

**Knight Barry**  
TITLE GROUP  
Integrity. Experience. Innovation.

Knight Barry Title, Inc.  
400 Wisconsin Ave  
Racine, WI 53403  
262-633-2479  
Fax:262-633-4928

Refer Inquiries to: Mary K. Payne (mary@knightbarry.com)  
Completed on:12/26/19 3:30 pm  
Last Revised on:12/26/19 3:30 pm  
Printed on:12/26/19 3:30 pm

**Applicant Information**

Migdalia Dominguez  
WI Dept of Transportation  
141 NW Barstow St  
Waukesha, WI 53188

Sales Representative: Craig Haskins

**Property Information**

(Note: values below are from the tax roll)

Effective Date: 11/06/2019 at 8:00 am

Owner(s) of record: Southland Center Investors, LLC

Property address: 2710 S Green Bay Road, Mt Pleasant, WI 53406 (Note: Please see included tax bill for mailing address.)

Legal description: Site 3 of Certified Survey Map No. 1073 recorded in the office of the Register of Deeds for Racine County, Wisconsin on May 7, 1985 in Volume 3 of Certified Survey Maps, Page 180, as Document No. 1168310, being part of the Southwest ¼ of Section 24 and part of the Southeast ¼ of Section 23, Township 3 North, Range 22 East EXCEPTING THEREFROM lands conveyed by Quit Claim Deed recorded in Volume 3099, Page 521, as Document No. 1752204. Said land being in the Village of Mt. Pleasant, County of Racine and State of Wisconsin.

Tax Key No: 151-03-22-23-031-030

**Mortgages / Leases / Land Contracts / UCC**

Memorandum of Shopping Center Lease and other matters contained in instrument recorded March 10, 2000, in Volume 3010, Page 752, as Document No. 1720073.

Memorandum of Lease and other matters contained in instrument recorded March 10, 2000, in Volume 3010, Page 763, as Document No. 1720075.

Memorandum of Lease Agreement and other matters contained in instrument recorded April 12, 2010, as Document No. 2247154.

Mortgage, Assignment of Rents and Leases, Security Agreement and Financing Statement from Southland Center Investors, LLC to Associated Bank, National Association in the amount of \$8,331,000.00 dated June 10, 2015 and recorded June 17, 2015, as Document No. 2410176.

Assignment of Rents from Southland Center Investors, LLC to Associated Bank, National Association recorded June 17, 2015 as Document No. 2410177.

Subordination, Non-Disturbance and Attornment Agreement and other matters contained in instrument recorded June 17, 2015, as Document No. 2410178.

Subordination, Non-Disturbance and Attornment Agreement and other matters contained in instrument recorded June 17, 2015, as Document No. 2410179.

Subordination, Non-Disturbance and Attornment Agreement and other matters contained in instrument recorded June 17, 2015, as Document No. 2410180.

**Easements / Restrictions & Other Encumbrances**



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Public or private rights, if any, in such portion of the Land as may be presently used, laid out, or dedicated in any manner whatsoever, for street, highway and/or alley purposes.

Easements, restrictions and other matters shown on Certified Survey Map 1073 recorded May 7, 1985 as Document No. 1168310.

Covenants, Conditions, Restrictions and other matters contained in the instrument recorded March 10, 2008 in Volume 3010, Page 748 as Document No. 1720071.

Easements, Restrictions and other matters contained in the instrument recorded February 20, 1975 in Volume 1254, Page 291 as Document No. 952060.

Wisconsin Electric Power Company Easement and other matters contained in the instrument recorded March 11, 1975 in Volume 1256, Page 251 as Document No. 952865.

Declaration of Easements and Covenants and other matters contained in the instrument recorded May 17, 1985 in Volume 1752, Page 604 as Document No. 1169012.

Amendment to Declaration of Easements and Covenants and other matters contained in the instrument recorded June 13, 1986 in Volume 1803, Page 330 as Document No. 1196578.

Second Amendment to Declaration of Easements and Covenants and other matters contained in the instrument recorded July 10, 1987 in Volume 1874, Page 607 as Document No. 1234886.

Wisconsin Electric Power Company Easement and other matters contained in the instrument recorded September 11, 1985 in Volume 1766, Page 746 as Document No. 1176976.

Partial Release of Easement and other matters contained in the instrument recorded March 26, 2001 in Volume 3143, Page 676 as Document No. 1763832.

Agreement and Consent and other matters contained in the instrument recorded October 6, 1992 in Volume 2190, Page 477 as Document No. 1392354.

Easement and other matters contained in the instrument recorded April 7, 2000 in Volume 3018, Page 894 as Document No. 1723230.

Easement and other matters contained in the instrument recorded April 20, 2000 in Volume 3022, Page 738 as Document No. 1724680.

Distribution Easement Joint Electric Phone & Gas and other matters contained in the instrument recorded October 9, 2000 in Volume 3078, Page 691 as Document No. 1745080.

Resolution 3-98 Dissolving the Mount Pleasant Storm Drainage District and other matters contained in the instrument recorded April 27, 2009 as Document No. 2210698.

#### Judgments / Liens

None

#### General Taxes

This report does not include a search for General Taxes for the year shown in the Effective Date and subsequent years, which are not yet due or payable. This report also does not include a search for special assessments, special taxes or special charges including sewer, water and other municipal charges.

Taxes for the Year 2018 in the amount of \$173,585.18, and all prior years are paid.



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Storm, sewer, drainage, water utility and/or sanitary district assessments, if any.

#### Other Matters

None

#### Footnotes

This report is intended for the purposes of causing the Property to become a public right of way for road purposes. Consult the Company before using for any other purposes.

Copies of All Deeds, and Documents listed on report are attached.

In accordance with applicant's request, we have made a search of the records in the various public offices of Racine County. This report is for informational purposes only. The liability of the Knight Barry Title Group (Knight Barry Title, Inc., Knight Barry Title Advantage LLC, Knight Barry Title Services LLC, Knight Barry Title United LLC, and Knight Barry Title Solutions Inc.) (the "Company") to the applicant in issuing this report is: (i) for reasonable care in searching in accordance with the applicant's request and, (ii) is limited to a maximum amount of \$1,000.00. This report is not an abstract of title, a title opinion, a title insurance policy or a commitment to issue a policy of title insurance and should not be relied upon in place of such. It is not the intention, express or implied, of the Company to provide any type of guaranty, warranty, or indemnity to any party with respect to the accuracy of the information contained in the report. In order to obtain information from the Company that will carry the full liability of a title insurance commitment/policy, the Company may issue, if requested, a commitment of title insurance and will charge a fee in compliance with rates filed with the office of the Wisconsin Commissioner of Insurance. Section headings within the report are for convenience only and do not modify the scope of the search.

Further, in accordance with the applicant's request, our search does not include a search through the Wisconsin Office of the Commissioner of Railroads for conveyances and mortgages affecting any portion of the Land which either is or was railroad property (Per Section 190.11, Wis. Stats., all conveyances and mortgages affecting railroad property must be filed with the Wisconsin Office of the Commissioner of Railroads and such record has the same effect as though made in the Office of the Register of Deeds of the County where the land is situated).



3

1079089

## 2018 Property Record | Racine County, WI

Assessed values not finalized until after Board of Review  
Property information is valid as of 11/12/2019 8:28:47 AM

<b>Owner Address</b> SOUTHLAND CENTER INVESTORS LLC, 2181 S ONEIDA ST SUITE 1 GREEN BAY, WI 54304-4641	<b>Owner</b> SOUTHLAND CENTER INVESTORS LLC																																																														
<b>Property Information</b> <u>Parcel ID:</u> 151-032223031030 <u>Document #</u> 1720071 <u>Tax Districts:</u> UNIFIED SCHOOL DISTRICT	<b>Property Description</b> <i>For a complete legal description, see recorded document.</i> PT SW1/4 SEC 24&SE1/4 SEC 23 CSM #1073 IN V3P180&181 SITE 3 EXC #1752204 PT TO 151032223031031 IN 2010 FOR 2011 ROLL **TOTAL ACRES** 11.23 <u>Municipality:</u> 151-VILLAGE OF MT PLEASANT <u>Property Address:</u> 2710 GREEN BAY S RD																																																														
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\*No data found for Delinquent Tax Summary in 2018

③

**Racine County**

Owner (s):

**SOUTHLAND CENTER INVESTORS LLC**

Location:

**Section, Sect. 23, T3N, R22E**

Mailing Address:

**SOUTHLAND CENTER INVESTORS LLC**

School District:

**4620 - UNIFIED SCHOOL DISTRICT****2181 S ONEIDA ST SUITE 1****GREEN BAY, WI 54304-4641**

Request Mailing Address Change

Tax Parcel ID Number:

Tax District:

Status:

**151-03-22-23-031-030 151-VILLAGE OF MT PLEASANT Active**

Alternate Tax Parcel Number: Acres:

**11.2300**

Description - Comments (Please see Documents tab below for related documents. For a complete legal description, see recorded document.):

**PT SW1/4 SEC 24&SE1/4 SEC 23 CSM #1073 IN V3P180&181 SITE 3 EXC #1752204 PT TO 151032223031031 IN 2010 FOR 2011 ROLL \*\*TOTAL ACRES\*\* 11.23**

Site Address (es): (Site address may not be verified and could be incorrect. DO NOT use the site address in lieu of legal description.)

**2710 GREEN BAY RD S RACINE, WI 53406****0 Lottery credits claimed****Tax History**

\* Click on a Tax Year for detailed payment information.

<b>Tax Year*</b>	<b>Tax Bill</b>	<b>Taxes Paid</b>	<b>Taxes Due</b>	<b>Interest</b>	<b>Penalty</b>	<b>Total Payoff</b>
2018	\$173,585.18	\$173,585.18	\$0.00	\$0.00	\$0.00	\$0.00
2017	\$175,087.25	\$175,087.25	\$0.00	\$0.00	\$0.00	\$0.00
2016	\$178,941.01	\$178,941.01	\$0.00	\$0.00	\$0.00	\$0.00
2015	\$179,208.26	\$179,208.26	\$0.00	\$0.00	\$0.00	\$0.00
2014	\$169,392.94	\$169,392.94	\$0.00	\$0.00	\$0.00	\$0.00
2013	\$176,959.14	\$176,959.14	\$0.00	\$0.00	\$0.00	\$0.00
2012	\$183,298.75	\$183,298.75	\$0.00	\$0.00	\$0.00	\$0.00
2011	\$172,306.92	\$172,306.92	\$0.00	\$0.00	\$0.00	\$0.00
2010	\$134,842.53	\$134,842.53	\$0.00	\$0.00	\$0.00	\$0.00
2009	\$148,886.41	\$148,886.41	\$0.00	\$0.00	\$0.00	\$0.00
2008	\$134,790.40	\$134,790.40	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total</b>						<b>\$0.00</b>

Interest and penalty on delinquent taxes are calculated to **November 30, 2019.**

# Wisconsin Department of Financial Institutions

## Strengthening Wisconsin's Financial Future

Search for:

southland center in

Search Records

[Search](#)  
[Advanced Search](#)  
[Name Availability](#)

## Corporate Records

Result of lookup for S055691 (at 11/13/2019 11:49 AM )

## SOUTHLAND CENTER INVESTORS, LLC

You can: [File an Annual Report](#) - [Request a Certificate of Status](#) - [File a Registered Agent/Office Update Form](#)

## Vital Statistics

Entity ID S055691

Registered Effective Date 11/30/1999

Period of Existence PER

Status Organized [Request a Certificate of Status](#)

Status Date 11/30/1999

Entity Type Domestic Limited Liability Company

Annual Report Requirements Limited Liability Companies are required to file an Annual Report under s. 183.0120, WI Statutes.

## Addresses

Registered Agent Office  
 PATRICIA A. KOZLOSKI  
 2181 SOUTH ONEIDA STREET  
 SUITE 1  
 GREEN BAY, WI 54304-4641

[File a Registered Agent/Office Update Form](#)

Principal Office  
 2181 SOUTH ONEIDA STREET  
 SUITE 1  
 GREEN BAY, WI 54304-4641  
 UNITED STATES OF AMERICA

## Historical Information

## Annual Reports

Year	Reel	Image	Filed By	Stored On
2018	111	1111	paper	Image
2017	111	1111	paper	Image
2016	000	0000	online	database
2015	000	0000	online	database
2014	000	0000	online	database
2013	000	0000	online	database
2012	000	0000	online	database

## SOUTHLAND CENTER INVESTORS, LLC (S055691)

2011	000	0000	online	database
2010	000	0000	online	database
2009	000	0000	online	database
2008	000	0000	online	database
2007	000	0000	online	database
2006	000	0000	online	database
2005	000	0000	online	database
2004	000	0000	online	database

[File an Annual Report](#) - [Order a Document Copy](#)

**Certificates of  
Newly-elected  
Officers/Directors**

None

**Old Names**

None

**Chronology**

Effective Date	Transaction	Filed Date	Description
11/30/1999	Organized	12/03/1999	
11/23/2004	Change of Registered Agent	11/23/2004	FM516-E-Form
12/19/2006	Change of Registered Agent	12/19/2006	FM516-E-Form****RECORD IMAGED****
03/23/2017	Change of Registered Agent	03/23/2017	OnlineForm 13

[Order a Document Copy](#)

DOCUMENT #

1720071 SPECIAL WARRANTY DEED

MENARD, INC., a Wisconsin corporation, GRANTOR, for a valuable consideration conveys to SOUTHLAND CENTER INVESTORS, LLC, GRANTEE the following described real estate in Racine County, State of Wisconsin:

SITE 3 OF CERTIFIED SURVEY MAP NO. 1073 AS RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS FOR RACINE COUNTY, WISCONSIN ON MAY 7, 1985 IN VOLUME 3 OF CERTIFIED SURVEY MAPS, ON PAGE 180, AS DOCUMENT NO. 1168310, BEING PART OF THE SOUTHWEST ¼ OF SECTION 24, AND PART OF THE SOUTHEAST ¼ OF SECTION 23, IN TOWNSHIP 3 NORTH, RANGE 22 EAST, IN THE TOWN OF MT. PLEASANT, RACINE COUNTY, WISCONSIN.

Together with all and singular the hereditaments and appurtenances thereunto belonging or in any way appertaining.

This conveyance is made subject to building and zoning laws, county and municipal ordinances, state and federal regulations, easements, covenants and restrictions of record, and the following covenants which Grantor shall reserve for its use and the use of its successors or assigns:

Grantee covenants and warrants that at no time shall the property or any part thereof be used as a home improvement center, hardware store, lumber yard or similar use. This restriction shall run with the land and be binding on Grantee, its successors and assigns for a period of twenty (20) years from the date of recording of this instrument.

Grantor does hereby covenant with Grantee that Grantor holds such real estate by title in fee simple; that it has good and lawful authority to sell and convey the same; that the premises are free and clear of all liens and encumbrances whatsoever except as may be above stated; and Grantor for itself and its successors, does covenant, grant, bargain and agree to and with Grantee, its successors and assigns, that the premises, in the quiet and peaceable possession of Grantee, its successors and assigns, against all and every person or persons lawfully claiming the whole or any part thereof, by, through or under Grantor and none other, it will forever warrant and defend.

IN WITNESS WHEREOF, the Grantor has caused these presents to be executed by its duly authorized officer and its corporate seal to be hereunto affixed as of this 9 day of February, 2000.



WI REAL ESTATE  
TRANSFER FEE.

\$ 11,400.00

MENARD, INC.

by: Mary Prochaska  
Mary Prochaska  
Vice-President/Real Estate

STATE OF WISCONSIN )  
COUNTY OF EAU CLAIRE ) ss.

On this 9 day of February, 2000, before me a Notary Public within and for this County and State, personally appeared Mary Prochaska, to me personally known, who being by me duly sworn, did say that he is the Vice-President/Real Estate of Menard, Inc., the corporation executing the within and foregoing instrument, that the seal affixed thereto is the seal of the corporation; that such instrument was signed and sealed on behalf of the corporation by authority of its Board of Directors; and that Mary Prochaska, Vice-President/Real Estate, as such officer acknowledged the execution of such instrument to be the voluntary act and deed of the corporation by it and by him voluntarily executed.

Paul H. Mahler  
Paul H. Mahler  
Notary Public in and for the  
County of Eau Claire and the  
State of Wisconsin  
My Commission is permanent.

THIS INSTRUMENT DRAFTED BY:  
Paul H. Mahler, Attorney  
Menard, Inc.  
4777 Menard Drive  
Eau Claire, WI 54703  
(715) 876-2492

REGISTER'S OFFICE  
RACINE COUNTY, WI

RECORDED. \_\_\_\_\_

2000 MAR 10 AM 9:09

MARK A. LADD  
REGISTER OF DEEDS

VOL. 3010  
PAGE 748

RETURN TO: SOUTHLAND CENTER INVESTORS, LLC  
ATTN: LARRY NIFONG  
2131 S. WEBSTER AVENUE  
GREEN BAY, WI 54301

TAX PARCEL NO: 51-008-03-22-23-031-030

9910349



DOCUMENT #

1752204

STATE BAR OF WISCONSIN FORM 3 - 1982

REGISTER'S OFFICE  
RACINE COUNTY, WI

DOCUMENT NO.

## QUIT CLAIM DEED

RECORDED

2000 DEC 14 PM 3:05

MARK A. LADD  
REGISTER OF DEEDSVOL 3099  
PAGE 521Grantor: Southland Center Investors, LLC  
Grantee: Town of Mt. Pleasant

Southland Center Investors, LLC quit-claims to Town of Mt. Pleasant, the following described real estate in Brown County, State of Wisconsin:

10 THIS SPACE RESERVED FOR RECORDING DATA

## NAME AND RETURN ADDRESS

Attorney William E. Dye  
Suite 104  
1300 S. Green Bay Road  
Racine, WI 53406Exempt from Transfer Fee under  
Section 77.25 (2r)51-008-03-22-23-031-030  
PARCEL IDENTIFICATION NUMBER

Part of Site Three (3), C.S.M. No. 1073, and part of the Southeast 1/4 of Section 23 and part of the Southwest 1/4, Section 24, all in T3N, R22E, Town of Mt. Pleasant, Racine County, Wisconsin, described as follows:

Commencing at the Southeast Corner said Section 23, thence N01°45'16"W, 752.94 feet; thence N78°29'11"W, 55.67 feet to the point of beginning, thence S89°25'49"W, 519.61 feet; thence N01°45'14"W, 471.17 feet; thence N89°25'49"E, 66.01 feet; thence S01°45'14"E, 380.54 feet, thence Southeasterly, along the arc of a curve to the left, 103.86 feet; thence N89°25'49"E, 271.70 feet; thence S78°29'11"E, 119.43 feet to the point of beginning.

This is not homestead property.

Dated this 11th day of December 2000.

SOUTHLAND CENTER INVESTORS, LLC

Tax Exempt 77.25 2rBy Larry L. Nifong, its Managing Member

## ACKNOWLEDGMENT

State of Wisconsin )

Brown County )

Personally came before me this 11th day of December, 2000, the above named Larry L. Nifong to me known to be the person who executed the foregoing instrument and acknowledge the same.Debbie L. Larscheid  
• Debbie L. Larscheid

THIS INSTRUMENT WAS DRAFTED BY

Attorney F. Scott Wochos  
Denissen, Krantzsch, Mahoney & Ewald, S.C.  
P.O. Box 10597  
Green Bay, WI 54307-0597Notary Public: Brown County, Wisconsin  
My commission is permanent. (If not, state expiration date: March 18, 2001)

\*Names of persons signing in any capacity should be typed or printed below their signatures.

WARRANTY DEED

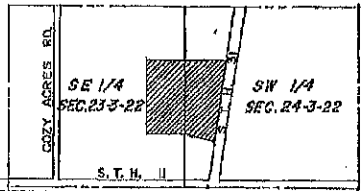
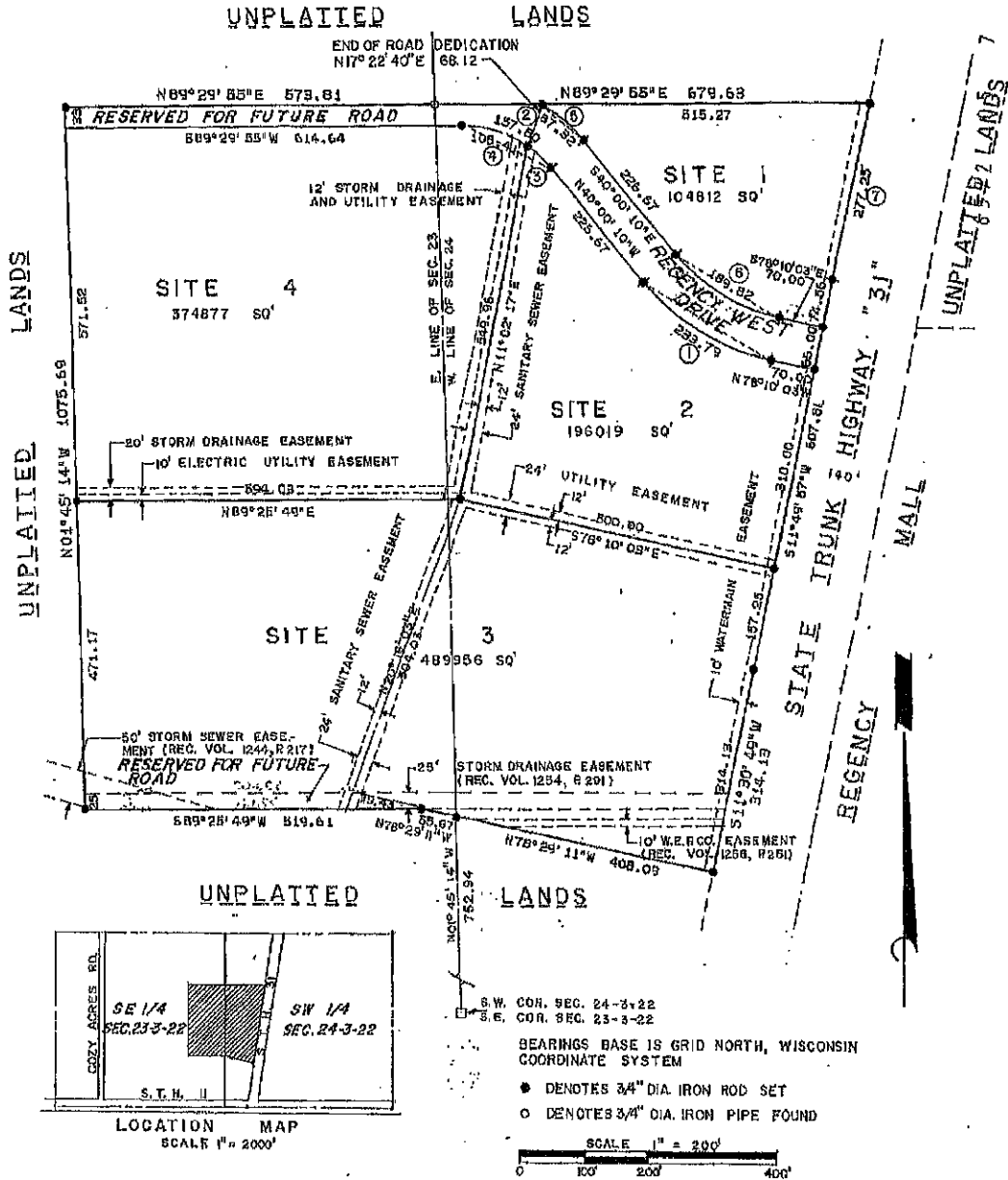
STATE BAR OF WISCONSIN  
Form No. 1 - 1982

1168310

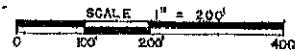
325 8

CERTIFIED SURVEY MAP No. 1073

PART OF THE SW 1/4 OF SEC. 24, AND PART OF THE S.E. 1/4 OF SEC. 23, T. 3 N., R. 22 E., IN THE TOWN OF MOUNT PLEASANT, RACINE COUNTY, WISCONSIN.



BEARINGS BASE IS GRID NORTH, WISCONSIN COORDINATE SYSTEM  
 ● DENOTES 3/4" DIA. IRON ROD SET  
 ○ DENOTES 3/4" DIA. IRON PIPE FOUND



CURVE DATA					
CURVE	ARC	RADIUS	LENGTH	CHORD	
				BEARING	GEN. ANGLE
1	233.79	350.98	229.49	N59°08'08"W	38°09'54"
2	157.80	179.04	152.74	N65°15'07"W	50°29'58"
3	49.39	179.04	49.24	N47°54'22"W	13°48'24"
4	108.41	179.04	108.76	N73°09'19"W	84°41'31"
5	67.32	245.04	86.86	S60°12'44"E	20°25'07"
6	189.82	284.98	186.33	S59°05'06"E	38°09'54"
7	277.23	16440.22	277.22	S12°18'56"W	00°57'58"



REVISED 4/22/88  
 REVISED 5/7/85

6572 05 7 1 009

1168310

CERTIFIED SURVEY MAP No. 1073

PART OF THE S.W. 1/4 OF SEC. 24, AND PART OF THE S.E. 1/4 OF SEC. 23, T. 3 N., R. 22 E., IN THE TOWN OF MOUNT PLEASANT, RACINE COUNTY, WISCONSIN

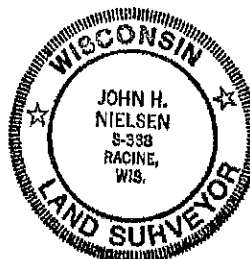
SURVEYOR'S CERTIFICATE

I, John H. Nielsen, hereby certify that I have prepared this Certified Survey Map, the exterior boundaries of which are described as: That part of the Southeast  $\frac{1}{4}$  of Section 23 and of the Southwest  $\frac{1}{4}$  of Section 24, Township 3 North, Range 22 East, in the Town of Mt. Pleasant, Racine County, Wisconsin, bounded as follows: Begin at a point on the East line of said Section 23 located  $N01^{\circ}45'14''W$  752.94 feet from the Southeast corner of said Section 23; run thence  $N78^{\circ}29'11''W$  55.67 feet; thence  $S89^{\circ}25'49''W$  519.61 feet; thence  $N01^{\circ}45'14''W$  1075.69 feet; thence  $N89^{\circ}29'55''E$  1253.44 feet to the Westerly line of S.T.H. 31 at a point on a curve of Southwesterly convexity whose radius is 16,440.22 feet and whose chord bears  $S12^{\circ}18'56''W$  277.22 feet; thence Southwesterly 277.23 feet on the arc of said curve to its point of tangency; thence  $S11^{\circ}49'57''W$  607.81 feet on the Westerly line of S.T.H. 31; thence  $S11^{\circ}30'49''W$  314.13 feet on the Westerly line of S.T.H. 31; thence  $N78^{\circ}29'11''W$  408.09 feet to the point of beginning.

I further certify that I have fully complied with the requirements of Chapter 236.34 of the Wisconsin Statutes and the provisions of the Mt. Pleasant ordinances in making such survey and Certified Survey map.

John H. Nielsen  
John H. Nielsen, R.L.S. #338

April 22, 1985



OWNER'S CERTIFICATE OF DEDICATION

As agent for the Owner, Racine County, a municipal corporation, I certify that I caused the land described on this Certified Survey Map to be surveyed, divided, mapped and dedicated as represented hereon. I further certify that this Certified Survey Map is required by Chapter s.236.34 to be submitted to the Town of Mt. Pleasant for approval or objection.

Arnold L. Clement  
Arnold L. Clement

TOWN BOARD RESOLUTION

"Be it resolved that the Certified Survey Map of part of the Southeast  $\frac{1}{4}$  of Section 23 and of the Southwest  $\frac{1}{4}$  of Section 24, Township 3 North, Range 22 East, in the Town of Mt. Pleasant, described in the certificate of John H. Nielsen, Registered Land Surveyor, dated April 22, 1985, is hereby approved subject to the Owner entering into an acceptable agreement with the Town to provide storm water drainage, sanitary sewer and roads and access agreements."

I hereby certify that the foregoing is a copy of a resolution adopted by the Town Board of the Town of Mt. Pleasant.

DATE: May 7, 1985

Signed: Carol J. Jensen  
Carol J. Jensen, Town Clerk

Register's Office  
Racine County, Wis. } SS  
Received for Record 7th day of  
May A.D. 1985 at 10:31  
o'clock PM, and recorded in Volume 3  
of City of Racine on page 180-181

William M. Schuttlin

DOCUMENT #

1727692

STATE BAR OF WISCONSIN

QUIT CLAIM OF EASEMENT RIGHTS

DOCUMENT NO.

REGISTER'S OFFICE  
RACINE COUNTY, WI

RECORDED

2000 MAY 15 AM 9:25

MARK A. LADD  
REGISTER OF DEEDS

WHEREAS, on May 7, 1985, Certified Survey Map (C.S.M.) No. 1073, a subdivision of part of the Southeast 1/4, Section 23 and part of the Southwest 1/4, Section 24, all in T3N, R22E, Town of Mount Pleasant, Racine County, Wisconsin, was recorded in the office of the Register of Deeds for Racine County, Wisconsin, in Volume Three (3), of Certified Survey Maps, page 181, as Document No. 1168310; and

WHEREAS, as shown on said C.S.M., there was dedicated a 24 foot wide sanitary sewer easement over and across sites Two (2), Three (3), and Four (4); and

WHEREAS, Southland Center Investors, LLC, owners of site Three (3) of said C.S.M. No. 1073, have requested the Mount Pleasant Sewer Utility District #1 to release its right of easement, if any, in and to the following portion of said 24 foot wide sanitary sewer easement:

~~Beginning at the Southeast corner of the Four (4), of C.S.M. No. 1073, thence S 89° 03' 00" W, 504.00 feet to the point of termination of said centerline. See attached Exhibit A.~~

WHEREAS, as shown on said C.S.M., the above-described easement is intended to include all lands lying 12 feet on each side of the above-described centerline, within site Three (3) only.

NOW THEREFORE, for and in consideration of the sum of \$1.00 to it paid, the receipt whereof is hereby acknowledged, the Mount Pleasant Sewer Utility District #1 does hereby quit claim to said owners, their heirs, successors and assigns forever, all of its right, title and interest in and to the aforesaid public utility easement.

IT IS EXPRESSLY understood and agreed that all other easement rights as set forth in the aforesaid C.S.M. No. 1073, recorded in the office of the Register of Deeds for Racine County, Wisconsin, in Volume Three (3) of Certified Survey Maps, page 181, as Document No. 1168310 shall remain in full force and effect.

IN WITNESS WHEREOF, said Mount Pleasant Sewer Utility District #1 has caused these presents to be executed on its behalf by its duly authorized officers this 13<sup>th</sup> day of April, 2000.

In Presence of:

MOUNT PLEASANT SEWER UTILITY  
DISTRICT #1

Karen D. Phoe

By

Robert Legler  
President Robert Legler

ATTEST

By

John Gorton  
Secretary John Gorton

STATE OF WISCONSIN )  
                                  ) SS  
RACINE COUNTY      )

Personally came before me, this 13<sup>th</sup> day of April, 2000, Robert Legler, Director, and John Gorton, Secretary, of the above-named Mount Pleasant Sewer Utility District #1, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

THIS DOCUMENT WAS DRAFTED BY  
Attorney F. Scott Woehos  
Denissen, Kranzush, Mahoney & Ewald, S.C.  
P.O. Box 10597  
Green Bay, WI 54307-0597

Robert E. Pucely  
Notary Public, Racine County, Wisconsin  
My commission expires: March 11, 2001  
Robert E. Pucely

THIS SPACE RESERVED FOR RECORDING DATA

NAME AND RETURN ADDRESS  
Attorney F. Scott Woehos  
P.O. Box 10597  
Green Bay, WI 54307-0597

VOL 3030  
PAGE 616  
17

Exhibit A

Beginning at the Southeast corner of site Four (4), of C.S.M. No. 1073; thence  
S20°16'03"W, 504.03 feet to the point of termination of said centerline.

DOCUMENT NO.

1169378

STATE BAR OF WISCONSIN - FORM 1  
WARRANTY DEED  
THIS SPACE RESERVED FOR RECORDING DATARegister's Office  
Racine County, Wis. } SSReceived for Record 24th day of  
May A.D. 1985 at 8:10  
o'clock PM and recorded in Volume 1753  
of Records on page 292Ther. M. Schuttin  
Register of DeedsRETURN TO LANDMARK TITLE  
Mary Prochaska  
Menard, Inc.  
4777 Menard Drive  
Eau Claire, WI 54703

Tax Key No. \*

THIS DEED, made between Racine County, a  
municipal corporation  
Grantor  
and Menard, Inc., a Wisconsin corporationWitnesseth, That the said Grantor, for a valuable consideration  
one dollar  
conveys to Grantee the following described real estate in Racine  
County, State of Wisconsin:Site No. 3 of Certified Survey Map No. 1073,  
recorded in the office of the Register of Deeds  
for Racine County, Wisconsin on May 7, 1985, in  
Volume 3 of Certified Survey Maps, pages 180-181, as Document No. 1168310,  
and being a part of the Southeast 1/4 of Section 23 and the Southwest 1/4  
of Section 24, Township 3 North, Range 22 East. Said land being in the  
Town of Mt. Pleasant, Racine County, Wisconsin.

See Exempt 77.25 #2

This is not homestead property.  
(is) (is not)Together with all and singular hereditaments and appurtenances thereunto belonging;  
And Racine Countywarrants that the title is good, indefeasible in fee simple and free and clear of encumbrances except  
municipal and zoning ordinances, recorded easements for public utilities,  
recorded building and use restrictions and covenants

and will warrant and defend the same.

Dated this 23rd day of May, 1985.

\* M2-23-9-C (51-008-03-22-32-031-030)

(SEAL)

(SEAL)

(SEAL)

(SEAL)

\* Len Zlotkowski, County Executive

(SEAL)

\* Dennis Kornwolf, County Clerk

## AUTHENTICATION

Signatures authenticated this 23 day ofMAY, 1985William F. Book\* William F. Book

TITLE: MEMBER STATE BAR OF WISCONSIN

(If not,  
authorized by § 706.06, Wis. Stats.)

This instrument was drafted by

William F. Book  
Corporation Counsel  
County of Racine(Signatures may be authenticated or acknowledged. Both  
are not necessary.)

\* Names of person signing in any capacity must be typed or printed below their signatures.

LMT-1860

## ACKNOWLEDGMENT

STATE OF WISCONSIN

County. } SS.

Personally came before me, this \_\_\_\_\_ day of

the above named \_\_\_\_\_

to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public \_\_\_\_\_ County, Wis.  
My Commission is permanent. (If not, state expiration  
date: \_\_\_\_\_, 19\_\_\_\_.)

I VOL 1753 PAGE 292

Ref

950060

THIS INDENTURE, made this 10th day of Feb February  
A.D. 1975, between RACINE COUNTY and MT. PLEASANT STORM WATER  
Dr. John M. Morgan Jr.  
DRAINAGE DISTRICT NO. 1, Racine County, Wisconsin, a Municipal Cor-  
poration, duly existing under and by virtue of the laws of the State  
of Wisconsin, party of the second part.

WITNESSETH: .

That for and in consideration of the sum of \$1.00 and other good and valuable consideration in hand paid, the receipt of which is hereby acknowledged, the part Y of the first part has this day bargained and sold and by these presents does bargain, sell, convey, transfer and deliver unto the party of the second part, its successors and assigns forever, a permanent easement and right of way and a temporary easement during the period of construction, including the perpetual right to enter upon the real estate hereinafter described at any time that it may see fit, and construct, maintain, use and repair surface water drainage ditch and/or underground pipe lines and mains, for the purpose of conveying surface and storm water across, through and under the real estate hereinafter described, together with the right to excavate and refill ditches and/or trenches for the location of said surface water drainage ditch and/or underground pipe lines and mains, and the further right to remove trees, bushes, undergrowth and other obstructions interfering with the location, construction, use and maintenance of said surface water drainage ditch and/or underground pipe lines and mains.

1254-291

The real estate affected by the grant of this permanent easement and right of way is located in the Town of Mt. Pleasant, County of Racine, and State of Wisconsin, and is more particularly described as follows:

8-21  
8-45  
Description of lands for utility easements located in the Southeast 1/4 of Section 23 and the Southwest 1/4 of Section 24, Town 3 North, Range 22 East, Town of Mt. Pleasant, Racine County, Wisconsin, as follows:  
A twenty-five (25) foot easement the centerline of which is described as commencing at the Southeast corner of Section 23, Town 3 North, Range 22 East; thence West, 488.35 feet along the South line of said Section 23; thence North 1°12'30" West, 69.02 feet to the North right-of-way line of Wisconsin State Trunk Highway "11" and the point of beginning of this description; thence continue North 1°12'30" West, 708.08 feet; thence East 908 feet more or less to the Westerly right-of-way line of Wisconsin State Trunk Highway "31" and the point of ending of this description. The above described easement bounding a parcel of land as recorded in Vol. 560, Page 303, Racine County Register, on the West and North.

(continued on reverse side)

The real estate affected by the grant of this temporary easement covers land adjacent to the above described permanent easement and right of way as may be required during the period of construction.

TO HAVE AND TO HOLD said permanent easement and right of way unto the party of the second part and unto its successors and assigns forever.

Party of the first part for itself, its ~~heirs, executors, administrators, successors and assigns~~, do hereby covenant with the party of the second part, its successors and assigns forever that it is lawfully seized and possessed of the real estate above described and that it has good and lawful right to convey it or any part thereof and that it is free from all encumbrances. VEL 1254 PAGE 291

(continuation of legal description)

Also, a fifty (50) foot easement the centerline of which is described as commencing at the Southeast corner of Section 23, Town 3 North, Range 22 East; thence West, 480.85 feet along the South line of said Section 23; thence North  $1^{\circ}12'30''$  West parallel to the Westerly line of a parcel of land recorded in Vol. 560, Page 303, Racine County Register, 764.60 feet; thence West, 20.00 feet to the point of beginning of this description; thence continue West, 102.00 feet; thence North  $45^{\circ}00'$  West, 290.00 feet to the point of ending of this description.

It is understood that the centerline of construction of the storm sewer line will be on the North and West property lines of the property described in Vol. 560, page 303 (Town of Mt. Pleasant property).



WARRANTY DEED VOL 560 PAGE 303

THIS INDENTURE, made this 24th day of April, A.D. 1954, between the COUNTY OF RACINE in the State of Wisconsin, party of the first part, and the TOWN OF MT. PLEASANT, in Racine County, State of Wisconsin, party of the second part,

WHEREAS, at a legal meeting of the County Board of Supervisors of Racine County held on the 10th day of February, A.D. 1953, said County Board by resolution directed the County Clerk of said County of Racine, Wisconsin, to convey by warranty deed the interest of Racine County in lands hereinafter described, said lands being located in the Town of Mt. Pleasant, Racine County, Wisconsin, to the said party of the second part, subject to certain conditions and restrictions as set forth in Resolution No. 144, adopted by the Racine County Board of Supervisors on the 10th day of February, A.D. 1953, which conditions and restrictions are hereinafter set forth in full.

WITNESSETH, that the said party of the first part for and in consideration of Thirteen Thousand Five Hundred Dollars (\$13,500.00) to it in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, has given, granted, bargained, sold, remised, released, aliened, conveyed and confirmed, and by these presents does give, grant, bargain, sell, remise, alien, convey, and confirm unto the said party of the second part and its assigns forever the following described real estate, situated in the County of Racine and State of Wisconsin, to-wit:

That part of the Southeast  $\frac{1}{4}$  of Section 23, and the Southwest  $\frac{1}{4}$  of Section 24, Township 3, North, Range 22 East, in the Town of Mt. Pleasant, Racine County, Wisconsin, described as follows:

Begin at the Southeast corner of said Section 23; run thence West 475.05 feet along the South line of said Section 23; thence North 10° 12' 30" West 764.60 feet; thence East 475.05 feet to the East line of said Section 23; thence continue East 491.55 feet to the center of the Green Bay Road; thence South 12° 05' West 788.0 feet to the South line of said Section 24; thence North 88° 11' 30" West 810.5 feet to the point of beginning.

Containing 15.6141 Acres.

JP

616884

reserving, however, for a period of four months after the 1st day of April, A.D. 1953, unto the grantor the right to the structure now located on said premises, together with the right to enter thereon and to remove said building therefrom; and subject to the following conditions:

- a. The Town of Mt. Pleasant shall establish and maintain a fire station on said premises within a period of three years after April 1, 1953.
- b. Said premises shall at no time be used nor suffered to be used for the purpose of sale or disposal in any manner of spirituous, malt, brew, vinous, ardent, fermented or intoxicating liquors.
- c. In the event that the fifteen acres hereby conveyed become located within the territorial limits of the City of Racine, then condition "a" above set forth shall become null and void.
- d. In the event that either of these conditions be violated, the grantor, Racine County, shall have the right to institute and maintain legal proceedings for the specific performance of the conditions herein contained.

TOGETHER, with all and singular the hereditaments and appurtenances thereunto belonging or in any wise appertaining; and all the estate, right, title, interest, claim or demand whatsoever, of the said party of the first part, either in law or equity, either in possession or expectancy of, in and to the above bargained premises, and their hereditaments and appurtenances, excepting, however, as hereinbefore provided:

TO HAVE AND TO HOLD the said premises as above described with the hereditaments and appurtenances, unto the said party of the second part, and to its successors and assigns FOREVER.

And the Said County of Racine, in the State of Wisconsin for itself and its successors does covenant, grant, bargain and agree to and with the said party of the second part, its successors and

MP 560 MAR 30 1955

assigns, that at the time of the enrolling and delivery of these presents it is well seized of the premises above described, as of a good, sure, perfect, absolute and indefeasible estate of inheritance in the law, in fee simple, and that the same are free and clear from all incumbrances whatever, and that the above bargained premises in the quiet and peaceable possession of the said party of the second part, its successors and assigns, against all and every person or persons lawfully claiming the whole or any part thereof, it will forever WARRANT AND DEFEND.

IN WITNESS WHEREOF, the said county has caused this deed to be executed in its behalf by Lennie Hardie, its County Clerk, and its official County Seal to be affixed this 26<sup>th</sup> day of April, A.D. 1954.

COUNTY OF RACINE

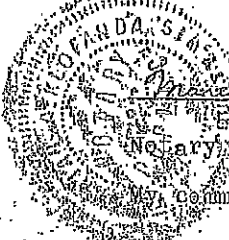
By Lennie Hardie (SEAL)  
Lennie Hardie, County Clerk

In the Presence of:

Elizabeth Hughes  
Elizabeth Hughes  
Medora H. Phillips  
Medora H. Phillips

STATE OF WISCONSIN )  
COUNTY OF RACINE ) SS

Personally came before me this 26<sup>th</sup> day of April, A.D. 1954, the above named Lennie Hardie, County Clerk of Racine County, Wisconsin, to me known to be such officer and to be the person who executed the foregoing instrument and acknowledged that she executed the same as the act and deed of said Racine County and by its authority.



Marian A. Klotz  
Marian A. Klotz  
Notary Public, Racine County, Wis.  
My comm. expires: June 16, 1957

ORIGINAL

\*\*\*\*\* VOL. 560 PAGE 306 \*\*\*\*\*

COUNTY OF RACINE

STATE OF WISCONSIN

Party, First Part

TOWN OF MT. PLEASANT

RACINE COUNTY

STATE OF WISCONSIN,

Party, Second Part

\*\*\*\*\*

616884

WARRANTY DEED

Recorder's Office }  
Racine County, Wis. }

Received for Record \_\_\_\_\_ day of  
\_\_\_\_\_ A.D. 1954 at 11:50  
o'clock P.M. and recorded in Volume 560  
of \_\_\_\_\_ page 303 - 306

\_\_\_\_\_  
Register of Deeds

By \_\_\_\_\_  
Deputy

Mr. Lawrence Lee

Edward A. Krueger  
District Attorney  
Racine County, Wis.

W.R. 1 Shults

200

FOR AND IN CONSIDERATION of the sum of One Dollar (\$1.00) to it paid, the receipt whereof is hereby acknowledged, the TOWN OF MT. PLEASANT, a municipal corporation, duly organized and existing under and by virtue of the laws of the State of Wisconsin, grantor, does hereby give and grant to

WISCONSIN ELECTRIC POWER COMPANY,

grantee, its successors and assigns, the right, permission and authority to construct, install, operate, maintain and replace conduit and cables underground for the purpose of transmitting electrical energy for light, heat, power and signals, or for such other purpose as electric current is now or may hereafter be used, upon, in and under the southerly ten (10) feet of the northerly twenty-five (25) feet and the easterly ten (10) feet of the westerly twenty-five (25) feet of its premises in the Southeast One-quarter (SE $\frac{1}{4}$ ) of Section Twenty-three (23) and the Southwest One-quarter (SW $\frac{1}{4}$ ) of Section Twenty-four (24), Township Three (3) North, Range Twenty-two (22) East, Town of Mt. Pleasant, Racine County, Wisconsin; said premises being more particularly described as: Beginning at the Southeast corner of said Section Twenty-three (23); thence West four hundred seventy-five and eighty-five one-hundredths (475.85) feet along the South line of said Section Twenty-three (23); thence North one degree, twelve minutes, thirty seconds (01°12'30") West seven hundred sixty-four and sixty one-hundredths (764.60) feet; thence East four hundred seventy-five and eighty-five one-hundredths (475.85) feet to the East line of said Section Twenty-three (23); thence continue East four hundred ninety-one and fifty-five one-hundredths (491.55) feet to the centerline of Green Bay Road; thence South twelve degrees, five minutes (12°05') West seven hundred eighty-eight (788.0) feet to the South line of said Section Twenty-four (24); thence North eighty-eight degrees, forty-nine minutes, thirty seconds (88°49'30") West three hundred ten and five tenths (310.5) feet to the point of beginning; also the right to construct, install, operate, maintain and replace electric pad-mounted transformers, together with concrete slabs and other necessary and usual appurtenant equipment, all for the aforesaid purposes, in the above described easement area.

The right, permission and authority is also granted said grantee to enter upon said premises of the grantor for the purpose of exercising the rights herein acquired, but the grantee agrees to restore the premises of the grantor, as nearly as is reasonably possible, to the condition existing prior to such entry.

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952865

1256-251

March 11, 1975

IN WITNESS WHEREOF, the said TOWN OF MT. PLEASANT has caused these presents to be signed by its Town Chairman and countersigned by its Town Clerk, and its corporate seal hereunto affixed this 10th day of February, 1975.

In Presence of:

TOWN OF MT. PLEASANT

Clarence J. Kuiper  
Clarence J. Kuiper

By Henry Robner  
Henry Robner Town Chairman.

COUNTERSIGNED:

Julie Jensen  
Julie Jensen

By Kernit C. Hansen  
Kernit C. Hansen Town Clerk.

STATE OF WISCONSIN }  
                              } SS:  
Racine COUNTY }

Personally came before me this 10th day of February, 1975,  
Henry Robner, Town Chairman, and  
Kernit C. Hansen, Town Clerk, of the above named municipal corporation, TOWN OF MT. PLEASANT, to me known to be the persons who executed the foregoing instrument and to me known to be such Town Chairman and Town Clerk of said municipal corporation, and acknowledged that they executed the foregoing instrument as such officers, as the deed of said municipal corporation, by its authority, and pursuant to Resolution File No. 952865 adopted by its Town Board on 2-10-1975 1975.

Received for Record 11th day of March A.D., 1975 at 3:30 o'clock P.M. and recorded in Volume 1256 on page 252  
I.D.O. R-665  
WO 420-01-4049  
REC'D 1-16-78  
Stanley J. Bielecki  
Register of Deeds  
Dorothy Michael  
Notary Public, Racine County, WI.  
My commission expires 5-1-77

3.00

This Instrument Was Drafted By  
Robert G. Just  
On Behalf of Wisconsin Electric Power Company



This instrument was drafted by John W. Bates, III, Attorney at Law  
Register's Office } SS  
Racine County, Wis. }

Received for Record 17th day of May, 1985 at 2:09  
o'clock P.M. and recorded in Volume 1752  
of Records on page 604-654

DECLARATION OF EASEMENTS  
AND COVENANTS

1169012

112.00 Helen M. Schuttlin

THIS DECLARATION OF EASEMENTS AND COVENANTS ("Declaration")  
is made as of the 13 day of May, 1985 by the COUNTY OF  
RACINE, a political subdivision of the State of Wisconsin  
("Declarant").

1. RECITALS

(a) Declarant is the fee simple owner of certain parcels of  
real property located in the Town of Mount Pleasant, County of  
Racine, State of Wisconsin, more particularly described on  
Exhibit A attached hereto and shown as "Parcel A" on the Site  
Plan attached as Exhibit D hereto, which parcel Racine has  
contracted to sell to Menard, Inc., a Wisconsin corporation  
("Menard").

(b) Declarant is the owner of a certain parcel of real  
property located in the Town of Mount Pleasant, County of Racine,  
State of Wisconsin, more particularly described on Exhibit B  
attached hereto and shown as "Parcel B" on the Site Plan attached  
as Exhibit D hereto, which parcel Racine has contracted to sell  
to Best Products Co, Inc., a Virginia corporation ("Best").

(c) Declarant is the owner of a certain parcel of real  
property located in the Town of Mount Pleasant, County of Racine,  
State of Wisconsin, more particularly described on Exhibit C

attached hereto and shown as "Parcel C" on the Site Plan attached as Exhibit D hereto.

(d) Declarant desires and intends to develop Parcel A, Parcel B and Parcel C (collectively, the "Development") into a first-class cohesive development and to establish certain reciprocal easements, conditions and restrictions under a general plan of maintenance improvement for the benefit of the entire development.

2. DEFINITIONS. Except where the context otherwise requires, the following definitions shall govern the construction of this Declaration:

(a) "Best" shall mean Best Products Co., Inc., a Virginia corporation, its successors and assigns.

(b) "Buildable Areas" shall mean all those portions of the Development upon which the Owners elect to construct buildings, sidewalks, walkways adjacent to buildings and loading docks pursuant to this Declaration and the building setback line of Parcel C as shown on the Site Plan.

(c) "Common Areas" shall mean the portion of the Development intended for the non-exclusive use by Owners in common with other users, including, but not limited to, parking areas,



driveways, sidewalks, outdoor lighting facilities, landscaped areas, service areas and access roads as shown on the Site Plan.

(d) "Common Area Improvements" shall mean all improvements to be made to the Common Areas including, but not limited to, the following: (i) storm water drainage systems and surface and subsurface drainage systems necessary to serve the Development; (ii) parking areas, sidewalks, and walkways; (iii) walkways, driveways and roadways providing access from public roads to, across, and around the parking areas; (iv) free-standing outdoor lighting fixtures, traffic and directional signs and markings, and the striping of parking areas; (v) underground sewer, gas, electrical, water, telephone and other utility mains, lines, and facilities; (vi) landscaping and retaining walls; (vii) pump stations; and (viii) any other improvements to be made to the Common Areas.

(e) "Declaration" shall mean this Declaration of Easements and Covenants.

(f) "Declarant" shall mean the County of Racine, a political subdivision of the State of Wisconsin, its successors and assigns.

(g) "Defaulting Owner" shall mean any Owner who is in default of any of its obligations under this Declaration.

(h) "Development" shall mean Parcel A, Parcel B and Parcel C as shown on the Site Plan.

(i) "First Mortgage" shall mean any mortgage, deed of trust or other security instruments which creates a first lien against a Parcel or any improvements constructed thereon.

(j) "First Mortgagee" shall mean the beneficiary or secured party under a First Mortgage.

(k) "gross buildable area" shall mean the entire floor area of every floor in a building, including (i) mezzanines, if any, measured on the basis of the outside dimensions of the building, (ii) screened outdoor sales areas, and (iii) in the event there is any drive-through or drive-in business conducted in the Development, such as a drive-through restaurant or bank, the square footage of the driveways used in connection therewith (and either covered by a canopy or, if no canopy, then 200 square feet for each point of access, such as a pick-up window). Loading docks shall not be considered a part of gross leaseable area.

(l) "Impositions" shall mean all real estate taxes and assessments levied or imposed against the Development or any part thereof and any administrative charge, fee, or levy imposed in lieu of or to supplement or replace any revenue losses arising out of the reduction of real estate taxes.

(m) "Menard" shall mean Menard, Inc., a Wisconsin corporation, its successors and assigns.

(n) "Non-Defaulting Owner" shall mean any Owner who is not in default in any of its obligations under this Declaration.

(o) "Owner" or "Owners" shall mean the respective owners in fee simple of the Parcels as each is shown by the records of the Office of the Register of Deeds, Racine County, Wisconsin, from time to time. Notwithstanding the foregoing, the term "Owner" shall not include a Person who (i) holds title to a Parcel merely as security for the performance of an obligation, such as a mortgagee or trustee under a deed of trust; however, with respect to any Parcel subject to a First Mortgage, the Owner of such Parcel shall be deemed to be the First Mortgagee if such First Mortgagee has filed a notice in the records of the Office of The Register of Deeds, Racine County, Wisconsin, stating the intent of the First Mortgagee to become a "mortgagee-in-possession", but no First Mortgagee shall be responsible for any obligations arising under the terms of this Declaration except for such obligations which arise during the term of such First Mortgagee's possession; (ii) immediately after the conveyance of the Parcel, leases the same portion of the Parcel back to the previous Owner or an affiliate or subsidiary in a sale-leaseback transaction, in which event the lessee may be deemed the "Owner" of the Parcel so conveyed for so long as the lease remains in effect if the provisions of the lease shall so provide; or (iii) merely has an

equitable interest in the Development or any portion thereof under a contract of purchase. If title to any portion of Parcel A, Parcel B or Parcel C is owned jointly by two or more Persons or entities (the "Jointly Owned Interest"), each of such Persons or entities shall be jointly and severally liable hereunder as "Owners" with respect to the Jointly Owned Interest. The Persons or entities owning at least seventy percent (70%) in interest of the Jointly Owned Interest shall designate in writing one of their number as agent (the "Agent") to act on behalf of all such parties and such designation shall be recorded in the Office of the Register of Deeds in Racine County, Wisconsin, and a copy thereof shall be served upon every other Owner of the Development by registered or certified mail, return receipt requested. Any interest owned by any Person who is a minor or is otherwise suffering from any legal disability shall be disregarded in the making of such designation unless there is at such time a duly appointed guardian or other legal representative fully empowered to act on behalf of such Person. The exercise of any powers and rights of a Person or entity holding an interest in the Jointly Owned Interest by the Agent shall be binding upon such Person or entity, and other Owners shall be entitled to deal with and rely upon the acts or omissions of the Agent, unless and until the designation of the Agent is revoked by or a new Agent is designated in his place, each of which shall only be effected by written instrument recorded and served upon the other owners in the Development as hereinabove provided. Service upon the Agent of any process, writ, summons, order or other mandate of any

nature, including demand for arbitration, shall constitute due and proper service of any such matter upon his principal. Until such instrument is recorded and served upon the other Owners, the designation of the Agent shall remain irrevocable and shall not terminate upon disability of the principal.

(p) "Parcel A" is the area within the Development designated as "Parcel A" on the Site Plan and more particularly described on Exhibit A attached hereto.

(q) "Parcel B" is the area within the Development designated as "Parcel B" on the Site Plan and more particularly described on Exhibit B attached hereto.

(r) "Parcel C" is the area within the Development designated as "Parcel C" on the Site Plan and more particularly described on Exhibit C attached hereto.

(s) "Parcels" shall mean, initially, Parcel A, Parcel B and Parcel C, and thereafter shall include any additional parcel(s) resulting from a subdivision of Parcel A, Parcel B or Parcel C pursuant to applicable laws. The term "Parcel" refers to either Parcel A, Parcel B or Parcel C or to any additional Parcel(s) resulting from a subdivision described above, as the context may require.

(t) "Person" or "Persons" shall mean and include individuals, partnership, firms, associations, joint ventures, business trust, corporations, or any other form of business entity.

(u) "Prime" shall mean the rate of interest announced by the Bank of Virginia as its prime rate in effect on the first day of each month.

(v) "Site Plan" shall mean the site plan attached hereto as Exhibit D which depicts Parcel A, Parcel B and Parcel C, which form the Development.

3. GENERAL DECLARATION. Declarant hereby declares that all of the Development is and shall be conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred, in whole or in part, subject to this Declaration and all of the easements, covenants, conditions and restrictions set forth herein. All of such easements, covenants, conditions and restrictions are declared and agreed to be in furtherance of a general plan for the subdivision, improvement, occupancy, and leasing of the Development and are established for the purpose of enhancing and protecting the value, desirability and attractiveness of the Development and every part thereof. All of this Declaration and all of such easements, covenants, conditions and restrictions shall run with all of the land comprising the Development for all purposes and shall be binding upon and inure to the benefit of all Owners and their respective

lessees, licensees, invitees, occupants and successors in interest.

#### 4. EASEMENTS

##### 4.1. Ingress and Egress.

(a) For the benefit of the Owner of Parcel B and its tenants, subtenants, employees, concessionaires, licensees, customers and invitees, and its successors and assigns, Declarant hereby establishes, as an appurtenance to Parcel B, a non-exclusive easement for pedestrian and vehicular ingress to and egress from Parcel B across the Common Areas on Parcel A to and from the roadway designated as "South Road" on the Site Plan. Nothing contained in this Declaration shall be deemed to prevent the installation and maintenance within the Common Areas on Parcel A of the Common Area Improvements.

(b) For the benefit of the Owner of Parcel A and its tenants, subtenants, employees, concessionaires, licensees, customers and invitees, and its successors and assigns, Declarant hereby establishes, as an appurtenance to Parcel A, a non-exclusive easement for pedestrian and vehicular ingress to and egress from Parcel A across the Common Areas on Parcel B to and from the roadway designated as "North Road" on the Site Plan. Nothing contained in this Declaration shall be deemed to prevent

the installation and maintenance within the Common Areas on Parcel B of the Common Area Improvements.

(c) For the benefit of all present and future Owners, then tenants, subtenants, employees, concessionaires, licensees, customers, and invitees, and their successors and assigns, Declarant hereby establishes as an appurtenance to each of Parcel A, Parcel B and Parcel C, a non-exclusive easement for pedestrian and vehicular ingress to and egress from State Highway 31 over and across that portion of the Development designated as the "North Road" on the Site Plan and more particularly described on Exhibit E attached hereto. Declarant agrees that it shall make such improvements as may be required by the Town of Mount Pleasant and the State of Wisconsin for acceptance of such easement area into the Wisconsin road system as a public street, provided that such roadway shall be designed and constructed so as to accommodate tractor-trailers and further provided that Best and Menard reserve the right to approve the plans for such roadway, which approval shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, if the construction of the North Road is not completed by July 1, 1985, Best may thereafter enter onto such easement and complete construction of the North Road. Best's costs of completing the North Road shall be paid as provided in paragraph 4(b)(ii) of the Purchase Agreement dated January 24, 1985, between Declarant as seller and Best as purchaser. Upon completion of the North Road, such easement area shall be dedicated to public use and travel, and



all parties to this Declaration shall execute such documents of conveyance or release as may be necessary to effect such dedication. Until such time as the easement area is accepted for maintenance as a public street, the easement area and all improvements thereto shall be maintained in good condition and repair by Declarant at its sole cost and expense. Upon acceptance of such easement area for maintenance as a public street by appropriate governmental authority, all obligations of maintenance of such easement area by Declarant shall cease.

#### 4.2 Parking and Incidental Use.

(a) For the benefit of the Owner of Parcel B and its tenants, subtenants, employees, concessionaires, licensees, customers and invitees, and its successors and assigns, Declarant hereby establishes, as an appurtenance to Parcel B, a non-exclusive easement and right for vehicular use of all driveways, roadways, parking areas and all other portions of the Common Areas or Common Area Improvements on Parcel A generally used by such vehicles and pedestrian use of sidewalks, walkways, parking areas and all other portions of the Common Areas or Common Area Improvements on Parcel A generally used by pedestrians.

(b) For the benefit of the Owner of Parcel A and its tenants, subtenants, employees, concessionaires, licensees, customers and invitees, and its successors and assigns, Declarant

hereby grants, as an appurtenance to Parcel A, a non-exclusive easement and right for vehicular use of all driveways, roadways, parking areas and all other portions of the Common Areas or Common Area Improvements on Parcel B generally used by vehicles, and pedestrian use of sidewalks, walkways, parking areas and all other portions of the Common Areas or Common Area Improvements on Parcel B generally used by pedestrians.

4.3. Drainage Easement. For the benefit of the Owner of Parcel B, Declarant hereby establishes, as an appurtenance to Parcel B, an easement and right of way across and under the portion of Parcel A depicted as "Storm Water Easement Area" on the Site Plan and more particularly described on Exhibit F attached hereto for the purpose of installing and operating a storm water drainage line, including, but not limited to, the right to install, maintain, use, repair and replace underground pipes, ducts, and conduits for the purpose of transmitting drainage from Parcel B to the stormwater detention pond lying west of and adjacent to Parcel A. The Owner of Parcel B shall promptly and at its own expense repair any damage to the Common Area or Common Area Improvements on Parcel A caused in connection with the use of this easement.

For the benefit of the Owner of Parcel C, Declarant hereby establishes an easement or easements and right-of-way or rights-of-way under the portions of Parcel A and Parcel B depicted as "Storm Water Easement Area" on the Site Plan for the purpose of installing and operating a storm water drainage line,

including, but not limited to, the right to install and maintain, use, repair and replace underground pipes, ducts, and conduits for the purpose of transmitting drainage from Parcel C and the North Road to the storm water detention pond lying west of and adjacent to Parcel A.

In addition to the easement shown on the Site Plan, an additional easement may be determined to be necessary and cost beneficial for the purpose of constructing a storm drain to convey water from the westerly portion of the North Road to a catch basin located in the parking lot in the Northwest portion of Parcel B.

The Declarant, in consideration of the Owner of Parcel B granting an easement and constructing the storm water drain, will allow Owner of Parcel B to convey such storm water into the storm water pipe constructed in the County's remaining 8.8 acre parcel.

5. RESTRICTIONS ON USE. Except as hereinafter provided, the Development and every portion thereof may be used and shall be used only for any use which does not violate applicable zoning, building, health, safety and other applicable laws, ordinances, statutes, rules and regulations of applicable governmental authorities, and no portion thereof shall be used for a movie theater, carnival or other temporary entertainment facility, massage parlor, "adult" book store or similar business catering to pornographic interests, amusement center (including, without limitation, pinball, electronic or other game parlors), penny arcade, funeral parlor, bowling alley, cafeteria containing over

4,000 square feet, a business of the type generally referred to as a "flea market", or an employee training facility.

6. BUILDINGS

6.1. Buildable Areas. Except for the construction of Common Area Improvements and as otherwise hereinafter provided, no building, wall, structure, or other improvement shall be erected, placed or permitted to remain on Parcel C unless such building, wall, structure, or other improvement is erected entirely within the portions of the Parcel C designated as Buildable Areas on the Site Plan. No Owner shall construct any building, wall, structure, or other improvement on Parcel A nearer to State Highway 31 than the front building line of the improvements on Parcel B depicted on the Site Plan. Further, no multiple deck, subterranean or elevated parking facilities shall be erected or placed on any portion of the Development, including in Buildable Areas or the Common Areas. Notwithstanding anything contained herein to the contrary, the Owner of Parcel A shall not construct any building, wall, structure or other improvement on Parcel A other than, as depicted on the Site Plan, without the prior written consent of the Owner of Parcel B, which approval shall not be unreasonably withheld or delayed. Whenever any Buildable Areas is improved with Common Area Improvements, the area so improved shall become Common Areas for the purposes of this Declaration; except that the Owner of such area may at any time cause all or any portion of such converted Buildable Areas to be

withdrawn from Common Areas and improved for the exclusive use of any Person, subject to the terms, covenants and restrictions of this Declaration. Any construction done in the Development shall be performed and completed in a good and workmanlike manner, using first class materials. No building, structure or other improvement shall be erected, placed or permitted to remain Parcel C if such building, structure or other improvement exceeds a height of eighteen (18) feet, exclusive of HVAC and other mechanical equipment, antenna, and screening.

6.2. Screening and Access During Construction. If either party hereto has opened its business to the public on the Development, then in order to preserve the operational efficiency of the Development and to prevent loss of sales ~~(i) there shall be no mud, dirt, construction materials or debris allowed to accumulate or remain outside of the plywood or equivalent wall described above or construction allowed to proceed in a manner which interferes with the visibility, access or operation of the Development as reasonably determined by the benefitted party,~~ ~~(ii) no construction of exterior improvements in the Development shall occur during the months of November and December of any calendar year after a store in the Development has opened its business to the public, except as permitted in writing by the Owner of the Parcel which has opened for business, in its reasonable discretion, (iii)~~ no construction shall be performed in such a manner as to impede the normal operation and traffic flow within the Development; and ~~(iv)~~ <sup>(v)</sup> any Owner damaging any

driveways, roadways, parking areas or other portion of the Common Area during the construction of improvements on the Development shall promptly repair same. It is understood and agreed that the foregoing may be enforced by way of specific performance or injunction.

6.3. Screening after Construction. The Owners of the developed improvements in the Development shall screen refuse areas and will screen all outside storage areas as otherwise required by applicable laws, ordinances and regulations.

6.4. Permitted Encroachments. Canopies (except those shown on the Site Plan, which are permitted), marquees, fire hose connections, down spouts, hose bibs, pipes, yard and flood lights, subsurface building foundations, signs and shadow boxes attached to or forming an integral part of any building, may encroach upon the Common Areas provided such encroachment does not exceed a distance of thirty-eight inches (38") over, on or under the Common Areas.

6.5. Construction Liens. Except for the initial construction of the Common Area Improvements and the subsequent repair and replacement thereof, each Owner shall be liable for the cost of any improvements constructed on its Parcel, and any repairs, changes, renovations, alterations, and additions thereto, and each Owner shall indemnify and hold the other Owners harmless

against any construction liens or other claims filed against the other Owner's Parcel or the Common Areas with respect thereto.

6.6. Utilization of Common Areas during Repairs. Subject to the prohibitions contained in Section 6.2 above, during subsequent repair, renovation, or expansion of improvements on the Buildable Areas, Common Areas immediately adjacent to the Buildable Areas may be generally utilized as a part of the construction site to the extent reasonably necessary for repair, renovation or expansion. Promptly on completion thereof, all building materials, equipment and machinery shall be removed and the Common Areas so utilized shall be restored and thereafter maintained as required by this Declaration.

## 7. MAINTENANCE OF IMPROVEMENTS

7.1. Maintenance of Buildings. Each Owner in the Development shall: (i) maintain or cause to be maintained the exterior of its buildings in a state of good repair (ordinary wear and tear, damage or destruction due to casualty, or a taking or sale in lieu of or pursuant to a power of eminent domain excepted), in a clean condition, and maintain all areas (other than Common Areas) adjacent to such buildings (such as loading docks and loading dock wells) free of trash and debris; and (ii) arrange for the collection of all garbage and rubbish from its respective buildings. The area to be so maintained shall include, but is not

limited to, all outdoor sales or storage areas, which shall, in addition, be adequately screened.

7.2. Maintenance and Replacement of Common Areas and Common Area Improvements. Each Owner in the Development shall equip, police, light, repair and maintain the portion of the Common Area located on the Parcel it owns, and all Common Area Improvements located thereon, in a good, clean and first class condition and repair, including, without limitation, the following:

(a) Maintenance, repair and replacement of all paved surfaces, in a level, smooth and evenly covered condition with the type of surfacing material originally installed or such substitute as shall in all respects be equal to such original material in quality, use, appearance and durability, including the painting and striping of all parking areas.

(b) Maintenance, repair and replacement of all curbs, curb-cuts, gutters, walkways and retaining walls;

(c) Maintenance, repair and replacement of all directional signs, markers, artificial lighting facilities, including the replacement of fixtures and bulbs and Common Areas electricity costs;

(d) Performance of all gardening, landscaping, replanting and replacing of flowers, plantings and shrubbery;



(e) Maintenance of all undeveloped areas in the Development, including the seeding and mowing of Parcel C, which shall remain level and undisturbed until the commencement of construction of Buildings or Common Area Improvements thereon.

(f) Maintenance of public liability, property damage, sign (excluding all individual fascia signs) and fire insurance with appropriate extended coverage and vandalism endorsement;

(g) Maintenance of all landscaped areas and replacement of shrubbery and planting, and flowers;

(h) The policing and regulating of vehicular and pedestrian traffic;

(i) Removal of all paper, debris, filth and refuse, including thorough sweeping in the Common Areas necessary to keep the Common Areas in a reasonably clean and orderly condition but not including the cost to remove those items from buildings in the Buildable Areas or from trash dumpsters for tenants in such buildings;

(j) Removal of snow and ice from all driveways and sidewalks in a reasonable manner;

(k) Furnishing all necessary machinery, equipment and supplies used in the operation and maintenance of the Common Areas and the Common Area Improvements; and

(1) Compliance with all laws, ordinances, orders, rules, regulations and requirements applicable to the Common Areas.

7.3. Self-Help. In addition to the remedies set forth in Section 13, if an Owner shall fail to repair or maintain its portion of the Common Areas and Common Area Improvements on the Development in accordance with the standards set forth in Section 7.2, the Owner of ~~Parcel B~~ <sup>any other Parcel</sup> may, after fifteen (15) days written notice, and provided such Owner has not taken reasonable steps to correct same, at its option, make necessary repairs, undertake necessary maintenance and supplement the service of such Owner by employing such additional services as in the reasonable discretion of the Owner of ~~Parcel B~~ <sup>any other Parcel</sup> are necessary to adequately operate, repair or maintain the Common Areas and Common Area Improvements and charge the Defaulting Owner the costs and expenses thereof. If such costs and expenses are not promptly paid by the Defaulting Owner, the Owner of ~~Parcel B~~ <sup>any other Parcel</sup> may collect such sums as set forth in Section 13.2.

Initials

REAL ESTATE TAXES AND SPECIAL ASSESSMENTS

8.1. Separate Assessment Taxes. Parcel A, Parcel B and Parcel C shall be separately assessed by all local taxing authorities for real estate tax purposes.

8.2. Payment of Taxes. Prior to delinquency, each Owner shall pay all Impositions levied or assessed against its Parcel and the

improvements thereon. If an Owner fails to make a payment of an Imposition, and such failure could result in a lien on any land or improvement in the Development, or adversely affect any right of an Owner under this Declaration, the Non-Defaulting Owner or any First Mortgagee may make such payment on account of the Defaulting Owner and recover the amount so paid from such Defaulting Owner together with interest thereon from the date incurred at the rate of Prime plus 1% per annum.

9. MODIFICATIONS TO SITE PLAN; PARKING RATIO

Any improvements constructed on Parcel C shall be a quality building compatible with the rest of the first class cohesive Development. No alterations shall be made to the traffic lanes located in front of the improvements to be located on Parcel A and Parcel B as indicated on the Site Plan, without the prior written consent of the Owners of Parcel A and Parcel B. There shall be maintained, at all times, with respect to Parcel C, a ratio of not less than five and one-half (5.5) paved, striped parking spaces for each 1,000 square feet of gross building area on Parcel C, or the number of parking spaces required by applicable government ordinances (without variance unless approved by the Owner of Parcel B). The number of paved, striped parking spaces on Parcel A and Parcel B shall not be reduced below the number depicted on the Site Plan without the prior written consent of the Owners of Parcel A and Parcel B. If the type of business operated on Parcel A shall change to a purpose

other than the retail and wholesale sale of hardware and building materials and related products, then the number of parking spaces on Parcel A shall be increased to create a ratio of 5.5 parking spaces for each 1,000 square feet of gross building area on Parcel A.

#### 10. INSURANCE

10.1. Liability Insurance. At its own expense, each Owner shall maintain or cause to be maintained in full force and effect a broad form policy or policies of comprehensive public liability insurance against claims and liability on account of bodily injury, death, and property damage incurred upon or about the building or improvements (other than Common Area Improvements) owned or occupied by each Owner. Such insurance shall have limits of not less than One Million Dollars (\$1,000,000.00) for bodily injury or death in any one accident or occurrence, and One Million Dollars (\$1,000,000.00) in respect of destruction of, or damage to, property. The liability insurance with respect to the Common Areas shall name all Owners as insureds and have the same minimum limits of coverage, and such limits shall be periodically reviewed to assess adequacy of coverage.

It is understood that at the signing of this Agreement, Racine County, the Owner of Parcel C, is self-insured for public liability and as such, does not have an insurance policy. It is agreed that any subsequent Owner of Parcel C shall adhere to the requirements of this paragraph.

10.2. Hazard Insurance. Each Owner shall maintain in effect a policy or policies insuring it against loss, damage, and destruction of all buildings and improvements (other than Common Area Improvements) on its Parcel by fire and all hazards covered by the standard form of extended coverage, vandalism and malicious mischief endorsements. Such insurance shall be in the amount of at least ninety percent (90%) of the replacement cost of such buildings and improvements, but, in any event, in at least the minimum amount necessary to avoid the effect of any co-insurance provision of such policies. The policy covering Common Area Improvements shall meet the same criteria except that coverage shall equal 100% of replacement cost and shall name all Owners as insureds thereunder with respect to proceeds relating to Common Area Improvements.

It is understood that at the signing of this Agreement, Racine County, the Owner of Parcel C, is self-insured for public liability, and as such does not have an insurance policy. It is agreed that any subsequent Owner of Parcel C shall adhere to the requirements of this Section.

10.3 Policy Requirements.

- (a) All insurance required under this Declaration shall:
  - (i) be carried in companies licensed in the State of Wisconsin and having a general rating of A or better and a financial rating of XV or better by Alfred M. Best's Key Rating Guide or shall be equivalently rated by any successor insurance company rating

service; (ii) be primary insurance which will not call upon for defense, contribution or payment, any other insurance effected or procured by any of the parties hereto; (iii) be nonassessable and contain language, to the extent obtainable, to the effect that the loss shall be payable notwithstanding any act or negligence of the insured that might otherwise result in forfeiture of the insurance; (iv) provide that the insurer waives the right of subrogation against any of the parties hereto, their agents and representative; and (v) contain an agreement by the insurer, to the extent obtainable, that such policy shall not be cancelled without at least thirty (30) days' prior written notice to all Owners.

(b) Owners shall cooperate in connection with the collection of any insurance monies that may be due in the event of loss to any parties hereto for damage to their respective buildings or the Common Area Improvements.

(c) Owners may bring their obligations to insure under this paragraph within the coverage of any so-called blanket policy or policies of insurance which they may now or hereafter carry, with such deductible amounts or amount of self-insurance as the Owners may reasonably choose.

(d) Upon request, each party hereto will provide the other with certificates of insurance and proof of payment of premium evidencing compliance with the foregoing provisions.

10.4. Indemnification. Each Owner shall indemnify, defend and save each other Owner harmless from any and all liability, damage, expense, cause of action, suit, claim, or judgment arising from injury or death to person or damage to property that occurs on the indemnifying Owner's Parcel and is occasioned wholly or in part by any act or omission by such Owner, its tenants, subtenants, employees, concessionaires, licensees, customers, or invitees.

Each owner hereby releases the other Owners and their respective agents and employees from any and all liability to the other or anyone claiming through or under them by way of subrogation or otherwise for any loss or damage to property caused by fire or any of the extended coverage casualties, or from any casualty insured or required hereunder to be insured by the releasing party even if such fire or other casualty results from the negligence of such party, or anyone for whom such party may be responsible.

11. DAMAGE OR DESTRUCTION OF IMPROVEMENTS

11.1. Improvements on Building Areas. If any improvements on the Buildable Area shall be damaged or destroyed by fire or other hazard, then the Owner of such improvements shall within a reasonable period of time following such casualty either (a) rebuild and restore the improvements on such Owner's Buildable Area as nearly as may be reasonably practicable to the condition existing prior to such damage or destruction, or (b) demolish and

raze the damaged improvements, fill in all excavations, plant grass, and perform such other work as may be necessary to leave the area on which such damaged improvements were located in a clean, sightly, and safe condition. Unless the Owner of such damaged improvements elects to rebuild or restore such improvements, said Owner shall thereafter maintain the area on which such damaged improvements were located in a clean, sightly, and safe condition.

11.2. Common Area Improvements. If any of the Common Area Improvements shall be damaged or destroyed by fire or other hazard, whether or not such is required to be insured against under this Declaration, and if the Owner of the portion of the Development upon which such Common Area Improvements are located elects to continue operating a business on its Parcel, then such Owner shall promptly restore, repair, or rebuild such damaged or destroyed Common Area improvements to a condition substantially comparable to their condition immediately prior to such damage or destruction and shall be entitled to use the proceeds of its hazard insurance policy with respect thereto for such purposes; provided, however, that if the casualty is uninsured and not required to be insured hereunder, the Owner of such Parcel bear the cost of restoration and repair of the Common Area Improvements.

12. CONDEMNATION. In the event any part of a Parcel shall be taken by right of eminent domain or any similar authority of law



or a deed given in lieu of eminent domain proceedings, the entire award or purchase price for the value of the Parcel so taken shall belong to the Owner of such Parcel. No Owner may claim any portion of an award with respect to any Parcel other than such Owner's Parcel by virtue of the interests, rights and easements created by this Declaration. If the extent of such taking as to any Parcel shall be such that the remaining portion of that Parcel shall be in such Owner's sole discretion economically suitable for the conduct thereon by its Owner or its tenant or tenants of their respective businesses, then and in such event such Owner shall restore the remaining portion of any buildings so taken as nearly as possible to the condition existing immediately prior to such condemnation, and shall restore any remaining portion of the Common Area Improvements, without contribution from the party owning the Parcel not so taken. However, if the extent of such taking is such that the remaining portion of the Parcel is not in such Owner's sole discretion economically suitable for the conduct thereon of the businesses of its Owner, or its tenant or tenants, then such Owner may, upon written notice to the other Owner, elect not to restore the remaining portion of the buildings so taken as aforesaid, and in such event such Owner shall promptly complete the razing of any buildings so taken in part, fill in any excavations and perform such other work as may be necessary to put such portion of the Development in a clean, sightly and safe condition.

13. ENFORCEMENT OF DECLARATION

13.1. Prosecution of Proceedings. Enforcement may be by legal proceeding against any Person or Persons violating or attempting to violate any declaration, restriction, covenant, condition or agreement herein contained either to restrain or enjoin such violation and/or recover damages; provided, however, that no such covenants or any such similar rights or privileges may be enforced by legal action or otherwise by any Persons whatsoever (such as lessees or occupants of the buildings and structures which may now or hereafter be constructed upon Parcel A, Parcel B and Parcel C), except Owners, and their successors and assigns, and First Mortgagees, who shall be the only Persons entitled to bring an action under and to enforce the rights and remedies of this Declaration.

13.2. Right to Cure - Lien Rights.

(a) If any Owner shall at any time default in the performance of, or fail to comply with, any of the terms and provisions of this Declaration, then and in such event, the Non-Defaulting Owner or any First Mortgagee shall have the right to enter upon such portion or portions of the Development owned by the Defaulting Owner, pay such obligation, perform such work or furnish such services on behalf, at the cost, and for the account, of the Defaulting Owner, and shall be entitled to reimbursement from the Defaulting Owner of all costs and expenses thus incurred together with interest thereon as otherwise provided herein.

(b) Prior to the payment of any obligation, performance or any work or furnishing of any services upon or in connection with any portion or portions of the Development of any Defaulting Owner, a notice must be sent to such Defaulting Owner specifying the nature of the default and notifying of the intention to pay such obligation or perform such work or furnish such services. If the default is not cured within fifteen (15) days after such notice, then the Non-Defaulting Owner may pay such obligation, perform such work or furnish such services on behalf of the Defaulting Owner and shall send a statement or statements of the cost thereof of such Defaulting Owner of the portion or portions of the Development concerned and the amount thereof shall immediately be due and payable. Such fifteen (15) day period shall be extended if the Defaulting Owner has commenced, within fifteen (15) days, reasonable efforts to cure such default, and, in that event, such fifteen (15) days shall be extended so long as such efforts are diligently pursued. If the obligation, work or service must be performed at regular intervals, the parties performing the same may send statements at such appropriate intervals as it or they may desire. Any such statements shall bear interest until paid at the lesser of (i) the rate of Prime plus 1% per annum or (ii) the highest rate of interest that can be charged without being usurious. If the amount thus stated is not paid within sixty (60) days after the rendering thereof, the Non-Defaulting Owner may, for the purpose of securing such claim, impose a lien upon all or any portion of the Development owned by the Defaulting Owner. Such lien may be imposed by serving

written notice upon such Defaulting Owner, which notice shall contain a representation of compliance with the provisions of this paragraph, an explanation of the nature of the particular obligation, the work or service involved, and the cost thereof, together with a description of any or all portions of the Development owned by such Defaulting Owner, and by duly recording a copy of such notice in the Office of the Register of Deeds, Racine County, Wisconsin. No such lien shall exist until such notice is duly served and recorded as provided herein. Such lien shall continue until fully discharged, and may be foreclosed in accordance with the laws pertaining to non-judicial foreclosure of mortgage pursuant to the applicable provisions of the laws of the State of Wisconsin. Such lien shall secure not only the amount stated in the aforesaid notice, but also the reasonable costs and expenses of enforcing the same, including reasonable attorneys' fees and interest at the lesser rate of (i) Prime plus 1% per annum, or (ii) the highest rate of interest that can be charged without being usurious.

13.3. No Termination. No breach of this Declaration or default by any of the parties hereto shall entitle any of the other parties hereto to terminate or cancel this Declaration.

14. STATUS OF DECLARATION. Except as specifically provided in paragraphs 13.2 and 24, this Declaration and the rights granted and created hereby including, but not limited to, the easements created hereunder, shall be superior to all leases, conveyances,

transfers, assignments, contracts, mortgages, deeds of trust, and other encumbrances and documents in any way affecting any part of the Development. Any Person or entity foreclosing any such mortgage, deed of trust, lien, or encumbrance and any Persons or entities acquiring title to, or interest in, any part of the Development as a result thereof, shall acquire and hold title thereto expressly subject to the provisions of this Declaration. Any transferee of any interest in any part of the Development shall automatically be deemed, by acceptance of such interest, to have agreed to be bound by all of the provisions of this Declaration, and to have agreed to perform and do any and all things required to be done and performed hereunder by the owner of the interest so transferred.

15. PARAGRAPH HEADINGS. The paragraph headings used herein are for reference and convenience only and shall not enter into the interpretations hereof. Wherever the singular is used herein the same shall include the plural, and the masculine gender shall include the feminine and neuter genders, and vice versa as the context shall require.

16. PARTIAL INVALIDITY. If any term, covenant, or condition of this Declaration or the application thereof to any Person or circumstance shall be invalid or unenforceable, the remainder of this Declaration or the application of such term, covenant, or condition to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected

thereby, and each term, covenant, and condition shall be valid and enforceable to the fullest extent permitted by law.

17. GOVERNING LAW. It is the intention of the parties hereto that all questions with respect to the construction of this Declaration and the rights and liabilities of the parties hereunder shall be determined in accordance with the laws of the State of Wisconsin.

18. NOTICE. Any notice or demand or statement of interest which either party hereto may desire to serve upon the other in furtherance of any provision of this Declaration shall be sufficiently served if the same be enclosed in an envelope, which envelope shall be deposited in the United States Post Office, postage prepaid and certified or registered and addressed,

(i) if to the Owner of Parcel A to:

Menard, Inc.  
4777 Menard Drive  
Eau Claire, Wisconsin 54703

(ii) if to the Owner of Parcel B to:

Best Products Co., Inc.  
P. O. Box 26303  
Richmond, Virginia 23260  
Attention: Vice President of Real Estate

With a copy to:

McGuire, Woods & Battle

1400 Ross Building

Richmond, Virginia 23219

Attention: John W. Bates, III, Esquire

(iii) if to the Declarant

or to the Owner of Parcel C to:

County of Racine, Wisconsin

Len Ziolkowski, County Executive

730 Wisconsin Avenue

Racine, Wisconsin 53403

or to such other address or to the attention of such other parties as any Owner may designate by written notice to all parties hereto.

19. NO PARTNERSHIP. None of the Owners of Parcels in the Development, in any way or for any purpose, shall as a result of this Declaration be deemed to become a partner of the other in the conduct of their respective businesses, or otherwise, or joint venturer or a member of a joint enterprise with the other.

20. WAIVERS. No delay or omission by any Owner in exercising any right or power accruing upon any default, non-compliance or failure of performance of any of the provisions of this Declaration by any of the Owners shall be construed to be a waiver thereof. A waiver by any of the Owners of any of the obligations of the other Owners shall not be construed to be a waiver of any subsequent breach of such obligation or a waiver of any breach of any other terms, covenants or conditions of this Declaration.

21. NO PUBLIC DEDICATION. Nothing contained in this Declaration will be deemed to be a gift or dedication of any portion of the Development to the general public or for the general public or for any public purpose whatsoever; it being the intention of the Owners that this Declaration will be strictly limited to and for the purposes expressed herein.

22. ESTOPPEL CERTIFICATES. Within thirty (30) days after written request thereof, any Owner shall execute and deliver at no charge to the requesting party an estoppel certificate certifying that as of the date thereof, the requesting Owner is in full compliance with the terms of this Declaration, that all sums payable hereunder by such requesting Owner have been paid and that the improvements within the Development or on the requesting Owner's Parcel comply with the terms hereof or, if any non-compliance exists or any sums have not been paid, specifying the nature of such non-compliance and the sums which are due and payable.



23. MORTGAGE PROTECTION. Any lien created or claimed under the provisions of this Declaration is expressly made subject and subordinate to any First Mortgage and no such lien shall in any way defeat, invalidate, or impair the obligation or priority of the lien of any First Mortgage; however, in all respects, the covenants, conditions and restrictions created by this Declaration are superior to the lien of any and all other mortgages, shall be binding and effective upon and against any Owner whose title is acquired by foreclosure, trustee's sale or otherwise of any mortgage from and after the time of acquisition of title by such Owner.

24. AMENDMENTS. This Declaration may be modified, amended or terminated only by the Owners and all First Mortgagees, but no other Persons, such as subordinate mortgagees, lessees or occupants of the Parcels, shall have any rights whatsoever to join in, prevent or otherwise affect or limit any such modification, amendment or termination. No modification, amendment or termination of this Declaration shall be deemed valid, binding or enforceable unless the same is acknowledged by and on behalf of all of the Owners and any First Mortgagees, and duly filed for record in the Office of The Register of Deeds, Racine County, Wisconsin.

25. SUBDIVISION. Any Owner may subdivide its Parcel into two or more Parcels ("New Parcels") subject to the following provisions:

(a) any subdivision of a Parcel shall be accomplished as required by the subdivision laws of the State of Wisconsin and all other relevant laws and ordinances;

(b) any New Parcels shall be separately assessed from all other Parcels by all local taxing authorities for real estate tax purposes; and

(c) any New Parcels shall be subject to all of the terms and provisions of this Declaration which were applicable to the Parcel of which such New Parcels previously formed a part, including, but not limited to, any specific restrictions placed against the Parcel of which such New Parcels previously formed a part.

26. COVENANTS RUNNING WITH THE LAND. Each and every agreement, covenant, promise, undertaking, condition, easement, right, privilege, and restriction (herein collectively referred to as "Obligations") made, granted or assumed, as the case may be, by Best, Declarant and any Owner, is made for the benefit of all Owners, their successors and assigns, lessees, and all other Persons acquiring an interest in the Development. All of the provisions of this Declaration shall be covenants running with the land pursuant to applicable law. Any Owner of a Parcel shall automatically be deemed by acceptance of the title of such Parcel or any part thereof to have assumed all Obligations of this Declaration relating thereto, and to have agreed with the then

Owner or Owners of all Parcels to execute any and all instruments and do any and all things reasonably required to carry out the intention of this Declaration; provided, however, that if any such transferor shall expressly condition the transfer of its interest in such Parcel or Parcels or any part thereof on the assumption by its transferee of the Obligations imposed on such transferor, such transferor shall upon the completion of such transfer and the obtaining of the written consent of the Owners of Parcel A and Parcel B be relieved of all further liability under this Declaration except such liability as may have arisen during its period of ownership of the Parcel so conveyed and which remains unsatisfied.

27. DURATION. This Declaration shall continue in effect for a term of fifty (50) years unless earlier terminated by written instrument executed by all of the then Owners and all First Mortgagees and recorded in the Office of the Office of the Register of Deeds of Racine County, Wisconsin.

28. CONSENT. Best and Menard join herein to evidence their consent to the provisions of this Declaration.

WITNESS the following signatures and seals as of the date first above written:

DECLARANT: COUNTY OF RACINE, WISCONSIN  
By:   
Len Ziolkowski, County Executive

By: Hubert H. Braun, County Board  
Chairman  
By: Dennis Kornwoff  
Dennis Kornwoff, County Clerk

MENARD, INC.

By: Marv Prochaska  
Marv Prochaska  
Title: U.P.

(SEAL)

Attest: [Signature]  
Title: Secretary

BEST PRODUCTS CO., INC.

By: Bernard A. Cohen  
Bernard A. Cohen  
Title: Exec. Vice President

(SEAL)

Attest: [Signature]  
Title: Corporate Secretary & Treasurer

STATE OF \_\_\_\_\_

CITY/COUNTY OF \_\_\_\_\_

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_  
in the year \_\_\_\_\_, the above-named \_\_\_\_\_,  
to me known to be the person who executed the foregoing instru-  
ment, and acknowledged the same.

(Notarial Seal)

Notary Public in and for said State  
My commission expires: \_\_\_\_\_

STATE OF Wisconsin

CITY/COUNTY OF Racine

Personally came before me this 16th day of May  
in the year 1985, the above-named Len Ziolkowski & Dennis Kornwolf  
to me known to be the person who executed the foregoing instru-  
ment, and acknowledged the same.

(Notarial Seal)

William F. Bock  
Notary Public in and for said State  
William F. Bock  
My commission ~~expires~~ is permanent.

STATE OF Virginia

CITY/COUNTY OF Dennico

Personally came before me this 9th day of May  
in the year 1985, the above-named Bernard A. Cohen,  
to me known to be the person who executed the foregoing instru-  
ment, and acknowledged the same.

(Notarial Seal)

Deannie O. Wall  
Notary Public in and for said State  
Deannie O. Wall  
My commission expires: 2/24/87

VEL 1752 PAGE 642

STATE OF \_\_\_\_\_

CITY/COUNTY OF \_\_\_\_\_

Personally came before me the \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_, \_\_\_\_\_, as \_\_\_\_\_,  
and \_\_\_\_\_, as \_\_\_\_\_,  
of BEST PRODUCTS CO., INC., a Virginia corporation, to me known  
to be the persons who executed the foregoing instrument, and to  
me known to be such \_\_\_\_\_ and  
\_\_\_\_\_ of said Corporation, and acknowledged that  
they executed the foregoing instrument as such officers as the  
deed of said Corporation, by its authority.

(Notarial Seal)

Notary Public in and for said State

My commission expires: \_\_\_\_\_

STATE OF Wisconsin

CITY/COUNTY OF Eau Claire

Personally came before me the 13<sup>th</sup> day of May,  
1985, Marv Prochaska, as Vice-President,  
and Warren R. Johnson, as Secretary, of  
MENARD, INC., a Wisconsin corporation, to me known to be the  
persons who executed the foregoing instrument, and to me known to  
be such Vice-President and Secretary  
of said Corporation, and acknowledged that they executed the  
foregoing instrument as such officers as the deed of said  
Corporation, by its authority.

(Notarial Seal)

Notary Public in and for said State

Robert W. Corey

My Commission ~~expires~~ is permanent

NM  
&B

Nielsen Madsen & Barber

Consulting Civil Engineers

1339 Washington Avenue  
Racine, Wisconsin 53403  
Racine 414/634-5588  
Kenosha 414/552-7902

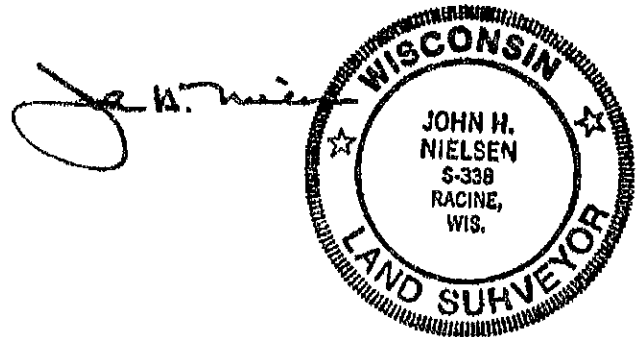
March 26, 1985

Job No. 85023

John H. Nielsen, P.E., R.L.S.  
Walter R. Madsen, P.E., R.L.S.  
James D. Barber, P.E.  
James E. Robinson, R.L.S.

Metes and Bounds of Parcel 3, Regency West (Menard's)

That part of the Southeast  $\frac{1}{4}$  of Section 23 and the Southwest  $\frac{1}{4}$  of Section 24, Township 3 North, Range 22 East, in the Town of Mt. Pleasant, Racine County, Wisconsin, bounded as follows: Begin at a point on the Section line between said Sections 23 and 24 located N01°45'14"W 752.94 feet from a cast iron highway plate marking the Southeast corner of said Section 23; run thence N78°29'11"W 55.67 feet; thence S89°25'49"W 519.61 feet; thence N01°45'14"W 471.17 feet; thence N89°25'49"E 594.03 feet; thence S78°10'03"E 500.00 feet to the Westerly line of Wisconsin State Trunk Highway 31; thence S11°49'57"W 157.26 feet on the Westerly line of said highway; thence S11°30'49"W 314.14 feet on the Westerly line of said highway; thence N78°29'11"W 408.09 feet to the point of beginning. Containing 11.248 acres.



NM  
&B

Nielsen Madsen & Barber

Consulting Civil Engineers

1339 Washington Avenue  
Racine, Wisconsin 53403  
Racine 414/634-5588  
Kenosha 414/552-7902

REVISED March 26, 1985  
February 27, 1985

Job No. 85023

John H. Nielsen, P.E., R.L.S.  
Walter R. Madsen, P.E., R.L.S.  
James D. Barber, P.E.  
James E. Robinson, R.L.S.

Metes and Bounds of Parcel 2 for Heritage Title of Racine  
(Best Products Site)

That part of the Southwest  $\frac{1}{4}$  of Section 24, Township 3 North, Range 22 East, in the Town of Mt. Pleasant, Racine County, Wisconsin, described as follows:

Commence at a point on the East line of said Section 24 located N01°45'14"W 1235.77 feet from a cast iron highway plate marking the Southwest corner of Section 24; run thence N89°25'49"E 20.23 feet to the point of beginning of this description; run thence N11°02'17"E 549.96 feet to a point on a curve of Northeasterly convexity whose radius is 179.04 feet and whose chord bears S47°54'22"E 49.24 feet; thence Southeasterly 49.39 feet on the arc of said curve to its point of tangency; thence S40°00'10"E 226.67 feet to the point of curvature of a curve of Southwesterly convexity whose radius is 350.98 feet and whose chord bears S59°05'06"E 229.49 feet; thence Southeasterly 233.79 feet on the arc of said curve to its point of tangency; thence S78°10'03"E 70.00 feet to the Westerly line of State Trunk Highway 31; thence S11°49'57"W 310.00 feet on the Westerly line of said highway; thence N78°10'03"W 500.00 feet to the point of beginning. Containing 4.500 acres. EXCEPTing therefrom an easement for the installation and maintenance of public water supply facilities over the Easterly 10 feet thereof and also EXCEPTing therefrom an easement for the installation and maintenance of public sanitary sewer facilities over the Westerly 12 feet thereof.





NM  
&B

Nielsen Madsen & Barber

Consulting Civil Engineers

1339 Washington Avenue  
Racine, Wisconsin 53403  
Racine 414/634-5588  
Kenosha 414/552-7902

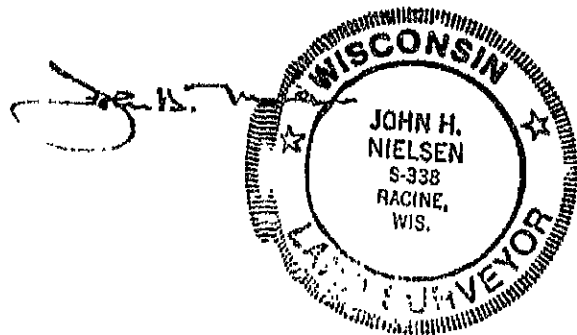
March 26, 1985

Job No. 85023

John H. Nielsen, P.E., R.L.S.  
Walter R. Madsen, P.E., R.L.S.  
James D. Barber, P.E.  
James E. Robinson, R.L.S.

Metes and Bounds of Parcel 1, Regency West

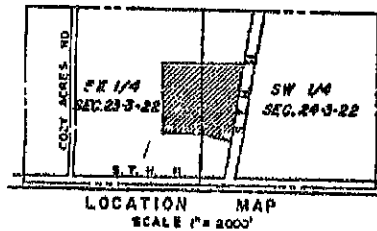
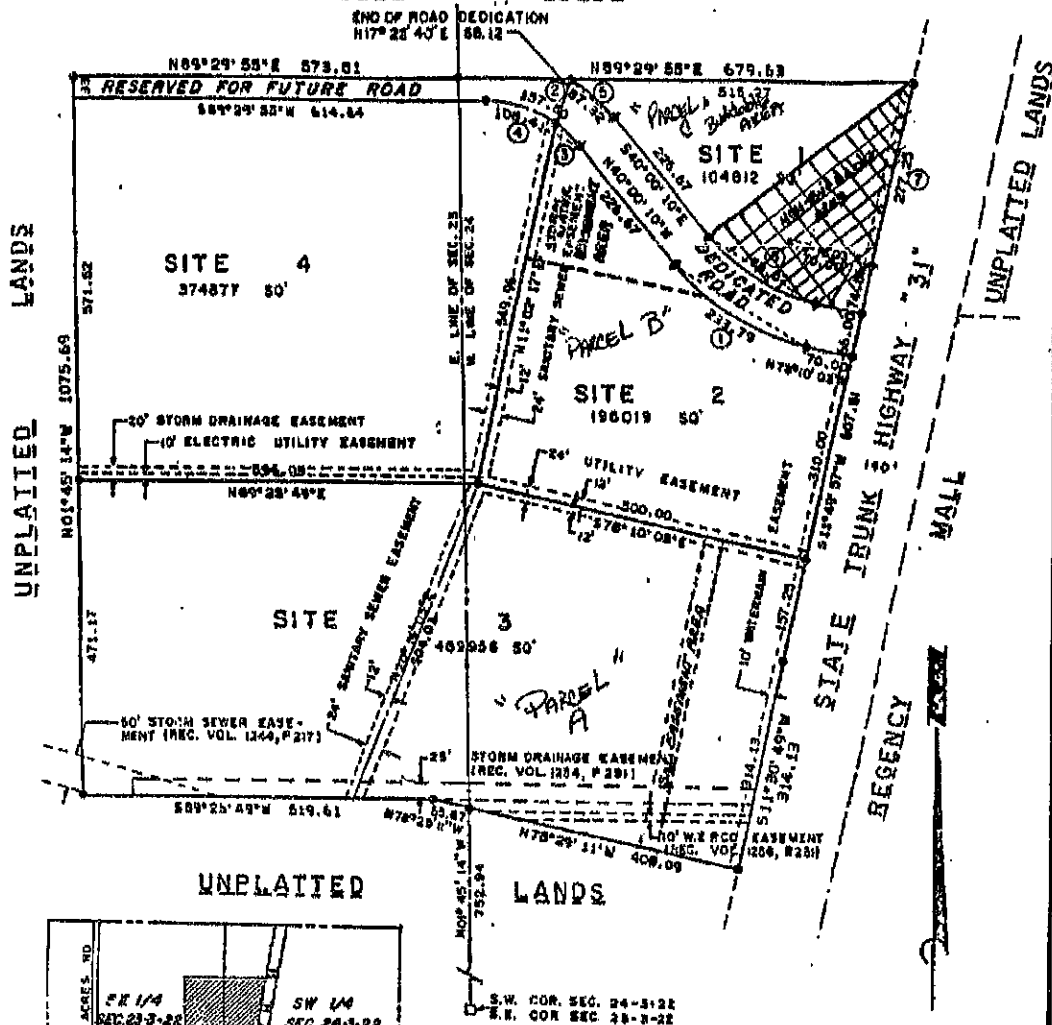
That part of the Southwest  $\frac{1}{4}$  of Section 24, Township 3 North, Range 22 East, in the Town of Mt. Pleasant, Racine County, Wisconsin, described as follows:  
Commence at a point on the East line of said Section 24 located N01°45'14"W 1839.60 feet from a cast iron highway platte marking the Southwest corner of said Section; run thence N89°29'55"E 164.36 feet to the point of beginning of this description; continue thence N89°29'55"E 515.27 feet to the Westerly line of Wisconsin State Trunk Highway 31; thence Southwesterly 277.23 feet on the arc of a curve of Northwesternly convexity in the Westerly line of said highway whose radius is 16,440.22 feet and whose chord bears S12°18'56"W 277.22 feet; thence S11°49'57"W 74.56 feet on the Westerly line of said highway; thence N78°10'03"W 70.00 feet to the point of curvtaure of a curve of Southwesterly convexity whose radius is 284.98 feet and whose chord bears N59°05'06"W 186.34 feet; thence Northwesternly 189.82 feet on the arc of said curve; thence N40°00'10"W 226.67 feet to the point of curvature of a curve of Northeasterly convexity whose radius is 245.04 feet and whose chord bears N50°12'44"W 86.86 feet; thence Northwesternly 87.32 feet on the arc of said curve to the point of beginning. Containing 2.406 acres.



## CERTIFIED SURVEY MAP No. \_\_\_\_\_

PART OF THE SW. 1/4 OF SEC. 24, AND PART OF THE S.E. 1/4 OF SEC. 23, T. 3 N., R. 22 E., IN THE TOWN OF MOUNT PLEASANT, RACINE COUNTY, WISCONSIN.

## UNPLATTED LANDS



BEARINGS BASE IS GRID NORTH, WISCONSIN COORDINATE SYSTEM

- DENOTES 3/4" DIA IRON ROD SET
- DENOTES 3/4" DIA IRON PIPE FOUND

SCALE 1" = 200'

CURVE DATA					
CHORD					
CURVE	ARC	RADIUS	LENGTH	BEARING	GEN. ANGLE
1	233.79	350.96	229.49	N89°05'08" W	38°09'54"
2	157.60	179.04	152.74	N65°13'07" W	50°29'52"
3	49.22	179.04	49.84	N47°54'22" W	15°45'24"
4	150.41	179.04	106.76	N73°09'19" W	34°41'31"
5	0.32	245.04	66.68	S50°12'44" E	20°28'07"
6	189.62	264.04	138.35	S59°05'06" E	38°09'54"
7	271.22	164.04	277.22	S12°18'58" W	00°42'51"



McGUIRE, WOODS & BATTLE  
ROSS BUILDING

COURT SQUARE BUILDING  
CHARLOTTESVILLE, VIRGINIA 22901  
TELEPHONE (804) 977-2500

RICHMOND, VIRGINIA 23219

TELEPHONE (804) 844-4131

CABLE MCWOBAT

TELEX 82-7414

SOVRAN CENTER  
NORFOLK, VIRGINIA 23510  
TELEPHONE (804) 627-7677

JEFFERSON COURT  
WASHINGTON, D. C. 20007  
TELEPHONE (202) 337-1337

137 YORK STREET  
WILLIAMSBURG, VIRGINIA 23185  
TELEPHONE (804) 229-2393

FEDERAL EXPRESS

May 15, 1985

RECEIVED

MAY 16 1985

County of Racine  
730 Wisconsin Avenue  
Racine, Wisconsin 53403

RACINE COUNTY  
CORPORATION COUNSEL

Attention: William Bock, Esquire

Gentlemen:

Reference is made to a Declaration of Easements and Covenants dated as of May 13, 1985 (the "Declaration") executed by you with respect to certain real property in the Town of Mount Pleasant, Racine County, Wisconsin.

As counsel to Best Products Co., Inc., a contract purchaser of a portion of that real property and a beneficiary of the Declaration, I hereby approve of the following changes to the Declaration:

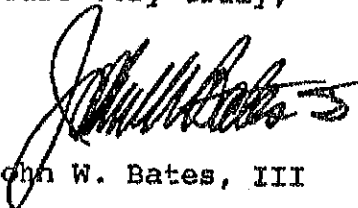
(i) Subparagraphs (i) and (ii) of Section 6.2 may be deleted.

(ii) The word "reasonably" may be inserted before the word "clean" in Section 7.2(i).

(iii) The words "any other Parcel" may be substituted for the words "Parcel B" in the three places they appear in Section 7.3.

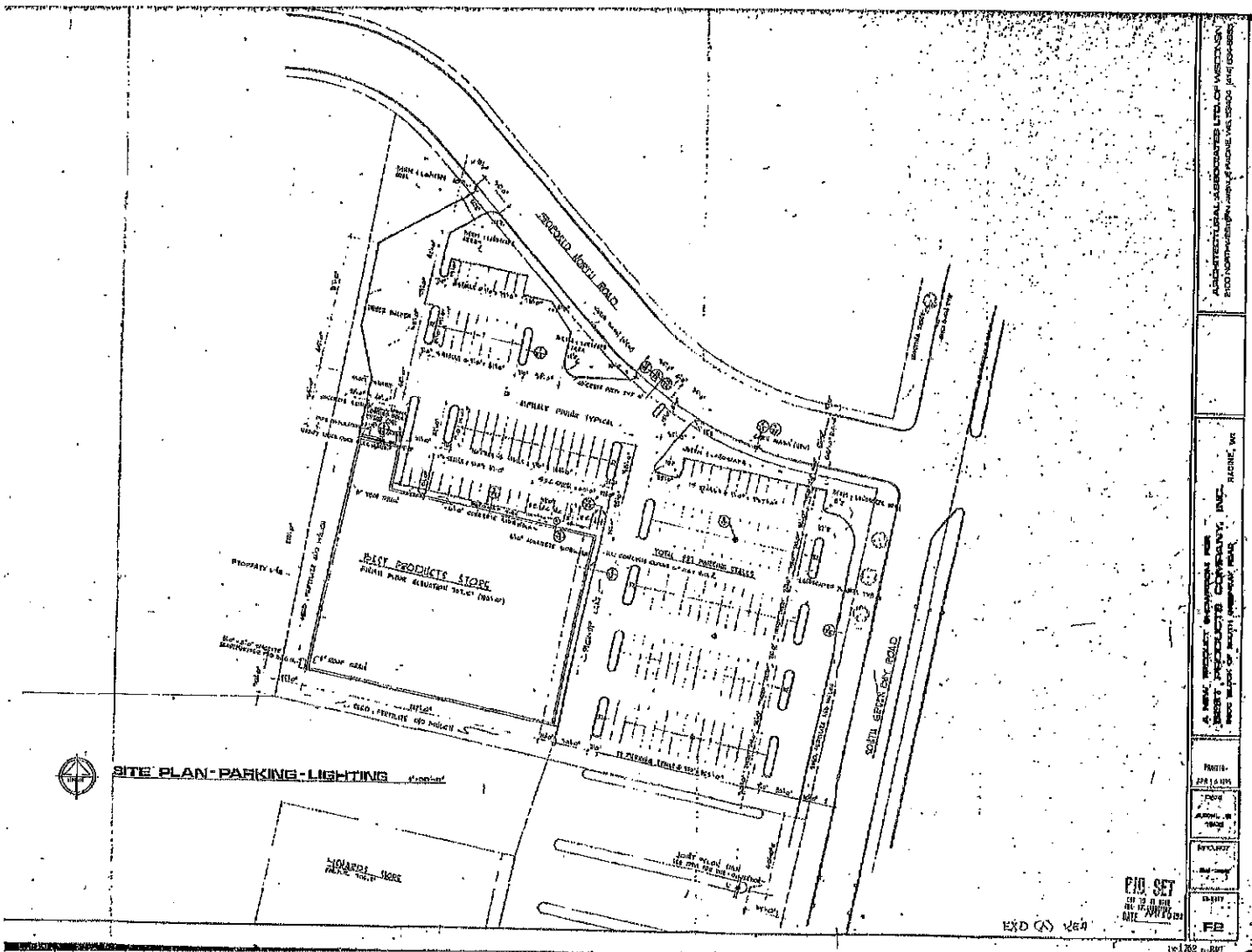
I trust this is the documentation you need. Thank you for your cooperation.

Yours very truly,



John W. Bates, III

JWB, III'cmb



ARCHITECTURAL ASSOCIATES LTD. OF VICTORIA  
810 NORTH BURNBURN STREET, VICTORIA, B.C.

A. HALL, PROJECT ARCHITECT  
BEST PRODUCTS COMPANY, INC.  
2000 BURNBURN STREET, VICTORIA, B.C.

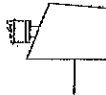
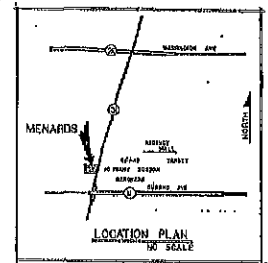
DATE: 10/1/80  
BY: [Signature]  
CHECKED: [Signature]  
APPROVED: [Signature]

END SET  
10/1/80

END (S) 264

10/1/80

	DATE	TIME
12/15/52	12:15 PM	12:15 PM
12/16/52	12:15 PM	12:15 PM
12/17/52	12:15 PM	12:15 PM
12/18/52	12:15 PM	12:15 PM
12/19/52	12:15 PM	12:15 PM
12/20/52	12:15 PM	12:15 PM
12/21/52	12:15 PM	12:15 PM
12/22/52	12:15 PM	12:15 PM
12/23/52	12:15 PM	12:15 PM
12/24/52	12:15 PM	12:15 PM
12/25/52	12:15 PM	12:15 PM
12/26/52	12:15 PM	12:15 PM
12/27/52	12:15 PM	12:15 PM
12/28/52	12:15 PM	12:15 PM
12/29/52	12:15 PM	12:15 PM
12/30/52	12:15 PM	12:15 PM
12/31/52	12:15 PM	12:15 PM

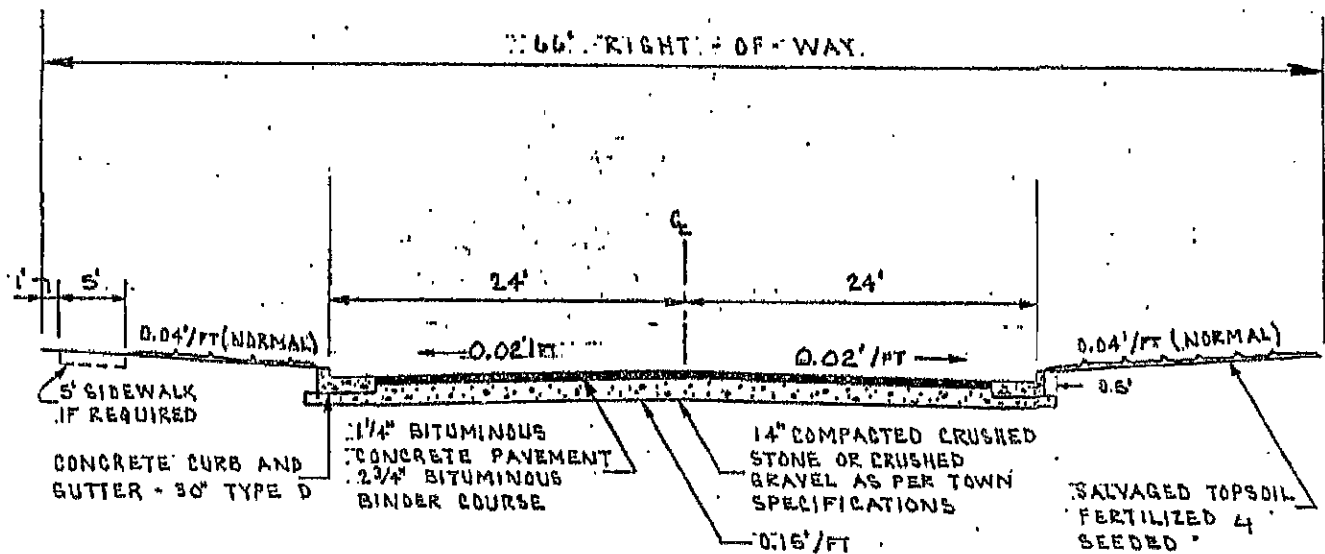


- A 10' wide grained strip with mangroves at the site;
- Use buildings and surrounding fence will have brown-pine-barked exterior;
- The store will have a Yakima House-Blindfold House front.
- The parking lot and road area will be sprayed with white paint around the site; have a shape of a 20' x 20'.
- The road area will be with the outside storage.
- The store floor will be 10' x 20' higher than the elevation of the site.
- The store and storage building will be constructed in aluminum or steel.

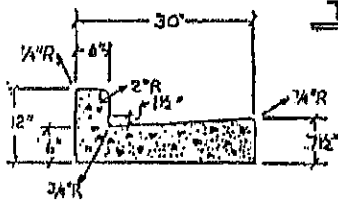
- (1) The work under this contract consists of the construction of approximately 532 feet of roadway and shall be executed under the requirements of the State of Wisconsin, Department of Transportation, Division of Highways, Standard Specifications for Road and Bridge Construction, 1981 Edition.

All pay units shall be measured and paid for in accordance with the above specifications.

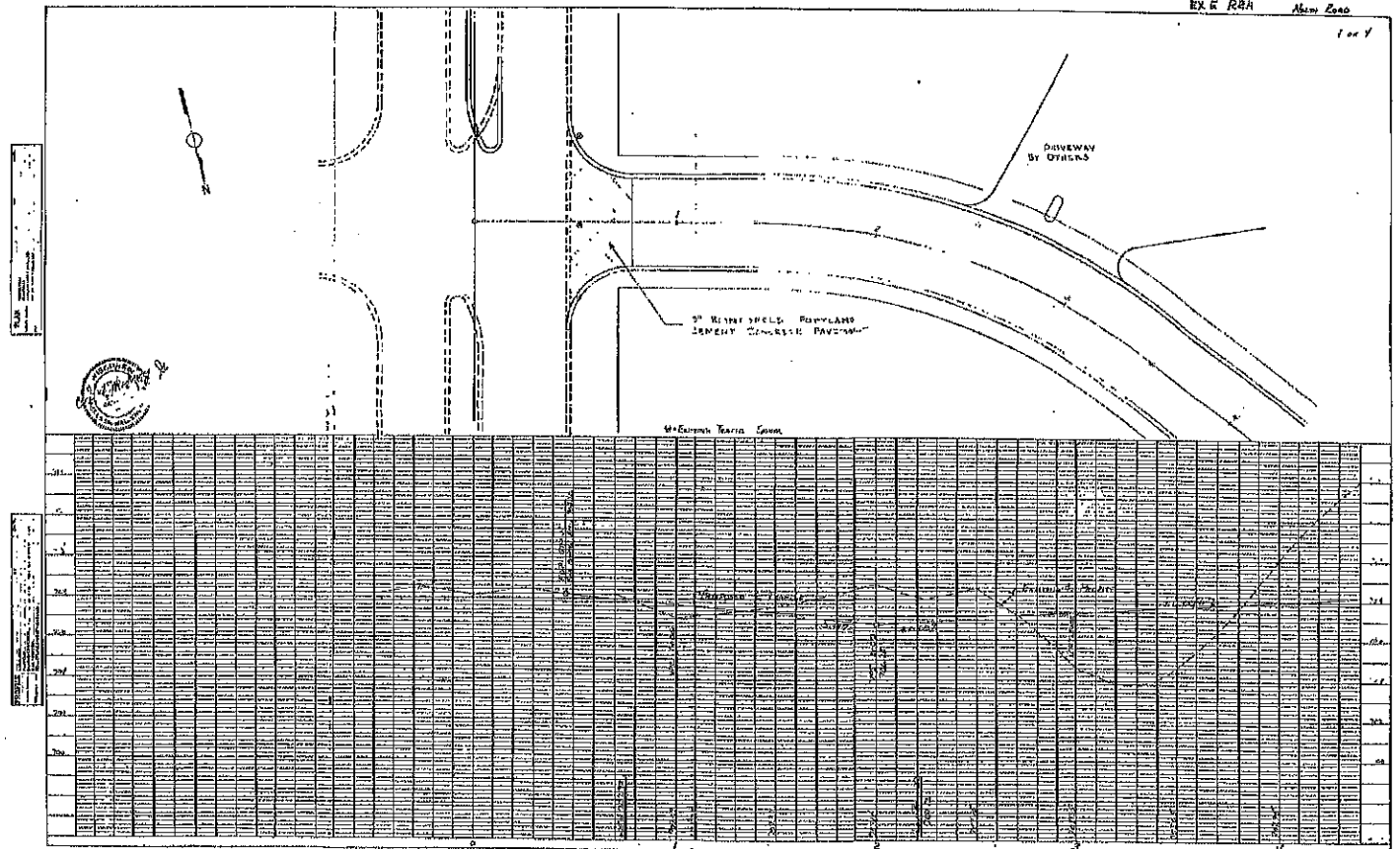
- (2) The project limits as shown on the attached plans shall begin at the west edge of pavement of S.T.H.-31 (approximately STA 0 + 46) and extend westerly 532 feet to STA 5 + 78. The contractor shall grade the site to the west of the project terminus to blend the slope in with the existing topography in accordance with the plans.
- (3) It shall be the responsibility of the abutting owner to construct the proposed driveways from the road curb and gutter to the property line.



### TYPICAL INDUSTRIAL URBAN SECTION-IND-URB



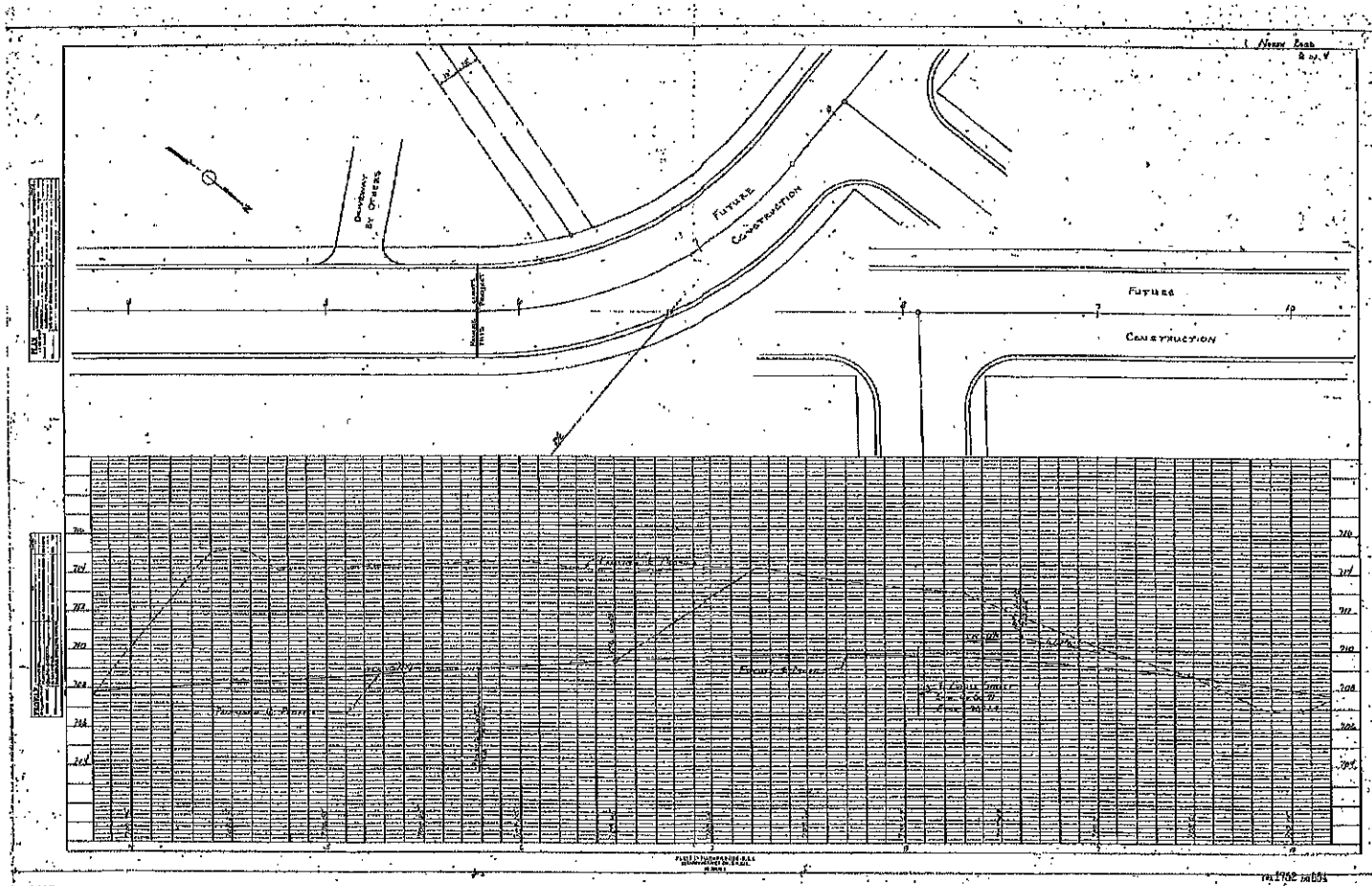
TYPE D  
CONCRETE CURB  
& GUTTER 30"  
1"=2'



1/1/1991

BY: JUDITH 1/1/1991





This instrument was drafted by William F. Bock, Corporation Counsel

1196578

AMENDMENT TO  
DECLARATION OF EASEMENTS  
AND COVENANTS

This Amendment to the Declaration of Easements and Covenants made this 13th day of June, 1986 by the COUNTY OF RACINE, a political subdivision of the State of Wisconsin, BEST PRODUCTS COMPANY, INC., a Virginia Corporation, and MENARD, INC., a Wisconsin Corporation.

1. AMENDMENT

Exhibit "F" as contained in the original Declaration of Easements and Covenants dated May 13, 1985 and recorded on May 17, 1985 in Volume 1752 on pages 604 through 654 as Document #1169012 and executed by the parties hereto, is hereby amended as shown on Exhibit "A" attached hereto.

The purpose of this amendment to Exhibit "F" is to increase the buildable area on Parcel "C" as referred to in Paragraph 6.1 of the Declaration dated May 13, 1985. The new non-buildable area shall be that portion of the cross hatched area on Exhibit "A" which is shaded solidly. All other areas on Parcel "C" shall be considered buildable.

WITNESS the following signatures and seals as of the date first above written:

Register's Office  
Racine County, Wis. } SS

Received for Record 13th day of  
June A.D. 1986 at 10:30  
o'clock A. M. and recorded in Volume 1803  
of Racine on page 336

William F. Bock 332  
Register of Deeds

DECLARANT: COUNTY OF RACINE, WISCONSIN

BY: Len Ziolkowski, County Executive

VOL 1803 PAGE 330

10.00

Ret: Corporation Counsel

Joseph P. County Executive

BY: Hubert H. Braun  
Hubert H. Braun, County Board  
Chairman

BY: Dennis Kornwolf  
Dennis Kornwolf, County Clerk

MENARD, INC.

BY: Mary Prochaska  
Mary Prochaska  
Title: V.P.

(SEAL)

Attest: \_\_\_\_\_

Title: \_\_\_\_\_

BEST PRODUCTS CO., INC.

BY: John J. [Signature]  
Title: Vice President, Real Estate

(SEAL)

Attest: [Signature]  
Title: Secretary-Treasurer

WITNESSED BY FINANCIAL  
[Signature]  
Signature  
4/9/86  
Date

Date 4/9/86  
Certified to be correct as to form.  
By William J. [Signature]  
Racine County Corporation Counsel

STATE OF Wisconsin  
CITY/COUNTY OF Eau Claire

Personally came before me this 8th day of May  
in the year 1986, the above-named Marv Prochaska,  
to me known to be the person who executed the foregoing instru-  
ment, and acknowledged the same.

(Notarial Seal)

Allen T. Joff  
Notary Public in and for said State  
My Commission expires: 7/2/89

STATE OF Wisconsin  
~~CITY~~/COUNTY OF Racine

Personally came before me this 12th day of June  
in the year 1986, the above-named Len Gielkowski, Dennis Lynne  
Robert Brown  
to me known to be the person who executed the foregoing instru-  
ment, and acknowledged the same.

(Notarial Seal)

Linda P. Callender  
Notary Public in and for said State  
My Commission expires: 10/4/87

STATE OF Virginia  
~~CITY~~/COUNTY OF Henrico

Personally came before me this 3rd day of June  
in the year 1986, the above-named John Penn,  
to me known to be the person who executed the foregoing instru-  
ment, and acknowledged the same.

(Notarial Seal)

Diana S. Gill  
Notary Public in and for said State  
My Commission expires: 10/2/88

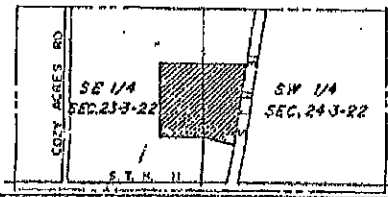
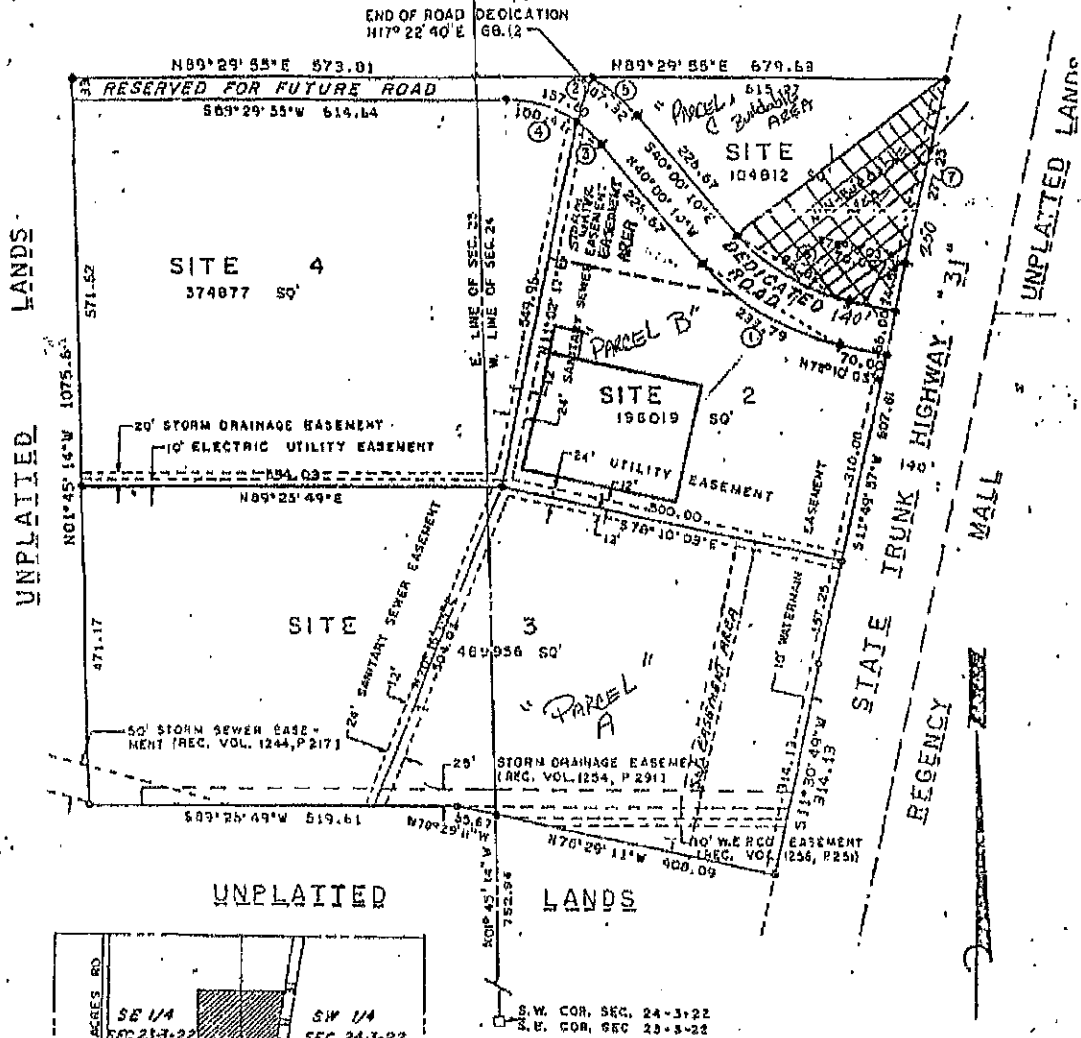
VCL1803 PAGE 332

Exhibit "A"

CERTIFIED SURVEY MAP No. \_\_\_\_\_

PART OF THE SW 1/4 OF SEC. 24, AND PART OF THE S.E. 1/4 OF SEC. 23, T. 3 N., R. 22 E., IN THE TOWN OF MOUNT PLEASANT, RACINE COUNTY, WISCONSIN.

UNPLATTED LANDS



LOCATION MAP  
SCALE 1" = 2000'

S.W. COR. SEC. 24-3-22  
S.E. COR. SEC. 23-3-22

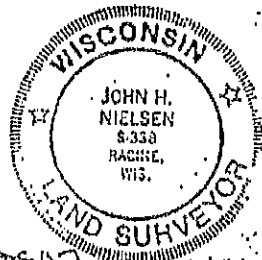
BEARINGS BASE IS GRID NORTH, WISCONSIN COORDINATE SYSTEM

• DENOTES 3/4" DIA. IRON ROD SET

○ DENOTES 3/4" DIA. IRON PIPE FOUND

SCALE 1" = 200'

CURVE DATA					
CHORD					
CURVE	ARC	RADIUS	LENGTH	BEARING	CEN. ANGLE
1	233.78	350.94	229.49	N59°05'06"W	38°09'52"
2	127.80	178.04	152.74	N65°15'07"W	50°25'52"
3	49.39	179.04	49.24	N47°54'22"W	15°46'24"
4	106.41	179.04	106.76	N73°09'19"W	34°41'31"
5	0.32	245.04	05.86	S50°12'44"E	20°25'07"
6	189.62	254.57	186.33	S58°05'00"E	38°05'54"
7	271.24	1644.17	277.22	S12°18'58"W	60°57'21"



Pl 008-03-22-23-031-030  
Pl 008-03-22-23-031-030  
Pl 008-03-22-23-031-033  
Pl 008-03-22-23-031-034  
Pl 008-03-22-24-018-001

1234886

X393

SECOND AMENDMENT TO DECLARATION  
OF EASEMENTS AND COVENANTS

THIS SECOND AMENDMENT is dated as of September 22, 1986 by and among the COUNTY OF RACINE, a political subdivision of the State of Wisconsin ("County"); BEST PRODUCTS CO., INC., a Virginia corporation ("Best"); MENARD, INC., a Wisconsin corporation ("Menard"); McDONALD'S CORPORATION, a Delaware corporation and HIGHLAND SUPERSTORES, INC., a Michigan corporation; and provides:

The County executed a Declaration of Easements and Covenants dated as of May 13, 1985 and recorded in the Office of the Register of Deeds for Racine County, Wisconsin, on May 17, 1985 in Volume 1752 of Records, Page 604, as Document No. 1169012. The aforesaid Declaration was amended by an Amendment to Declaration of Easements and Covenants dated June 12, 1986, and recorded in the aforesaid Register Office on June 13, 1986, in Volume 1803 of Records, Page 330, as Document No. 1196578. The aforesaid Declaration and Amendment are collectively referred to herein as the Declaration.

The parties hereto now desire to further amend the Declaration further as set forth below.

NOW, THEREFORE, in consideration of Ten Dollars cash in had paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby agree to amend Section 6.5 of the Declaration to read in its entirety as follows:

Each Owner shall be liable for the cost of any improvements constructed on its Parcel, and any repairs,

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1200

Ret-Honigman Miller etc VOL 1874 PAGE 607

changes, renovations, alterations and additions thereto, and each Owner shall indemnify and hold the other Owners harmless against any construction liens or other claims filed against the other Owners' parcel or the Common Areas with respect thereto.

In all other respects, the terms of the Declaration are hereby ratified and affirmed.

WITNESS the following signatures.

COUNTY OF RACINE

By: [Signature]  
Len Ziolkowski, County Executive

By: [Signature]  
Chairman, County Board  
Hubert A. Braunn

By: [Signature]  
County Clerk  
Dennis Kornholt

MENARD, INC.

By: [Signature]  
Title: Vice President

BEST PRODUCTS CO., INC.

By: [Signature]  
Title: Vice President

Date 12/12/86  
Certified to be correct as to form.  
By [Signature]  
Racine County Corporation Counsel

REVIEWED BY FINANCE DIRECTOR  
[Signature]  
Signature  
12/26/86  
Date

STATE OF Wisconsin  
CITY/COUNTY OF Racine

Personally came before me this 17th day of December,  
in the year 1986, the above named Len Ziolkowski, to me known to  
be the person who executed the foregoing instrument as County  
Executive of the COUNTY OF RACINE, WISCONSIN, a political  
subdivision of the State of Wisconsin, and acknowledged the same  
on behalf of the County.

Linda P. Callender  
Notary Public in and of said state  
Linda P. Callender

My commission expires:

10/4/87

STATE OF Wisconsin  
CITY/COUNTY OF Racine

Personally came before me this 17th day of December,  
in the year 1986, the above named Robert N. Braun, to me  
known to be the person who executed the foregoing instrument as  
Chairman, County Board of the COUNTY OF RACINE, WISCONSIN, and  
acknowledged the same on behalf of the County.

Linda P. Callender  
Notary Public in and of said state  
Linda P. Callender

My commission expires:

10/4/87

STATE OF Wisconsin  
CITY/COUNTY OF Racine

Personally came before me this 17th day of December,  
in the year 1986, the above named Thomas C. Rennett, to me  
known to be the person who executed the foregoing instrument as  
County Clerk of the COUNTY OF RACINE, WISCONSIN, and acknowledged  
the same on behalf of the County.

Thomas C. Rennett  
Notary Public in and of said state  
Thomas C. Rennett

My commission expires:

8-27-89



STATE OF VIRGINIA

CITY/COUNTY OF Henrico

Personally came before me this 7<sup>th</sup> day of November,  
in the year 1986, the above named John Penn, to me  
known to be the person who executed the foregoing instrument as  
Vice President of BEST PRODUCTS CO., INC., a Virginia  
corporation, and acknowledged the same on behalf of the  
corporation.

Rita B. Gillespie  
Notary Public in and of said state  
Rita B. Gillespie

My commission expires:

March 20, 1987

Wisconsin  
STATE OF VIRGINIA

CITY/COUNTY OF Eau Claire

Personally came before me this 3rd day of October,  
in the year 1986, the above named Marvin Prochaska, to me  
known to be the person who executed the foregoing instrument as  
Vice President of MENARD, INC., a Wisconsin corporation,  
and acknowledged the same on behalf of the corporation.

Allen F. Taft  
Notary Public in and of said state  
Allen F. Taft

My commission expires:

7/2/89

Return to: Honigman Miller Schwartz & Cohn  
2290 First National Building  
Detroit, Michigan 48226  
Attn: Thomas J. Beale

Register's Office }  
Racine County, Wis. } SS

Received for Record 10<sup>th</sup> day of July A.D. 1987 at 8:30 o'clock P.M. and recorded in Volume 1874 of Records on page 611

Helen M. Schuttler  
12  
Register of Deeds

MCDONALD'S CORPORATION,  
a Delaware corporation

By: *Seymour Greenman*  
Title: Vice President

HIGHLAND SUPERSTORES, INC.,  
a Michigan corporation

By: *[Signature]*  
Title: Chairman

STATE OF ~~VIRGINIA~~ ILLINOIS )  
CITY/COUNTY OF COOK )

Personally came before me this 1st day of May, 1987, in the year 1986, the above named Seymour Greenman, to me known to be the person who executed the foregoing instrument as Vice President of MCDONALD'S CORPORATION, a Delaware corporation, and acknowledged the same on behalf of the corporation.

*Cathy A. Jama*  
Notary Public in and of said state  
Cathy A. Jama

My commission expires:  
November 25, 1989

STATE OF ~~VIRGINIA~~ MICHIGAN me  
CITY/COUNTY OF Wayne me

Personally came before me this 20<sup>th</sup> day of January, in the year 1986, the above named David Mendez, to me known to be the person who executed the foregoing instrument as Chairman Of The Board of HIGHLAND SUPERSTORES, INC., a Michigan corporation, and acknowledged the same on behalf of the corporation.

*Margaret E. Carter*  
Notary Public in and of said state

My commission expires:  
Nov. 16, 1987

MARGARET E. CARTER  
Notary Public, Wayne County, MI  
My Commission Expires Nov. 16, 1987

1176976

Form 696-C-1-6-86  
W.E.P.CO. ONLY  
INDIVIDUAL AND CORPORATE  
U.G. EASEMENT

FOR AND IN CONSIDERATION of the sum of One Dollar (\$1.00) to It paid, the receipt whereof is hereby acknowledged, MENARD, INC.

\_\_\_\_\_, owner \_\_\_\_\_ and grantor \_\_\_\_\_, do as hereby convey unto

### WISCONSIN ELECTRIC POWER COMPANY

grantee, its successors and assigns, the right, permission and authority to construct, install, operate, repair, maintain and replace conduit and cables underground, together with ~~XXXXXX~~ other appurtenant equipment; also the right to construct, install, operate, maintain and replace (an) electric pad-mounted transformer(s), (an) electric pad-mounted switch-fuse unit(s), together with (a) concrete slab ~~XXXXXX~~ terminals, markers and other necessary and usual appurtenant equipment above ground, all for the purpose of transmitting electric energy for light, heat, power and signals, or for such other purpose as electric current is now or may hereafter be used upon, across, within and beneath strips of land varying in width being a part of its premises described as Site 3 of Certified Survey Map No. 1073, recorded in the Office of the Register of Deeds for Racine County, Wisconsin in Volume 3 of Certified Survey Maps on Pages 180 and 181, as Document No. 1168310 and being a part of the Southwest ¼ of Section 24 and part of the Southeast ¼ of Section 23, Township 3 North, Range 22 East, Town of Mt. Pleasant, Racine County, Wisconsin.

Register's Office  
Racine County, Wis. } SS

Received for Record 11th day of  
September A.D. 1985 at 11:25  
o'clock A.M. and recorded in Volume 1766  
of Records on page 746-748

*Klein M. Schuttner*  
Register of Deeds

(If necessary, continue on reverse side)

8.00

The location of the easement (strip) ~~XXXXXX~~ of the easement hereinbefore granted with respect to the premises of the grantor \_\_\_\_\_ is as shown on the drawing attached hereto, marked Exhibit "A" and made a part hereof.

The right, permission and authority is also granted to said grantee, its successors and assigns, to construct, install, operate, maintain and replace one (1) electric underground service lateral in and under the grantor's \_\_\_\_\_ premises for the purpose of extending electric service to said premises. Said underground service lateral to be installed at such time and in such location as grantee, its successors and assigns, may deem necessary.

The right, permission and authority is also granted said grantee, its successors and assigns, to trim and/or cut down certain trees and/or brush where said trees and/or brush interfere with the installation or maintenance of underground facilities or represent a hazard to such facilities.

The grantor \_\_\_\_\_, its heirs, successors and assigns, covenant \_\_\_\_\_ and agree \_\_\_\_\_ that no structures will be erected over ~~XXXXXX~~ said underground and/or above ground electric facilities or erected in such close proximity to said electric facilities as to create a violation of the Wisconsin State Electrical Code or any amendments thereto.

The grantor \_\_\_\_\_, its heirs, successors and assigns, further covenant \_\_\_\_\_ and agree \_\_\_\_\_ that the elevation of the existing ground surface within the easement areas will not be altered by more than four (4) inches without the written consent of grantee.

The grantee and its agents shall have the right to enter the premises of the undersigned for the purpose of exercising the rights herein acquired, but the grantee agrees to restore or cause to have restored the premises of the undersigned, as nearly as is reasonably possible, to the condition existing prior to such entry by the grantee or its agents. This restoration, however, does not apply to the initial installation of said underground and/or above ground electric facilities or to any brush or trees which may be removed at any time pursuant to the rights herein granted.

It is understood and agreed that the entire agreement of the parties is contained in this instrument and that in the event the undersigned seeks to secure electric service from said underground facilities, such service will be rendered upon the installation and energizing of said underground facilities, and then only under the conditions of the grantee's rules and regulations and at the grantee's authorized rates.

This grant of easement shall be binding upon and inure to the benefit of the heirs, successors and assigns of all parties hereto.

51-008-03-22-23-031-020

[VOL. 1766 PAGE 746]

6885 09 11

800 1



IN WITNESS WHEREOF, XX

XXXXXXXXXXXXXXXXXXXXXXXXXXXX, One the sold MENARD, INC.

                     has caused these presents to be signed by its    President

and attested to by its Vice President, and its corporate seal to be hereunto affixed this 30

day of July, 1985

In Presence Of:

\_\_\_\_\_ (SEAL)

\_\_\_\_\_ (SEAL)

(SEAL)

(SEAL)

**MENARD, INC.**

By John R. Menard, Jr. President

ATTEST:  
B. Marvin Prochaska v. ✓  
Marvin Prochaska, Vice President

STATE OF WISCONSIN )  
\_\_\_\_\_) ss  
COUNTY)

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the above named \_\_\_\_\_

to me known to be the person \_\_\_\_\_ who executed the foregoing instrument and acknowledged the same.

Notary Public, \_\_\_\_\_ Co., Wis.

My commission expires \_\_\_\_\_

STATE OF WISCONSIN )  
 ) ss  
 ) COUNTY )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the above  
named \_\_\_\_\_

to me known to be the person \_\_\_\_\_ who executed the foregoing instrument and acknowledged the same.

Notary Public, \_\_\_\_\_ Co., Wis.

My commission expires \_\_\_\_\_

STATE OF WISCONSIN )  
 Eau Claire County ) ss

Personally came before me this 30 day of July, 1985

John R. Menard, Jr. President,

and Marvin Prochaska, Vice President, of the above

named corporation, MENARD, INC.

Wisconsin corporation, known to me to be the persons who executed the foregoing instrument and

President and Name Donald

President and Vice President of said corporation, and

acknowledged that they executed the foregoing instrument as such officers, as the deed of said corporation, by its authority.

**APPROVED,**

Initials	Date

550262-2A

Warren R. Johnson  
Notary Public, San Clara Co., Wis.

My commission expires 7-13-84

This instrument was drafted by Robert G. Sanford on behalf of Wisconsin Electric Power Company.

DOCUMENT #

1763832

PARTIAL  
RELEASE OF EASEMENT

Document Number

REGISTER'S OFFICE  
RACINE COUNTY, WI

RECORDED

2001 MAR 26 PM 2:48

MARK A. LADD  
REGISTER OF DEEDS

VOL 3143  
PAGE 676-677

WHEREAS, on the 30<sup>th</sup> day of July, 1985, Menard, Inc., granted to WISCONSIN ELECTRIC POWER COMPANY, hereinafter referred to as "grantee," its successors and assigns, certain easement rights, which easement rights are set forth in that certain document recorded in the Office of the Register of Deeds in and for Racine County, Wisconsin, on the 11<sup>th</sup> day of September, 1985, in Volume 1766 of Records, on Pages 746-748, inclusive, as Document No. 1176976, and

WHEREAS, grantee has been requested and is willing to release the following rights from the force and effect of the aforesaid easement, to-wit:

a strip of land 10 feet in width, being part of its premises described as Site 3 of Certified Survey Map No. 1073, being part of the Southwest  $\frac{1}{4}$  of Section 24 and part of the Southeast  $\frac{1}{4}$  of Section 23, Township 3 North, Range 22 East, Town of Mt. Pleasant, Racine County, Wisconsin. The location of said 10 foot strip of land is shown on the attached drawing, marked Exhibit "A" and made a part here of.

12-  
RETURN TO:  
Kane, Russell, Coleman & Logan, P.C.  
Attn: Ms. Dorenda Hardy  
3700 Thanksgiving Tower  
1801 Elm Street  
Dallas, TX 75201

NOW, THEREFORE, for and in consideration of the sum of \$1.00, the receipt whereof is hereby acknowledged, said grantee does hereby release, discharge and abandon only those specific easement rights heretofore mentioned in the immediately preceding paragraph. It is expressly understood and agreed that all other easement rights as set forth in the aforesaid document recorded in the Office of the Register of Deeds in and for Racine County, Wisconsin, as Document No. 1176976 shall remain in full force and effect.

IN WITNESS WHEREOF, said grantee has caused these presents to be executed on its behalf by its duly authorized Manager of Property Management this 16<sup>th</sup> day of March, 2001.

WISCONSIN ELECTRIC POWER COMPANY

By Michael James  
Michael James, Manager of Property Management

STATE OF WISCONSIN)  
:SS)  
MILWAUKEE COUNTY)

Personally came before me this 16<sup>th</sup> day of March, 2001, Michael James, Manager of Property Management, of the above named corporation, WISCONSIN ELECTRIC POWER COMPANY, known to me to be the person who executed the foregoing instrument and to me known to be such Manager of Property Management of said corporation, and acknowledged that he executed the foregoing instrument as such Manager of Property Management, as the deed of said corporation, by its authority.

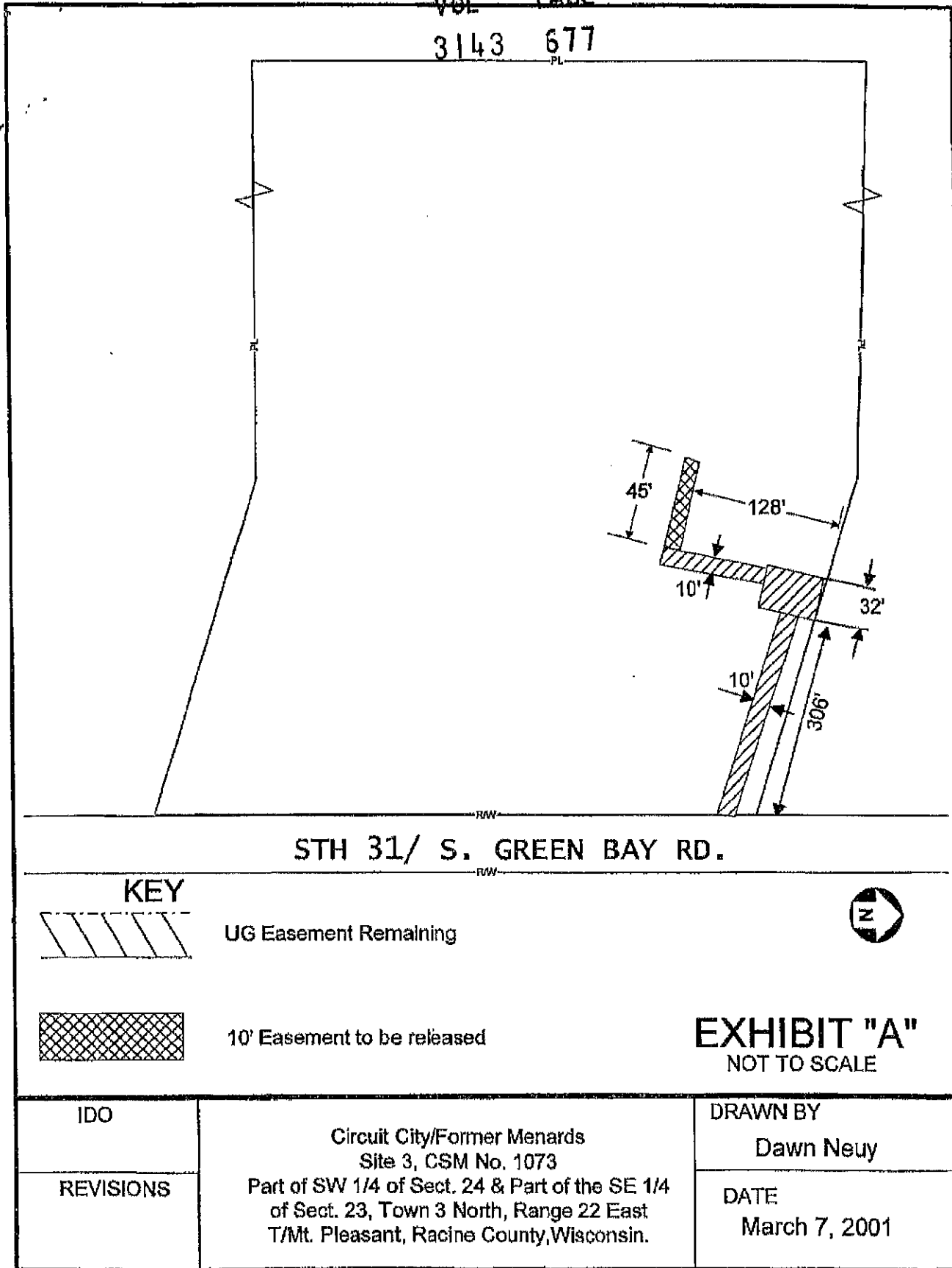
Ernest Kretschmann  
Ernest Kretschmann

Notary Public State of Wisconsin

My commission expires June 20, 2004

r:\data\real estate\releases\010068-circulcity.doc

This instrument was drafted by Dawn Nauy on behalf of Wisconsin Electric Power Company, PO Box 2046, Milwaukee, WI 53201.



1392354

AGREEMENT AND CONSENT

The undersigned, as the Owners of Parcel A (which Parcel is described on Exhibit A attached hereto), and the Owners of Parcel B (which Parcel is described on Exhibit B attached hereto), as defined in the Declaration of Easements and Covenants made as of the 13th day of May, 1985 by the County of Racine and recorded with the Racine County Register of Deeds on May 17, 1985, as Document No. 1169012 ("Declaration") hereby acknowledge, consent and agree to the following:

1. That Menard, Inc. ("Menard"), Owner of Parcel A, has been advised that Kenneth Bailey and Christel Bailey, husband and wife, and Muellermist Irrigation Company ("Bailey and Muellermist") are presently the Owners of Parcel B (which Parcel is described on Exhibit B attached hereto), as defined in the Declaration.

2. That Menard, Inc. has been advised that Guaranty Bank SSB ("Bank") is presently a party to an Offer to Purchase dated June 16, 1992, pursuant to which the Bank has agreed to purchase, on or about August 30, 1992 a subdivided portion of Parcel B from Bailey and Muellermist (which parcel is shown on the site plan ("Site Plan") attached hereto as Exhibit C and is hereinafter referred to as the "Bank Parcel").

3. That pursuant to the Declaration, Menard, upon the terms and covenants setforth herein, consents to the Site Plan prepared and presented to it by Bailey and Muellermist and the Bank for Parcel B, including the Bank Parcel, as such Site Plan reflects the location of traffic lines, traffic pattern, the number of striped parking spaces, building areas, non-buildable areas, and future parking areas to be constructed on Parcel B.

4. Except for the construction of a fence surrounding the area indicated on Exhibit C for use of outside storage and the construction of Common Area Improvements, no building, wall, structure or other improvements shall be erected, or placed on Parcel B unless such building, wall, structure or other improvement is erected entirely within the portions of Parcel B designated as a Building Area on the Site Plan for Parcel B.

5. Bailey and Muellermist covenant and agree that after June 1, 1993 if in the sole determination of Menard parking demand is such that additional common area parking is needed and desired, Bailey and Muellermist shall, within thirty (30) days of their receipt of written notice from Menard of its desire for additional common area parking, commence construction and within thirty (30) days thereafter

23324

1392  
2200  
1



complete construction of additional common area parking in that portion of the non-buildable area designated on Exhibit "C" as "Phase I Parking Expansion". The additional parking shall be constructed at the sole cost of Bailey and Muellermist.

6. All common area improvements on Parcel B shall be constructed at the sole cost of the owner of Parcel B in a workmanlike manner of a quality and type sufficient to meet all applicable governmental rules, regulations and standards and shall be of such a style to complement those common area improvements constructed on Parcel A. All common area improvements shall be constructed as shown on Exhibit C. Any future alterations or modifications to the common area improvements on Parcel B shall be first submitted to Menard for approval, which shall not be unreasonably withheld.

7. The consent of Menard granted by this agreement is conditional upon full compliance by Bailey and Muellermist with the terms set forth herein. Menard may enforce this agreement as provided in the Declaration or by any other lawful means including an action for specific performance and injunctive relief.

8. Except as specifically set forth herein, all terms, conditions and covenants in the Declaration not inconsistent with this agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this agreement as of the dates written below.

DATE: 9 July, 1992

MENARD, INC.

By: Mary Prochaska  
Mary Prochaska  
Vice President/Real Estate

DATE: 15 July, 1992

KENNETH BAILEY

By: Kenneth Bailey  
Kenneth Bailey

DATE: 15 July, 1992

CHRISTEL BAILEY

By: Christel Bailey  
Christel Bailey

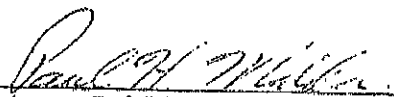
DATE: 15 July, 1992

MUELLERMIST IRRIGATION COMPANY

By: [Signature]  
Its: [Signature]

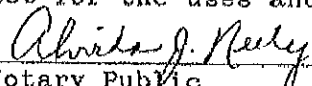
STATE OF WISCONSIN )  
 )ss.  
COUNTY OF EAU CLAIRE)

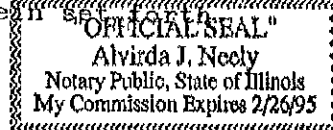
On this 9<sup>th</sup> day of July, 1992, before me a Notary Public within and for said County and State, personally appeared Marv Prochaska, to me personally known, who by me duly sworn did say that he is the Vice President/Real Estate of Menard, Inc. the corporation named in the foregoing instrument, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and said Marv Prochaska acknowledged said instrument to be the free act and deed of said corporation.

  
Notary Public Eau Claire County  
My Commission is permanent

STATE OF Illinois )  
 )ss.  
COUNTY OF cook )

On this 15th day of July, 1992, before me a Notary Public in and for the County and State aforesaid, personally appeared Kenneth Bailey, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, and he/~~she~~ acknowledged that he/~~she~~ signed, sealed and delivered the said instrument as his/~~her~~ free and voluntary act for the uses and purposes therein set forth.

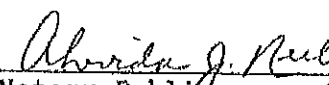
 Cook  
Notary Public County

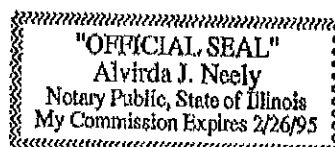


My Commission: 2/26/95

STATE OF Illinois )  
 )ss.  
COUNTY OF Cook )

On this 15th day of July, 1992, before me a Notary Public in and for the County and State aforesaid, personally appeared Christel Bailey, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, and he/~~she~~ acknowledged that he/~~she~~ signed, sealed and delivered the said instrument as ~~his~~/her free and voluntary act for the uses and purposes therein set forth.

 Cook  
Notary Public County  
My Commission: 2/26/95

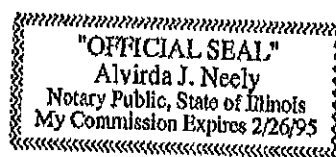


STATE OF Illinois     )  
                              )ss.  
COUNTY OF Cook        )

On this 15th day of July, 1992, before me a Notary Public in and for the County and State aforesaid, personally appeared Andrew L. Wright, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, and he/~~she~~ acknowledged that he/~~she~~ signed, sealed and delivered the said instrument as his/~~her~~ free and voluntary act for the uses and purposes therein set forth.

Alvirda J. Neely                      Cook  
Notary Public                      County

My Commission: 2/26/95



VOL 2190 PAGE 480

This document drafted by:

Paul H. Mahler  
Corporate Counsel  
4777 Menard Drive  
Eau Claire, WI 54703

EXHIBIT A

Site No. 3 of Certified Survey Map No. 1073, recorded in the office of the Register of Deeds for Racine County, Wisconsin, on May 7, 1985, in Volume 3 of Certified Survey Maps, pages 180-181, as Document No. 1168310, and being a part of the Southeast 1/4 of Section 23 and the Southwest 1/4 of Section 24, Township 3 North, Range 22 East. Said land being in the Town of Mt. Pleasant, Racine County, Wisconsin.

Tax Key No. 51-008-03-22-23-031-020

008-03-22-24-031-020

008-03-22-24-031-040

008-03-22-24-031-050

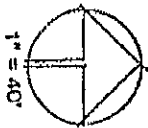
VOL 2190 PAGE 481

EXHIBIT B

Site No. 2 of Certified Survey Map No. 1073, recorded in the office of the Register of Deeds for Racine County, Wisconsin, on May 7, 1985, in Volume 3 of Certified Survey Maps, pages 180-181, as Document No. 1168310, and being a part of the Southeast 1/4 of Section 23 and the Southwest 1/4 of Section 24, Township 3 North, Range 22 East. Said land being in the Town of Mt. Pleasant, Racine County, Wisconsin.

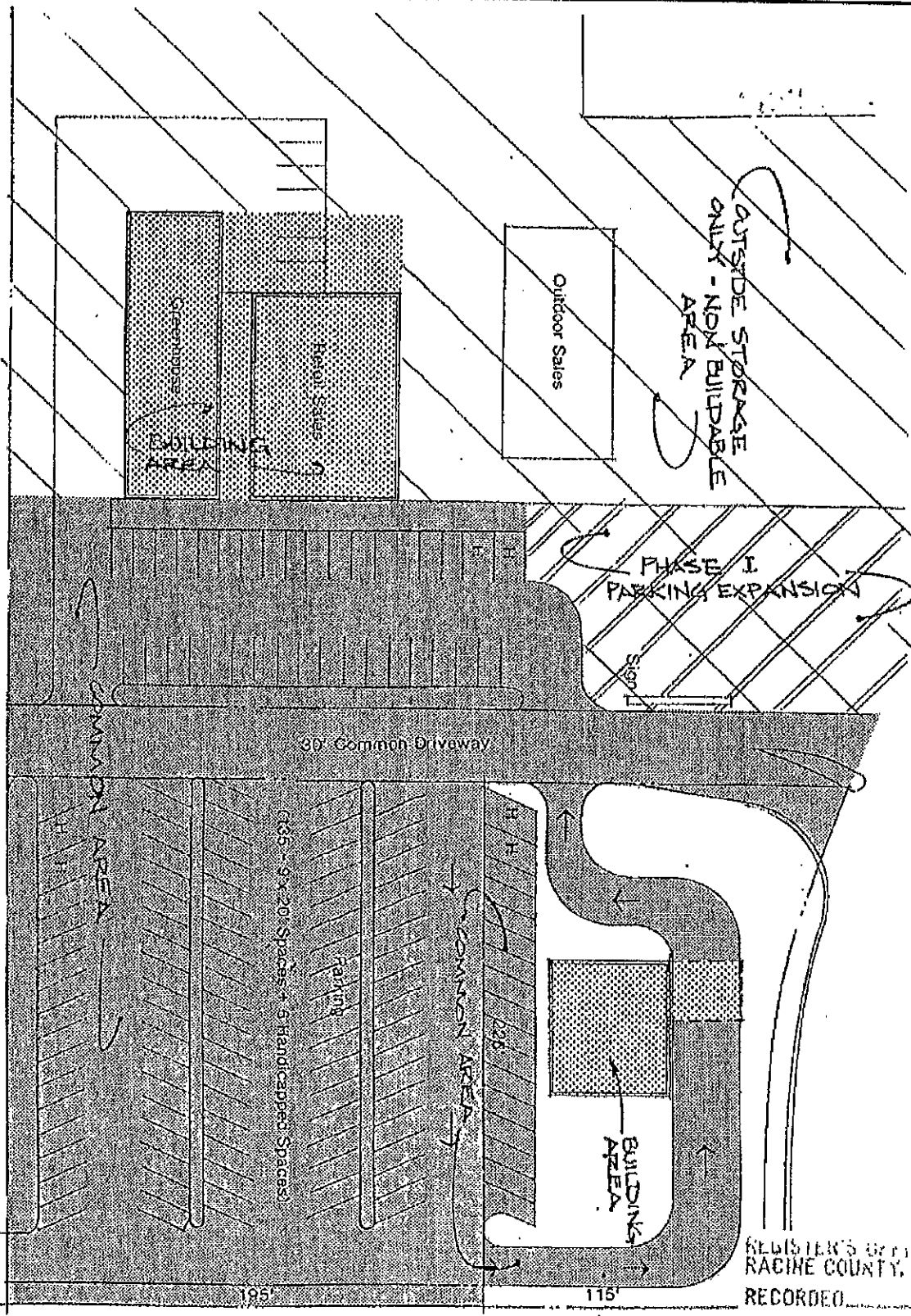
Tax Key NO. 51-008-03-22-23-031-020  
008-03-22-24-031-020  
008-03-22-24-031-040  
008-03-22-24-031-050

VOL. 2190 PAGE 482



SITE DEVELOPMENT PLAN

Menards Store



OUTSIDE STORAGE ONLY - NON BUILDABLE AREA

PHASE I PARKING EXPANSION

30' Common Driveway

635 - 9' x 20' Spaces + 6 Handicapped Spaces

PAVING

BUILDING AREA

REGISTERED OFFICE  
RACINE COUNTY, WI SS  
RECORDED

VOL. 2190 PAGE 483

'92 OCT -6 AM 2:20

S.T.H. "31"

EXHIBIT C

VOL. 2190, PAGE 477-483  
REGISTERED  
OFFICE

28-01

DOCUMENT #

1723230

EASEMENT

EASEMENT

Document Title

Document Number

REGISTER'S OFFICE  
RACINE COUNTY, WI

RECORDED

2000 APR -7 PM 1:07

MARK A. LADD  
REGISTER OF DEEDS

VOL

3018

PAGE

894-899

Recording Area

Name and Return Address

William E. Dye  
Dye, Foley, Krohn & Shannon, S.C.  
P.O. Box 081518  
1300 W. Green Bay Rd  
Racine, WI 53408-1518

51-008-03-22-23-031-030

Parcel Identification Number (PIN)

99110349

THIS INDENTURE made this 3rd day of April, 2000, between SOUTHLAND CENTER INVESTORS, LLC, party of the first part, and TOWN OF MT. PLEASANT, Racine County, Wisconsin, a quasi-municipal corporation duly existing under and by virtue of the laws of the State of Wisconsin, party of the second part.

W I T N E S S E T H :

That for and in consideration of the sum of \$1.00 and other good and valuable consideration in hand paid, the receipt of which is hereby acknowledged, the party of the first part has this day bargained and sold and by these presents does bargain, sell, convey, transfer and deliver unto the party of the second part, its successors and assigns forever, a permanent easement and right of way and a temporary easement during the period of construction, including the perpetual right to enter upon the real estate hereinafter described at any time that it may see fit, and construct, maintain, use and repair underground pipe lines and mains, for the purpose of conveying sewage across, through and under the real estate hereinafter described, together with the right to excavate and refill ditches and/or trenches for the location of said pipe lines and mains, and the further right to remove trees, bushes, undergrowth and other obstructions interfering with the location, construction, use and maintenance of said underground pipe lines and mains.

The real estate affected by this grant of permanent easement and right of way is located in the Town of Mt. Pleasant, County of Racine and State of Wisconsin, and is more particularly described as follows:

See attached description and plat.

The real estate affected by the grant of this temporary easement covers land adjacent to the above-described permanent easement and right of way as may be required during the period of construction.

TO HAVE AND TO HOLD said permanent easement and right of way to the party of the second part and unto its successors and assigns forever.

Party of the first part for itself and for its successors and assigns, do hereby covenant with the party of the second part, its successors and assigns forever, that they are lawfully seized and possessed of the real estate above described and that they have good and lawful right to convey it or any part thereof and that it is free from all encumbrances.



IN WITNESS WHEREOF, the party of the first part has hereunto set their hands and seals on the day and year first above written.

SOUTHLAND CENTER INVESTORS, LLC.

BY: Larry L. Nifong  
Larry L. Nifong, Managing Member

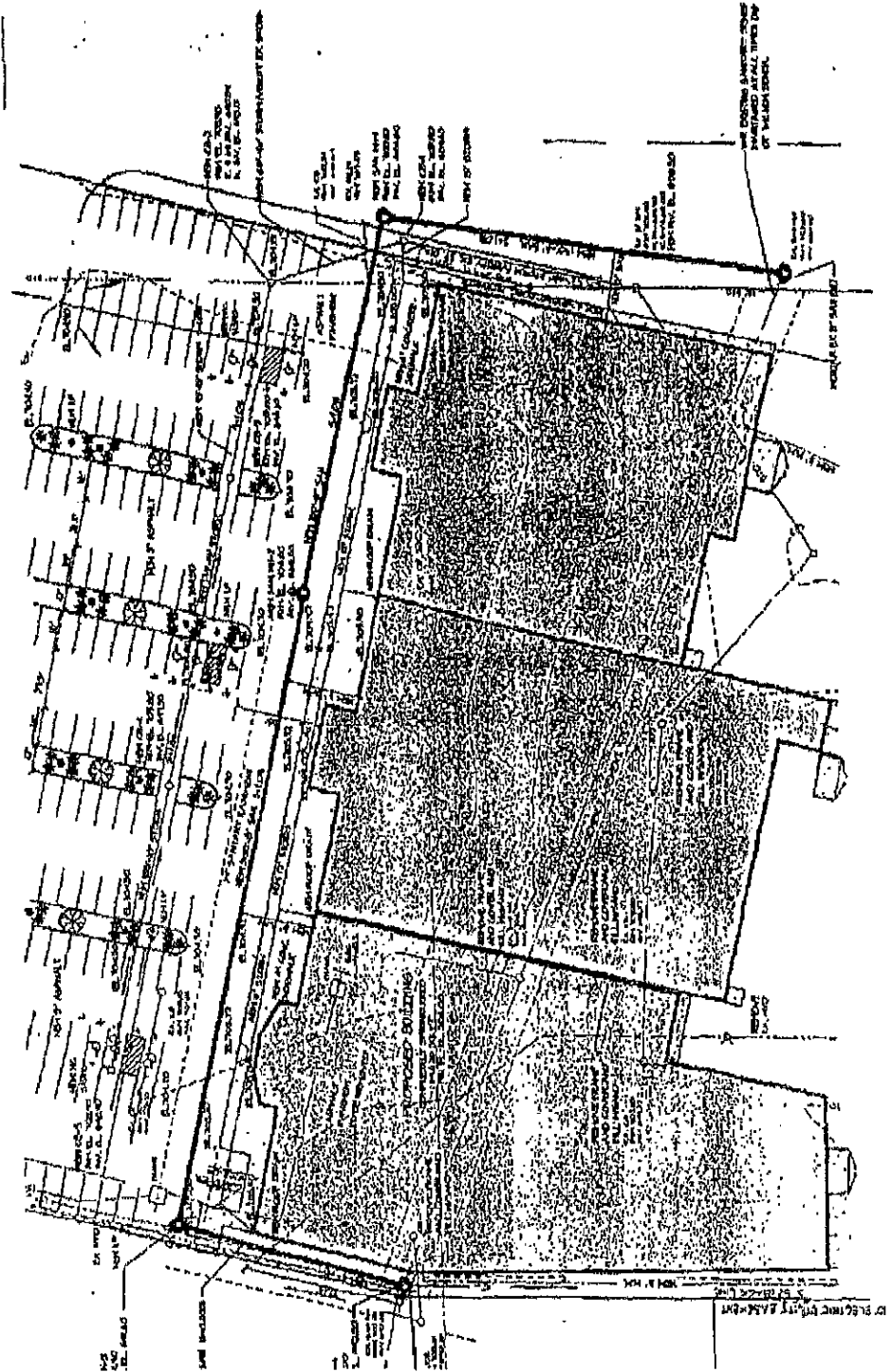
STATE OF WISCONSIN )  
                          ) SS  
COUNTY OF RACINE )

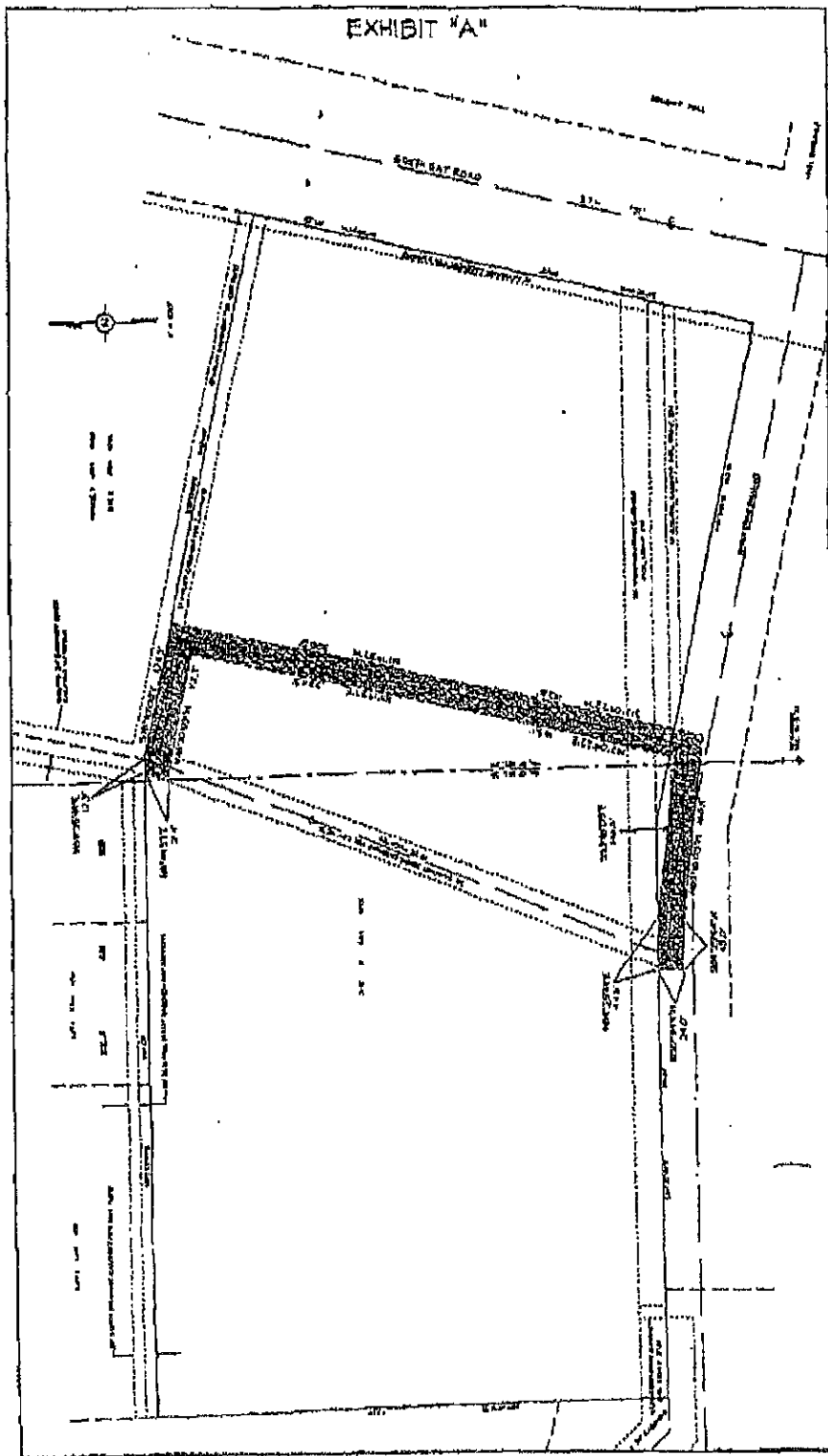
Personally came before me this 3rd day of April, 2000, the above-named Southland Center Investors LLC by Larry L. Nifong to me known to be the person who executed the foregoing instrument and acknowledged the same he being duly authorized so to do.

F. Scott Wochos  
Notary Public, Racine County, Wisconsin  
My commission is permanent/~~expires~~:  
F. Scott Wochos

This instrument was drafted by:

William E. Dye  
Dye, Foley, Krohn & Shannon, S.C.  
P. O. Box 081518  
1300 So. Green Bay Road  
Racine, Wisconsin 53408-1518  
Wisconsin State Bar #1006058





DESCRIPTION

Relocated Sanitary Sewer Easement

A strip of land for sanitary sewer easement purposes, being a part of the Southeast 1/4 of the Southeast 1/4, Section 23, and part of the Southwest 1/4 of the Southwest 1/4, Section 24, all in T3N, R22E, and also a part of Site Three (3), of Certified Survey Map No. 1073, as recorded in the office of the Register of Deeds in Racine County, Wisconsin, in Volume Three (3), of Certified Survey Maps, page 118, as Document No. 1168310, said strip described as follows: Beginning at the Southeast corner of Site Four (4) of said Certified Survey Map No. 1073; thence S78°10'03"E, along the North line of said Site Three (3), 124.5 feet; thence S11°19'37"W, 308.5 feet; thence S12°09'22"W, 192.6 feet; thence NE3°18'05"W, 168.9 feet; thence S89°25'49"W, 43.0 feet; thence N00°34'11"W, 24.0 feet to the South line of said Site Three (3); thence N89°25'49"E, along said South line, 44.6 feet; thence S83°18'05"E, 148.6 feet; thence N12°09'22"E, 165.1 feet; thence N11°19'37"E, 284.5 feet; thence N78°10'03"W, 112.7 feet; thence N11°49'57"E, 21.4 feet to the North line of said Site Three (3); thence N89°25'49"E, along said North line, 12.3 feet to the point of beginning.

DOCUMENT #

1724680

STATE BAR OF WISCONSIN

DOCUMENT NO.

EASEMENT

REGISTER'S OFFICE  
RACINE COUNTY, WI

RECORDED

2000 APR 20 AM 10:59

MARK A. LAOD  
REGISTER OF DEEDS

3022  
738-741  
PAGE

THIS INDENTURE made this 13th day of April, 2000, between SOUTHLAND CENTER INVESTORS, LLC, party of the first part, and TOWN OF MT. PLEASANT, Racine County, Wisconsin, a quasi-municipal corporation duly existing under and by virtue of the laws of the State of Wisconsin, party of the second part.

THIS SPACE RESERVED FOR RECORDING DATA

**WITNESSETH:**

That for and in consideration of the sum of \$1.00 and other good and valuable consideration in hand paid, the receipt of which is

NAME AND RETURN ADDRESS

Attorney F. Scott Woche  
Derksen, Kratzsch, Mahoney & Ewald, S.C.  
P.O. Box 10597  
Green Bay, WI 54307-0597

hereby acknowledged, the party of the first part has this day bargained and sold and by these presents does bargain, sell, convey, transfer and deliver unto the party of the second part, its successors and assigns forever, a permanent easement and right of way and a temporary easement during the period of construction, including the perpetual right to enter upon the real estate hereinafter described at any time that it may see fit, and construct, maintain, use and repair underground pipe lines and mains, for the purpose of conveying sewage across, through and under the real estate hereinafter described, together with the right to excavate and refill ditches and/or trenches for the location of said pipe lines and mains, and the further right to remove trees, bushes, undergrowth and other obstructions interfering with the location, construction, use and maintenance of said underground pipe lines and mains.

**Tax Parcel No. 23-031-030**

The real estate affected by this grant of permanent easement and right of way is located in the Town of Mt. Pleasant, County of Racine and State of Wisconsin, and is more particularly described as follows:

See attached description and plat.

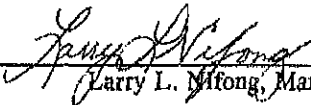
The real estate affected by the grant of this temporary easement covers land adjacent to the above-described permanent easement and right of way as may be required during the period of construction.

TO HAVE AND TO HOLD said permanent easement and right of way to the party of the second part and unto its successors and assigns forever.

Party of the first part for itself and for its successors and assigns, do hereby covenant with the party of the second part, its successors and assigns forever, that they are lawfully seized and possessed of the real estate above described and that they have good and lawful right to convey it or any part thereof and that it is free from all encumbrances.


IN WITNESS WHEREOF, the party of the first part has hereunto set their hands and seals on the day and year first above written.

**SOUTHLAND CENTER INVESTORS, LLC**

By   
Larry L. Nifong, Managing Member

STATE OF WISCONSIN    )  
                              ) SS.  
COUNTY OF BROWN    )

Personally came before me this 13th day of April, 2000, the above-named Southland Center Investors, LLC by Larry L. Nifong to me known to be the person who executed the foregoing instrument and acknowledged the same he being duly authorized so to do.

  
F. Scott Wochos  
Notary Public, Brown County, Wisconsin  
My commission is permanent.

This instrument was drafted by:

F. Scott Wochos  
Denissen, Kranzush, Mahoney & Ewald, S.C.  
3000 Riverside Drive  
Post Office Box 10597  
Green Bay, WI 54307-0597  
(920) 435-4391  
State Bar No. 1010527

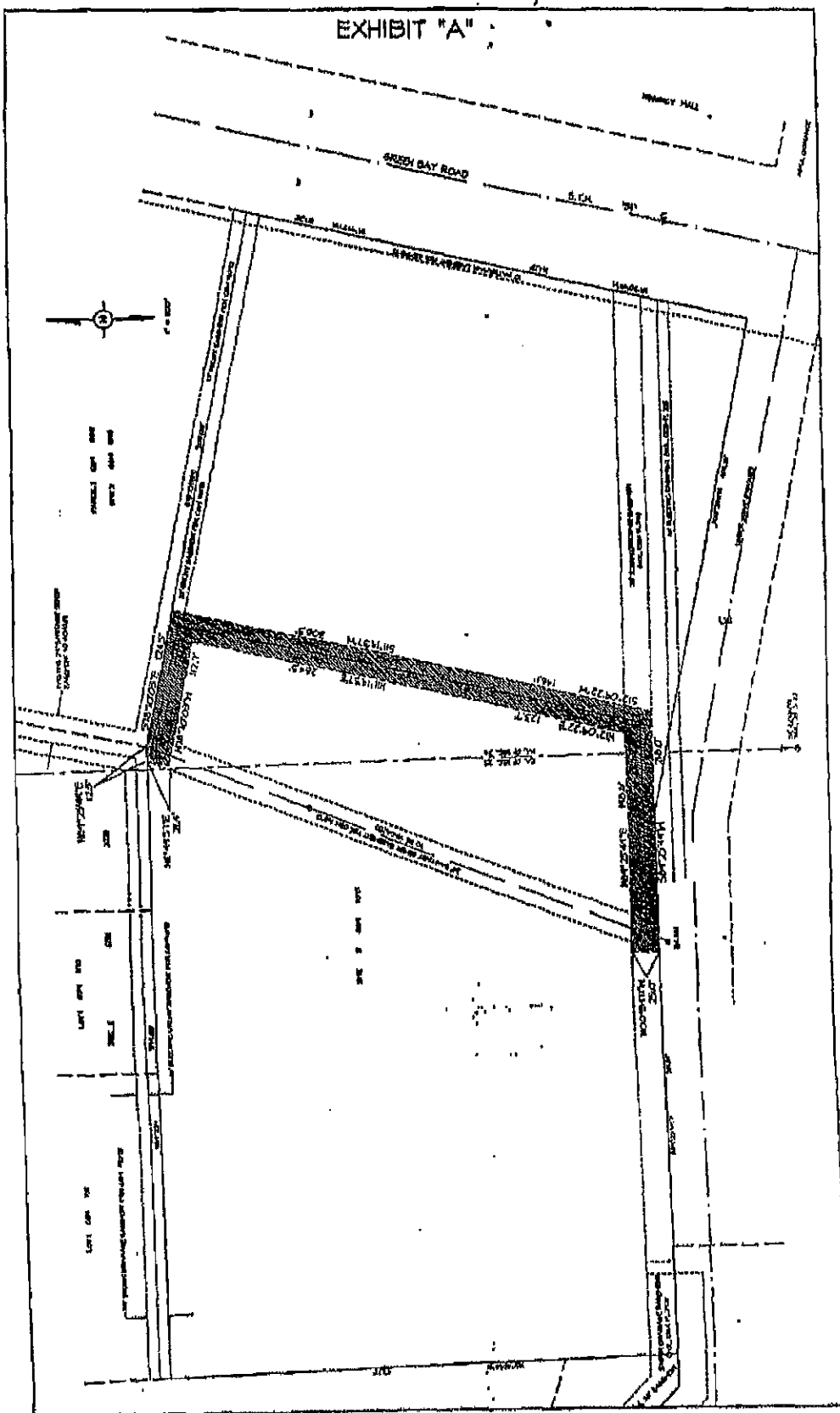
DESCRIPTION

**Relocated Sanitary Sewer Easement**

A strip of land for sanitary sewer easement purposes, located in Site Three (3), Certified Survey Map No. 1073, being a part of the Southeast 1/4 of the Southeast 1/4, Section 23, and part of the Southwest 1/4 of the Southwest 1/4, Section 24, all in T3N, R22E, and recorded in the office of the Register of Deeds in Racine County, Wisconsin, in Volume Three (3), of Certified Survey Maps, page 118, as Document No. 1168310, said strip described as follows: Beginning at the Southeast corner of Site Four (4) of said Certified Survey Map No. 1073; thence S78°10'03"E, along the North line of said Site Three (3), 124.5 feet; thence S11°19'37"W, 308.5 feet; thence S12°09'22"W, 146.1 feet; thence S89°25'49"W, 218.0 feet; thence N00°34'11"W, 25.0 feet; thence N89°25'49"E, 198.6 feet; thence N12°09'22"E, 125.7 feet; thence N11°19'37"E, 284.5 feet; thence N78°10'03"W, 112.7 feet; thence N11°49'57"E, 21.4 feet to the North line of said Site Three (3); thence N89°25'49"E, along said North line, 12.3 feet to the point of beginning.

---

EXHIBIT "A"





DOCUMENT #

1745080

Document Number

DISTRIBUTION EASEMENT  
JOINT ELECTRIC, PHONE & GAS

REGISTER'S OFFICE  
RACINE COUNTY, WI

IDO NO. 175272-2A

For \$1.00 and other valuable consideration which SOUTHLAND CENTER INVESTORS, LLC, hereinafter referred to as "grantor," owner of land, acknowledges receipt of, grants and warrants to WISCONSIN ELECTRIC POWER COMPANY & WISCONSIN BELL, INC. d/b/a AMERITECH-WISCONSIN, hereinafter referred to as "grantee," a permanent easement upon, within and beneath a part of grantor's land hereinafter referred to as "easement area."

The easement area is described as strips of land 12 feet in width being a part of the grantor's premises described as Site 3 of Certified Survey Map No. 1073, as recorded in the office of the Register of Deeds for Racine County, Wisconsin in Volume 3 of Certified Survey Maps on Page 180 as Document No. 1168310; said premises being located in the Southeast ¼ of Section 23 and the Southwest ¼ of Section 24, Town 3 North, Range 22 East, Town of Mount Pleasant, Racine County, Wisconsin.

The location of the easement area for electric and telephone facilities is as shown on the attached drawing, marked Exhibit "A," and made a part of this document.

The location of the easement area for gas facilities is as shown on the attached drawing, marked Exhibit "B," and made a part of this document.

RECORDED

2000 OCT -9 PM 3:49

MARK A. LADD  
REGISTER OF DEEDS

RETURN TO:  
WISCONSIN ELECTRIC POWER COMPANY  
PROPERTY RIGHTS & INFORMATION GROUP  
231 W. MICHIGAN STREET, ROOM A440  
PO BOX 2048  
MILWAUKEE, WI 53201-2048

008-03-22-23-031-030

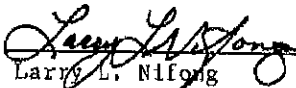
(Parcel Identification Number)

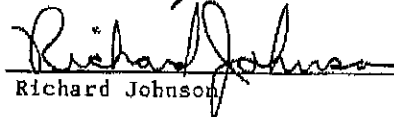
- Purpose:** The purpose of this easement is to install, operate, maintain repair, replace and extend underground utility facilities including: conduit and cables, electric pad-mounted transformers, concrete slabs, secondary power pedestals, terminals and markers, as well as pipeline or pipelines with valves, tie-ins, main laterals and service laterals, together with all necessary and appurtenant equipment under and above ground, as deemed necessary by grantee, for the distribution of electric energy, telecommunications and natural gas and all by-products thereof, or any liquids, gases, or substances which can or may be transported or distributed through a pipeline. Trees, bushes, branches and roots may be trimmed or removed so as not to interfere with grantee's use of the easement area.
- Access:** Grantee shall have all other rights and benefits necessary or convenient for the full enjoyment and use of the rights herein granted, including but not limited to, the rights to remove and to clear all structures and obstructions such as, but not limited to, rocks, trees, brush, limbs and fences which might interfere with the rights herein contained, and the free and full right of ingress and egress over and across the easement area and other adjacent lands of the grantor to and from said easement area, and the use of said easement area and other adjacent lands of the grantor, as necessary or convenient for the full enjoyment and use of the rights herein granted, during the operations of the grantee as herein above enumerated but not necessarily limited thereto.
- Buildings or Other Structures:** Grantor covenants and agrees that no structures, obstructions or impediments, of whatever kind or nature, which will or might interfere with the full enjoyment and use of the rights herein granted, will be constructed, placed, granted or allowed within the said easement area.
- Elevation:** Grantor agrees that the elevation of the ground surface within the easement area will not be altered by more than 4 inches without the written consent of grantee.
- Restoration:** Grantee, by the acceptance hereof, agrees to reasonably restore or repair damage to grantor's property, and to compensate grantor for any reasonable losses thereto which the grantee causes by the activities and operations hereinabove enumerated; but grantee shall not be held in any way responsible for indemnifying, protecting, or otherwise holding any person, firm, or corporation harmless from and against its or their own acts and omissions and the consequences thereof. This restoration, however, does not apply to the initial installation of said facilities or to any trees, bushes, branches or roots which interfere with the Grantee's use of the easement area.
- Exercise of Rights:** It is agreed that the complete exercise of the rights herein conveyed may be gradual and not fully exercised until some time in the future, and that none of the rights herein granted shall be lost by non-use.
- This grant of easement shall be binding upon and inure to the benefit of the heirs, successors and assigns of all parties hereto.

VOL PAGE  
3078 691-694

Grantor:


**SOUTHLAND CENTER INVESTORS, L.L.C.**

By:   
Larry L. Nifong

By:   
Richard Johnson

Acknowledged before me in Brown County, Wisconsin on September 11, 2000, by  
Larry L. Nifong and Richard Johnson

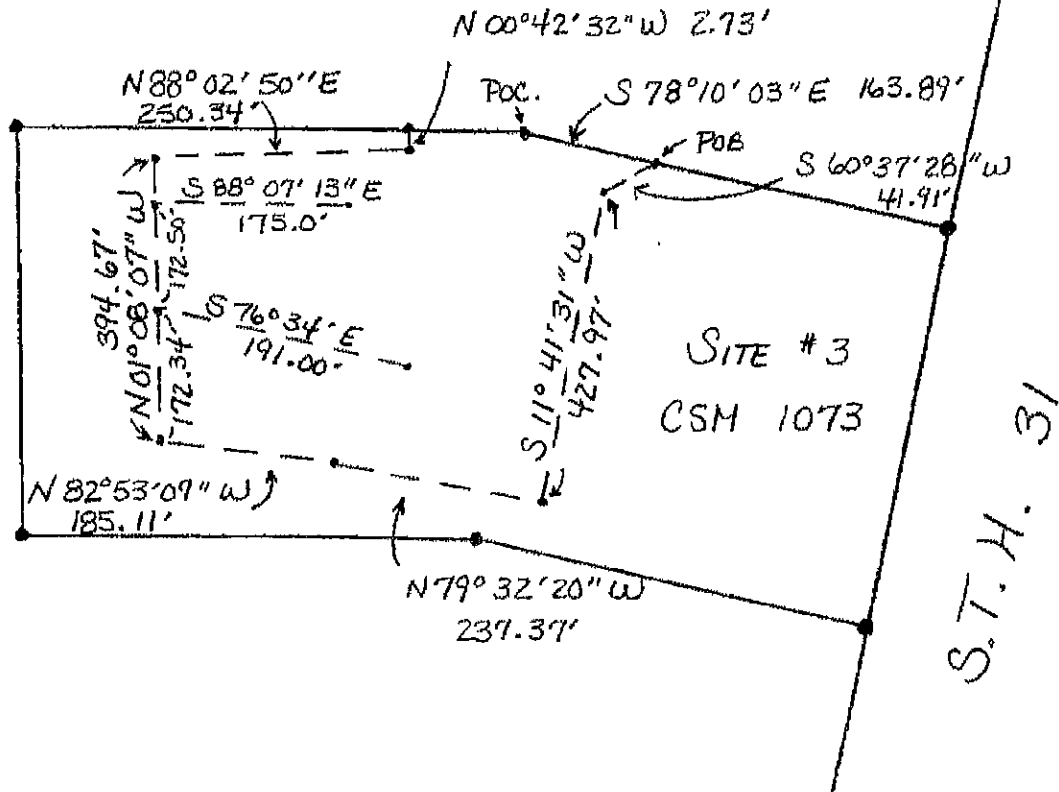
Members, of **SOUTHLAND CENTER INVESTORS, L.L.C.**, a Wisconsin limited liability company, in it's name and on it's  
behalf.

  
Notary Public Signature, State of Wisconsin

Pamela R. Stencil  
Notary Public Name (Typed or Printed)

(NOTARY STAMP/SEAL)

My commission expires 10-27-02

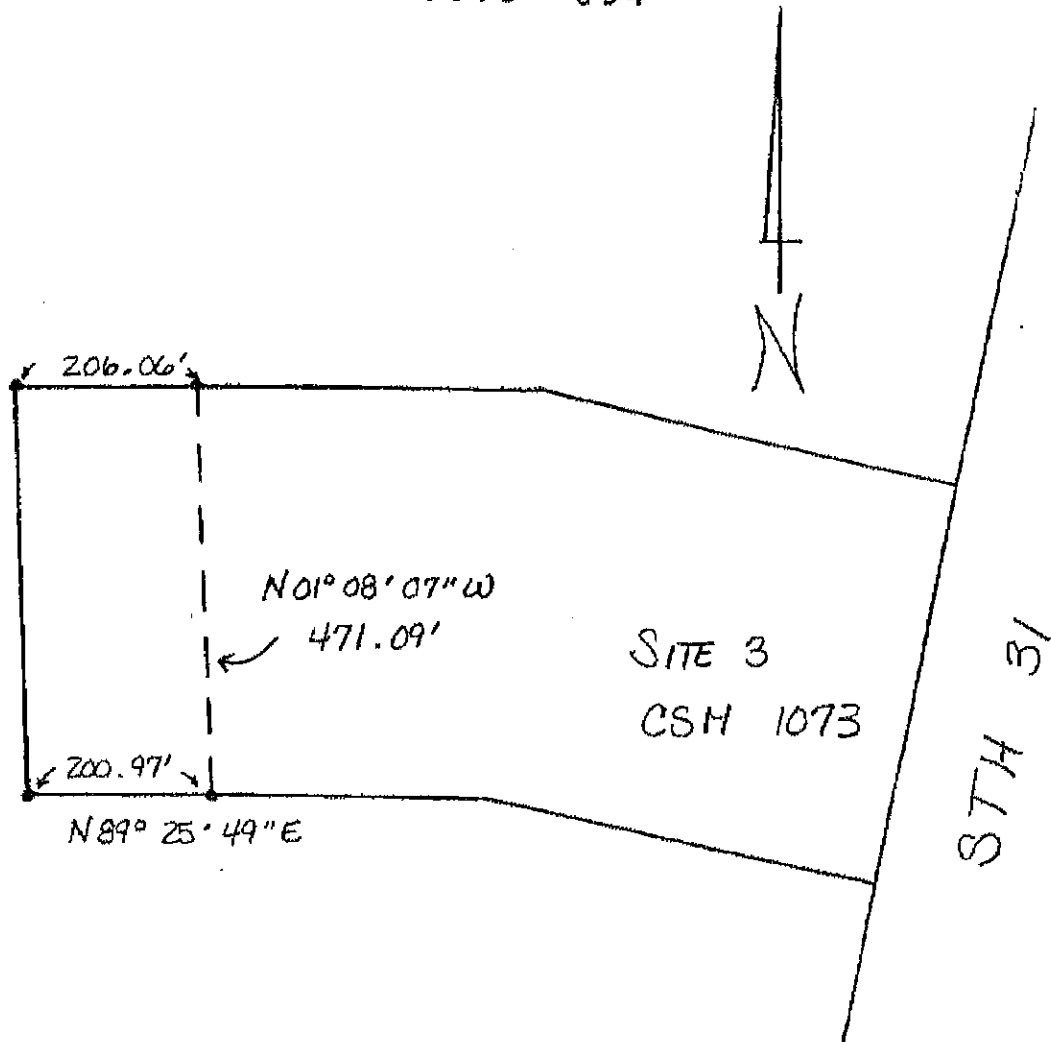


**KEY**

— — — CENTERLINE 12' EASEMENT  
(ELECTRIC + PHONE)

**EXHIBIT "A"**  
NOT TO SCALE

IDO175272-2A	PART OF SITE 3, CSM 1073, IN THE SE 1/4 SEC 23 + THE SW 1/4 SEC. 24, T3N R22E, T1N1E, PLEASANT, RACINE CTY, WI	DRAWN BY TAZ
REVISIONS		DATE 9-6-00

**KEY**

— — — CENTERLINE 12' EASEMENT  
(GAS)

**EXHIBIT "B"**  
NOT TO SCALE

IDO 175272-2A	PART OF SITE 3, CSM 1073, IN THE SE 1/4	DRAWN BY TAZ
REVISIONS	SEC 23 + THE SW 1/4 OF SEC 24, T3N, R22E, T/Mt. PLEASANT, RACINE Cty WIS	DATE 9-6-00

Resolution 3-98 dissolving the  
Mt. Pleasant Storm Drainage District

Document Title Above

DOC # 2210698  
Recorded  
Apr. 27, 2009 AT 11:27AM

*James A. Ladwig*

JAMES A. LADWIG  
RACINE COUNTY  
REGISTER OF DEEDS

Fee Amount: \$103.00



1035

Return to Name and Address Below

Juliet Edmonds  
Village of Mt. Pleasant  
6126 Durand Av.  
Racine, WI 53406

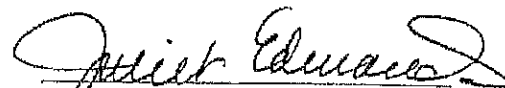
see attached parcel  
listing  
Parcel ID Number(s)

RESOLUTION NO. 3-98

CERTIFICATION

I hereby certify that the foregoing Resolution Establishing the Mount Pleasant Storm Water Utility District and Dissolving the Mount Pleasant Storm Drainage District is a true, correct and complete copy of the Resolution duly and regularly passed by the Town Board of the Town of Mount Pleasant, Racine County, Wisconsin on the 26th day of January, 1998.

Dated this 24th day of April, 2009.



Juliet Edmands, Village Clerk  
Village of Mount Pleasant  
Racine County, Wisconsin

RESOLUTION 3-98

RESOLUTION ESTABLISHING THE MT. PLEASANT STORM WATER UTILITY DISTRICT AND DISSOLVING MT. PLEASANT STORM DRAINAGE DISTRICT NO. 1

The Board of Supervisors of the Town of Mt. Pleasant, Racine County, Wisconsin (the "Town Board") do hereby resolve as follows:

WHEREAS, the Town Board has determined that it is in the best interest of the Town of Mt. Pleasant (the "Town") to establish a utility district and dissolve the Mt. Pleasant Storm Water Drainage District No. 1, pursuant to the authority granted by Section 66.072 of the Wisconsin Statutes, and

WHEREAS, the Town Board adopted a preliminary resolution on December 2, 1997 which proposed the creation of a utility district and dissolution of the Mt. Pleasant Storm Water Drainage District No. 1 (the "Preliminary Resolution"), and

WHEREAS, a notice of public hearing regarding matters contained in the Preliminary Resolution was posted in three public places in the Town and the proposed utility district on December 18, 1997, mailed to all of the property owners in the Town on December 20, 1997 and published as a Class 1 notice in the Racine Journal Times on January 2, 1998, and

WHEREAS, a public hearing was conducted on January 15, 1998 at the Mt. Pleasant Town Hall regarding matters contained in the preliminary resolution and all interested parties were given the opportunity to offer objections, criticisms, or suggestions regarding the Preliminary Resolution, and

NOW THEREFORE BE IT RESOLVED that pursuant to Sections 60.23 and 66.072 of the Wisconsin Statutes, the Mt. Pleasant Storm Water Utility District (the "Utility District") is hereby established in the area described at Exhibit A, and evidenced by the map at Exhibit B, both attached hereto and made a part hereof, and

BE IT FURTHER RESOLVED that pursuant to Section 66.072(5) of the Wisconsin Statutes, the Mt. Pleasant Storm Water Drainage District No. 1 is hereby dissolved, and

BE IT FURTHER RESOLVED that all assets, liabilities and functions of the Mt. Pleasant Storm Water Drainage District No. 1 are hereby transferred to and assumed by the Utility District, and

BE IT FURTHER RESOLVED that all management and administration of the Utility District shall be administered by the Town Board, or by any officers, boards or commissions of the Town of Mt. Pleasant as the Town Board so delegates, and

page 2

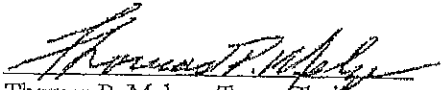
BE IT FURTHER RESOLVED that pursuant to Section 66.068 of the Wisconsin Statutes, the Mt. Pleasant Storm Water Utility District Commission is hereby created and shall be responsible for management and administration of the Utility District, subject to any approval, reporting or other requirements or restrictions imposed by the Town Board, and

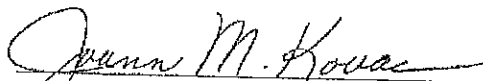
BE IT FURTHER RESOLVED that the Mt. Pleasant Storm Water Utility District Commission shall consist of three (3) Commissioners duly appointed by the Town Board. The initial Commissioners shall serve until their successors are appointed by the Town Board.

Dated this 26th day of January, 1998

Approved:

Attest:

  
Thomas P. Melzer, Town Chair

  
Joann M. Kovac, Town Clerk/Treasurer



**NOTICE  
TO PROPERTY OWNERS OF THE TOWN OF MT. PLEASANT  
WHOSE PROPERTY LIES WITHIN THE PROPOSED  
TOWN UTILITY DISTRICT, AND ALL INTERESTED PERSONS**

**PLEASE TAKE NOTICE:**

A preliminary Resolution has been adopted on December 2, 1997 by the Board of Supervisors of the Town of Mt. Pleasant, proposing the creation of a utility district, pursuant to State Statute 66.072 of the Wisconsin Statutes, for the purpose of supplying storm water sewer service and other allowable utilities to the residents and commercial and business establishments of said proposed utility district. Such preliminary resolution also proposes the dissolution of the Mt. Pleasant Storm Water Drainage District No. 1 and assumption of all assets, liabilities, and functions of the Mt. Pleasant Storm Water Drainage District No. 1 by the proposed Utility District.

THE TOWN BOARD OF THE TOWN OF MT. PLEASANT WILL CONDUCT A PUBLIC HEARING ON SUCH PRELIMINARY RESOLUTION AT THE MT. PLEASANT TOWN HALL, 6126 DURAND AVENUE, RACINE, WISCONSIN 53406, ON THE 15TH DAY OF JANUARY, 1998 AT 7:30 PM.

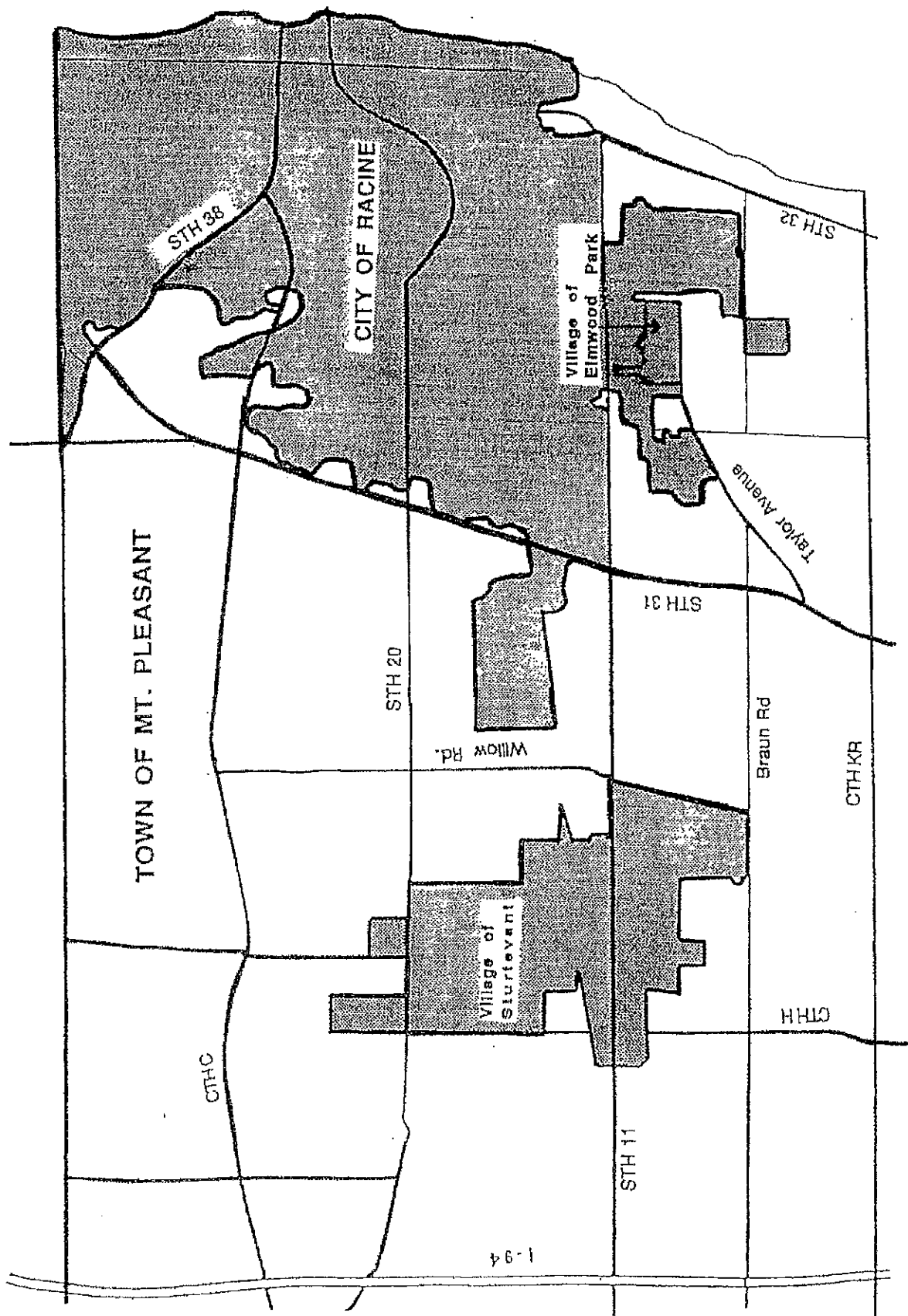
At such hearing all interested persons may be present and offer objections, criticisms or suggestions to the necessity of the proposed utility district and dissolution of the Mt. Pleasant Storm Water Drainage District No. 1 as outlined, and to question whether their property will be benefited by the establishment of such a district. In addition, any person wishing to object to the organization of such utility district and the dissolution of the Mt. Pleasant Storm Water Drainage District No. 1 may, before the date set for the meeting, file his/her/its objections to the formation of such district with the Town Clerk, Joann M. Kovac, 6126 Durand Avenue, Racine, Wisconsin 53406.

The boundaries of the area to be included within the proposed utility district are as described below and made a part hereof; and a map showing the location thereof is set forth on the back of this notice and made a part hereof.

BY ORDER OF THE TOWN BOARD  
Joann M. Kovac, Town Clerk

**DESCRIPTION**

Begin on the westerly shoreline of Lake Michigan at a point where the South line of section 32, Town 3 North, Range 23 East intersects said westerly shoreline; thence continue westerly along the South lines of Section 32 and 31, Town 3 North, Range 23 East and South lines of Sections 36, 35, 34, 33, 32, and 31, Town 3 North, Range 22 East to the West line of said Section 31 Town 3 North, Range 22 East; thence northerly along the West line of Section 31, 30, 19, 18, 7 and 6, Town 3 North, Range 22 East to the North line of said Section 6, Town 3 North, Range 22 East; thence easterly along the North lines of Sections 6, 5, 4, 3, 2 and 1, Town 3 North, Range 22 East and North line of Sections 6, 5, and 4, Town 3 North, Range 23 East to the westerly shoreline of Lake Michigan, thence south along said westerly shoreline to the point of beginning. Excluding all land within the corporate limits of the City of Racine and Villages of Elmwood Park and Sturtevant.



5501 151032222051000	5502 151032222052000	5503 151032222053000	5504 151032222054000	5505 151032222055000
5506 151032222056000	5507 151032222057000	5508 151032222058010	5509 151032222058020	5510 151032222058030
5511 151032222060000	5512 151032222061000	5513 151032222062000	5514 151032222063000	5515 151032222100000
5516 151032222500000	5517 151032223001001	5518 151032223003000	5519 151032223005000	5520 151032223006000
5521 151032223007000	5522 151032223010000	5523 151032223011000	5524 151032223012000	5525 151032223013000
5526 151032223014000	5527 151032223015000	5528 151032223024000	5529 151032223025010	5530 151032223025020
5531 151032223027010	5532 151032223029000	5533 151032223031030	5534 151032223031045	5535 151032223034000
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5541 151032223042000	5542 151032223044000	5543 151032223045000	5544 151032223046000	5545 151032223047000
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5566 151032223068000	5567 151032223069000	5568 151032223070000	5569 151032223071000	5570 151032223072000
5571 151032223073000	5572 151032223074000	5573 151032223075000	5574 151032223076000	5575 151032223077000
5576 151032223079000	5577 151032223080000	5578 151032223081000	5579 151032223082000	5580 151032223084000
5581 151032223085000	5582 151032223096000	5583 151032223096001	5584 151032223097000	5585 151032223098000
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DOCUMENT #

1720073

MEMORANDUM OF SHOPPING CENTER LEASE

Document Title

REGISTER'S OFFICE  
RACINE COUNTY, WI

RECORDED \_\_\_\_\_

2000 MAR 10 AM 9:09

MARK A. LAGO  
REGISTER OF DEEDS

VOL PAGE  
3010 752-756

18-  
Recording Area

Name & Return Address

ATTORNEY VILOSKI  
DOEPKEN KEEVICAN & WEISS  
58TH FLOOR, USX TOWER  
600 GRANT STREET  
PITTSBURGH, PA 15219

51-008-03-22-23-031-030

Parcel Identification Number (PIN)

This information must be completed by submitter: document title, name & return address, and PIN (if required). Other information such as the granting clauses, legal description, etc. may be placed on this first page of the document or may be placed on additional pages of the document. Note: Use of this cover page adds one page to your document and \$2.00 to the recording fee.

99110349

EXHIBIT GSHOPPING CENTER LEASE  
SOUTHLAND CENTER INVESTORS, L.L.C.  
AND  
DICK'S SPORTING GOODS, INC.  
MEMORANDUM OF SHOPPING CENTER LEASEEffective Date of Lease. Feb 21, 2000Name and address of Landlord: SOUTHLAND CENTER INVESTORS, L.L.C.  
a Wisconsin Limited Liability Co having an office at  
2131 S. Webster Avenue, Suite 201, Green Bay, Wisconsin 54301, Attention:Name and address of Tenant: DICK'S SPORTING GOODS, INC., a Delaware corporation, having an office at 200 Industry Drive, Pittsburgh PA 15275.  
Attention: Senior Vice President, Joe Queri.

Description of Premises. Approximately thirty thousand (30,000) Leasable Square Feet (with a minimum frontage of one hundred fifty (150) lineal feet) and being a part of Southland Center (the "Shopping Center") located in the City of Racine, County of Racine, State of Wisconsin, and constructed on land described in Exhibit A-I attached hereto.

Term of Lease. Commencing on the "Rental Commencement Date" of the Lease (as such term is defined in the Lease) and terminating on January 31 following the fifteenth (15<sup>th</sup>) anniversary of the Rental Commencement Date.

Options to Extend. This Lease grants to Tenant successive options to extend the Lease Term from the date upon which the Lease Term would otherwise expire for five (5) additional periods of five (5) years each.

Restrictions on Construction.

(a) No buildings, signs or structures other than canopies and signs attached to store buildings, lighting equipment and directional and other signs permitted by the provisions of this Lease may be built in any area of the Shopping Center shown as "the No-Build Areas" on the Lease Plan.

(b) No portion of the Parking Areas (defined in Section 1.3 below) identified on the Lease Plan as the "Protected Parking Areas" may be modified (including, but not limited to, any change in the configuration of the parking stalls) without Tenant's consent.

Prohibited Uses. There exists in this Lease various restrictions upon other uses at the Shopping Center.

Exclusive. Landlord warrants and agrees that except as hereinafter provided during the term of this Lease that it will not, nor will any entity under common control with Landlord, enter into any lease(s) or occupancy agreement(s) for premises situated on the Shopping Center (other than the Demised Premises), or otherwise transfer or allow a possessory interest in the Shopping Center to a tenant whose primary use shall be the sale of sporting goods and sporting equipment or athletic footwear. Landlord warrants and agrees that except as hereinafter provided during the term of this Lease it will not, nor will any entity under common control with Landlord, enter into any lease(s) or occupancy agreements for premises situated on the Shopping Center (other than the Demised Premises), or otherwise transfer or allow a possessory interest in the Shopping Center which does not prohibit ("Precluded Sales Activities"): (i) the sale of sporting goods and sporting equipment in five thousand (5,000) or more square feet of sales floor area on the Shopping Center; and, (ii) the retail sale of athletic footwear in three thousand (3,000) or more square feet of sales floor area on the Shopping Center. The foregoing restrictions in

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this Section 1.5 shall not apply to the premises of existing tenants under leases executed prior to the date of this Lease. Notwithstanding, if Landlord or a parent, affiliate or other entity controlled by or under common control with Landlord regains control of any such premises the provisions of this Section 1.5 shall apply to each such premises thereafter. Further, Landlord shall use reasonable efforts to include in the extension or renewal of the leases of existing tenants such prohibition and Landlord shall use best efforts to sustain such restrictions in any court proceedings. The foregoing restrictions in (ii) above shall not apply to the premises occupied by Famous Footwear so long as not more than fifty percent (50%) of its premises is used for the sale of athletic footwear, and provided, however, that if such premises at any time is transferred or sold to Landlord or a parent, affiliate or other entity controlled by or under common control with Landlord, the provisions of (ii) above shall apply to such premises thereafter.

This instrument is intended to be only a Memorandum of Lease in respect to the Lease, to which Lease reference is made for the full agreement between the parties. This Memorandum is not intended to modify any term, provision or condition of the Lease and to the extent of any conflict between this Memorandum and the Lease, the Lease will control.

Executed this 21<sup>st</sup> day of February 2000.

Landlord:

Signed and acknowledged in  
the presence of:

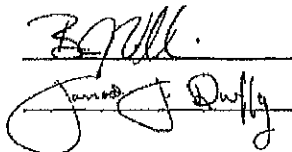


SOUTHLAND CENTER INVESTORS,  
LLC

By: [Signature]  
Its: MANAGING MEMBER

Tenant:

Signed and acknowledged in  
the presence of:



DICK'S SPORTING GOODS,  
INC.

By: [Signature]  
Its: Senior Vice President

JK

Racine

STATE OF WI )  
 COUNTY OF Brown ) SS:

On this 18 day of February, 2000, before me personally came Harry Nihona, to me personally known, who, being by me duly sworn, did depose and say that he resides in Green Bay, WI; that he is managing member of Northland Cedar Quarters, Inc. a limited liability company that executed the within instrument; and he acknowledged to me that he executed the same on behalf of and in the name of such limited liability company.

Christine M. Broeren  
 Notary Public  
Christine M. Broeren  
 (Printed Signature)

My Commission Expires: 7-27-03  
 My County of Residence: \_\_\_\_\_

State of Pennsylvania )  
 County of Allegheny ) SS:

On this 8<sup>th</sup> day of February, 2000 before me personally came Joseph Queri, to me personally known, who, being by me duly sworn, did depose and say that he resides in Pittsburgh, PA; that he is the Senior Vice President of Dick's Sporting Goods, Inc., the corporation described in and which executed the within instrument; and that he signed his name thereto by order of the Board of Directors of said corporation.

Witness my hand and Notarial Seal this 8<sup>th</sup> day of February, 2000.

[Signature]  
 Notary Public

(Printed Signature) Notary Seal  
Arroy M. McElhinny, Notary Public  
Pleasant Hills Boro, Allegheny County  
My Commission Expires Mar. 25, 2002

My Commission Expires: \_\_\_\_\_  
 My County of Residence: \_\_\_\_\_

This instrument prepared by Benjamin J. Viloski, Attorney at Law, Doecken Keevican & Weiss, 58<sup>th</sup> Floor, USX Tower, 600 Grant Street, Pittsburgh, PA 15219.

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LEGAL DESCRIPTION

SITE 3 OF CERTIFIED SURVEY MAP NO. 1073 AS RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS FOR RACINE COUNTY, WISCONSIN ON MAY 7, 1985 IN VOLUME 3 OF CERTIFIED SURVEY MAPS, ON PAGE 180, AS DOCUMENT NO. 1168310, BEING PART OF THE SOUTHWEST 1/4 OF SECTION 24, AND PART OF THE SOUTHEAST 1/4 OF SECTION 23, IN TOWNSHIP 3 NORTH, RANGE 22 EAST, IN THE TOWN OF MT. PLEASANT, RACINE COUNTY, WISCONSIN.



DOCUMENT #

1720075

MEMORANDUM OF LEASE

Document Title

REGISTER'S OFFICE  
RACINE COUNTY, WI

RECORDED

2000 MAR 10 AM 9:11

MARK A. LADD  
REGISTER OF DEEDS

20  
Recording Area

Name & Return Address

EDWARD L. BALL, ATTORNEY  
130 MINE LAKE COURT, STE 100  
RALEIGH, NORTH CAROLINA 27615

51-008-03-22-23-031-030

Parcel Identification Number (PIN)

This information must be completed by submitter: document title, name & return address, and PIN (if required). Other information such as the granting clauses, legal description, etc. may be placed on this first page of the document or may be placed on additional pages of the document. Note: Use of this cover page adds one page to your document and \$2.00 to the recording fee.

99110349

3010 763-768

This instrument prepared by,  
and when recorded return to:  
Edward L. Ball, Attorney at Law  
130 Mine Lake Court, Suite 100  
Raleigh, North Carolina 27615

STATE OF WISCONSIN §  
§  
COUNTY OF RACINE §

KNOW ALL MEN BY THESE PRESENTS:

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE is entered into as of the 11 day of February, 2000, by and between Southland Center Investors, LLC, a Wisconsin limited liability company ("Landlord"), and Barnes & Noble Booksellers, Inc., a Delaware corporation ("Tenant").

1. Pursuant to a Lease Agreement (the "Lease") executed by Landlord and Tenant, dated February 11, 2000, Landlord has leased to Tenant certain Premises which are part of a Shopping Center constructed or to be constructed on the property described in Exhibit A attached hereto, together with all of Landlord's appurtenant rights, privileges and easements.

2. The term of the Lease shall commence on the Commencement Date set forth in the Lease and shall expire upon the expiration of the tenth (10th) Lease Year as determined by the provisions of the Lease.

3. Tenant has an option to extend the term of the Lease for three (3) periods of five (5) years each, on the terms and conditions as stated in the Lease.

4. This Memorandum of Lease is subject to all of the terms, conditions and understandings set forth in the Lease, which are incorporated herein by reference and made a part hereof, as though copied verbatim herein. In the event of a conflict between the terms and conditions of this Memorandum of Lease and the terms and conditions of the Lease, the terms and conditions of the Lease shall prevail.

5. Landlord agrees that, during the term of the Lease, it will not construct or permit to be constructed any building, sign, tower or other structure or improvement, or plant any tree or other growing plant, or make any other change whatsoever in the area depicted as the No Build Area on Exhibit B to the Lease. Notwithstanding the foregoing to the contrary, Landlord shall have the right within the No Build Area to (i) plant trees and other growing plants pursuant to a landscape plan which provides for the uniform distribution of trees throughout the Shopping Center, provided no one tree shall unreasonably interfere with the visibility of Tenant's building signage except as may otherwise be required by applicable governmental authority and (ii) construct other items or amenities customary in first-class retail centers, such as light standards, benches and directional signage, provided the same does/do not unreasonably interfere with access to the Premises or visibility of Tenant's building signage. Landlord warrants that it owns all of the No Build Area, except that portion located on the adjacent parcel owned by Best Buy. As to the portion of the No Build Area located on the Best Buy parcel, Landlord covenants to enforce the terms of the Declaration of Easements and Covenants dated May 13, 1985, as amended as of the date hereof, executed by the County of Racine (the "Declaration").

6. Landlord shall not lease or permit the use of space in the Shopping Center for the following: (i) any bowling alley; (ii) any arcade; (iii) any tavern or bar, except to the extent incidental to a restaurant operated primarily for on-premises consumption; (iv) any health club, spa or gymnasium; (v) any night club or discotheque; (vi) any second hand or surplus store; (vii) any mobile home park or trailer court (except that this provision shall not prohibit the temporary use of construction trailers); (viii) any dumping, disposing, incineration or reduction of garbage (exclusive of appropriately screened dumpsters located in the rear of any building); (ix) any fire sale, bankruptcy sale (unless pursuant to a court order) or auction house operation; (x) any central laundry or dry cleaning plant or laundromat (except that this prohibition shall not be applicable to on-site service provided solely for pickup and delivery by the ultimate consumer, including nominal supporting facilities); (xi) any automobile, truck, trailer or R.V. sales, leasing, display or repair; (xii) any skating rink; (xiii) any living quarters, sleeping apartments or lodging rooms; (xiv) any veterinary hospital, animal raising facilities or pet shop (except that this prohibition only prohibits a pet shop if it is adjacent to the Premises); (xv) any mortuary; (xvi) any establishment selling or exhibiting pornographic materials; (xvii) any restaurant within three hundred feet (300') of the Premises; (xviii) any movie theater within three hundred feet (300') of the Premises; (xix) any separately demised newsstand; (xx) any auto parts store or gas or service station; (xxi) any church, temple, synagogue or other place of worship; or (xxii) any use which is a public or private nuisance.

7. Landlord, and its successors and assigns, shall not (a) operate or permit under any circumstances to be operated within the Shopping Center any other store selling or displaying for sale (i) books, magazines, periodicals and newspapers in print, (ii) books, magazines, periodicals and newspapers on tape, disk, CD-ROM and/or any other media, computer software and computer games, as well as any items which are technological evolution of any of the foregoing items, together with various media and merchandise incidental thereto, (iii) audio compact discs and other forms of recorded music, or (iv) video tapes and disks, and video games (collectively, the "Exclusive Items"), or (b) operate or permit under any circumstances to be operated within the Shopping Center any other Coffee Shop (as defined in the Lease). The Incidental Sale (as hereinafter defined) of the Exclusive Items in connection with the overall business of another operator or tenant, or the Incidental Sale of coffee, tea or other beverages by a non-Coffee Shop restaurant operator or tenant as a part of its general restaurant operation, shall not be deemed a violation of this Paragraph 7. As used herein, "Incidental Sale" shall mean less than five hundred (500) square feet of such operator's or tenant's display area (inclusive of allocable aisle space).

8. Landlord hereby gives and grants to Tenant during the term of the Lease, for the benefit of Tenant and Tenant's subtenants, licensees and concessionaires, and their respective employees, contractors, customers, invitees and deliverymen, the right to use all of the Common Areas (as defined in the Lease), in common with Landlord and all other tenants and occupants of the Shopping Center and their respective employees, contractors, assigns, customers, invitees and deliverymen. The rights hereby granted with respect to the Common Areas shall run with and bind the Shopping Center and the land on which it is located, shall be binding upon the Landlord and Landlord's successors in title to all or any part of the Shopping Center, and shall constitute an irrevocable, nonexclusive easement appurtenant to the Premises for the benefit of, and shall be enforceable by, Tenant and its successors and assigns throughout the term of the Lease.

9. No building on either side of the Premises shall be constructed so that (i) its roof height shall be higher than the roof height of the Premises, (ii) its sign parapets and other architectural features shall be higher than those of the Premises, and (iii) its front building line extends in an easterly direction beyond the front building line of the Premises.

10. As a condition to Tenant's obligations under this Lease, Landlord shall cause the points of ingress and egress to and from the Shopping Center and adjacent right-of-ways labeled on Exhibit B as "Critical Access Ways" to be constructed with required traffic signals to exist as shown on Exhibit B.

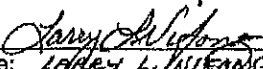
VOL PAGE  
3010 766

("Required Traffic Signals"), and to remain throughout the term of this Lease, in an open and functioning manner, and signalized where required, as shown on said Exhibit B.

EXECUTED as of the date first written above.


**LANDLORD:**

SOUTHLAND CENTER INVESTORS, LLC

By:   
Name: LARRY L. NIEKANG  
Title: MANAGING MEMBER

**TENANT:**

BARNES & NOBLE BOOKSELLERS, INC.

By:   
Name: DAVID S. DEASON  
Title: VICE PRESIDENT

THE STATE OF WISCONSIN

COUNTY OF BROWN

This Instrument was acknowledged before me on the 14th day of February, 2000, by Larry L. Nifong, Managing Member of SOUTHLAND CENTER INVESTORS, LLC, a Wisconsin limited liability company, on behalf of said company.

Christine M. Broeren  
Notary Public in and for the State of Wisconsin  
My Commission Expires: July 27, 2003

THE STATE OF NEW YORK  
COUNTY OF Nassau

This instrument was acknowledged before me on the 10th day of February, 2000, by David S. Deason, Vice President of Barnes & Noble Booksellers, Inc., a Delaware corporation, on behalf of said corporation.

MELINDA R. VALDEZ  
Notary Public, State of New York  
No. 01VA5077243  
Qualified in Nassau County  
Commission Expires May 5, 1991

My Commission Expires: \_\_\_\_\_

VOL    PAGE  
3010   768

LEGAL DESCRIPTION

SITE 3 OF CERTIFIED SURVEY MAP NO. 1073 AS RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS FOR RACINE COUNTY, WISCONSIN ON MAY 7, 1985 IN VOLUME 3 OF CERTIFIED SURVEY MAPS, ON PAGE 180, AS DOCUMENT NO. 1168310, BEING PART OF THE SOUTHWEST 1/4 OF SECTION 24, AND PART OF THE SOUTHEAST 1/4 OF SECTION 23, IN TOWNSHIP 3 NORTH, RANGE 22 EAST, IN THE TOWN OF MT. PLEASANT, RACINE COUNTY, WISCONSIN.

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*James A. Ladwig*

DRAFTED BY, AND WHEN RECORDED, RETURN TO:

Robins, Kaplan, Miller & Ciresi L.L.P.  
2800 LaSalle Plaza  
800 LaSalle Avenue  
Minneapolis, MN 55402-2015  
Attention: Martina Sailer, Esq.  
(Best Buy Store #29)

JAMES A LADWIG  
RACINE COUNTY  
REGISTER OF DEEDS  
Fee Amount: \$27.00  
Pages: 9



Space Above This Line for Recorder's Use

### MEMORANDUM OF LEASE AGREEMENT

This Memorandum of Lease Agreement (the "Memorandum") is executed as of March 15, 2010, by and between SOUTHLAND INVESTORS, LLC, a Wisconsin limited liability company ("Landlord"), and BEST BUY STORES, L.P., a Virginia limited partnership ("Tenant").

#### WITNESSETH:

WHEREAS, Landlord and Tenant have entered into a Lease dated as of August 12, 2009, as may be amended from time to time (the "Lease"), the terms, provisions and conditions of which are incorporated herein by reference to the same extent as if recited in their entirety herein, whereby Landlord has leased to Tenant the premises (the "Premises") located at 2710 C Green Bay Road (the "Shopping Center"), in Racine, Wisconsin, said Shopping Center being more particularly described on Exhibit A attached hereto.

Special reference is hereby made to the following terms and provisions of the Lease:

1. **Term; Option to Extend.** The term of the Lease (the "Lease Term") shall be for a period of ten (10) "Lease Years," as that term is defined in the Lease. The Lease Term shall commence on the date (the "Commencement Date") which is the earlier of (i) the one hundred eightieth (180th) day after the "Actual Possession Date," as that term is defined in the Lease, or (ii) the date Tenant opens for business to the public at the Premises. The Lease Term shall expire on the last day of the tenth (10th) consecutive Lease Year, unless sooner terminated or extended as provided in the Lease.

Tenant is given the right to extend the Lease Term for six (6) additional periods of five (5) years per period, upon the same terms and conditions as provided in the initial Lease Term.

2. **Tenant's Fixtures and Signs.** Landlord shall, in accordance with Tenant's plans and specifications in Exhibit D of the Lease, construct Tenant's standard storefront structure,

including building design and height, for Tenant's installation, at Tenant's sole cost and expense, of Tenant's standard yellow-and-black ticket sign tilted five (5) degrees, with dimensions in accordance with Exhibit D of the Lease. Tenant shall at all times have the right to remove all signs, fixtures, machinery, equipment, appurtenances or other property heretofore or hereafter furnished or installed by Tenant, provided it repairs any damage caused thereby, it being expressly understood and agreed by the parties that said property shall not become part of the Premises but shall at all times be and remain the property of Tenant and as such shall not be subject to any landlord's lien or other creditor's remedy otherwise available to Landlord. Notwithstanding the foregoing, upon the expiration or sooner termination of the Lease, Tenant shall remove all signs, fixtures, or other personal property heretofore or hereafter furnished or installed by Tenant, provided it repairs any damage caused thereby. The foregoing obligation of Tenant to repair any damage caused to the Premises shall survive the termination of the Lease.

Landlord shall, at its sole cost and expense, construct and make operational (including without limitation applicable lighting and all requisite approvals) space on the existing Shopping Center pylon sign ("Pylon") previously utilized by Circuit City for Tenant's installation on each side of the Pylon of Tenant's standard yellow and black tilted ticket pylon sign panel with a blue background at the location designated on Exhibit B of the Lease and as shown on Exhibit D of the Lease (including without limitation, dimensions, position, colors and logo). Landlord agrees the structure for said Pylon and any other free-standing signage on which Tenant is entitled to maintain its panel(s) shall be designed so as to permit Tenant to affix the appropriate double-sided, internally-lit cabinet sign panel to the Pylon structure without on-site fabrication of fastenings. In addition to the foregoing and not in substitution therefor, if Landlord shall construct any additional pylon or other free-standing sign(s) for the Shopping Center, Tenant shall be entitled to the same panel position as on the Pylon (or, if permitted under leases at the Shopping Center as of the date of the Lease ("Existing Leases") in the top panel position) space on any such additional Shopping Center sign(s), with space on all such signs equal to the largest space afforded any other tenant or party and the location of Tenant's panel shall be determined in accordance with the total square footage of the Premises as compared to the total square footage of other tenants of the Shopping Center (i.e. the tenant with the largest square footage shall have priority over the location of its panel(s) on any such future sign(s)).

Tenant may place on the interior and exterior of the Premises any signs, machinery and other mechanical equipment which conform to applicable Laws. Tenant shall have the right, at its sole cost and expense, to install its prototype yellow and black ticket, internally-lit cabinet signage on the sides and rear of the building as shown on Exhibit D of the Lease. It is understood that Tenant may hereafter make changes to Tenant's signage (including storefront and other building signage and free-standing signage panels) to be consistent with Tenant's prototypical signage for new stores operated by Tenant or for stores operated by Tenant in the trade area of the Premises so long as (i) such changes shall not violate any applicable Laws or the Permitted Exceptions and (ii) the total dimensions of Tenant's signage shall not be increased without Landlord's consent.

Tenant shall have the right to designate its colors and sign face for its panel on any pylon or free-standing sign to which Tenant is allowed space or Tenant's storefront signage and structure. Landlord warrants to Tenant that the applicable Laws do not prohibit the construction of Tenant's building signage as depicted on Exhibit D of the Lease and the Pylon Sign as depicted



on Exhibit D of the Lease. Further, it is expressly agreed between Landlord and Tenant that Landlord shall be solely responsible, at Landlord's sole cost and expense except as provided below, within sixty (60) days after full execution of the Lease, for obtaining any and all permits and approvals required and/or necessary to enable Tenant to install Tenant's signage (both as to the building and pylon/free-standing signs) as specified in the Lease, and if Landlord fails to obtain the signage set forth in Exhibit D of the Lease in the time periods set forth in the Lease, Tenant shall have the right to immediately terminate the Lease at any time by delivering written notice to Landlord within thirty (30) days following the date Landlord notifies Tenant that Tenant's signage as set forth in Exhibit D of the Lease has not been approved (including in such notice in bold face capital letters that Tenant may terminate the Lease only upon written notice within the earlier of (i) thirty (30) days or (ii) the date Landlord obtains the necessary permits and approvals for such signage), so long as such notice of termination is delivered to Landlord prior to the date Landlord obtains the necessary permits and approvals for Tenant's signage. In the event Tenant shall fail to terminate the Lease within the thirty (30) day period set forth above, Tenant shall be deemed to have waived its right to terminate the Lease pursuant to the immediately preceding sentence. Landlord acknowledges that obtaining all of the building and signage on the Pylon Sign set forth in Exhibit D of the Lease is a material inducement for Tenant to enter the Lease. Tenant, at Tenant's cost subject to Landlord's obligations set forth above, shall be responsible for the installation (including permit issuance fees) and maintenance of Tenant's sign panels themselves, it being understood that Landlord shall be responsible for maintaining the structure in which Tenant's panels are situated.

Landlord shall have no right to (i) place or maintain any signs of any type, other than those of Tenant, on the Premises, including the exterior walls and roof thereof, or (ii) permit any person or entity, other than a retail tenant of the Shopping Center, to place or maintain any signage of any type in the Shopping Center, other than directional signage or signage required by applicable Laws.

3. **Alterations to Shopping Center.** Landlord will not place or permit to be placed by any person or entity other than Tenant, any building, wall, landscaping, fence or other improvement or make any other alterations or changes to the Shopping Center or upon any outparcel(s) thereto other than improvement(s) shown as existing or planned on the site plan as Exhibit B of the Lease without Tenant's prior written approval, which approval shall be granted, withheld or conditioned in Tenant's sole and absolute discretion; or permit the Common Areas to be used in such a way which adversely interferes with Tenant's operation of its business from the Premises.

Subsequent to the Scheduled Possession Date, Landlord agrees to exercise its commercially reasonable efforts to minimize any interference with the completion of the construction of the Premises, the fixturing and merchandising thereof, or the operation of Tenant's business therefrom, and further agrees, from and after the date Tenant opens for business to the public from its Premises and for so long as Tenant is open for business in the Premises, (a) to limit all construction staging to the rear of buildings in the Shopping Center; (b) to permit no construction of, or scaffolding upon, the front of any building in the Shopping Center between the dates of October 1st and January 1st of any Lease Year, except in the event of an emergency; and (c) to

have any scaffolding within the Shopping Center removed within seventy-two (72) hours of completion of the work for which it was necessary.

Landlord and Tenant agree that the Shopping Center shall not contain any outparcel(s) except in the location(s) shown on the site plan as Exhibit B of the Lease. For the purpose of the Lease, each reference to an outparcel shall include any pad within the Shopping Center that is not in-line with the Premises regardless of whether such pad and/or supporting common area either has a separate legal description or is a separately assessed tax parcel. Any building or improvement to be constructed on such approved outparcel shall be as follows:

- (a) a single-story structure with a building area not greater than the area shown on Exhibit B of the Lease;
- (b) limited to twenty (20) feet in height to the highest point of any roof, wall, parapet, or screening or other improvement, except that up to twenty-five percent (25%) of the front elevation may include architectural features up to twenty-five (25) feet in height;
- (c) have a self-contained parking field in compliance with both Article 33 of the Lease and all applicable Laws as if it were a free-standing site without benefit of cross-parking rights as to the balance of the Shopping Center; and
- (d) be responsible for an equitable share of Landlord's Maintenance Costs for any supporting drive aisles serving the Shopping Center.

4. **Exclusivity and Use.** Subject to the Existing Exclusives and Prohibited Uses set forth on Exhibit I of the Lease, Landlord represents, warrants and covenants to and with Tenant that Tenant may lawfully use the Premises for sales, rental, service and warehousing (and, if applicable, installation in motor vehicles) of the product categories listed below ("Tenant's Protected Products"), other products typically sold in the majority of Tenant's stores, and thereafter for any lawful retail (or related to retail) use. Tenant's Protected Products (regardless of whether new, used or refurbished) are the following: electronic equipment and appliances (including, without limitation, televisions, stereos, radios, mp3 players, and dvd or video machines); major household appliances (including, without limitation, refrigerators, freezers, stoves, microwave ovens, dishwashers, washers and dryers); game consoles, mobile and other telecommunications products, services and accessories, including, without limitation, cellular and other telephones, accessories, batteries and related products and services; personal computers, peripherals and computer software; digital, downloadable and streamable entertainment (including, without limitation, music, video and ring tones); car radios, stereos, and tape decks; communication devices (either audio or video); telephones, answering machines and accessories; entertainment software, including compact discs, music videos, dvds, games, and prerecorded tapes; accessories and connectors for products sold by Tenant (including, without limitation, cable connectors, surge protectors, cables, wires and batteries); utility services; repair services and parts; telecopy, facsimile and photocopy machines; photographic cameras and equipment; office equipment, supplies and furniture; (including, without limitation, paper, ink cartridges and ink refills for printers; musical instruments; audio recording and mixing

equipment and systems; karaoke equipment and systems); and/or any substitutes for or items which are a technological evolution of the foregoing items. In the event that during the Lease Term, there shall be any change in applicable Law(s) affecting zoning so that Tenant's retail use of any of Tenant's Protected Products shall not be legally permissible, Landlord shall use diligent efforts to see that said prohibition shall be promptly removed.

In addition to the foregoing, subject to the Existing Exclusives and Prohibited Uses set forth on Exhibit I of the Lease. Tenant shall have the right to (a) sell books and magazines, toys, sporting equipment and related items, (b) provide lessons related to products sold by Tenant, (c) sell gourmet and other food items in support of and incidental to the foregoing product categories, and (d) use up to ten percent (10%) of the Premises for a non-alcoholic beverage kiosk or bar, including seating area, with food, snack and bakery items incidental thereto. "Landlord", for purposes of Article 30 of the Lease, shall be defined to include Landlord, and (i) if Landlord is a corporation, its principal shareholders; or (ii) if Landlord is a partnership, its partners and any principal shareholders or partners of any partner which is a corporation or shareholder; or (iii) if Landlord is a trust, the beneficiaries of any such trust, including the principal shareholders or partners of any beneficiary which is a corporation or trust, all of whom shall execute an agreement to be bound to Article 30 of the Lease. Except as otherwise provided in Exhibit I of the Lease, in no event shall Tenant be bound by any exclusives granted by Landlord to any other party or occupant without Tenant's prior written consent, which may be granted or withheld in Tenant's sole and absolute discretion.

So long as Tenant has been within the preceding twelve (12) months open and operating for business in the Premises primarily for the sale of Tenant's Protected Products, Landlord shall not permit any person or entity other than Tenant (or Tenant's parent company, affiliates, assignees, sublessees and assigns) either (i) in space within the Shopping Center or (ii) in space leased directly or indirectly from Landlord within a radius of one (1) mile of the Shopping Center, to sell, rent, service (including diagnostic testing, maintenance and repair) and/or warehouse (and, if applicable, install in motor vehicles) Tenant's Protected Products (regardless of whether new, used or refurbished), without Tenant's prior written consent, which may be granted or withheld in Tenant's sole and absolute discretion.

The foregoing notwithstanding, Landlord shall not be prohibited from nor shall it be a violation of the Lease for other tenants or occupants of the Shopping Center and any other tenants or occupants of any land owned by Landlord within a radius of one (1) mile from the Shopping Center who sell or display Tenant's Protected Products so long as their sale and display, individually or in the aggregate, do not exceed the lesser of (a) 500 square feet of tenant's or occupant's leasable area, or (b) 5% of tenant's or occupant's leasable area. In addition, the foregoing limitations concerning Tenant's Protected Products shall not apply to (i) the named "Existing Tenants" listed on Exhibit H-1 of the Lease, (ii) to office supply superstores such as Staples, Office Max or Office Depot; (iii) book stores such as Borders or Barnes & Noble; (iv) Bed, Bath and Beyond; (v) a typical Dick's Sporting Goods; (vi) a typical home improvement store such as, without limitation, Lowe's or Home Depot; and (vii) a traditional department store or discount department store.

Landlord shall not permit any outparcel on the Shopping Center to be used for restaurants, entertainment facilities, health clubs and/or grocery stores except in the locations, if any, expressly designated for the same on Exhibit B of the Lease. In any event, no restaurant, entertainment facility, health club or grocery store shall be permitted to operate within the Shopping Center.

Notwithstanding anything in the Lease to the contrary, for purposes of Article 30 of the Lease, the term "Shopping Center" shall always be as defined on the date of the Lease and as depicted on Exhibit B of the Lease, regardless of the sale of any portion of such Shopping Center by Landlord, and the rights and remedies afforded Tenant under Article 30 of the Lease and Article 16 of the Lease with respect to violations of Article 30 of the Lease shall continue throughout the Lease Term with respect to the Shopping Center as so defined.

5. **Parking.** Landlord covenants and agrees that the parking, ingress and/or egress areas of the Shopping Center shall at all times be as shown on the site plan as Exhibit B of the Lease, unless modified by municipal or governmental authorities. If Landlord desires to alter any ingress and/or egress areas, such changes must be approved by Tenant, such approval not to be unreasonably withheld. Landlord covenants and agrees that the number of parking spaces shown thereon shall at all times satisfy any and all governmental requirements related thereto or five and four tenths (5.4) parking spaces per one thousand (1,000) square feet of building retail area (measuring a minimum of nine feet (9') by eighteen feet (18')).

In no event shall the parking ratios as to restaurant, bar, health club, entertainment and/or grocery facilities set forth above be deemed to permit any one or more of the foregoing if any one or more of such uses are prohibited and/or restricted elsewhere in the Lease.

6. **Termination.** Upon the expiration or sooner termination of the Lease, at the request of either party, Landlord and Tenant shall enter into and record a memorandum evidencing such termination in a form reasonably satisfactory to both parties.

This Memorandum is executed for the purpose of recordation in the Official Records of Racine County, Wisconsin, in order to give notice of the terms and provisions of the Lease and is not intended and shall not be construed to define, limit or modify the Lease. In the event of a conflict between the terms hereof and the terms of the Lease, the terms of the Lease shall control. All capitalized terms used in this Memorandum shall have the meaning as is given to such terms in the Lease, unless expressly superseded by the terms of this Memorandum. This Memorandum may be executed in counterpart.

[SIGNATURES ON FOLLOWING PAGES.]

EXECUTED on the date first recited above.

Signed, sealed and delivered  
in the presence of:

  
Witness

  
Witness

**LANDLORD:**

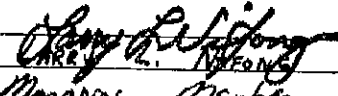
**SOUTHLAND INVESTORS, LLC,**  
a Wisconsin limited liability company

By:

Name:

Title:

Date:

  
Mark L. Johnson  
Managing Member  
3-15-2010

**TENANT:**

**BEST BUY STORES, L.P.,**  
a Virginia limited partnership

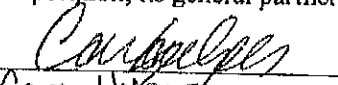
By: BBC Property Co., a Minnesota  
corporation, its general partner

By:

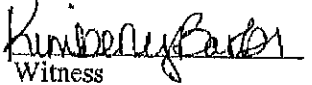
Name:

Title:

Date:

  
Cara Helper  
Sr. Corporate Counsel  
3/1/10

Signed, sealed and delivered  
in the presence of:

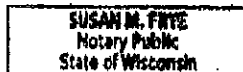
  
Witness

  
Witness

STATE OF Wisconsin )  
 ) ss.  
COUNTY OF Brown )

On March 15, 2010, before me, Susan Frye, a Notary Public in and for said State, personally appeared Larry Nifong, the Managing Member of Southland Center Investors, LLC, a limited liability co. [corporation/partnership/limited partnership/ limited liability company], personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



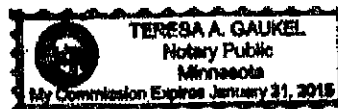
Susan M. Frye  
Notary Public  
My Commission Expires: 8/18/13

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF HENNEPIN )

On March 1, 2010, before me, Teresa A. Gaukel, a Notary Public in and for said State, personally appeared Camilleper, the Corp Counsel of BBC PROPERTY CO., a Minnesota corporation, the general partner of BEST BUY STORES, L.P., a Virginia limited partnership, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that she/he executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Teresa A. Gaukel  
Notary Public  
My Commission Expires: 1/31/2015



## EXHIBIT A TO MEMORANDUM OF LEASE AGREEMENT

### Legal Description

#### Parcel I:

Site 3 of Certified Survey Map No. 1073 as recorded in the Office of the Register of Deeds for Racine County, Wisconsin on May 7, 1985 in Vol. 3 Certified Survey Maps, Page 180, as Doc. no. 1168310, being part of the Southwest Quarter (SW ¼) of Section Twenty-four (24) and part of the Southeast Quarter (SE ¼) of Section Twenty-three (23), all in Township Three (3) North, Range Twenty-two (22) East, in the Village of Mt. Pleasant, Racine County, Wisconsin. Excepting therefrom that part described in Doc. no. 1752204.

#### Parcel II:

Easement for pedestrian and vehicular ingress and egress and driveway and parking easements, as may be described in documents recorded in Volume 1752 Records Page 604 as Doc. No. 1169012, Volume 1803 Records Page 330 as doc. No. 1196578 and in Volume 1874 Records Page 607 as Doc. No. 1234886.

Property Address: 2710 S. Green Bay Road, Racine, WI

Tax Parcel Number: 151-03-22-23-031-030

Document Number

**MORTGAGE, ASSIGNMENT OF RENTS  
AND LEASES, SECURITY AGREEMENT AND  
FINANCING STATEMENT  
Title of Document**

Document #: **2410176**

Date: 06-17-2015 Time: 09:44:00 AM Pages: 31

Fee: \$30.00 County: RACINE State: WI

Requesting Party: Dominion Title LLC

Register of Deeds: TYSON FETTES

RACINE COUNTY REGISTER OF DEEDS

\*\*The above recording information verifies  
this document has been electronically  
recorded and returned to the submitter\*\*

Recording Area

Name and Return Address

Attorney Brick N. Murphy

Law Firm of Conway, Olajniczak & Jerry, S.C.

231 S. Adams Street

P.O. Box 23200

Green Bay, WI 54305-3200

See Attached.

Parcel Identification Number (PIN)



***MORTGAGE, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND  
FINANCING STATEMENT***

***Mortgagor/Borrower:***      **SOUTHLAND CENTER INVESTORS, LLC**  
2181 S. Oneida Street, Suite 1  
Green Bay, WI 54304-4641

***Mortgagee:***                      **ASSOCIATED BANK,**  
**NATIONAL ASSOCIATION**  
200 N. Adams Street  
P.O. Box 19006  
Green Bay, WI 54305-9006

***LIST OF EXHIBITS***

Exhibit A     Realty

Exhibit B     Permitted Liens

## **ARTICLE I INTRODUCTION**

Recital. The Mortgagor is the owner of the Mortgaged Premises. The Mortgagor has received the Loans (as described below) from Mortgagee as described in that certain Term Loan Agreement dated of even date herewith (the "Loan Agreement") between the Mortgagor and the Mortgagee.

## **ARTICLE II DEFINITIONS**

Unless the context otherwise specifies or requires, the following terms shall have the meaning herein specified and such definitions shall be applicable equally to the singular and plural forms of such terms:

Borrower. Shall mean Southland Center Investors, LLC, a Wisconsin limited liability company, located at 2181 S. Oneida Street, Suite 1, Green Bay, Wisconsin 54304-4641.

Borrower Documents. Shall mean the documents, agreements and documents signed or delivered by Borrower as set forth in the Loan Agreement.

Guaranty. Shall refer to the Guaranty as defined in the Loan Agreement.

Loans. Shall refer to Term Loan A and Term Loan B as defined in the Loan Agreement.

Loan Agreement. Shall mean the Term Loan Agreement between Mortgagee and Borrower, dated of even date herewith.

Mortgage. Shall mean this Mortgage, Assignment of Rents and Leases, Security Agreement and Financing Statement.

Mortgage Amount. Shall mean an amount not to exceed Eight Million Three Hundred Thirty-one Thousand and 00/100 Dollars (\$8,331,000.00), which represents the aggregate indebtedness owed under the Loans.

Mortgaged Premises. Shall mean the real estate (sometimes referred to as the "Realty"), more particularly set forth on Exhibit A attached hereto and incorporated herein by this reference, and all easements, rights, privileges and appurtenances thereunto belonging or in any way appertaining.

Mortgagee. Shall mean ASSOCIATED BANK, NATIONAL ASSOCIATION, P.O. Box 19006 Green Bay, WI 54307-9006.

Mortgagor. Shall mean Southland Center Investors, LLC, a Wisconsin limited liability company, located at 2181 S. Oneida Street, Suite 1, Green Bay, Wisconsin 54304-4641.

Notes. Shall collectively refer to Term Note A and Term Note B executed by Borrower, as defined in the Loan Agreement.

Realty. The real property described on the attached Exhibit A and all of the rights pertaining thereto as more particularly set forth in Article III below. The Realty is sometimes also referred to as the "Mortgaged Premises".

**ARTICLE III  
GRANTING CLAUSE;  
AMOUNT SECURED BY THIS MORTGAGE**

The Mortgagor, to secure the payment of the Notes and Obligations (as defined in the Loan Agreement) in accordance with the terms therein, the payment obligations under the Guaranty and the terms of this Mortgage and all extensions, modifications and renewals thereof, and all other sums which may become due from Borrower to Mortgagee by virtue of the Loan Agreement, and to secure the performance by Mortgagor of the covenants and conditions contained herein, and by the Borrower in the Borrower Documents, securing or referring to the Notes, and in consideration of good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Mortgagor, hereby grants, bargains, sells, mortgages, conveys and warrants unto the Mortgagee, its successors and assigns forever, the Realty, together with all the properties and rights described as follows:

3.1 Right, Title and Interest of Mortgagor. All right, title and interest of Mortgagor, including any after-acquired title or reversion, now or at any time hereafter existing, in and to all highways, roads, ways, streets, avenues, alleys and other public thoroughfares, bordering on or adjacent to the Realty or any part thereof, together with all right, title and interest of Mortgagor to the land lying within such highways, roads, ways, streets, avenues, alleys and other public thoroughfares, whether heretofore or hereafter vacated, and all strips and gores adjoining or within the Realty or any part thereof.

3.2 Rights and Privileges. All and singular the tenements, hereditaments, licenses, permits, consents, easements, appurtenances, passages, waters, water courses, riparian rights, timber rights, mineral rights, other rights and privileges thereof or in any way now or at any time hereafter belonging to or in any way appertaining to the Realty or any part thereof or to any property or right now or at any time hereafter comprising a part of the properties and rights subject to this Mortgage; and all right, title and interest of Mortgagor, whether now or at any time hereafter existing, in all reversions and remainders to the Realty and such other property or right and all rents, income, issues, profits, royalties and revenues now or hereafter derived or accrued from or belonging to the Realty or any part thereof and such other property or right subject to this Mortgage.

3.3 Buildings and Improvements. All buildings and improvements of every kind and description now or hereafter located, erected or placed on the Realty, or any part thereof, including, but not limited to, all structures, railroad spur tracks and sidings, plants, works and all

materials intended for construction, and repairs of such improvements now or hereafter erected thereon, all of which materials shall be deemed to be subject to this Mortgage immediately upon the delivery thereof to the Realty, and all fixtures now or hereafter owned by Mortgagor, and attached to or contained in and used in connection with the Realty, whether or not the same are or shall be attached to any of said buildings and improvements in any manner, and without any further act all extensions, additions, betterments, renewals, substitutions and replacements to the foregoing.

3.4 Fixtures and Other Property. All fixtures, furniture, furnishings, appliances, equipment, machinery and other property of every kind and description in which Mortgagor now has or at any time hereafter acquires an interest, whether now or at any time hereafter installed or located in, on or about or used in connection with the Realty or any part thereof, including, but not limited to, all electrification equipment and power lines, whether owned individually or jointly with others, all water supply, heating, lighting, cooling, irrigation, refrigeration, humidifying, dehumidifying, plumbing, sprinkler protection, fire extinguishing, incinerating, waste removal, cleaning, air conditioning, ventilating, communicating, water heating, television antenna and electrical systems, and the machinery, appliances, fixtures and equipment pertaining thereto, all switchboards, engines, motors, holding tanks, tanks, pumps, conduits, ducts, compressors, elevators, escalators, shades, awnings, venetian blinds, screens, screen doors, storm doors and windows, stoves, ranges, dishwashers, waste disposal units, curtain rods and fixtures, washing machines, clothes dryers, floor coverings, partitions, condensing units, range hoods, fans, lawn equipment, speakers, electrical wiring, pipe, signs, all built-in equipment as shown by plans and specifications furnished to Mortgagee by Mortgagor, whether any of the foregoing are single units or centrally controlled. All of the fixtures, furnishings, appliances, equipment, machinery and other property hereinabove described in this Section 3.4 shall be subject to the lien of the Mortgage as if covered and conveyed hereby by specific and apt descriptions.

3.5 Condemnation Awards. All rights, title and interests of Mortgagor of, in and to any and all proceeds, settlements, awards and other compensation, whether heretofore, now or hereafter made, resulting from condemnation proceedings or the taking under the power of eminent domain, either permanent or temporary, of the Realty or any part thereof or any part of the properties and rights described in Sections 3.1, 3.2, 3.3 and 3.4, above, or any part thereof, including any awards for any changes of grade of streets, or for any damage (whether caused by such taking or otherwise) to the Realty or any part thereof or to the properties and rights described in Sections 3.1, 3.2, 3.3 and 3.4 above, or any part thereof, and all proceeds of any sales or other dispositions of the Realty or any part thereof or the properties and rights described in Sections 3.1, 3.2, 3.3 and 3.4, above, or any part thereof; and the Mortgagee is hereby authorized to collect and receive said proceeds, settlements, awards and other compensation and to give proper receipts and acquittances therefor, and, if it so elects, to apply the same toward the payment of the indebtedness and other sums secured hereby, notwithstanding the fact that the amount owing thereon may not then be due and payable.

3.6 Monies and Rights. All monies at any time on deposit with Mortgagee pursuant to the terms hereof, and all contract rights, general intangibles, actions and rights in action, including, without limitation, all right to insurance proceeds and unearned premiums arising from or

relating to the Realty or any part thereof or the properties and rights described in Sections 3.1, 3.2, 3.3 and 3.4, above, or any part thereof; and all proceeds, products, replacements, additions, substitutions, renewals and accessions of and to the Realty or any part thereof or the properties and rights described in Sections 3.1, 3.2, 3.3 and 3.4, above, or any part thereof.

3.7 Contracts for Improvements. All contracts let, accepted, bid, made or entered into by the Mortgagor for the purposes of constructing improvements on the Realty as contemplated in the Borrower Documents.

3.8 Leases. Any and all interests of the Mortgagor in leases pertaining to any part of the Realty and rents attendant thereto.

3.9 Mortgaged Premises. Any reference herein to the "Mortgaged Premises" shall be deemed to apply to the Realty and all the properties and rights expressed in the foregoing numbered sections unless the context shall require otherwise. The Realty and all the properties and rights hereby granted, bargained, sold, mortgaged, conveyed and warranted are intended so to be as a unit and are hereby understood, agreed and declared to form a part and parcel of the Mortgaged Premises and to be appropriated to the use of the Mortgaged Premises, and shall, for the purposes of this Mortgage, so far as permitted by law, be deemed to be real estate and covered by the lien of this Mortgage, and as to the balance of the properties and rights as aforesaid, this Mortgage is hereby deemed to be as well the Security Agreement for the purpose of creating a security interest in said properties and rights, which security interest Mortgagor hereby grants to Mortgagee as security for the payment of the Notes and all other sums secured hereby.

3.10 Liens, Charges and Encumbrances. The Mortgagor covenants and warrants that it has good and indefeasible title to the Mortgaged Premises in fee simple, free and clear of all liens, charges and encumbrances whatsoever, except as may be set forth on Exhibit B attached hereto and incorporated herein by this reference, and that Mortgagor has full legal right, power and authority so to convey the same and that Mortgagor and its successors in interest will forever warrant and defend the lien and priority of this Mortgage against the lawful claims and demands of all persons whomsoever. If Exhibit B is not attached hereto, it shall be deemed to mean that there are no permitted liens, charges or encumbrances.

3.11 Release of Mortgage and Notes. If the principal, the interest and all other sums provided in the Notes and the Borrower Documents are paid and all other sums hereinafter provided for are paid, and if all other sums secured by this Mortgage have been paid in full, and if the Mortgagor shall well and truly keep and perform all of the covenants contained in this Mortgage, then this Mortgage and the Notes shall be released at the cost of the Mortgagor, otherwise to remain in full force and effect.

**ARTICLE IV**  
**UNDERSTANDING AND AGREEMENT**

The parties hereto agree as follows:

4.1 Payment and Performance. Mortgagor shall promptly pay the principal of and interest on the indebtedness evidenced by the Notes, to the extent of Mortgagor's obligations thereunder, at the time and in the manner herein and in the Notes provided, and shall duly and punctually perform and observe all of the terms, covenants and conditions to be performed or observed by Mortgagor in the Notes (as required by the Guaranty) of the Mortgagor and the Borrower Documents.

4.2 Payment of Taxes. Mortgagor shall pay, before delinquent and before any interest or penalty for nonpayment attaches thereto, all taxes, assessments, water rates, sewer rentals and other governmental charges of every nature and to whomever assessed that may now or hereafter be levied or assessed upon the Mortgaged Premises or any part thereof, or upon the Mortgagor's interest in the rents, issues, income or profits thereof, whether any or all of said items be levied directly or indirectly or as excise taxes or income taxes. Notwithstanding the foregoing, Mortgagor may, in good faith and with reasonable diligence, contest the validity or amount of any such taxes, assessments, rates, rentals or charges in the manner provided by law, in which event Mortgagor shall:

(a) Pay in full, under protest in the manner provided by law, any tax, assessment, rate, rental or charge which Mortgagor may desire to contest; or

(b) Withhold the payment thereof, if contest of any tax, assessment, rate, rental or charge may be made without the payment thereof, provided, however, that:

- (i) Such contest shall have the effect of preventing the sale or forfeiture of the Mortgaged Premises or any part thereof, or any interest therein, to satisfy any such tax, assessment, rate, rental or charge;
- (ii) Mortgagor has not less than forty-five (45) days prior to the date the amount of any such tax, assessment, rate, rental or other charge shall be increased by reason of any interest, penalties or costs to notify Mortgagee in writing of the intention of Mortgagor to contest the same;
- (iii) Mortgagor shall have furnished Mortgagee from time to time as Mortgagee may request such security or bond or indemnification satisfactory to Mortgagee for the final payment and discharge thereof; and

(iv) In the event of a final ruling or adjudication adverse to Mortgagor, Mortgagor shall promptly pay any such tax, assessment, rate, rental or other charge, plus any interest, penalty or additional charge thereon.

All costs and expenses incidental to any such contest shall be paid by Mortgagor.

4.3 Impairment of Security. The Mortgagor will not do or permit to be done to, in, upon or about the Mortgaged Premises, or any part thereof, anything that may in any material manner impair the value thereof, or weaken, diminish or impair the security of this Mortgage. In furtherance of the foregoing, but not in limitation thereof, Mortgagor shall:

(a) Keep the Mortgaged Premises in good condition and repair and not commit, permit or suffer the commission of any waste, impairment or deterioration of any kind whatsoever on the Mortgaged Premises, or any part thereof, and will not take any action which shall increase the risk of fire or other hazard to the Mortgaged Premises or to any part thereof.

(b) Promptly repair, restore, rebuild or replace any buildings, improvements or other properties now or hereafter on or comprising a part of the Mortgaged Premises which may become damaged or be destroyed by any cause whatsoever, so that upon completion of the repair, restoration, rebuilding and replacement, there will be no liens of any nature arising out of said repair, restoration, rebuilding and replacement, and the Mortgaged Premises and each part thereof will have a commercial value at least as great as the commercial value thereof prior to the damage or destruction. The obligations of the Mortgagor shall only be required of the Mortgagor if it receives insurance proceeds to proceed with the repair, restoration, rebuilding or replacement or if it has failed to procure insurance contrary to the terms and conditions of this Mortgage and the Borrower Documents.

(c) Not directly or indirectly, without Mortgagee's prior written consent, create, incur, permit to exist or assume any mortgage, pledge or other lien or claim for lien or encumbrance upon the Mortgaged Premises, or any part thereof, other than:

- (i) The lien and security interest of Mortgagee as created by this Mortgage and the Borrower Documents; and
- (ii) The permitted liens, charges or encumbrances set forth in Exhibit B attached hereto, if any; provided, however, that with respect to any lien or claim for lien arising from any work performed or materials furnished on or relating to the Mortgaged Premises, or any part thereof, Mortgagor may contest any such lien or claim for lien upon furnishing Mortgagee indemnification satisfactory to Mortgagee for the final payment and discharge thereof, which may include, at Mortgagee's election, deposit by Mortgagor into escrow of a sum deemed satisfactory to Mortgagee to protect Mortgagee's



interest in the Realty in an amount of no less than one hundred fifty percent (150%) of the amount of all such liens;

(d) Promptly comply, and shall use commercially reasonable efforts to cause each lessee or other user of the Mortgaged Premises, if any, or any part thereof, to promptly comply in all material respects with all the laws, ordinances, regulations and orders of all public authorities having jurisdiction of the Mortgaged Premises, or any part thereof, and the use, occupancy and maintenance thereof, and with all restrictions of record pertaining to the Mortgaged Premises, or any part thereof, and the use, occupancy and maintenance thereof;

(e) Make no material alterations to the Mortgaged Premises, or any part thereof, without the prior written consent of Mortgagee, except as required by law or ordinance;

(f) Promptly notify Mortgagee in writing of:

(i) Any loss or damage to the Mortgaged Premises, or any part thereof;

(ii) Receipt of any notice from the holder of any other lien, encumbrance or security interest in the Mortgaged Premises, or any part thereof,

(iii) Commencement of any judicial or administrative proceedings by or against or otherwise affecting the Mortgagor, and Borrower or any guarantor, co-maker, surety or endorser of the Notes, or the Mortgaged Premises, or any entity controlled by or under common control with the Mortgagor, or any guarantor, co-maker, surety or endorser, or any other action by any creditor thereof as a result of any default under the terms of any loan,

(iv) Any change, whether contemplated, pending or final, in the assessment of the Mortgaged Premises, or any part thereof, by taxing authorities or in the zoning classification of the Mortgaged Premises, or any part thereof, by public authorities,

(v) The actual or threatened commencement of any proceedings under condemnation or eminent domain affecting the Mortgaged Premises, or any part thereof, including those proceedings relating to severance and consequential damage and change in grade of streets, copies of any and all papers served in connection with any such proceedings to be delivered to Mortgagee upon such service, and

(vi) Any other action, whether contemplated, pending or final, by any public authority or otherwise, that could affect the value of the Mortgaged Premises, or any part thereof, and initiate or acquiesce in no change in the zoning

classification, as aforesaid, without Mortgagee's prior written consent;

(g) Not suffer or permit any change in the general nature of the occupancy of the Mortgaged Premises, or any part thereof, without Mortgagee's prior written consent;

(h) Not make or permit any use of the Mortgaged Premises, or any part thereof, that could, with the passage of time, result in the creation of any right of user, or any claim of adverse possession or easement on, to or against any part of the Mortgaged Premises in favor of any person or the public;

(i) Not permit any portion of the Mortgaged Premises to be used for any unlawful purpose;

(j) Permit at any reasonable time, and from time to time, the Mortgagee to enter the Mortgaged Premises for the purpose of inspecting the same; and

(k) Not cause or permit at any time any hazardous or toxic substances or materials to be used, stored, generated or disposed of on or in the Mortgaged Premises, whether by Mortgagor, its tenants, tenants' agents, employees, contractors or invitees, unless such use of the hazardous or toxic substances or materials fully conforms with the regulations of the State of Wisconsin and the Federal Environmental Protection Agency. Notwithstanding the foregoing, such permitted use of hazardous or toxic substances or materials shall not limit nor have any effect upon the indemnification given by the Borrower to the Mortgagee in the Borrower Documents.

4.4 Insurance. Mortgagor shall keep all buildings and improvements now or hereafter situated on the Mortgaged Premises and having a fair market value as determined by standard, uniformly accepted appraisal methods insured against loss or damage by fire and such other hazards as may be required, from time to time by Mortgagee, including, without limitation of the generality of the foregoing, wherever, in the opinion of Mortgagee, such protection is necessary and as required under the Loan Agreement, together with:

(a) Vandalism and malicious mischief endorsements;

(b) Law and ordinance rider;

(c) Mortgagee clauses attached to all policies heretofore in favor of and entitling Mortgagee to collect any and all of the proceeds payable under all such insurance; and

(d) A standard waiver of subrogation endorsement, all to be in forms, companies and amounts satisfactory to Mortgagee.

Mortgagor shall also carry comprehensive public liability insurance, as may be reasonably required from time to time by Mortgagee, in forms, companies and amounts satisfactory to Mortgagee, with the policy or policies or certificate or certificates evidencing such insurance to name the Mortgagee as an additional insured. The policy or policies evidencing all of the aforesaid insurance required hereunder shall be placed with financially sound and reputable insurers licensed to do business in the State of Wisconsin and such other states where the business assets are located and shall contain a provision requiring that the coverage evidenced thereby shall not be terminated or materially modified without thirty (30) days prior written notice to Mortgagee and each such policy (or certificate thereof, with respect to comprehensive public liability insurance only) shall be delivered to Mortgagee, premiums prepaid. Mortgagor shall not carry separate insurance, concurrent in any kind or form and contributing in the event of loss, with any insurance required hereunder. Mortgagor shall, until the indebtedness secured hereby is paid in full, furnish Mortgagee, at least thirty (30) days prior to the date each coverage required herein would otherwise expire, with evidence of the renewal or continuation of such coverage in the form of receipts evidencing the payment of all premiums therefore and renewal policies or certificates, as required hereunder. If the Mortgaged Premises, or any part thereof, are at any time leased and the lease or leases have been assigned to Mortgagee as additional security for the payment of indebtedness secured by this Mortgage, Mortgagor shall, upon the request of Mortgagee, provide rent insurance payable to Mortgagee in an amount equal to the annual rental payable under such assigned lease or leases, plus the lessee's or lessees' approximate annual liability for taxes and insurance as provided in the lease or leases.

4.5 Adjustment of Losses with Insurer and Application of Proceeds of Insurance. Except as herein provided, in case of loss, Mortgagor shall give immediate notice by certified mail, return receipt requested, to the Mortgagee, and within one hundred twenty (120) days, the Mortgagor may elect to rebuild the damaged premises by providing the Mortgagee with the following:

(a) If the rebuilding is performed through outside contractors, plans and specifications by a reputable architect approved by Mortgagee and a construction contract for such rebuilding by a contractor acceptable to the Mortgagee; or

(b) If such rebuilding is to be performed by Mortgagor, with plans and specifications as applicable and an affidavit as to estimated construction costs, including all bids, estimates and quotations for labor and materials to be supplied; and

(c) Whether the rebuilding is performed by an outside contractor or by Mortgagor, the Mortgagor shall escrow sufficient funds when combined with insurance proceeds attributable to the damage sufficient to complete the rebuilding.

In the case of such rebuilding, the Mortgagee shall hold insurance proceeds for such rebuilding and restoration for the benefit of the Mortgagor and shall disburse such funds as requested by Mortgagor for the rebuilding of the Mortgaged Premises. If the Mortgagor fails to elect restoration, Mortgagee shall apply all insurance proceeds in its possession to the indebtedness secured hereby, and the excess, if any, shall be promptly disbursed to Mortgagor. Rebuilding or restoration of said buildings and improvements shall be commenced promptly after the

occurrence of the loss and shall be prosecuted to completion diligently, and said buildings and improvements shall be so restored or rebuilt as to be of at least equal value and substantially the same character as prior to such damage and destruction.

The foregoing notwithstanding, if available insurance proceeds equal less than fifty percent of the cost of replacement of all of the buildings and improvements upon the Realty and no Borrower or any guarantor is then in default of its obligations under the Loan Agreement or the Borrower Documents and Mortgagor is not then in default under the terms of this Mortgage, Mortgagor may elect to rebuild the buildings and improvements upon the following conditions:

- (a) The buildings and improvements can be rebuilt to substantially the same condition to those originally upon the Realty and can be used for substantially the same purpose to which such building and improvements were put before the damage;
- (b) The appraised value of the buildings and improvements as rebuilt will not be less than the appraised value thereof before the damage;
- (c) Restoration and repair will be done under the supervision of an architect acceptable to Mortgagee and pursuant to specifications approved by Mortgagee,;
- (d) All available insurance proceeds will be held by Mortgagee for disbursement in accordance with the Borrower Documents;
- (e) Mortgagor shall deposit before the commencement of any work to perform the restoration and repair a sum sufficient to make up the deficiency between the actual costs of restoration and repair and the available insurance proceeds;
- (f) Mortgagor shall deliver to Mortgagee such lien waivers and completion bonds as Mortgagee may reasonably require;
- (g) All tenants under leases pertaining to the Realty are acceptable to Mortgagee and provide sufficient gross annual fixed rental income to cover all annual operating expenses of the Realty, including payment of all principal and interest under Mortgagor's obligations to Mortgagee, and such tenants are obligated to occupy the Realty without any abatement or adjustment of rental payments, other than temporary abatements during the period of restoration and repair.

In case a loss occurs after foreclosure proceedings have been instituted, the proceeds of any such insurance policy or policies, if not applied as aforesaid in rebuilding or restoration of the buildings and improvements, shall be used to pay the amount due in accordance with any decree of foreclosure or deficiency judgment that may be entered in connection with such proceedings, and the balance, if any, shall be paid to the owner of the equity of redemption if said owner shall then be entitled to the same, or otherwise as any court having jurisdiction may direct. Following any foreclosure sale, or other transfer of title to the Mortgaged Premises in extinguishment of the indebtedness secured hereby, Mortgagee is authorized, without the consent of Mortgagor, to

assign any and all insurance policies required hereunder and the proceeds payable thereunder to the purchaser at the sale and to take such other steps as Mortgagee may deem advisable to cause the interest of such purchaser to be protected by any of such insurance policies.

Notwithstanding any of the foregoing to the contrary, in the Event of Default and a loss occurs, the Mortgagee may, in lieu of rebuilding of the buildings and improvements, and in accordance with this Agreement and the Borrower Documents, elect, in its sole and absolute discretion, to not rebuild the buildings and improvements and to apply the proceeds of any insurance policies directly to the Loans, and the Mortgagee shall have no further obligation to make disbursements hereunder.

4.6 Hold Harmless. Mortgagor shall save the Mortgagee harmless from all reasonable costs and expenses, including reasonable attorneys' fees incurred for any reason, whether or not suit is commenced, in attempting to enforce Mortgagee's rights under the Mortgage.

4.7 Effect of New Taxation or Changes in Law Regarding Taxation. If, by the laws of the United States of America, or of any state or division thereof having jurisdiction over Borrower, the Mortgagor or of the Mortgaged Premises, any tax, assessment or governmental charge of any character whatever is due or becomes due on account of this Mortgage or the indebtedness secured hereby, the Mortgagor shall pay any such tax, assessment or governmental charge of any character whatever in the manner required by any such law when the same shall become due; the Mortgagor further shall hold harmless and indemnify the Mortgagee, its successors or assigns, against any liability incurred by reason of the imposition of any such tax, assessment or governmental charge on account of this Mortgage or the indebtedness secured hereby. In the event of the enactment after this date of any law of the state in which the Mortgaged Premises are located deducting from the value of land for the purpose of taxation of any lien thereon, or imposing upon the Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Mortgagor other than income taxes or existing taxes or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or the Mortgagee's interest in the Mortgaged Premises, or the manner of collecting taxes, so as to affect this Mortgage or the debt secured hereby or the holder thereof, then, and in such event, the Mortgagor, upon written demand by the Mortgagee, shall pay such taxes or assessments or charges or liens or reimburse the Mortgagee heretofore; provided, however, that if, in the opinion of counsel for the Mortgagee, (a) it might be unlawful to require Mortgagor to make such payment, or (b) the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then and in such event, the Mortgagee may elect, by notice in writing given to the Mortgagor, to declare all of the indebtedness secured hereby to be and become due and payable ninety (90) days from the giving of such notices.

The foregoing provisions of Section 4.7 shall not apply if the changes in law only affect a change in the rates of the existing tax, assessment or governmental charge.

4.8 Condemnation. Mortgagor hereby assigns, transfers and sets over unto Mortgagee all of Mortgagor's right, title and interest in and to all compensation, awards, damages, claims, rights of action and proceeds of, or on account of, any damage or taking to or of the Mortgaged

Premises, or any part thereof, through condemnation or under the power of eminent domain and Mortgagee is hereby authorized, at its option, to commence, appear in and prosecute, in its own or the Mortgagor's name, any action or proceeding relating to any condemnation or power of connection therewith. All such compensation, awards, damages, claims, rights of action and proceeds, and any other payments or relief, and the right thereto (herein sometimes collectively or individually called the "award," unless the context shall require otherwise), are included in the Mortgaged Premises and the Mortgagee, after deducting therefrom all its reasonable expenses, including reasonable attorneys' fees, may elect:

(a) To apply the proceeds of the award upon or in reduction of the indebtedness secured hereby, whether due or not; or

(b) To require Mortgagor to restore or rebuild, in which event the proceeds shall be held by Mortgagee and used to reimburse Mortgagor for the reasonable cost of the rebuilding or restoring of buildings or improvements on the Mortgaged Premises, in accordance with plans and specifications to be submitted to and approved by Mortgagee, and the proceeds so used shall not be deemed a payment on the indebtedness secured hereby.

Mortgagor shall execute such further assignment of any award as Mortgagee may require. Except for leases of record before the recording of this Mortgage which Mortgagee has not required to be subordinated to this Mortgage, any provision in any lease of buildings or improvements upon the Realty requiring Mortgagor to repair or restore any portion of the leased premises that may be destroyed, damaged or taken in condemnation or eminent domain proceedings shall be subject and subordinate to the rights of Mortgagee hereunder. If, however:

(a) The Mortgagor is obligated to restore or replace the damaged or destroyed buildings or improvements under the terms of any lease or leases which are or may be prior to the lien of this Mortgage;

(b) Such taking does not result in cancellation or termination of such lease or leases;

(c) Such lease or leases are not in default; and

(d) The award is sufficient to fully repair or replace that portion of the buildings or improvements taken;

the award shall be used to reimburse Mortgagor for the cost of the rebuilding or restoring of buildings or improvements on the Mortgaged Premises, provided Mortgagor is not then in default under this Mortgage. If Mortgagor is required or authorized, either by Mortgagee's election as aforesaid, or by virtue of any such lease, to rebuild or restore, the proceeds of the award shall be paid out in the same manner as provided in Section 4.5 hereof for the payment of insurance proceeds toward the cost of rebuilding or restoration.

If the amount of such award is equal to less than fifty percent (50%) of the cost of the amount necessary to make any repairs or restoration required after the taking, or if the leasable area taken by the condemnation or eminent domain proceeding equals less than one third of the total leasable space of the improvements on the Realty, then the Mortgagor may rebuild or restore the improvements upon all of the conditions set forth in paragraph 4.5 above regarding restoration or repair where insurance proceeds are insufficient to cover the cost of rebuilding or restoration. Any surplus which remains out of said award after payment of such cost of rebuilding or restoration shall, at the option of the Mortgagee, be applied on account of the indebtedness secured hereby or be paid to any other party entitled thereto. The provisions of this Section 4.8 with respect to receipt and application of an award shall be subject to the terms of any instrument referred to in **Exhibit B** securing any prior lien on the Mortgaged Premises.

4.9 Acknowledgment by Mortgagor. Mortgagor, within fifteen (15) days after Mortgagee's written request, will furnish a written statement duly acknowledged of the amount due upon this Mortgage and whether any alleged offsets or defenses exist against the indebtedness secured by this Mortgage.

4.10 Mortgagee's Performance of Defaulted Acts. Upon default in the performance of any of the terms, covenants, conditions or warranties contained herein or contained in the Notes, or any renewal, extension or modification thereof, or any of the Borrower Documents, Mortgagee may, at its option, and whether electing to declare the whole indebtedness due and payable or not:

(a) Perform the same in any reasonable form and manner deemed expedient without waiver of any other remedy; and/or

(b) Make full or partial payments of principal or interest on prior liens or encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien, encumbrance, title or claim thereof, or redeem from any tax sale a forfeiture affecting the Mortgaged Premises or contest any tax or assessment or governmental charge.

Any amount paid or advanced by Mortgagee in connection with the foregoing or any other costs, charges or expenses reasonably incurred in the protection of the Mortgaged Premises and the maintenance of the lien created hereby, including reasonable attorneys' fees, with interest on all such items at the post-maturity rate at which principal bears interest under the Notes (as applicable), shall be repayable by the Borrower without demand and shall be tacked on and impressed as an additional lien upon the Mortgaged Premises prior to any right, title, interest or claim attaching or accruing subsequent to the lien of this Mortgage and shall be deemed to be secured by and collectible as a part of the within Mortgage. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to it on account of any such default on the part of the Mortgagor.

4.11 Mortgagee's Reliance in Making Payments. Mortgagee, in making any payment herein and as hereby authorized:

(a) Relating to taxes and assessments and governmental charges, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the validity or accuracy thereof; and

(b) Relating to any prior lien or title or claim thereof, may do so after inquiry as to the validity or amount of any such prior lien or title or claim which may be asserted; provided, however, that nothing herein shall prevent Mortgagee from making such payment despite any dispute as to the validity or amount of any such prior lien or title or claim by Mortgagor; and

(c) May do so whenever, in its judgment and discretion, such payment or payments shall seem necessary or desirable to protect the full security intended to be created by this Mortgage; provided, however, that in connection with any such payment as aforesaid, Mortgagee, at its option, may and is hereby authorized to obtain a updated Loan Title Policy by a title insurance company, the cost and expense of which shall be repayable by the Mortgagor without demand and shall be secured hereby.

4.12 Assignment of Rents and Leases. To further secure the indebtedness and all other sums secured hereby, Mortgagor does hereby sell, assign and transfer unto the Mortgagee any and all leases now or hereafter on or affecting the Mortgaged Premises, or any part thereof, together with:

(a) All the rents, income, profits and other benefits now due and which may hereafter become due under or by virtue of any such lease, whether written or verbal, or any letting of, or of any agreement for the use or occupancy of the Mortgaged Premises, or any part thereof, which may have been heretofore or may be hereafter made or agreed to or which may be made or agreed to by the Mortgagee under the powers herein granted; and

(b) All security heretofore, provided, however, that permission is hereby given to the Mortgagor, so long as no default has occurred hereunder, to collect and use the aforesaid rents, income, profits and other benefits as they become due and payable, but not in advance thereof.

The foregoing assignment shall be fully operative without any further action on the part of either party and specifically the Mortgagee shall be entitled, at its option, upon the occurrence of default hereunder, as hereinafter defined, to all rents, royalties, issues, profits, revenue, income and other benefits from the Mortgaged Premises whether or not the Mortgagee takes possession of the Mortgaged Premises. Upon the occurrence of a default, the permission hereby given to the Mortgagor to collect such rents, royalties, issues, profits, revenues, income and other benefits from the Mortgaged Premises shall terminate and such permission shall not be reinstated upon a cure of the default without Mortgagee's specific consent. Neither the exercise of any rights



under this Section 4.12 by the Mortgagee nor the application of any such rents, royalties, issues, profits, revenues, income or other benefits to the indebtedness and other sums secured hereby shall cure or waive any default or notice of default hereunder or invalidate any act done pursuant thereto or to any such notice, but shall be cumulative of all rights and remedies.

The foregoing provisions shall constitute an absolute and present assignment, subject, however, to the conditional permission given to the Mortgagor as aforesaid; and the existence or exercise of such right of the Mortgagor shall not operate to subordinate this assignment to any subsequent assignment, in whole or in part, by the Mortgagor, and any such subsequent assignment by the Mortgagor shall be subject to the rights of the Mortgagee hereunder and the terms hereof.

The Mortgagor hereby further grants to the Mortgagee the right:

- (a) To enter upon and take possession of the Mortgaged Premises for the purpose of collecting the said rents, income, profits and other benefits;
- (b) To dispossess by the usual summary proceedings any tenant defaulting in the payment thereof to the Mortgagee;
- (c) To rent, lease or let the Mortgaged Premises or any part thereof to any party or parties at such rental and upon such terms as Mortgagee shall, in its discretion, determine; and
- (d) To apply said rents, income, profits and other benefits, after payment of all necessary charges and expenses, on account of the indebtedness and other sums secured hereby. The foregoing assignment and grant shall continue in effect until the indebtedness and other sums secured hereby are paid, the execution of this Mortgage constituting and evidencing the irrevocable consent of the Mortgagor to the entry upon and taking possession of the Mortgaged Premises by the Mortgagee pursuant to such grant, whether or not foreclosure has been instituted.

In the exercise of any rights under this Section 4.12 by the Mortgagee and except for claims, damages, losses, liability, costs or expenses to the extent caused by the recklessness or intentional or misconduct of the Mortgagee, no liability shall be asserted or enforced against the Mortgagee, all such liability being expressly waived and released by Mortgagor. The Mortgagee shall not be obligated to perform or discharge any obligation, duty or liability under any such leases or agreements, and the Mortgagor shall and does hereby agree to indemnify and hold the Mortgagee harmless of and from any and all liability, loss or damage which it may or might incur under said leases or agreements or under or by reason of the assignment thereof and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in said leases or agreements. Should the Mortgagee incur any such liability, loss or damage under said leases or agreements or under or by reason of the assignment thereof, or in the defense of any claims or demands, (except for any of the same that may arise from the negligence or willful misconduct of Mortgagee) the amount thereof, including

costs, expenses and reasonable attorneys' fees, shall be secured hereby, and the Mortgagor shall reimburse the Mortgagee therefore immediately upon written demand.

The Mortgagor represents and agrees that no rent has been or will be paid by any person in possession of any portion of the Mortgaged Premises for more than one installment in advance and that the payment of none of the rents to accrue for any tenant in the Mortgaged Premises will be waived, released, reduced, discounted or otherwise discharged or compromised by the Mortgagor. The Mortgagor waives any rights of setoff against any person in possession of any portion of the Mortgaged Premises. If any such lease or agreement provides for the abatement of rent during repair of the premises demised thereunder by reason of fire or other casualty, the Mortgagor shall furnish to the Mortgagee rental insurance, the policies to be in the amount and form and written by such insurance companies as shall be satisfactory to the Mortgagee.

Upon and during the occurrence of any Event of Default, the Mortgagor shall not, without the express prior written consent of the Mortgagee, amend, modify, extend, terminate or cancel, accept the surrender of, subordinate, accelerate the payment of rent as to, or change the terms of any renewal option of, any such lease or agreement now existing or hereafter created, or permit to suffer an assignment or sublease thereof (any of the foregoing a "Lease Alteration").

All leases affecting Mortgaged Premises shall be submitted by the Mortgagor to the Mortgagee for its approval prior to the execution thereof. All approved and executed leases, together with all security therefore and all monies payable thereunder, shall, at Mortgagee's option, from time to time, be specifically assigned to Mortgagee by instrument in form satisfactory to Mortgagee. Mortgagor shall also execute and deliver to Mortgagee any notification, financing statement or other document required by Mortgagee to perfect the foregoing assignment as to any such lease. All or any such leases shall, at the option of Mortgagee, be paramount or subordinate to this Mortgage.

Mortgagor represents and warrants to Mortgagee that at the time of the execution hereof, that: (a) all leases pertaining to the Realty, if any exist, are valid and enforceable according to their terms and are not subject to any defenses, disputes or claims for offsets; (b) there is no default in the terms of any such leases on the part of Mortgagor or any tenant; (c) Mortgagor has not anticipated rent payments; (d) no tenant has any option to purchase the Realty that has not been revealed to Mortgagee in writing by Mortgagor; (e) no party has any right to possession of the buildings and improvements upon the Realty except the tenants named in the lease(s) copies of which have been delivered to Mortgagee before the execution of this Mortgage; (f) Mortgagor has the right to assign the leases to Mortgagee; and (g) except in connection with any Permitted Encumbrance (as that term is defined in the Loan Agreement) Mortgagor has not assigned the leases to any other person, except for a party who will release any such assignment as part of the financing for which this Mortgage is given as security.

The Mortgagee shall have the right, at any time and from time to time, to notify any tenant of the rights of the Mortgagee as provided by this Section 4.12.

4.13 Security Interest. This Mortgage shall constitute a security agreement with respect to and the Mortgagor hereby grants to Mortgagee a security interest in all personal property and all fixtures included in or located upon the Realty as more specifically described in Article III, Granting Clause, above and in any other location. The Mortgagor authorizes the filing by Mortgagee of this Mortgage with the Brown County Register of Deeds and such other counties in which the Realty may be located as a fixture filing financing statement and any and all other financing statements, amendments thereto and continuation statements thereof covering such personal property and fixtures in the form and in the offices, including but not limited to the Wisconsin Department of Financial Institutions, satisfactory to the Mortgagee, which the Mortgagee may reasonably consider necessary or appropriate to perfect its security interest. Mortgagee may describe the collateral listed in such financing statements as "all assets" or such other language giving the broadest description of the property providing security for the Loans. Although this Mortgage constitutes a fixture financing statement, the security interest granted herein is in all of the personal property of the Mortgagor, including but not limited to fixtures located in or upon the Realty. In addition to any rights granted herein, Mortgagee shall have all of the rights granted a secured party under Chapter 409 of the Wisconsin Statutes.

From the date of its recording, this Mortgage shall be effective as a financing statement filed as a fixture filing with respect to all goods constituting part of the Mortgaged Premises which are or are to become fixtures related to the Realty described herein. For this purpose, the following information is set forth:

(a) Name and address of debtor: **SOUTHLAND CENTER INVESTORS, LLC**, a Wisconsin limited liability company, located at 2181 S. Oneida Street, Suite 1, Green Bay, Wisconsin 54304-4641.

(b) Name and address of secured party: **ASSOCIATED BANK, NATIONAL ASSOCIATION**, P.O. Box 19006 Green Bay, WI 54307-9006.

(c) This document covers goods which are or are to become fixtures as described in Section 3.4, above.

(d) The above-named debtor is the record owner of the land.

4.14 Events of Default and Acceleration of Indebtedness. The Events of Default set forth in the Borrower Documents are incorporated by reference into this Mortgage, including, but not limited to a failure by Mortgagor to abide by the terms of this Mortgage. Upon the occurrence of such an Event of Default, Mortgagee shall have all of the rights afforded a mortgagee under Chapter 846 of the Wisconsin Statutes as well as all of the remedies granted in the Borrower Documents.

4.15 Expense of Proceedings or Suits. If Mortgagee commences any proceedings to foreclose this Mortgage or any other suit in equity, action at law or other appropriate proceeding to enforce its rights under the Notes, this Mortgage or any other instruments evidencing, securing or referring to the Notes, Mortgagor shall pay to Mortgagee all reasonable costs and expenses,

including reasonable attorneys' fees, paid or incurred by Mortgagee in connection therewith, which costs and expenses may be included in any judgment in Mortgagee's favor in any such suit, action or proceeding. In furtherance of the foregoing, but not in limitation thereof, in any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies and similar data and assurances with respect to title as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the Mortgaged Premises.

4.16 Foreclosure Without Deficiency Judgment. Mortgagor agrees to the provisions of §846.101 of the Wisconsin Statutes, as the same may be amended or renumbered from time to time, permitting Mortgagee, upon waiving the right to judgment for deficiency, to hold the foreclosure sale of real estate consisting of twenty (20) acres or less six (6) months after a foreclosure judgment is entered. Mortgagor further agrees to the provisions of §846.103 of the Wisconsin Statutes, as the same may be amended or renumbered from time to time, permitting Mortgagee, upon waiving the right to judgment for deficiency, to hold the foreclosure sale of real estate, other than a one-to-four family residence that is owner occupied at the commencement of the foreclosure action, a farm, a church or a tax-exempt, nonprofit charitable organization, three (3) months after a foreclosure judgment is entered.

The provisions of §§846.101 and 846.103, Wis. Stats., notwithstanding, Mortgagor hereby assigns and waives any interest in and to any rents, issues and profits of the Mortgaged Premises during the pendency of any foreclosure action by the Mortgagee or any other lienholder, whether Mortgagor has waived a deficiency or not.

4.17 Appointment of a Receiver. Upon or at any time after the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed may appoint a receiver of the Mortgaged Premises. Such appointment may be made either before or after sale without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver and without regard to the then value of the Mortgaged Premises or whether the same shall be then occupied as a homestead or not, and the Mortgagee hereunder or any holder of the Notes may be appointed as such receiver. Such receiver shall have:

(a) Power to collect the rents, issues and profits of the Mortgaged Premises during the pendency of such foreclosure suit and in case of a sale and a deficiency during the full statutory period of redemption, whether there be redemption or not, as well as during any further times when Mortgagor, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits; and

(b) All other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Mortgaged Premises

during the whole of said period.

The court may from time to time authorize the receiver to apply the net income in its possession in payment, in whole or in part, of:

(a) The indebtedness secured hereby, or by any decree foreclosing this Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale; and

(b) The deficiency in case of a sale and deficiency.

4.18 Maintenance of Mortgaged Premises During Foreclosure. In the event of foreclosure of this Mortgage, Mortgagor hereby authorizes and empowers Mortgagee, its successors and assigns:

(a) To pay all taxes, assessments, water rates, sewer rentals and other governmental charges of every kind and nature that may then have been or that thereafter during the period of redemption from the sale under such foreclosure may be levied or assessed upon the Mortgaged Premises or any part thereof;

(b) To keep the improvements then existing upon the Mortgaged Premises insured and to pay the premiums herefore as required hereunder during the period of redemption, if any, from the sale under such foreclosure; and

(c) To keep the Mortgaged Premises in thorough repair as required hereunder during the period of redemption, if any, of the sale from such foreclosure, and any amount so paid or advanced by Mortgagee under the authority of this Section 4.18, together with interest thereon at the highest applicable rate allowed under the Notes, shall be tacked on and assessed as an additional lien upon the Mortgaged Premises prior to any right, title, interest or claim thereon attaching or accruing subsequent to the lien of this Mortgage and shall be secured by and collectible as part of the within Mortgage.

4.19 Suits to Protect the Mortgaged Premises. The Mortgagee shall have the power and authority to institute and maintain any suits and proceedings as the Mortgagee may deem advisable:

(a) To prevent any impairment of the Mortgaged Premises by any acts which may be unlawful or any violation of this Mortgage;

(b) To preserve or protect its interest in the Mortgaged Premises; and

(c) To restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order might impair the

security hereunder or be prejudicial to the Mortgagee's interest.

4.20 Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceedings affecting Borrower, the Mortgagor or any guarantor, co-maker or endorser of any of the Mortgagor's obligations, its creditors or its property, the Mortgagee, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have its claim allowed in such proceedings for the entire amount due and payable by Borrower under the Notes, this Mortgage and any other instrument securing, evidencing or referring to the Notes at the date of the institution of such proceedings, and for any additional amounts which may become due and payable by Borrower or the Mortgagor after such date.

4.21 Cumulative Rights and Remedies. No right, power or remedy conferred upon or reserved to the Mortgagee by the Notes, this Mortgage or any other instrument evidencing, securing or referring to the Notes is exclusive of any other right, power and remedy, but each and every such right, power, and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or under the Notes or any other instrument evidencing, securing or referring to the Notes, or now or hereafter existing at law, in equity or by statute. The holder of the Notes and of every other obligation secured hereby may recover judgment thereon, issue execution heretofore and resort to every other right or remedy available at law or in equity without first exhausting and without affecting or impairing the security or any right or remedy afforded by this Mortgage and no enumeration of special rights or powers by any provisions of this Mortgage shall be construed to limit any grant of general rights or powers, or to take away or limit any and all rights granted to or vested in the Mortgagee by virtue of the laws of Wisconsin, now or hereafter existing.

Upon and after an Event of Default, as set forth in Section 4.14 hereof, the Mortgagee shall have all the remedies of a secured party under the Uniform Commercial Code of Wisconsin in effect at the time of enforcement with respect to collateral within the scope of said Code contained in Article III hereof, including, without limitation, the right and power to sell, or otherwise dispose of said collateral or any part thereof and for that purpose may take immediate and exclusive possession of the said collateral, or any part thereof, and with or without judicial process, enter upon any of the Mortgaged Premises or property owned by the Mortgagor containing the said collateral and remove the same therefrom without being deemed guilty of trespass and without liability for damages thereby occasioned or, at the Mortgagee's option, the Mortgagor shall assemble the said collateral and make it available to the Mortgagee at the place and time designated in the demand. Mortgagee shall be entitled to hold, maintain and preserve the said collateral for sale. Mortgagee, without removal, may render the said collateral unusable and dispose of the collateral on the Mortgaged Premises. To the extent permitted by law, Mortgagor expressly waives any notice of sale or other disposition of the said collateral, together with any right of the Mortgagor to redeem the collateral. To the extent that notice of disposition cannot, by law, be waived, as it relates to this dispositional notice, ten (10) days is a reasonable period of notice of sale or other disposition of said collateral, and a notice, postage prepaid, given to the Mortgagor at the address contained in the definitional section hereof shall fully satisfy any requirement for giving said notice. Additionally, the Mortgagor hereby expressly waives, on its

own behalf, and on behalf of its successors and assigns, all rights to require a marshalling of assets by the Mortgagee, either as to parcel of the Realty or as between personal property and the Realty.

4.22 Transferees of Mortgaged Premises. Subject to the provisions of Section 4.24, below, in the event of the sale or transfer by operation of law, or otherwise, of all or any part of the Mortgaged Premises, the Mortgagee is hereby authorized and empowered to deal with such vendee or transferee with reference to the Mortgaged Premises, or the debt secured hereby, or with reference to any of the terms or conditions hereof, as fully and to the same extent as it might with the Mortgagor.

4.23 No Effect on Liability. If the Mortgagee:

- (a) Releases any part of the security described herein or any person liable for any indebtedness secured hereby;
- (b) Grants one or more renewals or extensions of the Notes for any period or periods of time;
- (c) Takes other or additional security for the payment thereof; or
- (d) Waives or fails to exercise any right granted herein or in the Notes;

such act or omission shall not release the Mortgagor, subsequent purchasers of the Mortgaged Premises, or any part thereof, or any maker, co-signer, endorser, guarantor or surety of this Mortgage or of the Notes under any covenant of this Mortgage or of the Notes nor preclude the Mortgagee from exercising any of the rights, powers or privileges herein granted or intended to be granted in the event of any other default then made or any subsequent default.

4.24 Conveyance of Mortgaged Premises. The Mortgagor shall not, outside of the ordinary course of business during the term of the Notes or any renewal or extension thereof or any time that the obligations secured hereby remain unpaid in any amount, sell, convey, transfer, lease or further encumber any interest in or any part of the Mortgaged Premises, nor shall a voluntary sale, pledge or other transfer of the beneficial interest in Mortgagor be effected, without the prior written consent of the Mortgagee, which shall not be unreasonably withheld. The Mortgagor shall not, without the prior written consent of the Mortgagee, permit any further assignment of the rents or leases from the Mortgaged Premises, or any part thereof, and any such assignment, without the prior express written consent of the Mortgagee, shall be null and void. Notwithstanding anything herein to the contrary, in the event of:

- (a) Any default by Mortgagor in the foregoing provisions of this Section 4.24;  
or
- (b) Any change in the legal or equitable ownership of the Mortgaged Premises, or any part thereof;

the Mortgagee may, at its option, unless its prior written consent has been obtained, declare the whole indebtedness secured hereby immediately due and payable, together with reasonable attorneys' fees. No consent of the Mortgagee, even if granted, shall release Mortgagor or any other person liable for any indebtedness and other sums secured hereby. In connection herewith, the financial stability, development, managerial and operational ability of Mortgagor are a substantial and material consideration to Mortgagee in its agreement to make the Loans to the Borrower. A transfer of an interest in the Mortgaged Premises would significantly and materially alter and reduce the Mortgagee's security.

4.25 Invalidity. Nothing contained in this Mortgage nor any transaction related to it shall be construed or shall operate, either presently or prospectively:

(a) To require Mortgagor to pay interest at a rate greater than is now lawful in such case to contract for, but shall require payment of interest only to the extent of such lawful rate; or

(b) To require Mortgagor to make any payment or do any act contrary to law;

but if any of the covenants, agreements, terms or provisions contained in the Notes, or in this Mortgage, or in any other instrument evidencing, securing or referring to the Notes, shall be deemed invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein or in the Notes or in any other instrument evidencing, securing or referring to the Notes shall be in no way affected, prejudiced or disturbed thereby; and if any application of any such covenant, agreement, term or provision to any person or circumstance is deemed illegal or unenforceable, the application of any such covenant, agreement, term or provision to other persons and circumstances shall remain unaffected to the extent permitted by law.

4.26 Prior Liens. If the Mortgaged Premises, or any part thereof, are now subject to any prior mortgage, lien or other permitted encumbrance described in Exhibit B which has priority over the lien of this Mortgage ("Approved Prior Encumbrance"), the Mortgagor shall:

(a) Pay the principal, interest and all other sums secured thereby prior to their due date, and will comply with all of the other terms, covenants and conditions thereof;

(b) If requested hereafter by the Mortgagee, produce to the Mortgagee from time to time, prior to the due date of the installments of principal, interest and other sums payable thereon, receipts or other evidence of payment thereof satisfactory to the Mortgagee;

(c) Not enter into any modification, amendment, agreement or arrangement with respect thereto and will not obtain any additional advances thereunder, without the prior written consent of the Mortgagee, expressly including, but not in limitation of, the foregoing, any such modification, amendment, agreement or arrangement pursuant to



which the Mortgagor is granted any forbearance or indulgence, as to time or amount, in the payment of any principal, interest or other sums due in accordance with the terms and provisions of the Approved Prior Encumbrance;

(d) Use its best efforts to obtain the agreement of the holder from time to time of any such Approved Prior Encumbrance and to send the Mortgagee copies of all notices; and

(e) Notify the Mortgagee promptly of the receipt of any notice given by the holder of any Approved Prior Encumbrance.

4.27 Estoppel Certificate. The Mortgagor shall at any time and from time to time, upon not less than fifteen (15) days prior written notice by the Mortgagee, execute, acknowledge and deliver without charge, to the Mortgagee or to any person designated by the Mortgagee, a statement in writing certifying that this Mortgage is unmodified (or if there have been modifications, identifying the same by the date thereof and specifying the nature thereof), that the Mortgagor has not received any notice of default or notice of acceleration or foreclosure of this Mortgage (or if the Mortgagor has received such a notice, that it has been revoked, if such be the case), that to the knowledge of the Mortgagor, no event of default exists hereunder (or if any such event of default does exist, specifying the same and stating that the same has been cured, if such be the case), and that the Mortgagor, to its knowledge, has no claims or offsets against the Mortgagee (or if the Mortgagor has any such claims, specifying the same).

4.28 Addresses for Notices. Any notice, report, demand or other instrument authorized or required to be given or furnished under this Mortgage to the Mortgagor or the Mortgagee shall be deemed given or furnished when delivered in accordance with the terms of the Loan Agreement.

4.29 Management. The Mortgagor covenants that at all times prior to the payment in full of the indebtedness evidenced by the Notes and other sums secured hereby, the Mortgaged Premises shall be managed by the Mortgagor or by a qualified property management company reasonably acceptable to Mortgagee.

4.30 Changes. Neither this Mortgage nor any term hereof may be changed, waived, discharged or terminated orally, nor by any action or inaction, but only by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought. Any agreement hereafter made by the Mortgagor and the Mortgagee relating to this Mortgage shall be superior to the rights of the holder of any intervening liens or encumbrances. If, at any time after the execution of this Mortgage, Mortgagee and Mortgagor discover that property which was intended to be included in this Mortgage was excluded, Mortgagor shall execute such amendments or modifications of this Mortgage as appropriate to convey to Mortgagee such excluded property and shall take all other steps reasonably requested by Mortgagee to effect the same.

4.31 Governing Law. This Mortgage is made by the Mortgagor and accepted by the Mortgagee in the State of Wisconsin, under the laws of such state, and shall be construed, interpreted, enforced and governed by and in accordance with the laws of such state.

4.32 No Waiver. No delay or omission of Mortgagee or of any holder of the Notes to exercise any right, power or remedy accruing upon any default hereunder shall exhaust or impair any such right, power or remedy and shall be construed to waive any such default or to constitute acquiescence therein. Every right, power, and remedy given to the Mortgagee may be exercised from time to time and as often as may be deemed expedient by the Mortgagee. No waiver of any default hereunder shall extend to or affect any subsequent or any other default then existing, or impair any rights, powers or remedies consequent thereon. The failure of the Mortgagee to exercise the option for acceleration of maturity following any default hereunder or to exercise any other option granted to the Mortgagee hereunder in any one or more instances, or the acceptance by Mortgagee of partial payments hereunder, shall not constitute a waiver of any such default, nor extend or affect the grace period, if any, but such option shall remain continuously in force. Acceleration of maturity, once claimed hereunder by Mortgagee, may, at the option of Mortgagee, be rescinded by written acknowledgment to that effect by the Mortgagee, but the tender and acceptance of partial payments alone shall not in any way affect or rescind such acceleration of maturity, nor extend or affect the grace period, if any.

4.33 Covenants Run with the Land. All the covenants hereof shall run with the land.

4.34 Time is of the Essence. Time is of the essence of this Mortgage and the waiver of the options, or obligations secured hereby, shall not at any time thereafter be held to be abandonment of such rights. Notice of the exercise of any option granted to the Mortgagee herein, or in the Notes secured hereby, is not required to be given.

4.35 Subrogation. As additional security for the indebtedness and all other sums secured hereby, Mortgagee shall be and is hereby subrogated to the lien of any mortgage, encumbrance or other lien, whether or not released of record, paid or discharged, in whole or in part, by the proceeds of the Notes.

4.36 Binding on Successors and Assigns. This Mortgage and all of the provisions hereof shall extend to and be binding upon Mortgagor and all persons claiming under or through Mortgagor, including, but not limited to, its successors and assigns, heirs, administrators or executors, and the word "Mortgagor," when used herein, shall include all such persons and all persons liable for the payment of the indebtedness or any part thereof, whether or not such persons shall have executed the Notes or this Mortgage, the Mortgagor named herein, and the maker of the Notes secured hereby, their successors and assigns. The word "Mortgagee," as used herein, shall include the successors and assigns of the Mortgagee named herein, and the holder or holders from time to time of the Notes secured hereby.

4.37 Business Purposes. The indebtedness secured by this Mortgage, and the proceeds of such indebtedness, are for business purposes only. The Realty is not homestead property.

4.38 Captions. The captions and headings of various paragraphs of this Mortgage are for convenience only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

4.39 Filing and Recording Fees. The Borrower will pay all filing, registration or recording fees, and all expenses incident to the execution and acknowledgment of this Mortgage and all federal, state, county and municipal taxes, and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Notes and this Mortgage, and this Mortgage shall be a lien for the security of such payments.

4.40 Waiver of Marshalling. The Borrower and any party who consents to this Mortgage and any party who now or hereafter acquires a lien on the Mortgaged Premises and who has actual or constructive notice of this Mortgage hereby waive any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

[SIGNATURE PAGE FOLLOWS]

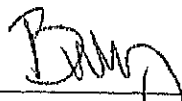
This Mortgage has been executed and delivered at Green Bay, Wisconsin, this 10th day of June, 2015.

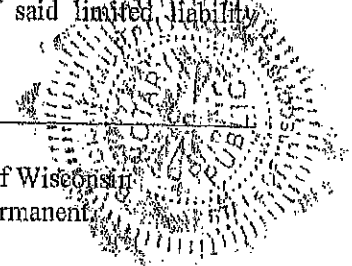
MORTGAGOR:  
SOUTHLAND CENTER INVESTORS, LLC

By:   
Larry L. Nifong, its Managing Member

STATE OF WISCONSIN :  
: SS.  
COUNTY OF BROWN :

Personally came before me this 10th day of June, 2015, the above-named Larry L. Nifong, Managing Member of Southland Center Investors, LLC, a Wisconsin limited liability company, to me known to be the person who executed the foregoing instrument, and to me known to be such Managing Member of said limited liability company, and acknowledged that he executed the foregoing instrument as such Managing Member as the deed of said limited liability company, by its authority.

  
Brick N. Murphy  
Notary Public, State of Wisconsin  
My Commission is permanent



**THIS INSTRUMENT DRAFTED BY  
AND UPON RECORDING RETURN TO:**  
Attorney Brick N. Murphy  
Law Firm of Conway, Olejniczak & Jerry, S.C.  
231 S. Adams Street  
P.O. Box 23200  
Green Bay, WI 54305-3200

2072247

**EXHIBIT A**  
**REAL ESTATE LEGAL DESCRIPTION**

**Parcel I:**

Site 3 of Certified Survey Map No. 1073 as recorded in the Office of the Register of Deeds for Racine County, Wisconsin on 05/07/1985 in Volume 3 of Certified Survey Maps on Page 180 as Document No. 1168310; said map being part of the SW ¼ of Section 24, and part of the SE ¼ of Section 23, Township 3 North, Range 22 East, in the Village of Mt. Pleasant, Racine County, Wisconsin, excepting therefrom that part described in Document No. 1752204.

**Parcel II:**

Easement for pedestrian and vehicular ingress and egress and driveway and parking easements as may be described in Volume 1752 Records Page 604 as Document No. 1169012, in Volume 1803 Records Page 330 as Document No. 1196578, and in Volume 1874 Records Page 607 as Document No. 1234886.

Tax Parcel No. 151-03-22-23-031-030

**EXHIBIT B**  
**PERMITTED ENCUMBRANCES**

1. Real Estate taxes, general and special, for the year 2015 and subsequent years.
2. Terms and conditions of Declaration of Easements and Covenants recorded in Volume 1752 Records Page 604 as Document No. 1169012. Amendment to Declaration of Easements and Covenants recorded in Volume 1803 Records Page 330 as Document No. 1196578. Second Amendment to Declaration of Easements and Covenants recorded in Volume 1874 Records Page 607 as Document No. 1234886.
3. Easement to Wisconsin Electric Power Company recorded in Volume 1766 Records Page 746 as Document no. 1176976. Partial Release of said easement recorded as Document No. 1763832.
4. Agreement recorded in Volume 2190 Records Page 477 as Document No. 1392354.
5. Easement recorded in Volume 1254 Records Page 291 as Document No. 952060.
6. Easement to Wisconsin Power Company recorded in Volume 1256 Records Page 251 as Document No. 952865.
7. Easements, setbacks, restrictions, reservations, and other matters, if any, as may be set forth in Volume 3 Certified Survey Maps on Page 180 as Document No. 1168310. Vacation of Easement Rights recorded on 07/15/201 as Document No. 2255513.
8. Ingress and Egress Limitations to and from State Trunk Highway 31 as determined by the State Highway Commission of Wisconsin designating said highway as a controlled access highway under provision of Section 84.25 of the Wisconsin Statutes.
9. Easement by and between Southland Center Investors, LLC and the Town of Mt. Pleasant recorded in Volume 3018 Records Page 894 as Document No. 1723230.
10. Easement by and between Southland Center Investors, LLC and the Town of Mt. Pleasant recorded in Volume 3022 Records Page 738 as Document No. 1724680.
11. Easement to Wisconsin Electric Power Company and Wisconsin Bell, Inc. d/b/a Ameritech-Wisconsin, recorded in Volume 3078 Records Page 691 as Document No. 1745080.
12. Memorandum of Lease by and between Southland Center Investors, LLC as Lessor and Barnes & Noble Booksellers, Inc. as Lessee dated 02/11/2000 and recorded on 03/10/2000 in Volume 3010 Records Page 763 as Document No. 1720075.
13. Memorandum of Lease by and between Southland Center Investors, LLC as Lessor and Dick's Sporting Goods. as Lessee dated 02/11/2000 and recorded on 03/10/2000 in Volume 3010 Records Page 752 as Document No. 1720073.
14. Memorandum of Lease Agreement wherein Southland Center Investors, LLC is Lessor and Best Buy Stores, LP is Lessee dated 03/15/2010 and recorded on 04/12/2010 as Document No. 2247154.
15. Matters as contained on ALTA/ACSM Land Title Survey prepared by Harris & Associates, Inc., dated June 5, 2015 as Project No. DS-9088A.

Document Number	ASSIGNMENT OF RENTS AND LEASES Title of Document
	<p>Document #: <b>2410177</b> Date: 06-17-2015 Time: 09:44:00 AM Pages: 10 Fee: \$30.00 County: RACINE State: WI Requesting Party: Dominion Title LLC Register of Deeds: TYSON FETTES RACINE COUNTY REGISTER OF DEEDS</p> <p>**The above recording information verifies this document has been electronically recorded and returned to the submitter.**</p>
	Recording Area
	<p>Name and Return Address Attorney Brick N. Murphy Law Firm of Conway, Olejniczak &amp; Jerry, S.C. 231 S. Adams Street P.O. Box 23200 Green Bay, WI 54305-3200</p>
	<p><u>See Attached.</u> Parcel Identification Number (PIN)</p>

### ASSIGNMENT OF RENTS AND LEASES

THE FOLLOWING meanings are hereby adopted by the undersigned for the following capitalized terms for purposes of this instrument:

- a. "Bank" shall mean **ASSOCIATED BANK, NATIONAL ASSOCIATION**, its successor and assigns.
- b. "Loan Agreement" shall mean the Term Loan Agreement entered into by Bank and Owner contemporaneously herewith.
- c. "Loan Amount" shall mean the aggregate amount of Eight Million Three Hundred Thirty-one Thousand and 00/100 Dollars (\$8,331,000.00), and any other amounts as Bank shall disburse to Owner under the Loan Agreement executed contemporaneously herewith.
- d. "Notes" shall collectively mean Term Note A (as defined in the Loan Agreement) and Term Note B (as defined in the Loan Agreement) which Owner has executed and delivered to Bank pursuant to the Loan Agreement.
- e. "Owner" shall mean **SOUTHLAND CENTER INVESTORS, LLC**.
- f. "State" shall mean the State of Wisconsin.

1. BY THIS ASSIGNMENT, the Owner, for value received, hereby assigns to the Bank all of Owner's right, title, privileges and interest which Owner has and may have in the leases, operating agreements, management agreements, concession agreements, licenses, and all similar agreements, and all rents, royalties, issues, profits, security deposits, income and other benefits now existing or hereafter made and affecting the real property and the improvements thereon described in Exhibit A attached hereto and incorporated herein by reference (collectively referred to as the "Property"), together with all extensions, renewals, modifications or replacements of said leases and agreements, and together with any and all guarantees of the obligations of the lessees and other obligors thereunder, whether now existing or hereafter executed, and all extensions and renewals of said guarantees. All said leases, including, but not limited to, the Barnes & Noble Lease (as defined in the Loan Agreement), the Best Buy Lease (as defined in the Loan Agreement) and the Dick's Sporting Goods Lease (as defined in the Loan Agreement), and all other said agreements described in this paragraph, together with any and all guarantees, modifications, extensions and renewals thereof are hereinafter collectively and severally referred to as the "Lease", and all said rents, royalties, issues, profits, security deposits, income and other benefits described in this Paragraph are hereinafter collectively and severally referred to as the "Rents and Profits".

2. OWNER'S PURPOSE in making this assignment is to induce Bank to make the loan in the Loan Amount to Owner by relinquishing to Bank its right to collect and enjoy the Rents and Profits at any time accrued or accruing by virtue of the Lease as additional security for the outstanding indebtedness to Bank as evidenced by the Notes dated this same date in the Loan



Amount executed by Owner, and as additional security for the Owner's obligations under the Mortgage (as defined in the Loan Agreement), executed contemporaneously herewith to further secure the Obligations (as defined in the Loan Agreement) and to furnish security for the performance of Owner's obligations contained herein. The Obligations and other said loan documents and all other documents executed in connection with this loans made under the Loan Agreement are referred to as the "Loan Documents".

3. THE PARTIES INTEND that this Assignment shall be a present, absolute and unconditional assignment and shall, immediately upon execution, give Bank the right to collect the Rents and Profits and to apply them in payment of the principal and interest and all other sums payable on Owner's Obligations, as well as all other sums payable under the Loan Documents. However, Bank hereby grants to Owner a license to collect, subject to the provisions set forth below and in the Loan Documents, the Rents and Profits as they respectively become due and to enforce the Lease, so long as there is no default by Owner in performance of the terms, covenants or provisions of the Obligations, the Loan Documents or this Assignment. Nothing contained herein, nor any collection of Rents and Profits by Bank or by a receiver, shall be construed to make Bank a "mortgagee-in-possession" of the Property so long as Bank has not itself entered into actual possession of the Property.

4. UPON THE OCCURRENCE AND CONTINUATION OF ANY DEFAULT under the terms and conditions of this Assignment or any of the Loan Documents, this Assignment shall constitute a direction to and full authority to any and all obligors under the Lease and any guarantor of the Lease to pay all Rents and Profits to Bank without proof of the default relied upon. Owner hereby irrevocably authorizes any and all obligors under the Lease and any guarantor to rely upon and comply with any notice or demand by Bank for the payment to Bank of any Rents and Profits due or to become due. Any and all obligors under the Lease and any guarantor shall have no right or duty to inquire whether a default has actually occurred and Owner shall have no claim against any obligor under the Lease or any guarantor for any Rents and Profits paid by such obligor, Lessee or such guarantor to Bank pursuant to Bank's demand or notice.

5. OWNER WARRANTIES:

- (a) that no default will exist on the part of Owner under any Lease;
- (b) that no rent or other payment will be collected under any Lease for more than one (1) month in advance of the date on which it is due under the terms of any Lease; and
- (c) that neither the Lease, nor any interest therein, will be assigned or pledged by Owner.

All the foregoing warranties shall be deemed to be reaffirmed on and as of the time of each Lease executed by Owner on the Property.

6. OWNER AGREES:

(a) if the Lease provides for a security deposit paid by lessee to Owner, this Assignment transfers to the Bank all of Owner's right, title and interest in and to the security deposit, provided that Owner shall have the right to retain said security deposit so long as Owner is not in default under this Assignment or the Loan Documents; and provided further that Bank shall have no obligation to any obligor under the Lease with respect to such security deposit unless and until Bank comes into actual possession and control of said deposit;

(b) before any Lease is executed on the Property a copy of the same shall be submitted to Lender for its approval. Owner shall provide executed originals and/or copies of all Leases to Bank within five (5) days of Bank's written demand;

(c) that the Lease shall remain in full force and effect despite any merger of the interest of Owner and any obligor under the Lease, and Owner shall not transfer or convey fee title to the Property to any obligor under the Lease without the prior written consent of Bank, and where such consent is given or where under applicable law the requirement for such consent is not enforceable, Owner shall require the said obligor under the Lease, in writing, to assume and agree to pay the Obligations in accordance with the terms, covenants and conditions of the Loan Documents; provided, however, that, in no event shall any such transfer or conveyance operate to release or relieve Owner of any liability to Bank unless Bank specifically agrees otherwise in writing;

(d) Owner shall not terminate the Lease or accept a surrender thereof without the prior written consent of Bank;

(e) Owner shall not collect any Rents and Profits more than one (1) month in advance of the date on which they become due under the terms of the Lease;

(f) Owner shall not discount any future accruing Rents and Profits without the prior written consent of Bank which shall not be unreasonably withheld or delayed;

(g) Owner shall not consent to assignment of the Lease, or subletting thereunder, whether or not in accordance with its terms without the prior written consent of Bank;

(h) Owner shall not execute any further assignment of any of the Rents and Profits or any interest therein or suffer or permit any such assignment to occur by operation of law;

(i) Owner shall not request, consent to, agree to, or accept a subordination of the Lease to any mortgage or other encumbrance, or any other lease, now or hereafter affecting the Property or any part thereof, or suffer or permit conversion of any Lease to a sublease;

(j) Owner shall faithfully perform and discharge its obligations under the Lease and shall not default thereunder, and shall give prompt written notice to Bank of any notice of Owner's default received from any obligor under the Lease or any other person and furnish Bank with a complete copy of said notice; Owner shall appear in and defend, at no cost to Bank, any action or

proceeding arising under or in any manner connected with the Lease; and if requested by Bank or as otherwise determined to be necessary by Owner and upon written notice to Bank, Owner shall enforce the Lease and all remedies available to Owner against any obligor under the Lease in the case of default under the Lease by any obligor under the Lease;

(k) Owner shall give Bank written notice immediately upon entering into any lease or other agreement respecting any part of the Property, and shall promptly provide to Bank a true and correct copy of the executed lease or other agreement; each such lease or agreement shall be deemed included in this Assignment automatically as though originally listed herein, and the term "Lease" as used herein shall include such lease or agreement;

(l) The Property shall at all times be managed by Owner (so long as no default exists under any of the Loan Documents) or Owner shall at all times contract to manage the Property through NIFONG REALTY, INC. or other qualified manager approved by Bank. The said management contract and all of the management, leasing, or other fees under such management contract shall be subordinate to the lien of the Loan Documents and collaterally assigned to Bank;

(m) Owner shall deliver to Bank, promptly upon written request, a duly executed estoppel certificate from any obligor under the Lease as required by Bank attesting that the Lease is in full force and effect with no defaults thereunder on the part of any party, that no rental has been paid more than one (1) month in advance, and that said obligor under the Lease claims no defense or offset against the full and timely performance of its obligations under the Lease; provided, however, if the Lease provides for a different form of estoppel or includes a time frame in which the obligor may respond to such a request, Owner shall only be required to deliver what is required under the Lease in the time frame specified under the Lease; and

(n) Nothing herein shall be construed to impose any liability or obligation on Bank under or with respect to the Lease (excepting any liability, loss or damage caused solely by the negligence, recklessness or intentional misconduct of Bank or any liability, loss or damage caused prior to the date of this Assignment); Owner shall indemnify and hold Bank harmless from and against any and all liabilities, losses and damages which Bank may incur under the Lease or by reason of this Assignment (excepting any liability, loss or damage caused solely by the negligence, recklessness or intentional misconduct of Bank or any liability, loss or damage caused prior to the date of this Assignment), and Owner shall within ten (10) days after written demand and provision of reasonable verification reimburse Bank for the amount thereof together with all costs and expenses and reasonable attorneys' fees incurred by Bank; all of the foregoing sums shall bear interest until paid at the rate set forth in the Notes; and any Rents and Profits collected by Bank may be applied by Bank in its discretion in satisfaction of any such liability, loss, damage, claim, demand, costs, expense or fees.

7. OWNER HEREBY GRANTS TO BANK THE FOLLOWING RIGHTS:

(a) Bank shall be deemed to be the creditor of any obligor under the Lease in respect of any assignments for the benefit of creditors and any bankruptcy, arrangement, reorganization, insolvency, dissolution, receivership or other debtor-relief proceedings affecting such obligor (without obligation on the part of Bank, however, to file timely claims in such proceedings or otherwise pursue creditor's rights therein);

(b) Bank shall have the right to assign Owner's right, title and interest in the Lease to any subsequent holder of the Notes or any participating interest therein or to any person acquiring title to all or any part of the Property through foreclosure or otherwise, and any subsequent assignee shall have all the rights and powers herein provided to Bank;

(c) Bank shall have the right (but not the obligation), upon any failure of Owner to perform any of its agreements hereunder, to take any action as Bank may deem reasonably necessary or appropriate to protect its security, including but not limited to appearing in any action or proceeding and performing any obligations of the lessor under any Lease, and Owner agrees to pay, within ten (10) days of written demand and provision of reasonable verification, all costs and expenses (including without limitation Bank's reasonable attorneys' fees) incurred by Bank in connection therewith, together with interest thereon at the default rate set forth in the Notes;

(d) upon default by Owner under any Lease, the Bank shall have the right, but not the obligation, to cure the same, upon failure of Owner to cure, and Bank shall have the right to add all costs necessary to cure such defaults, including Bank's reasonable attorney's fees, to the Obligations.

(e) upon the occurrence and continuation of any default by Owner under this Assignment or under the Loan Documents, and without notice to or consent of Owner, Bank shall have the following rights (none of which shall be construed to be obligations of the Bank):

(i) Bank shall have the right under this Assignment to use and possess, without rental or charge, all personal property of the Owner located on the Property and used in the operation or occupancy thereof. Bank shall have the right to apply any of the Rents and Profits to pay installments due for personal property rented or purchased on credit, insurance premiums on personal property, or other charges relating to personal property on the Property. However, this Assignment shall not make Bank responsible for the control, care, management or repair of the Property or any personal property or for the carrying out of any of the terms or provisions of the Lease; provided, however, that the Bank shall remain responsible for any acts of negligence, recklessness or intentional acts by the Bank;

(ii) Bank shall have the right to apply the Rents and Profits and any sums recovered by Bank hereunder to Owner's outstanding indebtedness to Bank secured hereby or by any of the Loan Documents, as well as to charges for taxes, insurance, improvements, maintenance and other items relating to the operation of the Property;

(iii) Bank shall have the right to take possession of the Property, manage and operate the Property and Owner's business thereon, and to take possession of and use all books of account and financial records of Owner and its property managers or representatives relating to the Property;

(iv) Bank shall have the right to execute new Leases of any part of the Property, including Leases that extend beyond the term of the Notes;

(v) Subject to applicable law and the terms of any Lease, Bank shall have the right to cancel or alter any existing Lease; and

(vi) Bank shall have the authority, as Owner's attorney-in-fact, such authority being coupled with an interest and irrevocable, to sign the name of Owner and to bind Owner on all papers and documents relating to the operation, leasing and maintenance of the Property.

All of the foregoing rights and remedies of Bank are cumulative, and Bank shall also have upon the occurrence and continuation of any such default all other rights and remedies provided under the Loan Documents or otherwise available at law or in equity or by statute.

8. This Assignment is intended to be supplementary to and not in substitution for or in derogation of any assignment of rents contained in the Loan Documents. Failure of the Bank to avail itself of any terms, covenants or conditions of this Assignment for any period of time or for any reason shall not constitute a waiver thereof.

9. Notwithstanding any future modification of the terms of the Loan Documents, this Assignment and the rights and benefits hereby assigned and granted shall continue in favor of Bank in accordance with the terms of this Assignment.

10. This Assignment shall be binding upon and inure to the benefit of the respective heirs, legal representatives, successors and assigns of the parties hereto (including without limitation, in the case of Bank, any third parties now or hereafter acquiring any interest in the Obligations or any part thereof, whether by virtue of assignment, participation or otherwise). The words "Owner", "Bank", "obligor under the Lease", and "guarantor", wherever used herein, shall include the persons and entities named herein or in the Lease or any guaranty and designated as such and their respective heirs, legal representatives, successors and assigns, provided that any action taken by the named Bank or any successor designated as such by an instrument recorded in the appropriate office of the county in which the Property is located referring to this Assignment shall be sufficient for all purposes notwithstanding that Bank may have theretofore assigned or participated any interest in the Obligations to a third party. All words and phrases shall be taken to include the singular or plural number, and the masculine, feminine, or neuter gender, as may fit the case.

11. Any change, amendment, modification, abridgement, cancellation, or discharge of this Assignment or any term or provision hereof shall be invalid without the written consent of Bank.

12. Upon payment to Bank of the full amount of all indebtedness and obligations secured hereby and by the Loan Documents, as evidenced by a recorded satisfaction or release of the Mortgage, this Assignment shall be void and of no further effect.

13. All notices given hereunder shall be given in the manner set forth in the Loan Agreement.

14. If any provision hereof is determined to be illegal or unenforceable for any reason, the remaining provisions hereof shall not be affected thereby.

15. This Assignment shall be governed by and construed in accordance with the laws of the State.

16. This Assignment is made by the Owner and accepted by the Bank in the State of Wisconsin, under the laws of such state, and shall be construed, interpreted, enforced and governed by and in accordance with the laws of such state. Any provision of this Assignment which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforcement of such remaining provisions. Any legal suit, action, or proceeding arising out of or based upon this Assignment or the transactions contemplated hereby (each an "Action") may be instituted in the United States District Court for the Eastern District of Wisconsin (Green Bay Branch) and the courts of the State of Wisconsin, Brown County (collectively and individually the "Specified Court"), and Owner irrevocably submits to the exclusive jurisdiction of the Specified Courts. Owner irrevocably and unconditionally waive any objection to venue of any Action in the Specified Courts and irrevocably and unconditionally waive and agree not to plead or claim that any Action in any Specified Courts has been brought in an inconvenient forum.

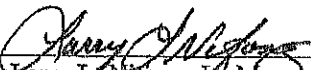
17. After consultation with counsel and recognizing that any dispute hereunder will be commercial in nature and complex, and in order to minimize the costs and time involved in any dispute resolution process, the undersigned knowingly, voluntarily, and intentionally waive any right to a trial by jury with respect to any litigation based upon this transaction or this instrument, or arising out of, under, or in connection with any of the other Loan Documents executed in connection with this transaction, or respecting any course of conduct, course of dealing, statement (whether verbal or written) or action of any party and acknowledge that this provision is a material inducement for entering into this loan transaction by all parties.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this instrument has been executed by the undersigned intending the same to be under seal on this 10th day of June, 2015.

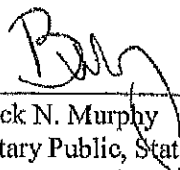
**OWNER: SOUTHLAND CENTER INVESTORS, LLC**

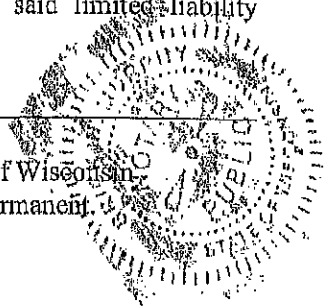
By:

  
Larry L. Nifong, Its Managing Member

STATE OF WISCONSIN :  
: SS.  
COUNTY OF BROWN :

Personally came before me this 10th day of June, 2015, the above-named Larry L. Nifong, Managing Member of Southland Center Investors, LLC, a Wisconsin limited liability company, to me known to be the person who executed the foregoing instrument, and to me known to be such Managing Member of said limited liability company, and acknowledged that he executed the foregoing instrument as such Managing Member as the deed of said limited liability company, by its authority.

  
Brick N. Murphy  
Notary Public, State of Wisconsin  
My Commission is permanent.



**THIS INSTRUMENT DRAFTED BY  
AND UPON RECORDING RETURN TO:**  
Attorney Brick N. Murphy  
Law Firm of Conway, Olejniczak & Jerry, S.C.  
231 S. Adams Street  
P.O. Box 23200  
Green Bay, WI 54305-3200

2072224

**EXHIBIT A**  
**REAL ESTATE LEGAL DESCRIPTION**

**Parcel I:**

Site 3 of Certified Survey Map No. 1073 as recorded in the Office of the Register of Deeds for Racine County, Wisconsin on 05/07/1985 in Volume 3 of Certified Survey Maps on Page 180 as Document No. 1168310; said map being part of the SW ¼ of Section 24, and part of the SE ¼ of Section 23, Township 3 North, Range 22 East, in the Village of Mt. Pleasant, Racine County, Wisconsin, excepting therefrom that part described in Document No. 1752204.

**Parcel II:**

Easement for pedestrian and vehicular ingress and egress and driveway and parking easements as may be described in Volume 1752 Records Page 604 as Document No. 1169012, in Volume 1803 Records Page 330 as Document No. 1196578, and in Volume 1874 Records Page 607 as Document No. 1234886.

Tax Parcel No. 151-03-22-23-031-030



Subordination, Non-Disturbance and  
Attornment Agreement

Document Number

Document Title

Document #: **2410178**

Date: 06-17-2015 Time: 09:44:00 AM Pages: 8

Fee: \$30.00 County: RACINE State: WI

Requesting Party: Dominion Title LLC

Register of Deeds: TYSON FETTES

RACINE COUNTY REGISTER OF DEEDS

\*The above recording information verifies  
this document has been electronically  
recorded and returned to the submitter\*\*

Recording Area

Name and Return Address

See attached

SEE ATTACHED

Parcel Identification Number (PIN)

This information must be completed by submitter: document title, name & return address, and PIN (if required). Other information such as the granting  
clauses, legal description, etc., may be placed on this first page of the document or may be placed on additional pages of the document. USE BLACK INK.  
WRDA Rev. 7/2/2010

RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:  
Attorney Brick N. Murphy  
Law Firm of Conway, Olejniczak & Jerry, S.C.  
P.O. Box 23200  
Green Bay, WI 54305-3200

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS AGREEMENT is entered into as of the 10<sup>th</sup> day of June, 2015, between ASSOCIATED BANK, NATIONAL ASSOCIATION, a national banking association with a place of business at 200 N Adam Street, Green Bay, WI 54301 ("Lender"), SOUTHLAND CENTER INVESTORS, LLC, a Wisconsin limited liability company, having an office at 2181 S. Oneida Street, Green Bay, Wisconsin 54304 ("Landlord"), and BARNES & NOBLE BOOKSELLERS, INC., a Delaware corporation, having an office at 122 Fifth Avenue, New York, New York 10011 ("Tenant").

Recitals

A. Lender has made or will make a loan to Landlord in the original principal amount of \$8,466,000.00 (the "Loan").

B. Lender is the holder of a mortgage or deed of trust securing the Loan (the "Mortgage") covering that certain parcel of land owned by Landlord and described on Exhibit "A" attached hereto and made a part hereof, together with the improvements erected thereon, commonly known as "Southland Center" (the "Shopping Center").

C. By a certain Lease entered into between Landlord and Tenant, February 11, 2000, as amended by that certain First Amendment to Lease dated November 17, 2009, and as amended by that certain Second Amendment to Lease dated April 28, 2015 (as amended, the "Lease"), Landlord leased to Tenant certain premises in the Village of Mount Pleasant, Racine County, Wisconsin, as outlined on Exhibit B attached hereto and made a part hereof (the "Leased Premises"), which Leased Premises are more particularly described in the Lease.

D. A copy of the Lease has been delivered to Lender, the receipt of which is hereby acknowledged.

E. The parties hereto desire to effect the subordination of the Lease to the Mortgage and to provide for the non-disturbance of Tenant by the holder of the Mortgage or any purchaser under a foreclosure or deed in lieu thereof.

Agreement

In consideration of the Premises and the mutual covenants and agreements herein contained, the parties hereto agree as follows:

1. Lender hereby consents to and approves the Lease and all of the terms and conditions thereof.

2. Landlord hereby warrants and represents to Tenant and Lender that the real property described on Exhibit "A" attached hereto is the same real property described as comprising the "Shopping Center" as set forth in the Lease.

3. Tenant covenants and agrees with Lender that the Lease is hereby made and shall continue hereafter to be subject and subordinate to the lien of the Mortgage, and to all modifications and extensions thereof, with the same force and effect as if the Mortgage had been executed and delivered prior to the execution and delivery of the Lease and without regard to the order of priority of recording the Mortgage, subject, however, to the provisions of this Agreement.

4. Landlord and Tenant certify that the Lease is presently in full force and effect and unmodified and neither such party as of this date has knowledge of any default, charge, lien or claim of offset under the Lease.

5. Lender agrees that, so long as Tenant is not in default (beyond the expiration of any applicable cure period) under the Lease:

(a) Tenant shall not be named or joined as a party or otherwise in any suit, action or proceeding for foreclosure by the Lender or to enforce any rights under the Mortgage or the Loan.

(b) The possession by Tenant of the Premises and Tenant's rights under the Lease shall not be disturbed, affected or impaired by (i) any suit, action or proceeding under the Mortgage or the Loan or for foreclosure under the Mortgage, or any other enforcement of any rights under the Mortgage or any other documents pertaining to the Loan, (ii) any judicial or non-judicial foreclosure, sale or execution of the Premises or the Shopping Center, or any deed given in lieu of foreclosure, or (iii) any default under the Mortgage or the Loan.

(c) All condemnation awards and insurance proceeds paid or payable with respect to the Premises or any other part of the Shopping Center and received by Lender shall be applied and paid in the manner set forth in the Lease.

(d) Neither the Mortgage nor any other security instrument executed in connection with the Loan shall cover or be construed as subjecting in any manner to the lien thereof any trade fixtures, signs or other personal property at any time furnished or installed by or for Tenant in or on the Premises.

6. If Lender or any future holder of the Mortgage or any other transferee under the Mortgage shall become the owner of the Shopping Center or any part thereof by reason of foreclosure of the Mortgage, or if the Shopping Center or any part thereof shall be sold as a result of any action or proceeding to foreclose the Mortgage, or by transfer of ownership by deed given in lieu of foreclosure, the Lease shall continue in full force and effect, without necessity for executing any new lease, as a direct lease between Tenant and the then owner of the Shopping Center as "Landlord" under the Lease, upon all of the same terms, covenants and provisions contained in the Lease, and in such event:

(a) Tenant shall be bound to such new owner under all of the terms, covenants and provisions of the Lease for the remainder of the term thereof (including also any extension periods, if Tenant elects or has elected to exercise its option to extend the term) and Tenant hereby agrees to attorn to such new owner and to recognize such new owner as "Landlord" under the Lease; and

(b) Such new owner shall be bound to Tenant under and hereby assumes all of the terms, covenants and provisions of the Lease for the remainder of the term thereof (including also any extension periods, if Tenant elects or has elected to exercise its option to extend the term), and Tenant shall, from and after the date such new owner succeeds to the interest of "Landlord" under the Lease, have the same remedies against such new owner for the breach of any covenant contained in the Lease; provided, however, that such new owner shall not (i) be bound by any rent or additional rent which Tenant might have paid for more than one month in advance to any prior landlord (including Landlord), except as otherwise expressly required by the terms of the Lease, or (ii) be personally liable for any breach of the Lease by or other act or omission of any prior landlord (including Landlord) or (iii) be bound by any amendment or modification of the Lease made without Lender's consent which would reduce fixed annual rent or any other monetary obligation of Tenant under the Lease.

7. Any notices or communications given under this Agreement shall be in writing and shall be deemed given on the earlier of actual receipt or three (3) days after deposit in the U.S. Mail, by registered or certified mail, return receipt requested, postage prepaid, at the respective addresses set forth above, or at such other address as the party entitled to notice may designate by written notice as provided herein.

8. This Agreement shall bind and inure to the benefit the parties hereto and their respective successors and assigns.

9. This Agreement contains the entire agreement between the parties and cannot be changed, modified, waived or cancelled except by an agreement in writing executed by the parties against whom enforcement of such modification, change, waiver or cancellation is sought.

10. This Agreement and the covenants contained herein shall run with and shall bind the land on which the Shopping Center is located.

**EXECUTED** as of the date first written above.

[Signatures on following page.]

LENDER:

ASSOCIATED BANK, NATIONAL ASSOCIATION

By: Tim Jorgensen  
Name: Tim Jorgensen  
Title: Senior Vice President

LANDLORD:

SOUTHLAND CENTER INVESTORS, LLC

By: Larry L. Nifong  
Name: Larry L. Nifong, its Managing Member

TENANT:

BARNES & NOBLE BOOKSELLERS, INC.

By: Jean Rouda  
Name: Jean Rouda  
Title: Director of Lease Administration

STATE OF WISCONSIN §

COUNTY OF BROWN §

The foregoing instrument was acknowledged before me this 10 day of June, 2015, by Tim Jorgensen, Senior Vice President of ASSOCIATED BANK, NATIONAL ASSOCIATION, a national banking association, on behalf of such banking association.

STEPHANIE A. KABAT  
Notary Public, State Of Wisconsin

[Signature]  
Notary Public in and for the State of WI  
Stephanie A. Kabat  
My Commission Expires: 4/26/17

STATE OF WISCONSIN §

COUNTY OF BROWN §

The foregoing instrument was acknowledged before me this 10 day of June, 2015, by Larry L. Nifong, Managing Member of Southland Center Investors, LLC, a Wisconsin limited liability company, on behalf of such company.

STEPHANIE A. KABAT  
Notary Public, State Of Wisconsin

[Signature]  
Notary Public in and for the State of WI  
Stephanie A. Kabat  
My Commission Expires: 4/26/17

STATE OF NEW YORK §

COUNTY OF NEW YORK §

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of June, 2015, by Jean Rouda, Director of Lease Administration of Barnes & Noble Booksellers, Inc., a Delaware corporation, on behalf of such corporation.

[Signature]  
Notary Public in and for the State of New York  
Richard Figueroa  
My Commission Expires: 2/5/18

RICHARD FIGUEROA  
Notary Public, State of New York  
No. 01F14981746  
Qualified in New York County  
Commission Expires February 5, 2018



EXHIBIT A

LEGAL DESCRIPTION OF SHOPPING CENTER

SITE 3 OF CERTIFIED SURVEY MAP NO. 1073 AS RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS FOR RACINE COUNTY, WISCONSIN ON MAY 7, 1985 IN VOLUME 3 OF CERTIFIED SURVEY MAPS, ON PAGE 180, AS DOCUMENT NO. 1168310, BEING PART OF THE SOUTHWEST 1/4 OF SECTION 24, AND PART OF THE SOUTHEAST 1/4 OF SECTION 23, IN TOWNSHIP 3 NORTH, RANGE 22 EAST, IN THE ~~TOWN~~ <sup>Village</sup> OF MT. PLEASANT, RACINE COUNTY, WISCONSIN.

Tax Parcel No. 151-03-22-23-031-030





Subordination, Non-Disturbance and  
Attornment Agreement

Document Number

Document Title

Document #: **2410179**

Date: 06-17-2015 Time: 09:44:00 AM Pages: 10

Fee: \$30.00 County: RACINE State: WI

Requesting Party: Dominion Title LLC

Register of Deeds: TYSON FETTES

RACINE COUNTY REGISTER OF DEEDS

\*The above recording information verifies  
this document has been electronically  
recorded and returned to the submitter\*\*

Recording Area

Name and Return Address

See attached

SEE ATTACHED

Parcel Identification Number (PIN)

This information must be completed by submitter: document title, name & return address, and PIN (if required). Other information such as the granting  
clauses, legal description, etc., may be placed on this first page of the document or may be placed on additional pages of the document. USE BLACK INK.  
WRDA Rev. 7/2/2010

**SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT**

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "**Agreement**"), is made as of the 10<sup>th</sup> day of June, 2015, by and among **SOUTHLAND CENTER INVESTORS, LLC**, a Wisconsin limited liability company, having a mailing address at 2131 S. Webster Avenue, Suite 201, Green Bay, WI 54301 ("**Landlord**"), **ASSOCIATED BANK, NATIONAL ASSOCIATION**, having a mailing address at P.O. Box 19006, Green Bay, WI 54307 ("**Lender**") and **DICK'S SPORTING GOODS, INC.**, a Delaware corporation, having a mailing address at 345 Court Street, Coraopolis, Pennsylvania 15108 ("**Tenant**"). Landlord, Lender and Tenant are sometimes hereinafter referred to as the "**Party(ies)**".

**RECITALS:**

Lender is the holder of a mortgage (said mortgage, together with all amendments, substitutions, replacements and renewals thereto from time to time, collectively the "**Mortgage**") covering a parcel of land owned by Landlord together with the improvements erected thereon (said parcel of land and improvements thereon being hereinafter referred to as the "**Shopping Center**" and being more particularly described on **Exhibit A** attached hereto and made a part hereof);

Landlord and Tenant entered into that certain lease dated February 11, 2000 (said lease, together with all amendments, substitutions, replacements and renewals thereto from time to time, collectively the "**Lease**"), pursuant to which Landlord leased to Tenant a portion of the Shopping Center more particularly described in the Lease (the "**Demised Premises**");

Lender received a copy of the Lease and hereby acknowledges such receipt;

Article XV of the Lease provides that the Lease shall become subject and subordinate to a mortgage encumbering the fee interest of Landlord in and to the Shopping Center if and when a non-disturbance agreement is entered into with respect to such mortgage; and

The Parties desire to effect the subordination of the Lease to the Mortgage and to provide for the non-disturbance of Tenant.

**AGREEMENTS:**

In consideration of the foregoing Recitals, the mutual covenants, agreements and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. **LEASE CONSENT.** Lender consents to and approves the Lease and the term, including the options to extend as set forth in the Lease, and covenants and agrees that the exercise by Tenant of any of the rights, remedies and options in the Lease shall not constitute a default under this Agreement or the Mortgage.

2. **SUBORDINATION.** Tenant agrees that, subject to the terms of this Agreement, the Lease is made, and shall continue hereafter, to be subordinate to the lien of the Mortgage, as the same may be modified from time-to-time; provided, however, no such modification shall diminish Tenant's rights or increase Tenant's obligations under the Lease or this Agreement. The subordination of the Lease shall be conditioned and contingent upon Section 3 of this Agreement.

3. **NON-DISTURBANCE.** Lender agrees that so long as the Lease shall be in full force and effect, and so long as Tenant shall not be in default under the Lease beyond any applicable notice and cure period:

(a) Tenant shall not be named or joined as a party or otherwise in any suit, action or proceeding for the foreclosure of the Mortgage or to enforce any rights under the Mortgage, the bond, note or other obligation secured thereby, except to the extent required by applicable law;

(b) The possession by Tenant of the Demised Premises or the Shopping Center and Tenant's rights thereto shall not be disturbed, affected or impaired, nor will the Lease or the term thereof, including any extensions or renewals thereof if Tenant elects or has elected to exercise its options to extend the term ("**Lease Term**") be terminated or otherwise affected in any manner, including, without limitation, by:

(i) any suit, action or proceeding brought upon the Mortgage, bond, note or other obligation secured thereby, or for the foreclosure of the Mortgage or the exercise or enforcement of any rights of Lender under the Mortgage, any other documents or as a matter of law or equity, including, without limitation, bankruptcy law, or by any judicial sale, execution, or other sale or conveyance of the Demised Premises or the Shopping Center by Landlord or its successor in interest or title after foreclosure, or any deed given to Lender, whether in lieu of foreclosure or otherwise, (all of the foregoing collectively, "**Sale or Proceeding**") or

(ii) any default under the Mortgage, bond, note or other obligation secured thereby.

(c) All condemnation awards and insurance proceeds paid or payable with respect to the Demised Premises or any other part of the Shopping Center shall be applied and paid in the manner set forth in the Lease.

4. **ATTORNNMENT.** If Lender shall become the mortgagee in possession, or if Lender or any purchaser or transferee shall succeed to the interests of Landlord under the Lease or become the owner of or acquire the right to possession of the Demised Premises or the Shopping Center by reason of any Sale or Proceeding, then in any such event, the Lease shall continue in full force and effect, without the necessity of executing any new lease, as a direct lease between Tenant and the then owner, successor in interest or title of the Demised Premises or the Shopping Center, or Lease, as "landlord", upon all of the same terms and conditions contained in the Lease and this Agreement, and in such event:

(a) Tenant shall be bound to Lender under all of the terms and conditions of the Lease for the remainder of the Lease Term and Tenant hereby agrees to attorn and to

recognize Lender as "landlord" under the Lease, such attornment to be effective and self-operative without the execution of any further instrument;

(b) Notwithstanding anything to the contrary contained herein, Tenant will be under no obligation to pay Rent to Lender until Tenant receives written notice from Lender that Lender has succeeded to the interest of "landlord" under the Lease;

(c) The respective rights and obligations of Tenant and Lender upon such attornment will, to the extent of the then remaining balance of the Lease Term, shall be the same as now set forth therein, it being the intention of the Parties hereto for this purpose to incorporate the Lease in this Agreement by reference with the same force and effect as if set forth at length herein; and

(d) Lender shall be bound to Tenant under all of the terms and conditions of the Lease for the remainder of the Lease Term, which Lender hereby agrees to assume and perform and Tenant shall, from and after the date Lender succeeds to the interest of "landlord" under the Lease, have the same remedies against Lender for the breach of any terms and conditions contained in the Lease that Tenant might have had under the Lease against Landlord if Lender had not succeeded to the interest of "landlord"; provided, however, that Lender shall not be:

(i) liable for any act or omission of any prior landlord (including Landlord) unless such act or omission continues from and after the date upon which Lender succeeds to the interest of Landlord or during a period of time, which Lender is receiving Rent from Tenant;

(ii) subject to any defenses which Tenant may have against any prior landlord (including Landlord) unless resulting from any default or breach by such prior landlord or Landlord which continues from and after the date upon which Lender succeeds to the interest of Landlord or during a period of time which Lender is receiving Rent from Tenant;

(iii) subject to any offsets which Tenant may have against any prior landlord (including Landlord), except to the extent that (i) such offsets are expressly provided for under the Lease and Lender has received notice thereof as provided in Section 6 below, whether or not Lender elected to cure or remedy the act or omission or (ii) such offsets were deducted by Tenant prior to the date upon which Lender succeeds to the interest of Landlord;

(iv) bound by any Rent which Tenant might have paid for more than one month in advance of its due date under the Lease to any prior landlord (including Landlord), (A) except for credits due Tenant pursuant to any monthly payments paid in advance (such as, for example, CAM, insurance or real estate taxes), or (B) unless such Rent is paid in accordance with the applicable provisions of the Lease; or

(v) bound by any previous amendment or modification of the Lease made without its consent to the extent such amendment or modification materially decreases the rent payable by Tenant or materially increases Landlord's obligations; provided, however, notwithstanding the foregoing, no consent of Lender shall be required for any amendment or

modification that relates to an amendment or modification specifically provided for in the Lease (such as an amendment to the Lease confirming the measurement of the Demised Premises).

(e) Tenant's obligations hereunder shall be effective only so long as Lender is bound to Lender's obligations hereunder.

5. **ASSIGNMENT OF RENTS.** If Lender enforces any assignment of rents clause contained in the Mortgage or in any other instrument securing the loan, Landlord hereby irrevocably authorizes Tenant to make Rent and any other payments due under the Lease to Lender upon demand of and notice to Tenant and without any duty of inquiry and Tenant shall be credited and discharged under the Lease for any such payments. Lender and Landlord will indemnify and hold Tenant harmless from any claims arising out of Tenant's paying Rent due under the Lease, to Lender or by complying with the assignment of rents clause or similar right.

6. **DEFAULT NOTICE TO LENDER.** Tenant will notify Lender simultaneously with notice to Landlord of any default by Landlord, which would give Tenant the right to terminate the Lease or to abate or reduce Rent payable thereunder. However, failure to give notice to Lender shall in no way whatsoever alter or affect Tenant's rights and remedies for any defaults by Landlord and shall not subject Tenant to any claims by Lender. Tenant agrees that Lender shall have the right to cure Landlord's default. However, notwithstanding anything herein to the contrary, Lender shall have no greater period of time than that given to Landlord under the Lease to cure such default.

7. **TENANT'S PROPERTY.** Neither the Mortgage nor any other security instrument executed in connection therewith shall encumber or be construed as subjecting in any manner to the lien thereof, any trade fixtures, signs or other personal property at any time furnished or installed by or for Tenant or its subtenants or licensees at the Demised Premises or the Shopping Center regardless of the manner or mode of attachment thereof.

8. **NOTICES.** Any notices of communications given under this Agreement shall be in writing and shall be given by registered or certified mail, return receipt requested, postage prepaid, or by Federal Express, Airborne or other overnight courier service, addressed as follows, or such other address or persons as any Party may designate by notice in the manner set forth herein:

(a) if to Lender, at the address of Lender as hereinabove set forth with duplicate copies to \_\_\_\_\_,

(b) if to Landlord, at the address of Landlord as hereinabove set forth with duplicate copies to \_\_\_\_\_,

(c) if to Tenant, at the address of Tenant as hereinabove set forth, with a duplicate copy to Legal Department, Dick's Sporting Goods, Inc., 345 Court Street, Coraopolis, PA 15108.

(d) All notices given in accordance with the provisions of this Section shall be effective upon receipt (or refusal of receipt) at the address of the addressee.

9. **BINDING EFFECT.** This Agreement shall inure to the benefit of and be binding upon and enforceable by the Parties hereto, any sublessees, licensees and any purchaser of the Demised Premises and/or of the Shopping Center and any of their respective heirs, executors, personal representatives, successors and assigns. The term "**Lender**" as used herein shall be deemed to include Lender, any holders of the Mortgage, including but not limited to any person or entity who shall succeed to Landlord's or Lender's title or interest by any Sale or Proceeding, and any of their respective heirs, executors, representatives, successors and assigns.
10. **ENTIRE AGREEMENT.** This Agreement contains the entire agreement between the Parties superceding any prior agreements and representations of the Parties with respect to the subject matter herein, and cannot be changed, modified, waived or canceled except by an agreement in writing executed by the Party against whom enforcement of such modification, change, waiver or cancellation is sought.
11. **EFFECTIVE DATE.** The effective date of this Agreement will be the date of execution by the last Party to sign this Agreement provided an executed copy of this Agreement is thereafter delivered to all other Parties to this Agreement.
12. **RECORDING.** This Agreement shall be recorded in the public records of the county(ies) in which the Demised Premises and the Shopping Center are located. This Agreement, the Lease and all the terms, covenants, conditions and restrictions herein contained are intended to run and shall run with and bind all lands, the Demised Premises and the Shopping Center (including the improvements thereon) affected hereby.
13. **SEVERABILITY.** In the event any term or provision of this Agreement shall be declared invalid, void or unenforceable it shall not affect the validity of any other term and provision hereof, all which shall remain valid, binding and enforceable.
14. **COUNTERPARTS.** This Agreement may be signed in counterparts, each of which shall be deemed an original and all of which together shall constitute one document.
15. **INTERPRETATION.** Captions and headings of sections shall not be deemed to affect the meaning of any provisions of this Agreement. Capitalized terms used herein and not defined herein shall have the meaning set forth in the Lease.

**NOTE: THIS AGREEMENT BY TENANT SHALL NOT BE EFFECTIVE UNLESS AND UNTIL ANY PRIOR MORTGAGES ON THE DEMISED PREMISES OR SHOPPING CENTER HAVE BEEN SATISFIED SO THAT TENANT'S PRIOR AGREEMENTS TO ATTORN TO SAID MORTGAGES AND/OR TO SUBORDINATE ITS LEASE TO SAID MORTGAGES SHALL HAVE BEEN EXTINGUISHED.**

[SIGNATURES ON FOLLOWING PAGE]

Racine, WI  
Store #131

IN WITNESS WHEREOF, the Parties have executed this Subordination, Non-Disturbance and Attornment Agreement as of the date set forth above.

WITNESSES:

LANDLORD:  
SOUTHLAND CENTER INVESTORS,  
LLC,  
a Wisconsin limited liability company

BANK  
Name: Debra N. Murphy  
DR  
Name: Doreen J. Holzem

By: Larry L. Nifong  
Name: LARRY L. NIFONG  
Title: MANAGING MEMBER

WITNESSES:

LENDER:  
ASSOCIATED BANK, NATIONAL  
ASSOCIATION

BANK  
Name: Bill Murphy  
DR  
Name: Doreen J. Holzem

By: Tim Jorgensen  
Name: Tim Jorgensen  
Title: Senior Vice President

WITNESSES:

TENANT:  
DICK'S SPORTING GOODS, INC.  
a Delaware corporation

AD  
Name: Amy C. Smith  
Elizabeth A. Bean  
Name: Elizabeth A. Bean

By: Joseph R. Oliver  
Name: Joseph R. Oliver  
Title: SVP/CAO

msl

STATE OF Wisconsin )  
COUNTY OF Brown ) SS:

On this 10 day of June, 2015 before me personally came  
Larry L. Wifong, to me personally known, who, being by me duly sworn,  
did depose and say that (s)he resides in Brown Co., WI, that (s)he is  
Manag. Memb. of Southland Center Investments LLC described in and that executed the  
within instrument, and (s)he acknowledged to me that having been duly authorized to do so, (s)he  
executed the same on behalf of and in the name of said landlord

Witness my hand and Notarial Seal this 10 day of June, 2015

STEPHANIE A. KABAT  
Notary Public, State Of Wisconsin

[Signature]  
Notary Public

Stephanie A. Kabat  
(Printed Name)

My Commission Expires: 4/21/17  
My County of Residence: Brown

STATE OF Wisconsin )  
COUNTY OF Brown ) SS:

On this 10 day of June, 2015 before me personally came  
Tim Jorgensen, to me personally known, who, being by me duly sworn,  
did depose and say that (s)he resides in Brown Co., WI, that (s)he is  
Sr VP of Associated Bank Lender described in and that executed the  
within instrument, and (s)he acknowledged to me that having been duly authorized to do so, (s)he  
executed the same on behalf of and in the name of said lender.

Witness my hand and Notarial Seal this 10 day of June, 2015

STEPHANIE A. KABAT  
Notary Public, State Of Wisconsin

[Signature]  
Notary Public

Stephanie A. Kabat  
(Printed Name)

My Commission Expires: 4/21/17  
My County of Residence: Brown



Racine, WI  
Store #131

COMMONWEALTH OF PENNSYLVANIA )  
 ) SS:  
COUNTY OF ALLEGHENY )

On this 8 day of June, 2015, before me personally came Joseph R. Oliver,  
SVP & CAO, to me personally known, who, being by me duly sworn, did depose  
and say that he resides in Pittsburgh, Pennsylvania that he is SVP & CAO of Dick's  
Sporting Goods, Inc., the corporation described in and that executed the within instrument, and he  
acknowledged to me that having been duly authorized to do so, he executed the same on behalf of  
and in the name of said corporation.

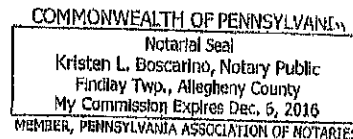
Witness my hand and Notarial Seal this 8 day of June, 2015.

Kristen L. Boscarino  
Notary Public  
Kristen L. Boscarino  
(Printed Name)

My Commission Expires: 12/6/16  
My County of Residence: Allegheny

This instrument prepared by:

Matthew Irvin, Esq.  
Dick's Sporting Goods, Inc  
345 Court Street  
Coraopolis, PA 15108



After recording, return to:

Attn: Legal Department  
Dick's Sporting Goods, Inc.  
345 Court Street  
Coraopolis, PA 15108

**Exhibit A**  
**Legal Description**

**Parcel I:**

Site 3 of Certified Survey Map No. 1073 as recorded in the Office of the Register of Deeds for Racine County, Wisconsin on 05/07/1985 in Volume 3 of Certified Survey Maps on Page 180 as Document No. 1168310; said map being part of the SW ¼ of Section 24, and part of the SE ¼ of Section 23, Township 3 North, Range 22 East, in the Village of Mt. Pleasant, Racine County, Wisconsin, excepting therefrom that part described in Document No. 1752204.

**Parcel II:**

Easement for pedestrian and vehicular ingress and egress and driveway and parking easements as may be described in Volume 1752 Records Page 604 as Document No. 1169012, in Volume 1803 Records Page 330 as Document No. 1196578, and in Volume 1874 Records Page 607 as Document No. 1234886.

Property Address: 2710 S. Green Bay Road, Racine, WI 53406 (for informational purposes only)

Tax Parcel No. 151-03-22-23-031-030

Subordination, Non-Disturbance and  
Attornment Agreement

Document Number

Document Title

Document #: **2410180**

Date: 06-17-2015 Time: 09:44:00 AM Pages: 10

Fee: \$30.00 County: RACINE State: WI

Requesting Party: Dominion Title LLC

Register of Deeds: TYSON FETTES

RACINE COUNTY REGISTER OF DEEDS

\*The above recording information verifies  
this document has been electronically  
recorded and returned to the submitter\*\*

Recording Area

Name and Return Address  
See attached

**SEE ATTACHED**

Parcel Identification Number (PIN)

This information must be completed by submitter: document title, name & return address, and PIN (if required). Other information such as the granting clauses, legal description, etc., may be placed on this first page of the document or may be placed on additional pages of the document. USE BLACK INK.  
WRDA Rev. 7/2/2010

**WHEN RECORDED RETURN TO:**

Law Firm of Conway, Olejniczak & Jerry, S.C.  
231 Adams Street  
PO Box 23200  
Green Bay, WI 54305-3200  
Attention: Brick N. Murphy

Best Buy #29

**SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT**

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (the "Agreement") is made as of the 10<sup>th</sup> day of June, 2015 by and between ASSOCIATED BANK, NATIONAL ASSOCIATION, a national banking association ("Lender"), BEST BUY STORES, L.P., a Virginia limited partnership ("Tenant"), and SOUTHLAND CENTER INVESTORS, LLC, a Wisconsin limited liability company ("Landlord").

**RECITALS:**

A. Lender is the present owner and holder of a certain mortgage, deed of trust, deed to secure debt or similar security agreement dated June 10, 2015, given by Landlord to Lender (the "Security Instrument") which encumbers the fee estate of Landlord in certain premises described in Exhibit A attached hereto (the "Property") and which secures the payment of certain indebtedness owed by Landlord to Lender evidenced by a certain promissory note, dated June 10, 2015, given by Landlord to Lender (the "Note"); and

B. Tenant is the holder of a leasehold estate in a portion of the Property pursuant to the provisions of a certain lease dated August 12, 2009 by and between Landlord and Tenant (the "Lease"); and

C. Tenant has agreed to subordinate the Lease to the Security Instrument and to the lien thereof and Lender has agreed to grant non-disturbance to Tenant under the Lease on the terms and conditions hereinafter set forth.

## AGREEMENT:

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. Subordination. Provided that the proceeds of any insurance recovery or condemnation award shall be used for the purposes stated in the Lease, Tenant agrees that the Lease, as the same may hereafter be modified, amended or extended, and all of the terms, covenants and provisions thereof and all rights, remedies and options of Tenant thereunder are and shall at all times continue to be subject and subordinate in all respects to the Security Instrument and the lien thereof, including without limitation all renewals, increases, modifications, consolidations and extensions thereof.

2. Non-Disturbance. So long as Tenant is not in default under the Lease beyond any applicable notice and cure periods, Lender agrees for itself and its successors in interest and for any purchaser of the Property upon a foreclosure of the Security Instrument for the foreclosure of the Security Instrument or the sale of the Property, Tenant shall not be named as a party therein unless such joinder shall be required by law, provided, however, such joinder shall not result in the termination of the Lease or disturb the Tenant's possession, quiet enjoyment or use of the premises demised thereunder, and the sale of the Property in any such action or proceeding and the exercise by Lender of any of its other rights under the Security Instrument shall be made subject to all rights of Tenant under the Lease. For purposes of this Agreement, a "foreclosure" shall include (but not be limited to) a sheriff's or trustee's sale under the power of sale contained in the Security Instrument, and any other transfer of the Landlord's interest in the Property under peril of foreclosure, including, without limitation to the generality of the foregoing, an assignment or sale in lieu of foreclosure.

3. Attornment. After its receipt of notice from Lender or any person or entity which acquires the Property through a foreclosure (an "Acquiring Party") of the completion of a foreclosure under the Security Instrument or that Lender or Acquiring Party has received a conveyance of the Property in lieu of foreclosure or otherwise obtained the right to possession of the Property, Tenant will be considered to have attorned to and recognized Lender or Acquiring Party as its substitute landlord under the Lease, and Tenant's possession, quiet enjoyment and use of the Property will not be disturbed. The foregoing provision will be self-operative, and will not require the execution of any further instrument or agreement by Tenant to effectuate the attornment and recognition. The attornment and recognition of a substitute landlord will be upon all of the terms set forth in the Lease.

4. No Liability. Lender and Tenant agree that if Lender or any Acquiring Party shall become the owner of the Property by reason of the foreclosure of the Security Instrument or the acceptance of a deed or assignment in lieu of foreclosure or otherwise, the Lease shall not be terminated or affected thereby but shall continue in full force and effect as a direct lease between Lender or any Acquiring Party and Tenant upon all of the terms, covenants and conditions set forth in the Lease and in that event, Tenant agrees to attorn to Lender or Acquiring Party and Lender or Acquiring Party agree to accept such attornment, provided, however, that Lender or Acquiring Party shall not be:

(a) liable for any act or omission of any prior landlord (including Landlord), unless Lender has been given written notice thereof and the same time to cure as afforded Landlord under the Lease, or

(b) subject to any offsets or defenses that Tenant might have against any prior landlord (including Landlord) unless Lender has been given written notice thereof and the same time to cure as

afforded Landlord under the Lease; or

(c) bound by any rent or additional rent which is payable on a monthly basis and which Tenant might have paid for more than one (1) month in advance to any prior landlord (including Landlord), unless such prepayment is required under the Lease; or

(d) bound by any amendment or modification of the Lease which would change the term of the Lease or the fixed rent specified therein made without Lender's prior written consent.

5. Rent. Tenant hereby agrees to and with Lender that upon receipt from Lender of a notice of any default by Landlord under the Security Instrument, Tenant will pay to Lender directly all rents, additional rents, and other sums due under the Lease. Tenant shall have no responsibility to ascertain whether such demand by Lender is permitted under the Security Instrument, or to inquire into the existence of default by Landlord under the Security Instrument. In the event of the foregoing, Landlord hereby authorizes Tenant to pay to Lender directly all rents, additional rents, and other sums due under the Lease and hereby waives any right, claim or demand it may now or hereafter have against Tenant by reason of such payment to Lender, and any such payment shall discharge the obligations of Tenant under the Lease to make such payment to Landlord. In addition, Landlord hereby indemnifies and holds Tenant harmless from and against any and all claims, causes of actions, demands, liabilities and losses of any kind or nature, including but not limited to attorney's fees and expenses, sustained by Tenant as a result of its payment of the rent, additional rents, and other sums due under the Lease directly to Lender in accordance with the terms and conditions hereof.

6. Lender's Consent. Unless Lender shall give its written consent to the same (which consent shall be obtained by Landlord), Lender shall not be bound by any agreement amending or modifying the Lease which would change the term of the Lease or the fixed rent specified therein.

7. Lender to Receive Notices. Tenant shall provide Lender with copies of all written notices of any default by Landlord sent to Landlord pursuant to the Lease simultaneously with the transmission of such notices to the Landlord. Lender shall have the right to remedy any Landlord default under the Lease, or to cause any default of Landlord under the Lease to be remedied during the same time period as Landlord as set forth in the Lease. Tenant shall accept performance by Lender of any term, covenant, condition or agreement to be performed by Landlord under the Lease with the same force and effect as though performed by Landlord.

8. Notices. All notices or other written communications hereunder shall be deemed to have been properly given if given in accordance with the provisions of the Lease and addressed as follows:

If to Tenant: Best Buy Stores, L.P.  
7601 Penn Avenue South  
Richfield, MN 55423  
Attention: Legal Department - Real Estate

with a copy to: Robins, Kaplan, Miller & Ciresi  
2800 LaSalle Plaza  
800 LaSalle Avenue  
Minneapolis, MN 55402  
Attention: Steven A. Schumeister, Esq.

If to Lender: Associated Bank, National Association  
PO Box 19006  
Green Bay, WI 54307-9006  
Attention: Tim Jorgensen, Senior Vice President

With Copy to: Law Firm of Conway, Olejniczak & Jerry, S.C.  
231 South Adams Street  
Green Bay, WI 54301  
Attention: Brick N. Murphy

If to Landlord: Southland Center Investors, LLC  
2181 South Oneida Street, STE 1  
Green Bay, WI 54304-4641  
Attention: Larry L. Nifong, Managing Member

With Copy to: Stellpflug Law, S.C.  
444 Reid Street, STE 200  
De Pere, WI 54115  
Attention: Mark A. Bartels

or to such other address in the United States as such party from may from time to time designate by written notice to the other parties. Any notice or consent required to be given by or on behalf of either party to the other shall be in writing and given by mailing such notice or consent by either (i) one (1) business day after sending by an overnight courier service, or (ii) two (2) business days after sending by registered or certified mail, return receipt requested, addressed to the other party as indicated above, or at such other address in the United States as may be specified from time to time in writing by either party. Any notice or consent given hereunder by either party shall be deemed effective when mailed as aforesaid, but the time period in which to respond to any notice or consent shall commence to run on the date on which such notice or consent is actually received by the addressee. Refusal to accept delivery shall be deemed receipt thereof.

9. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of Lender, Landlord and Tenant and their respective successors and assigns.

10. Definitions. The term "Lender" as used herein shall include the successors and assigns of Lender and any person, party or entity which shall become the owner of the Property by reason of a foreclosure of the Security Instrument or the acceptance of a deed or assignment in lieu of foreclosure or otherwise to which Tenant has received written notice of. The terms "Tenant" and "Landlord" as used herein include any successor and assign of the named Tenant and Landlord herein, respectively.

11. No Oral Modifications. This Agreement may not be modified in any manner or terminated except by an instrument in writing executed by all the parties hereto, or if the Note is paid in full, this Agreement shall automatically terminate.

12. Governing Law. This Agreement shall be governed, construed, applied and enforced in accordance with the laws of the State where the Property is located.

13. Inapplicable Provisions. If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such provision shall be deemed modified to the extent necessary to be enforceable, or if such modification is not practicable, such provision shall be deemed deleted.

from this Agreement, and the other provisions of this Agreement shall remain in full force and effect.

14. Duplicate Originals; Counterparts. This Agreement may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original. This Agreement may be executed in several counterparts, each of which counterparts shall be deemed an original instrument and all of which together shall constitute a single agreement. This Agreement shall not be binding on Tenant until a fully-executed and recorded copy hereof has been returned to it.

15. Number and Gender. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular forms of nouns and pronouns shall include the plural and vice versa.

16. Tenant's Personal Property. It is expressly agreed to between Lender, Landlord and Tenant that in no event shall the Security Instrument cover or encumber (shall not be construed as subjecting in any manner to the lien thereof) any of Tenant's moveable trade fixtures, business equipment, furniture, signs, inventory, or other personal property at any time placed in, on or about the Property.

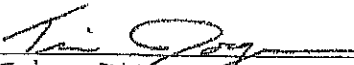
IN WITNESS WHEREOF, Lender, Landlord and Tenant have duly executed this Agreement as of the date first above written.

[SIGNATURES ON NEXT PAGE]



**LENDER:**

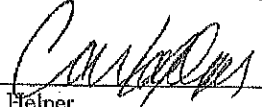
ASSOCIATED BANK, NATIONAL ASSOCIATION, a national banking association

By:   
Name: Tim Torgerson  
Title: Senior Vice President  
Date: 6/12/15

**TENANT:**

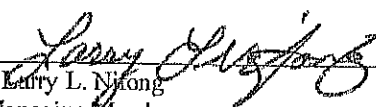
BEST BUY STORES, L.P., a Virginia limited partnership

By: BBC Property Co., a Minnesota corporation, its general partner

By:   
Name: Cara Helper  
Title: Authorized Signatory  
Date: 6/9/2015

**LANDLORD:**

SOUTHLAND CENTER INVESTORS, LLC, a Wisconsin limited liability company

By:   
Name: Larry L. Njong  
Title: Managing Member  
Date: 6-11-15

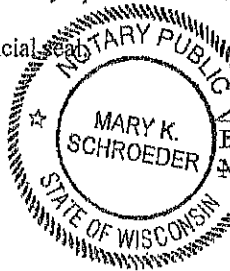
STATE OF WISCONSIN

COUNTY OF Brown

)  
) ss.  
)

On 6/12, 2015, before me, Brick N. Murphy, a Notary Public in and for said State, personally appeared Tim Jorgensen, Senior Vice President of **ASSOCIATED BANK, NATIONAL ASSOCIATION**, a national banking association, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, of the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Mary K. Schroeder  
Brick N. Murphy, Notary Public, State of Wisconsin  
My Commission is Permanent My Commission expires 2/8/18  
MARY K. SCHROEDER

STATE OF MINNESOTA

COUNTY OF HENNEPIN

)  
) ss.  
)

On June 9, 2015, before me, Teresa A. Gaukel, a Notary Public in and for said State, personally appeared Cara Helper, Authorized Signatory, of BBC Property Co., a Minnesota corporation, the general partner of **BEST BUY STORES, L.P.**, a Virginia limited partnership, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, of the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

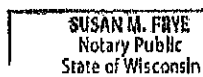
Teresa A. Gaukel  
Notary Public Teresa A. Gaukel  
My Commission Expires: 1/31/2020

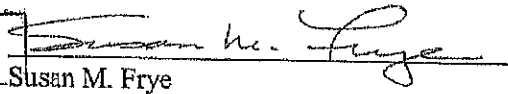


STATE OF WISCONSIN :  
: SS.  
COUNTY OF BROWN :

On June 11th, 2015, before me, Susan M. Frye, a Notary Public in and for said State, personally appeared Larry L. Nifong, Managing Member of Southland Center Investors, LLC, a Wisconsin limited liability company, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, of the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal



  
Susan M. Frye

Notary Public, State of Wisconsin

My Commission is permanent. expires 6/25/17

## EXHIBIT A

### Description of Property

#### LEGAL DESCRIPTION

Site 3 of Certified Survey Map No. 1073 as recorded in the Office of the Register of Deeds for Racine County, Wisconsin on May 7, 1985 in Vol. 3 Certified Survey Maps, Page 180, Doc. No. 1168310, being part of the Southwest Quarter (SW ¼) of Section Twenty-four (24) and part of the Southeast Quarter (SE ¼) of Section Twenty-three (23), all in Township Three (3) North, Range Twenty-two (22) East, in the ~~Town~~<sup>Village</sup> of Mt. Pleasant, Racine County, Wisconsin. Excepting therefrom that part described in Doc. No. 1752204.

Property Address: 2710 S. Green Bay Road, Racine, WI

Tax Parcel Number: 151-03-22-23-031-030

\*Village