, operate, manage, maintain and control, make repairs, replacements, alterations, additions and improvements to and exercise all rights and powers of the Mortgagor in respect of the Fixtures or any part thereof; if the Mortgagee demands or attempts to take possession of the Fixtures in the exercise of any rights hereunder, the Mortgagor shall promptly turn over and deliver complete possession thereof to the Mortgagee;

(2) without notice to or demand upon the Mortgagor, make such payments and do such acts as the Mortgagee may deem necessary to

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protect its security interest in the Fixtures, including, without limitation, paying, purchasing, contesting or compromising any encumbrance that is prior to or superior to the security interest granted hereunder, and in exercising any such powers or authority paying all expenses incurred in connection therewith;

(3) require the Mortgagor to assemble the Fixtures or any portion thereof, at a place designated by the Mortgagee and reasonably convenient to both parties, and promptly to deliver the Fixtures to the Mortgagee, or an agent or representative designated by it; the Mortgagee, and its agents and representatives, shall have the right to enter upon the premises and property of the Mortgagor to exercise the Mortgagee's rights hereunder; and

(4) sell, lease or otherwise dispose of the Fixtures, with or without having the Fixtures at the place of sale, and upon such terms and in such manner as the Mortgagee may determine (and the Mortgagee or any of its successors or assignees may be a purchaser at any such sale).

(b) Appointment of Receiver. If a Default shall have occurred and be continuing, the Mortgagee, to the maximum extent permitted by law, shall be entitled, as a matter of right, to the appointment of a receiver of the Mortgage Estate, without notice or demand, and without regard to the adequacy of the security for the Obligations or the solvency of the Mortgagor. The Mortgagor hereby irrevocably consents to such appointment and waives notice of any application therefor. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers and duties of the Mortgagee in case of entry and shall continue as such and exercise all such powers until the date of confirmation of sale of the Mortgage Estate, unless such receivership is sooner terminated.

(c) Sale. In any sale under any provision of this Mortgage or pursuant to any judgment or decree of court, the Mortgage Estate, to the maximum extent permitted by law, may be sold in one or more parcels or as an entirety and in such order as the Mortgagee may elect, without regard to the right of the Mortgagor or any person claiming under the Mortgagor to the marshalling of assets. The purchaser at any such sale shall take title to the Mortgage Estate or the part thereof so sold free and discharged of the estate of the Mortgagor therein, the purchaser being hereby discharged from all liability to see to the application of the purchase money. Any person, including Mortgagee or any of its successors or assignees, may purchase at any such sale. Upon the completion of any such sale by virtue of this Section 4.02 the Mortgagee shall execute and deliver to the purchaser an appropriate instrument that shall effectively transfer all of the Mortgagor's estate, right, title, interest, property, claim and demand in and to the Mortgage

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Estate or portion thereof so sold, but without any covenant or warranty, express or implied. Upon the occurrence and during the continuance of a Default, the Mortgagee is hereby irrevocably appointed the attorney-in-fact of the Mortgagor in its name and stead to make all appropriate transfers and deliveries of the Mortgage Estate or any portions thereof so sold and, for that purpose, the Mortgagee may execute all appropriate instruments of transfer, and may substitute one or more persons with like power, the Mortgagor hereby ratifying and confirming all that said attorneys or such substitute or substitutes shall lawfully do by virtue hereof. Nevertheless, the Mortgagor shall ratify and confirm, or cause to be ratified and confirmed, any such sale or sales by executing and delivering, or by causing to be executed and delivered, to the Mortgagee or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of the Mortgagee, for such purpose, and as may be designated in such request. Any sale or sales made under or by virtue of this Mortgage, to the extent not prohibited by law, shall operate to divest all the estate, right, title, interest, property, claim and demand whatsoever, whether at law or in equity, of the Mortgagor in, to and under the Mortgage Estate, or any portions thereof so sold, and shall be a perpetual bar both at law and in equity against the Mortgagor and against any and all persons claiming or who may claim the same, or any part thereof, by, through or under the Mortgagor. The powers and agency herein granted are coupled with an interest and are irrevocable.

(d) Possession of Loan Instruments Not Necessary. All rights of action under the Loan Instruments and this Mortgage may be enforced by the Mortgagee without the possession of the Loan Instruments and without the production thereof at any trial or other proceeding relative thereto.

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Section 4.03. Application of Proceeds.

(a) Application of Proceeds Generally. The proceeds of any sale made either under the power of sale hereby given or under a judgment, order or decree made in any action to foreclose or to enforce this Mortgage, or of any monies held by the Mortgagee hereunder shall, to the maximum extent permitted by law, be applied:

First, to the payment of the costs and expenses of such sale, including out of pocket costs and expenses of the Mortgagee and the fees and expenses of its agents and counsel, and all expenses incurred and advances made by the Mortgagee in connection therewith;

Next, to the payment in full of the Obligations, in each case equally and ratably in accordance with the respective amounts thereof then due and owing or as the Mortgagee may otherwise specify; and

Finally, to the payment to the Mortgagor, or its successors or assigns, or as a court of competent jurisdiction may direct, of any surplus then remaining.

(b) Liability for Deficiencies. No sale or other disposition of all or any part of the Mortgage Estate pursuant to Section 4.02 shall be deemed to relieve the Mortgagor of its obligations under the Note or any other Loan Instrument except to the extent the proceeds thereof are applied to the payment of such obligations. If the proceeds of sale, collection or other realization of or upon the Mortgage Estate are insufficient to cover the costs and expenses of such realization and the payment in full of the Obligations, the Mortgagor shall remain liable for any deficiency.

Section 4.04. Right to Sue. The Mortgagee shall have the right from time to time to sue for any sums required to be paid by the Mortgagor under the terms of this Mortgage as the same become due, without regard to whether or not the Obligations shall be, or have become, due and without prejudice to the right of the Mortgagee thereafter to bring any action or proceeding of foreclosure or any other action upon the occurrence of any Default existing at the time such earlier action was commenced.

Section 4.05. Powers of the Mortgagee. The Mortgagee may at any time or from time to time renew or extend this Mortgage or (with the agreement of the Mortgagor) alter or modify the same in any way, or waive any of the terms, covenants or conditions hereof or thereof, in whole or in part, and may release any portion of the Mortgage Estate or any other security, and grant such extensions and indulgences in relation to the Obligations, or release any person liable therefor as the Mortgagee may determine without the consent of any junior lienor

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or encumbrancer, without any obligation to give notice of any kind thereto, without in any manner affecting the priority of the Lien and estate of this Mortgage on or in any part of the Mortgage Estate, and without affecting the liability of any other person liable for any of the Obligations.

Section 4.06. Remedies Cumulative.

(a) Remedies Cumulative. No right or remedy herein conferred upon or reserved to the Mortgagee is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy under this Mortgage, or under applicable law, whether now or hereafter existing; the failure of the Mortgagee to insist at any time upon the strict observance or performance of any of the provisions of this Mortgage or to exercise any right or remedy provided for herein or under applicable law, shall not impair any such right or remedy nor be construed as a waiver or relinquishment thereof.

(b) Other Security. The Mortgagee shall be entitled to enforce payment and performance of any of the obligations of the Mortgagor and to exercise all rights and powers under this Mortgage or under any Loan Instrument or any laws now or hereafter in force, notwithstanding that some or all of the Obligations may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, Lien assignment or otherwise; neither the acceptance of this Mortgage nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect the Mortgagee's right to realize upon or enforce any other security now or hereafter held by the Mortgagee, it being stipulated that the Mortgagee shall be entitled to enforce this Mortgage and any other security now or hereafter held by the Mortgagee in such order and manner as the Mortgagee, in its sole discretion, may determine; every power or remedy given by the Note, this Mortgage or any of the other Loan Instruments to the Mortgagee, or to which the Mortgagee is otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by the Mortgagee, and the Mortgagee may pursue inconsistent remedies.

Section 4.07. Waiver of Stay, Extension, Moratorium Laws; Equity of Redemption. To the maximum extent permitted by law, the Mortgagor shall not at any time insist upon, or plead, or in any manner whatever claim or take any benefit or advantage of any applicable present or future stay, extension or moratorium law, that may affect observance or performance of the provisions of this Mortgage; nor claim, take or insist upon any benefit or advantage of any present or future law providing for the valuation or appraisal of the Mortgage Estate or any portion thereof prior to any sale or sales thereof that may be made under or by virtue of Section 4.02; and the Mortgagor, to the extent that it lawfully may, hereby waives all

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benefit or advantage of any such law or laws. The Mortgagor for itself and all who may claim under it, hereby waives, to the maximum extent permitted by applicable law, any and all rights and equities of redemption from sale under the power of sale created hereunder or from sale under any order or decree of foreclosure of this Mortgage and (if a Default shall have occurred) all notice or notices of seizure, and all right to have the Mortgage Estate marshalled upon any foreclosure hereof. The Mortgagee shall not be obligated to pursue or exhaust its rights or remedies as against any other part of the Mortgage Estate and the Mortgagor hereby waives any right or claim of right to have the Mortgagee proceed in any particular order.

ARTICLE 5

Miscellaneous

Section 5.01. Release by Mortgagee. Upon the payment in full of the Obligations or the Loan Instruments are otherwise terminated and the Collateral thereunder released, the Mortgagee shall release the Lien of this Mortgage, or upon the request of the Mortgagor, and at the Mortgagor's expense, assign his Mortgage without recourse to the Mortgagor's designee, or to the person or persons legally entitled thereto, by an instrument duly acknowledged in form for recording.

Section 5.02. Notices. All notices, demands, consents, requests or other communications (collectively, "notices") that are permitted or required to be given by any party to the other hereunder shall be in writing and given in the manner specified in the Note.

Section 5.03. Amendments; Waivers; Etc. This Mortgage cannot be modified, changed or discharged except by an agreement in writing, duly acknowledged in form for recording, signed by the Mortgagor and the Mortgagee.

Section 5.04. Successors and Assigns. This Mortgage applies to, inures to the benefit of and binds the Mortgagor and the Mortgagee and their respective successors and assigns and shall run with the Property.

Section 5.05. Captions. The captions or headings at the beginning of Articles, Sections and paragraphs hereof are for convenience of reference and are not a part of this Mortgage.

Section 5.06. Severability. If any term or provision of this Mortgage or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Mortgage, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected

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thereby, and each term and provision of this Mortgage shall be valid and enforceable to the maximum extent permitted by law. If any portion of the Obligations shall for any reason not be secured by a valid and enforceable Lien upon any part of the Mortgage Estate, then any payments made in respect of the Obligations (whether voluntary or under foreclosure or other enforcement action or procedure or otherwise) shall, for purposes of this Mortgage (except to the extent otherwise required by applicable law) be deemed to be made (i) first, in respect of the portion of the Obligations not secured by the Lien of this Mortgage, (ii) second, in respect of the portion of the Obligations secured by the Lien of this Mortgage, but which Lien is on less than all of the Mortgage Estate, and (iii) last, to the portion of the Obligations secured by the Lien of this Mortgage, and which Lien is on all of the Mortgage Estate.

Property of Cook County Clerk's Office

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EXECUTION VERSION

IN WITNESS WHEREOF, this Mortgage has been duly executed by the Mortgagor as of the day and year first above written.

ROBBINS COMMUNITY POWER LLC

By: 

Name: Neil Leibman

Title: Authorized Signatory

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EXECUTION VERSION

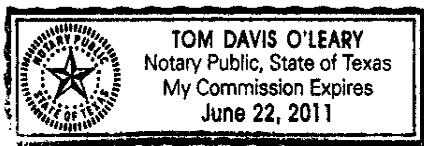
STATE OF Texas)
) :SS
 COUNTY OF Harris)

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, Do
 HEREBY CERTIFY THAT NEIL LEIBMAN, personally known to me to be the
CEO of Robbins Community Power LLC, a Delaware limited liability
 company, who is the mortgagor, is 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 severally
 acknowledged that as such CEO, he/she signed and delivered the said
 instrument as Officer of said limited liability company, pursuant
 to authority, given by the _____ of said limited liability company as his/her free and
 voluntary act, 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 Notarial Seal this 19 day of NOVEMBER, 2008.

[Signature]
 Notary Public

My commission expires:



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EXECUTION VERSION

SCHEDULE I

DESCRIPTION OF PROPERTY

See attached metes and bounds description

Property of Cook County Clerk's Office

Schedule I

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LEGAL DESCRIPTION:

PARCEL 1: (FACILITY SITE)

A PARCEL OF LAND IN THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 35, TOWNSHIP 37 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN COMPRISING ALL OF PARTS OF LOTS 26 TO 45, BOTH INCLUSIVE, LOTS 88 TO 107, BOTH INCLUSIVE, LOTS 148 TO 167, BOTH INCLUSIVE, LOTS 209 TO 228, BOTH INCLUSIVE, LOTS 269 TO 287, BOTH INCLUSIVE, LOTS 331 TO 348, BOTH INCLUSIVE, LOTS 389 TO 407, BOTH INCLUSIVE, LOTS 450 TO 468, BOTH INCLUSIVE, THE NORTH AND SOUTH PUBLIC ALLEYS ADJOINING AFORESAID LOTS, PART OF TURNER AVENUE, PART OF SPAULDING AVENUE, PART OF SAWYER AVENUE AND PART OF 134TH STREET ALL IN JAMES JAY SMITH AND COMPANY'S 2ND ADDITION TO CLAIRMONT, BEING A SUBDIVISION OF LOTS 3 OF ENGELLAND'S SUBDIVISION OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 35 AFORESAID, ACCORDING TO THE PLAT THEREOF RECORDED MAY 3, 1893 AS DOCUMENT NO. 1860792 AND PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF LOT 26 IN BLOCK 1 IN THE AFOREDESCRIBED SUBDIVISION, DISTANT 7.00 FEET WEST OF THE SOUTHEAST CORNER THEREOF; THENCE CONTINUING ALONG THE SOUTH LINE OF SAID LOT 26 N.90-00'-00" W., FOR A DISTANCE OF 1252.13 FEET TO THE SOUTHWEST CORNER OF LOT 468 IN BLOCK 8 IN THE AFOREDESCRIBED SUBDIVISION (SAID POINT BEING ON THE EAST RIGHT-OF-LINE OF HOMAN AVENUE; THENCE N.00-28'-46" W., ALONG THE LAST DESCRIBED RIGHT-OF-WAY LINE, FOR A DISTANCE OF 565.17 FEET TO THE NORTHWEST CORNER OF LOT 450 IN BLOCK 7 IN THE AFOREDESCRIBED SUBDIVISION, THENCE S89-53'-18"E., FOR A DISTANCE OF 1232.57 FEET TO A POINT ON THE NORTH LINE OF LOT 45 IN BLOCK 2 IN THE AFOREDESCRIBED SUBDIVISION, THAT IS DISTANT 32.00 FEET WEST OF THE NORTHEAST CORNER THEREOF; THENCE S.00-32'-18"E. ON A LINE 32.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF BLOCK 2 IN THE AFOREDESCRIBED SUBDIVISION (SAID LINE ALSO BEING THE PRESENT WEST RIGHT-OF-WAY LINE OF KEDZIE AVENUE), FOR A DISTANCE OF 125.01 FEET TO A POINT ON THE NORTH LINE OF LOT 40 IN BLOCK 2, IN THE AFOREDESCRIBED SUBDIVISION; THENCE S.89-53'-18"E., ALONG THE LAST DESCRIBED LINE FOR A DISTANCE OF 20.00 FEET TO A POINT THAT IS DISTANT 12.00 FEET WEST OF THE NORTHEAST CORNER OF SAID LOT 40; THENCE S.00-32'-18"E., ALONG A LINE 12.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID BLOCK 2 (SAID LINE ALSO BEING THE PRESENT WEST RIGHT-OF-WAY LINE OF KEDZIE AVENUE), FOR A DISTANCE OF 302.73 FEET TO A POINT OF THE SOUTH LINE OF LOT 29 IN BLOCK 2 IN THE AFOREDESCRIBED SUBDIVISION; THENCE S.05-17'-53"E., FOR A DISTANCE OF 60.25 FEET TO A POINT OF THE NORTH LINE OF LOT 28 IN BLOCK 1 IN THE AFOREDESCRIBED SUBDIVISION THAT IS DISTANT 7.00 FEET WEST FROM THE NORTHEAST CORNER THEREOF; THENCE S.00-32'-18"E. ON A LINE 7.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID BLOCK 1, FOR A DISTANCE OF 75.00 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

EXCEPTING THEREFROM THE WEST 397.33 FEET OF THE ABOVE DESCRIBED PROPERTY.

(CONTINUED)

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PARCEL 2: (LAYDOWN SITE)

THAT PART OF JAMES J. SMITH AND COMPANY'S SECONDS ADDITION TO CLAIRMOUNT, (BEING A SUBDIVISION OF LOT 3 IN ENGELLAND'S SUBDIVISION OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 35 TOWNSHIP 37 NORTH RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS) AS PER PLAT THEREOF RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS OF COOK COUNTY, ILLINOIS ON MAY 3, 1893 AS DOCUMENT 1860792 BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 108 IN BLOCK 1 IN THE AFOREDESCRIBED SUBDIVISION; THENCE SOUTH 00 DEGREES 13 MINUTES 31 SECONDS EAST ALONG THE WEST LINE OF BLOCK 1 (SAID LINE ALSO BEING THE PRESENT EAST RIGHT OF WAY LINE OF SAWYER AVENUE) IN THE AFOREDESCRIBED SUBDIVISION FOR A DISTANCE OF 50.00 FEET TO THE NORTHWEST CORNER OF LOT 110 IN SAID BLOCK 1; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST FOR A DISTANCE OF 332.79 FEET TO THE SOUTHWEST CORNER OF LOT 230 IN BLOCK 4 IN THE AFOREDESCRIBED SUBDIVISION (SAID POINT ALSO BEING ON THE EAST RIGHT OF WAY LINE OF SPAULDING AVENUE); THENCE SOUTH 00 DEGREES 30 MINUTES 35 SECONDS EAST ON THE LAST DESCRIBED LINE, FOR A DISTANCE OF 86.00 FEET TO A POINT ON A LINE WHICH IS THE EASTERLY PROLONGATION OF A LINE 11.00 FEET SOUTH OF AND PARALLEL WITH THE SOUTH LINE OF LOTS 353 AND 264 IN BLOCK 5 IN THE AFOREDESCRIBED SUBDIVISION; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST ON THE LAST DESCRIBED LINE FOR A DISTANCE OF 269.81 FEET TO A POINT ON A LINE 63.00 FEET EAST OF AND PARALLEL WITH THE EAST LINE OF SAID BLOCK 5 (SAID LINE ALSO BEING THE EAST RIGHT OF WAY LINE OF TURNER AVENUE); THENCE SOUTH 00 DEGREES 29 MINUTES 40 SECONDS EAST ON THE LAST DESCRIBED LINE FOR A DISTANCE OF 374.00 FEET TO A POINT ON THE SOUTH LINE OF 135TH STREET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST ON THE LAST DESCRIBED LINE, FOR A DISTANCE OF 395.91 FEET TO THE SOUTHWEST CORNER OF BLOCK 8 IN THE AFOREDESCRIBED SUBDIVISION; THENCE NORTH 00 DEGREES 28 MINUTES 46 SECONDS WEST ALONG THE WEST LINE OF SAID BLOCK 8 (SAID LINE ALSO BEING THE EAST RIGHT OF WAY LINE OF HOMAN AVENUE), FOR A DISTANCE OF 510.00 FEET TO THE NORTHWEST CORNER OF LOT 469 IN SAID BLOCK 8; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST FOR A DISTANCE OF 998.34 FEET, TO THE POINT OF BEGINNING ALL IN COOK COUNTY, ILLINOIS,

EXCEPTING THERE FROM LOTS 264, 265, 266, 268, 376, 383 AND 385 IN THAT PART OF JAMES J. SMITH AND COMPANY'S SECONDS ADDITION TO CLAIRMOUNT, (BEING A SUBDIVISION OF LOT 3 IN ENGELLAND'S SUBDIVISION OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 35 TOWNSHIP 37 NORTH RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS).