

AMENDMENT TO EASEMENT WITH COVENANTS AND RESTRICTIONS
AFFECTING LAND ("ECR")

THIS AMENDMENT TO EASEMENTS WITH COVENANTS AND RESTRICTIONS AFFECTING LAND ("Amendment") is made and entered into on this 13th day of January, 1990, by and between WAL-MART PROPERTIES, INC., a Delaware corporation ("Wal-Mart"), DIAL REALTY, INC., a Nebraska corporation ("Dial"), FRED DAVENPORT, JR. and MARTHA DAVENPORT ("Davenport") and MENARD, INC., a Wisconsin corporation ("Menard").

WHEREAS, on the 10th day of February, 1989, Wal-Mart, Dial and Davenport entered into a certain Easements with Covenants and Restrictions Affecting Land ("ECR Agreement") covering certain real property located in Sioux City, Woodbury County, Iowa which is more particularly described on Exhibit "A" ("ECR Property") which was recorded on the 15th day of December, 1989 in Book Roll 224 Page 1341-1377 in the office of the Register of Deeds of Woodbury County, Iowa;

WHEREAS, Menard is the owner of a portion of the ECR Property that is more particularly described on Exhibit "B" attached hereto ("Menard ECR Property") and is the owner of certain real property located in Sioux City, Woodbury County, State of Iowa which is more particularly described on Exhibit "C" attached hereto which property is located immediately adjacent to and contiguous to the Menard ECR Property ("Menard Property");

WHEREAS, Wal-Mart, Dial, Davenport and Menard desire to amend the ECR Agreement in order to include the Menard Property as real property subject to the ECR Agreement and to make certain provisions relating to the use of the Menard ECR Property and the Menard Property.

NOW, THEREFORE, in consideration of the sum of one dollars (\$1.00) and other good and valuable consideration, the receipt, sufficiency and adequacy of which is hereby acknowledged, the parties agree as follows:

1. That the ECR Agreement is hereby amended to reflect that the Menard Property is now subjected to the terms of the ECR Agreement.

2. The parties agree that Menard's use of the Menard ECR Property and the Menard Property as a retail lumber and home improvement store shall not be deemed a "discount department store or other discount store" within the meaning of Paragraph 3 of the ECR Agreement and such use by Menard is hereby approved.

3. The parties hereby acknowledge that Menard's use of a metal exterior on the side and rear walls of its building shall not be a violation of the prohibition contained in Paragraph 4(a) of the ECR Agreement provided that the front exterior wall is constructed of masonry materials.

4. Menard shall be required to maintain on the Menard ECR Property and the Menard Property (in the aggregate) parking area sufficient to accommodate not fewer than five (5) car spaces for each one thousand (1,000) square feet of building area on said parcels. For purposes hereof the term building area shall mean only the improvements which consist of the retail lumber and home improvement store and shall not mean the lumber storage warehouse.

5. Notwithstanding anything else to the contrary contained in the ECR Agreement, Menard shall be permitted to conduct "outside or seasonal sales" from time to time provided (i) such outside or seasonal sales are limited to the Common Areas located on the Menard ECR Property or the Menard Property; (ii) such sales do not block or impede ingress or egress to any other portion of the Property in the shopping center; and (iii) such sales ^{are} not conducted on a year-round basis.

6. Except as otherwise set forth herein, the terms and conditions of the ECR Agreement shall not be amended or modified.

IN WITNESS WHEREOF, the parties have executed this Amendment on the day and year first written above.

"WAL-MART"

WAL-MART PROPERTIES, INC., a Delaware corporation,

By Curtis R. Barlow
CURTIS BARLOW, Vice President

"DIAL"

DIAL REALTY, INC., a Nebraska corporation,

By Christopher R. Held
CHRISTOPHER R. HELD, President

"DAVENPORT"

Fred Davenport, Jr.

Martha Davenport
Martha Davenport

"MENARD"

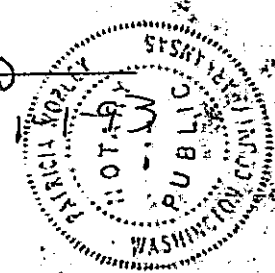
MENARD, INC., a Wisconsin
corporation,

By MAR PROCHASSA, Vice President

STATE OF Arkansas)
COUNTY OF Washington) ss.

Before me, the undersigned, a notary public in and for
said county and state, on this 17th day of January, 1989,
personally appeared Curtis Barlow, to me known
to be the identical person who executed the within and foregoing
instrument as Vice President of Wal-Mart Properties,
Inc., a Delaware corporation, and acknowledged to me that he
executed the same as his free and voluntary act and deed, and the
free and voluntary act and deed of the corporation for the uses
and purposes therein set forth.

Patricia Worley
Notary Public
PATRICIA WORLEY



STATE OF Nebraska)
) ss.
COUNTY OF Douglas)

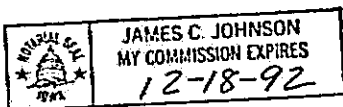
Before me, the undersigned, a notary public in and for said county and state, on this 15th day of December, 1989, personally appeared Christopher R. Held, to me known to be the identical person who executed the within and foregoing instrument as President of Dial Realty, Inc., a Nebraska corporation, and acknowledged to me that he executed the same as his free and voluntary act and deed, and the free and voluntary act and deed of the corporation for the uses and purposes therein set forth.



Denise R. Feagan
Notary Public

STATE OF Iowa)
) ss.
COUNTY OF Woodbury)

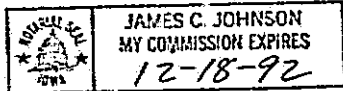
Before me, the undersigned, a notary public in and for said county and state, on this 17th day of NOVEMBER, 1989, personally appeared Fred Davenport, Jr., to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act and deed, for the uses and purposes therein set forth.



James C. Johnson
Notary Public

STATE OF IOWA)
) ss.
COUNTY OF WOODBURY)

Before me, the undersigned, a notary public in and for said county and state, on this 17th day of NOVEMBER 1989, personally appeared Martha Davenport, to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act and deed, for the uses and purposes therein set forth.

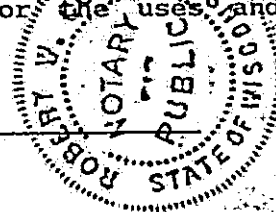


James C. Johnson
Notary Public

STATE OF Wisconsin)
) ss.
COUNTY OF Eau Claire)

Before me, the undersigned, a notary public in and for said county and state, on this 20th day of December, 1989, personally appeared Marv Prochaska, to me known to be the identical person who executed the within and foregoing instrument as Vice-President / Real Estate President of Menard, Inc., a Wisconsin corporation, and acknowledged to me that he executed the same as his free and voluntary act and deed, and ~~the free~~ and voluntary act and deed of the corporation for the uses and purposes therein set forth.

Robert W. Corey
Notary Public
ROBERT W. COREY



ROLL 226 PAGE 983
EXHIBIT "A"
ECR PROPERTY

EASTGATE - WAL MART

All that part of the Southeast Quarter of the Southeast Quarter of Section 36, Township 89 North, Range 47, West of the 5th Principal Meridian, and that part of Tax Lot 9 of the Auditor's Subdivision of the Southwest Fractional Quarter of the Southwest Quarter of Section 31, Township 89 North, Range 46 West of the 5th Principal Meridian, Woodbury County, Iowa, and more particularly described as follows: Commencing at the Southeast corner of said Southeast Quarter of the Southeast Quarter; thence North 00°14'30" West along the East line of said Southeast Quarter of the Southeast Quarter for 160.60 feet to the Point of Beginning, said point also being on the Northerly R.O.W. of State Route 12; thence continuing North 00°14'30" West along said North line for 18.0 feet; thence South 79°22'30" West along said North line for 44.6 feet; thence North 77°26'50" West along said North line for 293.42 feet; thence North 00°14'30" West for 604.72 feet; thence North 89°55'52" East for 330.0 feet to the East line of said Southeast Quarter of the Southeast Quarter; thence continuing North 89°55'52" East for 44.72 feet; thence North 61°28'23" East for 115.42 feet; thence North 89°55'52" East for 46.54 feet to the West line of said Tax Lot 9; thence continuing North 89°55'52" East for 153.46 feet; thence South 00°14'30" East for 120.00 feet; thence North 89°55'52" East for 18.50 feet; thence South 00°04'08" East for 582.92 feet to a point on the Northerly R.O.W. of said State Route 12; thence South 85°05'28" West along said Northerly R.O.W. for 364.30 feet to the Point of Beginning, containing 10.6847 acres. Subject to Restrictive Covenants and Easements of record, if any.

PHASE II

EASTGATE - EAST OF WAL MART

All that part of Tax Lots 6, 7, 8 and 9, of the Auditor's Subdivision of the Southwest Fractional Quarter of the Southwest Quarter of Section 31, Township 89 North, Range 46 West of the 5th Principal Meridian, Woodbury County, Iowa and more particularly described as follows: Commencing at the Southwest corner of said Fractional Quarter; thence North 00°14'30" West along the West line of said Fractional Quarter for 160.60 feet to the Northerly R.O.W. of State Route 12, said point also being on the West line of Tax Lot 9; thence North 85°05'28" East along said Northerly line for 364.38 feet to the Point of Beginning; thence North 00°04'08" West for 582.92 feet; thence North 89°55'52" East for 997.41 feet to a point on the Easterly line of said Tax Lot 6, said point also being on a 643.71 foot radius curve concave Northwesterly, said curve having a chord bearing of South 18°32'41" West and a chord distance of 173.72 feet; thence Southwesterly along said curve for 174.25 feet to the end of said curve; thence South 26°17'59" West for 324.93 feet; thence South 37°46'45" West for 120.87 feet (the last 3 distances being on the easterly line of Tax Lots 8, 7 and part of 6) to a point on the Northerly R.O.W. of State Route 12; thence North 87°29'00" West along said R.O.W. for 380.1 feet; thence North 87°36'00" West along said R.O.W. for 47.00 feet; thence South 78°46'00" West along said R.O.W. for 233.00 feet; thence South 85°05'28" West for 68.47 feet to the Point of Beginning, containing 11.1253 Acres. Subject to Restrictive Covenants and Easements of record, if any.

EXHIBIT "B" ^{ROLL 226} PAGE 985
MENARD ECR PROPERTY

LEGAL DESCRIPTION
SOUTH MENARDS PROPERTY

A tract of land being part of the Southwest One-Quarter of the Southwest Fractional One-Quarter of Section 31, Township 89 North, Range 46 West of the 5th Principal Meridian, Woodbury County, Iowa, and being more particularly described as follows:

Commencing at the Southwest corner of said Southwest One-Quarter of the Southwest Fractional One-Quarter of Section 31; thence North 00°14'30" West, along the West line of aforesaid Southwest One-Quarter of the Southwest Fractional One-Quarter of Section 31, a distance of 160.60 feet to a point on the Northerly Right-of-Way line of State Route No. 12; thence, along said Northerly Right-of-Way line of State Route No. 12 the following bearings and distances: (1) North 85°05'28" East a distance of 432.77 feet, (2) North 78°46'00" East a distance of 233.00 feet, (3) South 87°36'00" East a distance of 47.00 feet, and (4) South 87°29'00" East a distance of 159.26 feet to the Point of Beginning; thence North 00°04'08" West a distance of 466.88 feet; thence South 89°55'52" West a distance of 36.00 feet; thence North 16°56'43" West a distance of 77.70 feet; thence North 89°55'52" East a distance of 553.10 feet; thence, along a curve to the right the initial tangent of which is South 10°47'24" West, and having a central angle of 15°30'35" and a radius of 643.71 feet, and whose long chord bearing and distance are South 18°32'41" West and 173.72 feet, an arc distance of 174.25 feet; thence South 26°17'59" West a distance of 290.43 feet; thence, along a curve to the right the initial tangent of which is South 31°16'57" West, and having a central angle of 46°57'17" and a radius of 267.00 feet, and whose long chord bearing and distance are South 54°45'35" West and 212.74 feet, an arc distance of 218.81 feet to a point on the Northerly Right-of-Way line of State Route No. 12; thence North 87°29'00" West, along said Northerly Right-of-Way line of State Route No. 12, a distance of 136.34 feet to the Point of Beginning, and containing 208,644 square feet, more or less. Subject to restrictive covenants or easements of record, if any.

EXHIBIT "C"
MENARD PROPERTYLEGAL DESCRIPTION
NORTH MENARDS PROPERTY

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A tract of land being part of the Southwest One-Quarter of the Southwest Fractional One-Quarter of Section 31, Township 89 North, Range 46 West of the 5th Principal Meridian, Woodbury County, Iowa, and being more particularly described as follows:

Commencing at the Southwest corner of said Southwest One-Quarter of the Southwest Fractional One-Quarter of Section 31; thence North 00°14'30" West, along the West line of aforesaid Southwest One-Quarter of the Southwest Fractional One-Quarter of Section 31, a distance of 160.60 feet to a point on the Northerly Right-of-Way line of State Route No. 12; thence, along said Northerly Right-of-Way line of State Route No. 12 the following bearings and distances: (1) North 85°05'28" East a distance of 432.77 feet, (2) North 78°46'00" East a distance of 233.00 feet, (3) South 87°36'00" East a distance of 47.00 feet, and (4) South 87°29'00" East a distance of 159.26; thence North 00°04'08" West a distance of 466.88 feet; thence South 89°55'52" West a distance of 36.00 feet; thence North 16°56'43" West a distance of 77.70 feet to the Point of Beginning; thence continuing North 16°56'43" West a distance of 104.50 feet; thence North 00°08'25" West a distance of 20.00 feet; thence continuing North 00°08'25" West a distance of 292.39 feet; thence South 89°57'59" East a distance of 74.43 feet; thence North 41°36'57" East a distance of 9.03 feet; thence North 78°14'52" East a distance of 182.71 feet; thence North 89°55'52" East a distance of 324.46 feet; thence South 00°04'08" East a distance of 456.00 feet; thence South 89°55'52" West a distance of 553.10 feet to the Point of Beginning, and containing 257,802.1 square feet, more or less. Subject to restrictive covenants or easements of record, if any.

ROLL 226 IMAGE 987

224-1364

9319

STATE OF IOWA
WOODBURY COUNTY 4.5⁰⁰ per
Recorder's Fee \$
Paid for recording 7 day of
226-1364 A.D. 1933 AT
8:30 p.m. and recorded on
Roll 226 Page 978
MOSE YANNEY, Recorder
By J. J. J. Deputy

Urban Realty
1104-6th
51101