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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

SECOND AMENDMENT TO TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

This Second Amendment to Temporary Construction Easement (this "Second Amendment") is made this 16TH day of January, 2009, by and between the South Barrington Park District, an Illinois municipal corporation (the "District"), and Arboretum of South Barrington, LLC, a Delaware limited liability company (the "Developer").

RECITALS

A. The District and Developer entered into a Temporary Construction Easement Agreement dated December 13, 2006 recorded by the Cook County Recorder of Deeds as Document No. 0711516062 (the "Original Agreement") with respect to the real estate legally described on Exhibit A attached hereto, which was amended by the First Amendment to Temporary Construction Easement Agreement dated December 14, 2007 and recorded by the Cook County Recorder of Deeds as Document No. 0811345059 (the "First Amendment"; together with the Original Agreement, the "Agreement").

B. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Agreement, unless otherwise defined herein.

C. Developer has completed its obligation to grade, respread a minimum of 6 inches of topsoil and seed the areas shown as area PD-1 on Exhibit B attached hereto ("PD-1") and, pursuant to the First Amendment, the District has released \$75,000 of the cash bond being held by the District pursuant to the Agreement.

D. Developer has completed all landscaping required to be completed by Developer in the areas shown as area PD-5 on the attached Exhibit B ("PD-5"), and the District has agreed to release an additional \$100,000 of the cash bond being held by the District pursuant to the Agreement.

E. The District has agreed to grant the Developer an extension of time for the completion of the remaining work to be performed by Developer under the Agreement.

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F. Developer and the District have agreed to further amend the Agreement as set forth in this Second Amendment.

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. Completion of Work. The District hereby acknowledges that all work to be completed by Developer in areas PD-1 and PD-5, has been completed in accordance with the requirements of the Agreement. Developer has no remaining obligations under the Agreement with respect to areas PD-1 and PD-5. Notwithstanding, the forgoing, Developer hereby agrees (a) to replace any of the plantings planted by Developer in area PD-5 which die prior to September 1, 2009, and (b) to maintain the grass in area PD-1 for the remaining term of the Agreement, as extended pursuant hereto. District acknowledges that Developer was not required to perform any work in area PD-4, as shown on Exhibit B attached hereto ("PD-4"), under the terms of the Agreement. District acknowledges that the Developer's only remaining obligations under the terms of the Agreement are to grade, respread topsoil and seed areas PD-2 and PD-3, as shown on Exhibit B attached hereto, (respectively, "PD-3 and PD-4"), in accordance with Exhibit C attached hereto ("Remaining Work").

2. Release of Cash Bond. In accordance with the Agreement, Developer's cash bond being held by the District shall be reduced in accordance with Sections 8(i) and 8(ii) of the Original Agreement by \$175,000 due to Developer's completion of the landscaping in area PD-5 and work in area PD-1, and the District hereby releases all right, title and interest of the District in and to such portion of the cash bond (the "Release"). In connection with this Release, the District hereby waives the notice and review periods set forth in the Agreement, and shall refund such \$175,000 in cash to the Developer within thirty (30) days of the date of this Second Amendment. As of the date of this Second Amendment, District shall hold only the amount of \$75,000, in accordance with Section 8(iii) of the Original Agreement, to secure performance of the Remaining Work by Developer. Developer, at its option, has the right to convert the remaining \$75,000 of the cash bond, securing the Remaining Work, into an irrevocable letter of credit in favor of the District, and upon delivery of such letter of credit to the District, the District shall immediately refund to Developer such remaining \$75,000 of the cash bond.

3. Easement Extension. The Termination Date of the Easement is hereby extended until September 15, 2009.

4. PD-2 and PD-3 Extension. Developer shall have until the Termination Date to complete the Remaining Work.

5. No Other Modifications. Except as expressly modified by this Second Amendment, the Agreement shall continue in full force and effect.

6. Authority. The District represents and warrants that this Second Amendment 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

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Second Amendment, executed by Developer's manager, is binding upon Developer and enforceable against Developer in accordance with its terms.

[Remainder of this page intentionally left blank]

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Dated the date first written above.

SOUTH BARRINGTON PARK DISTRICT,
an Illinois municipal corporation

By: *Daniel M. O'Connell*
President

Attest: *Edward W. Jacotz*
Secretary

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

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

By: _____
Name: _____
Title: _____

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Dated the date first written above.

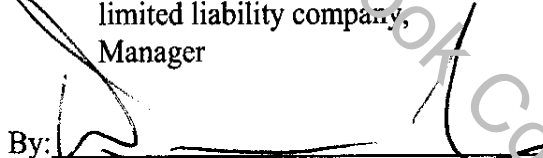
SOUTH BARRINGTON PARK DISTRICT,
an Illinois municipal corporation

By: _____
President

Attest: _____
Secretary

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

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

By: 
Name: Domenic Zanni
Title: V.P.

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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 Second Amendment to 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 16TH day of January, 2009.

Karen A. Lamont
Notary Public

My Commission expires: _____



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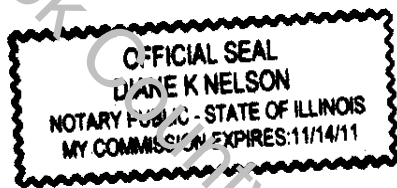
STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, DIANE K NELSON, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that DOMENICLANNI, V. P. of RREEF America, LLC, manager, personally known to me to be the same person whose name is subscribed to the foregoing Second Amendment to 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 29th day of January, 2009.

Diane K Nelson
Notary Public

My Commission expires: _____



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EXHIBIT A

THE PROPERTY

DEVELOPER PROPERTY

LOTS 1 AND 3 IN ARBORETUM OF SOUTH BARRINGTON, BEING A SUBDIVISION OF PARTS OF THE NORTHEAST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 42 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 30, 2007 AS DOCUMENT 0721115094 IN COOK COUNTY, ILLINOIS;

AND

LOT 8 IN THE ARBORETUM OF SOUTH BARRINGTON SECOND RESUBDIVISION, BEING A RESUBDIVISION OF LOT 6 IN ARBORETUM OF SOUTH BARRINGTON FIRST RESUBDIVISION, IN PARTS OF THE NORTHEAST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 42 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 30, 2008 AS DOCUMENT 0812122096 IN COOK COUNTY, ILLINOIS.

01-33-209-002-0000
01-33-209-005-0000
01-33-209-007-0000
01-33-209-008-0000

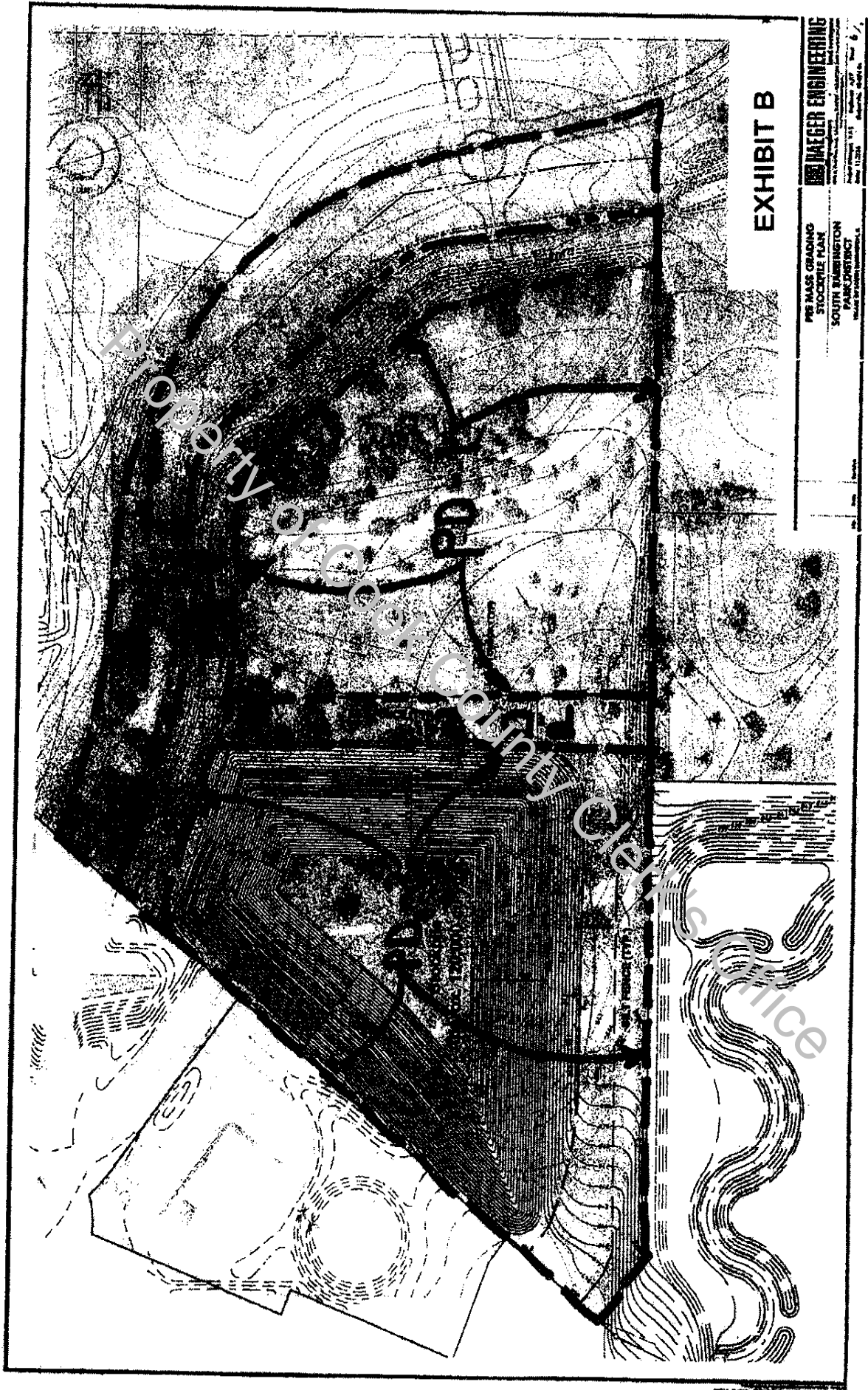
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DISTRICT PROPERTY

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.

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