

Utility Easement Agreement

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1819845029

Property Address: 6301 Oakton Street
Morton Grove, Illinois
PIN: 10-29-100-001

Doc# 1819845029 Fee \$58.00

This Agreement was prepared by and upon recording should be returned to:

RHSP FEE:\$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

Teresa Hoffman Liston
Corporation Counsel, Village of Morton Grove
6101 Capulina Avenue, Morton Grove, Illinois 60053
CCRD Box # _____

COOK COUNTY RECORDER OF DEEDS

DATE: 07/17/2018 11:34 AM PG: 1 OF 11

UTILITY EASEMENT AGREEMENT

This Utility Easement Agreement ("Agreement") is entered into this 15 day of February 2018 between Menard, Inc. hereinafter referred to as "Property Owner," the Village of Morton Grove, hereinafter referred to as "Village," and the Morton Grove Niles Water Commission, hereinafter referred to as "MGNWC," collectively referred to herein as "Utility," for the installation, placement, replacement, construction, reconstruction, maintenance, rehabilitation, operation and/or repair of "Utilities," as further defined in this Agreement, within the "Easement Area," defined in Recital A. below, pursuant to the terms and conditions set forth in this Agreement.

RECITALS

A. The Property Owner is the sole owner of real property with a common address of 6301 Oakton Street (Parcel 1), located in Morton Grove, Illinois and legally described as follows:

Parcel 1: All of Lot 5 and that part of Lots 2, 3, and 4 lying west of the westerly right of way of the Chicago Milwaukee and St. Paul Railroad right of way in the assessor's division of the Northwest Quarter of Section 29, Township 41 North, Range 13, east of the Third Principal meridian (except part taken or used for Oakton Street and Lehigh Avenue) in Cook County, Illinois. Property Index Number (PIN): 10-29-100-001.

This parcel is hereinafter referred to as the "Property Owner's Property"

The Utility proposes to install, place, replace, construct, reconstruct, maintain, rehabilitate, operate and/or repair an underground water transmission main and related water service lines, valves, meters, vaults, buffalo boxes, communication wires, cables and other related personal property, infrastructure and equipment (the "Utilities") under, in, along, across and upon a portion of the Property Owner's Property, legally described as follows:

**Permanent Easement Area 1: 6301 Oakton Street
Affects PIN 10-29-100-001 (Parcel 1)**

The west 25 feet of that part of Lot 5 lying east of a line drawn perpendicularly to the north line of said Lot 5 from a point 277.50 feet east of the southwest corner of said lot 5, as measured along the south line of said lot 5 (except the south 15 feet thereof) in the assessor's division of the Northwest Quarter of Section 29, Township 41 North, Range 13 East of the Third Principal Meridian (except part taken or used for Oakton Street) in Cook County, Illinois, hereinafter referred to as "Permanent Easement Area 1" or "Permanent Easement Area".

Easement Menards to MGNWC
6301 Oakton Street, Morton Grove, Illinois
PIN: 10-29-100-001

CCRD REVIEW

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**Temporary Easement Area 1: 6301 Oakton Street
Affects PIN 10-29-100-001 (Parcel 1)**

The east 25 feet of that part of Lot 5 lying west of a line drawn perpendicularly to the north line of said Lot 5 from a point 277.50 feet east of the southwest corner of said lot 5, as measured along the south line of said lot 5 (except the south 15 feet thereof) in the assessor's division of the Northwest Quarter of Section 29, Township 41 North, Range 13 East of the Third Principal Meridian (except part taken or used for Oakton Street) in Cook County, Illinois, hereinafter referred to as "Temporary Easement Area 1" or "Temporary Easement Area".

Permanent Easement Area 1 and Temporary Easement Area 1 are depicted in Exhibit "A".

Permanent Easement Area 1 and Temporary Easement Area 1 are collectively referred to as the "Easement Area".

- B. The Property Owner grants to the Utility a permanent, perpetual, non-exclusive easement within the Permanent Easement Area for the installation, placement, replacement, construction, reconstruction, maintenance, rehabilitation, operation and/or repair of the Utilities pursuant to the terms of this Agreement, and the Utility, in consideration of the grant of said easement rights, agrees to make certain improvements on the Property Owner's Property and/or pay to the Property Owner such other monetary compensation as further described in this Agreement.
- C. The Property Owner grants to the Utility a temporary, non-exclusive easement within the Temporary Easement Area for the installation, placement, replacement, construction, reconstruction, maintenance, rehabilitation, operation and/or repair of the Utilities in the Permanent Easement Area pursuant to the terms of this Agreement, and the Utility, in consideration of said grant of said easement rights, agrees to make certain improvements on the Property Owner's Property and/or pay to the Property Owner such other monetary compensation as further described in this Agreement.
- D. The Property Owner represents and warrants to the Utility, as a material inducement for the Utility entering into this Agreement, that the Property Owner has the full and unconditional authority to enter into this Agreement.

In consideration for the obligations and rights set forth in this Agreement, the Utility and the Property Owner agree as follows:

EASEMENT TERMS

1. Term.

- A. The term of the Permanent Easement within the Permanent Easement Area shall be perpetual, and shall commence on the date that the last signatory signs this Agreement, provided that all signatories execute this Agreement, and shall terminate only upon mutual written consent of the Parties or their successors and assigns.
- B. The term of the Temporary Easement within the Temporary Easement Area shall commence on the date that the last signatory signs this Agreement, provided that all signatories execute this

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Agreement, and shall terminate on December 31, 2019.

2. Grant of Easements.

- A. **Permanent Easement Area:** The Property Owner, for him/herself/itself and his/her/its successors and assigns, conveys and grants to the Utility, its successors and assigns, a permanent, perpetual, non-exclusive easement over, under, in, along, across and upon the Permanent Easement Area of the Property Owner's Property for the installation, placement, construction, reconstruction, maintenance, rehabilitation, operation and/or repair of the Utilities in the Permanent Easement Area. This Permanent Easement and other rights conferred to the Utility by this Agreement are intended to, and do, constitute covenants that run with the land and shall inure to the benefit of and be binding upon the Parties and their respective successors and assigns. In regard to the Permanent Easement Area and the permanent, perpetual, non-exclusive easement rights granted by the Property Owner to the Utility, the Parties further agree as follows:
- a. All rights, title and interest in and to the Permanent Easement Area which may be used and enjoyed without interfering with the rights conveyed by this Agreement to the Utility are reserved to the Property Owner, provided, however, that the Property Owner shall not itself, or allow another to, install, place, construct, reconstruct, maintain, rehabilitate, operate and/or repair any structures, improvements or other encumbrances which cause or which in the Utility's reasonable determination may cause, contribute or lead to damage to or interference with the Utilities placed or to be placed within the Permanent Easement Area; or develop, landscape or beautify any portion of the Permanent Easement Area in any way which would unreasonably or materially increase the costs to the Utility of installing, placing, constructing, reconstructing, maintaining, rehabilitating, operating and/or repairing the Utilities. If any of the Utilities within the Permanent Easement Area or the Utility's other improvements or personal property are removed or damaged by the Property Owner or its officials, employees, agents and contractor(s) or other invitees or permittees of the Property Owner, the Property Owner, at its expense, shall be responsible for completing basic restoration costs to restore, repair or replace such Utilities or other improvements or personal property to its/their original, existing condition immediately prior to such removal or damage using like-kind and quality materials.
 - b. If the Property Owner's improvements or landscaping within the Permanent Easement Area or elsewhere within the Property Owner's Property are removed or damaged by the Utility or its officials, employees, agents and contractor(s) or other invitees or permittees of the Utility in exercising its easement rights, the Utility, at its sole expense, shall be responsible for the restoration, repair or replacement of such improvements and/or landscaping to its/their original, existing condition immediately prior to such removal or damage using like-kind and quality materials.
- B. **Temporary Easement Area:** The Property Owner, for him/herself/itself and his/her/its successors and assigns, conveys and grants to the Utility, its successors and assigns, a temporary, non-exclusive easement over, under, in, along, across and upon the Temporary Easement Area of the Property Owner's Property for the installation, placement, construction, reconstruction, maintenance, rehabilitation, operation and/or repair of the Utilities in the Permanent Easement Area. This Temporary Easement and other rights conferred to the Utility by this Agreement are intended to, and do, constitute covenants that run with the land and shall inure to the benefit of and be binding upon the Parties and their respective successors and assigns. In regard to the Temporary Easement Area and the non-exclusive easement rights granted by the Property Owner to the Utility, the Parties

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further agree as follows:

- a. All rights, title and interest in and to the Temporary Easement Area which may be used and enjoyed without interfering with the rights conveyed by this Agreement to the Utility are reserved to the Property Owner.
 - b. If the Property Owner's improvements within the Temporary Easement Area or elsewhere within the Property Owner's Property are removed or damaged by the Utility or its officials, employees, agents and contractor(s) or other invitees or permittees of the Utility in exercising its easement rights, the Utility, at its expense, shall be responsible for completing basic restoration costs to restore, repair or replace such improvements to its/their original, existing condition immediately prior to such removal or damage using like-kind and quality materials.
- C. **Access to Easement Area:** The Utility, and its officials, employees, agents and contractor(s) and any governmental or regulatory agency personnel with oversight authority of the Utility or the Utilities, shall be permitted to access and travel with their equipment upon and over the Property Owner's Property to access the Easement Area on an as-needed basis for purposes of installing, placing, constructing, reconstructing, maintaining, rehabilitating, operating and/or repairing the Utilities.
- D. **Obligations for Own Improvements:** Each Party shall be responsible for maintaining, repairing and insuring its own improvements located within the Easement Area.
3. **Payment by the Utility.** In consideration for Property Owner's execution of this Agreement, the Utility will pay certain monetary compensation to Property Owner no later than July 1, 2018 pursuant to an agreed upon side letter. If payment is not received by Property Owner on or prior to July 1, 2018, the easements contained in this document shall automatically terminate and Property Owner shall record an a document in the Cook County Recorder's Office stating that the easements have been terminated. In the event the surface of the Easement Area is disturbed by the Utility's exercise of any of its easement rights under this Agreement, such area shall be restored to its original, existing condition immediately prior to the commencement of such activities. Except as specifically provided in this Agreement, the Utility shall have no obligation to improve, maintain, replace or repair the Property Owner's Property, and shall not be liable to the Property Owner or others for any claim arising out of the use or maintenance of the Easement Area or the Property Owner's Property. Except as specifically provided in this Agreement, the Utility shall have no other obligation to the Property Owner.
4. **Utility's Use of Easement Area.** The following general conditions shall apply to Utility's use of the Easement Area:
- A. The Utility, at its own expense, shall procure and maintain, prior to entry upon the Property Owner's Property, all licenses, consents, permits, authorizations and other approvals required from any federal, state, county or local governmental authority or any regulatory agency with oversight authority in connection with the installation, placement, construction, reconstruction, maintenance, rehabilitation, operation and/or repair of the Easement Area and the Utilities, and the Utility shall comply with all laws, rules, statutes and regulations of any governmental authorities having jurisdiction over the Easement Area, the Utilities or the Utility's operations. The Property Owner may, from time to time, request reasonable evidence that all such governmental or regulatory approvals have been obtained by the Utility and are in full force and effect. In no event shall the Utility seek any governmental or regulatory approvals that may affect in any way the Property Owner's operations, including without limitation any zoning approvals, without in each instance obtaining the Property

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Owner's prior written consent, which consent may be granted or withheld in the Property Owner's sole discretion.

- B. Except as specifically provided in this Agreement, the Utility's use of the Easement Area shall be conducted in a manner that does not conflict or interfere with the Property Owner's current operations. At all times of construction, repair, and or/maintenance of the Utilities, Utility shall maintain at least two lanes of access from Oakton Street and Kirk Street to the private portion of River Drive that serves the existing Menards home improvement store. The initial construction activities shall not take place between the dates of April 1 and July 31 of any calendar year (the "Restricted Construction Period"). If Utility starts construction prior to the Restricted Construction Period in any calendar year, it shall complete the construction of the Utilities and all restoration of the Property Owner's Property prior to the beginning of the Restricted Construction Period.
- C. The Utility agrees to not cause or permit any lien (including, without limitation, any mechanic's lien) or claim for lien to be filed or asserted against the Easement Area or any interest therein, whether such lien or claim for lien results from or arises out of any act or omission of the Utility or its officials, employees, agents and contractor(s) or other invitees or permittees. In the event any such lien or claim for lien is issued or filed against title to the Property Owner's Property, the Utility will immediately remedy and obtain a release the lien or claim.
- D. The Utility agrees to cooperate with the Property Owner's reasonable efforts, if any, to cause the Permanent Easement Area, or any portion thereof, to be exempted from the payment of real estate taxes, to the extent that it is possible, under applicable law, including the execution and delivery of all documents, instruments, petitions and applications prepared by the Property Owner, at its cost, in this regard.
- E. At Property Owner's request, Utility agrees that it will relocate its facilities to an alternate location on Property Owner's property, provided that:
 - a. Property Owner shall have given reasonable advance notice to Utility;
 - b. The alternate location is acceptable to Utility, which acceptance shall not be unreasonably withheld;
 - c. Property Owner pays all costs and charges associated with said relocation; and
 - d. Property Owner grants an equivalent easement for such relocated facilities without additional monetary consideration.

5. Indemnification. The Parties agree as follows:

- A. The Utility agrees to indemnify and hold harmless the Property Owner and its officials, employees, agents, volunteers, attorneys, contractor(s), invitees or permittees, successors and assigns (collectively the "Property Owner Affiliates") from and against all claims, demands, liabilities, losses, judgments, settlements, administrative / litigation costs and expenses (including reasonable attorney's fees) which may arise by reason of the Utility's use of the Property Owner's Property, or relating to the Utilities within the Easement Area except for those attributable to the Property Owner's or the Property Owner's Affiliates' accidental or intentional obstruction, damage or

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destruction of the Utilities, the negligence or improper act of the Property Owner or Property Owner's Affiliates, or the Property Owner's default or violation of this Agreement. Any entry onto the Property Owner's property by the Utility, or its appointed or elected officials, employees, agents, volunteers, attorneys, contractor(s), invitees, permittees, successors and assigns shall be at such person's sole risk, and the Property Owner makes no representations or warranties of any kind whatsoever regarding the Property Owner's Property or the condition of the Property Owner's Property (including, without limitation, the environmental condition thereof).

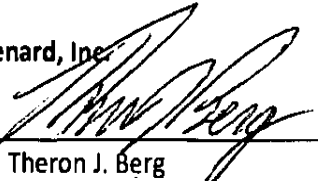
6. **Insurance.** Utility agrees to procure and maintain and to require its contractors, before commencing any work within the Easement Area or within the Property Owner's Property, to purchase and maintain a policy or policies of insurance, as follows:
- A. Commercial General Liability (CGL) covering all contractors, subcontractors and all their subcontractors, with limits not less than Two Million Dollars (\$2,000,000.00) per occurrence covering liability for bodily injury and property. The Property Owner and Property Owner Affiliates shall be added as Additional Insureds on the Utility's CGL policy.
 - B. Automobile Liability in an amount of not less than One Million Dollars (\$1,000,000.00) per accident for bodily injury and property damage, covering all owned, leased, rented or non-owned vehicles, which shall include automobile contractual liability coverage.
 - C. Workers' Compensation Insurance with Illinois statutory limits.
7. **Assignment.** This Agreement, and the rights and obligations of the Parties set forth in this Agreement, shall be binding upon and inure to the benefit of the Parties and their respective successors, personal representatives and assigns, and the owners of the Property Owner's Property, from time to time; provided, however, that the Utility may assign all or any portion of its right, title, interest or obligation in this Agreement to the Village of Morton Grove, the Village of Niles, the Morton Grove-Niles Water Commission, or its successor entity, or to any municipal joint action water agency.
8. **Entire Agreement.** The terms, exhibits and addenda, if any, herein contain the entire agreement between the Property Owner and the Utility regarding the subject matter hereof and fully supersedes all prior written or oral agreements and understandings between the Parties pertaining to such subject matter.

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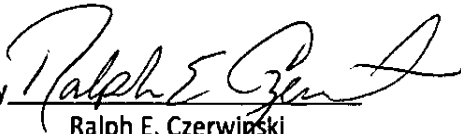
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date of the last signatory below, which date shall be inserted on page 1 of this Agreement.

Menard, Inc.

By: 
Its: Real Estate Manager

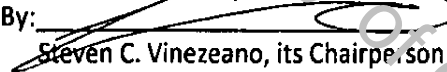
Dated: 2/07/18

Village of Morton Grove


By: 
Ralph E. Czerwinski
Village Administrator

Dated: 2-15-18

Morton Grove-Niles Water Commission

By: 
Steven C. Vinezeano, its Chairperson

Dated: 2/15/18

ATTEST: 
CLERK
2/15/18

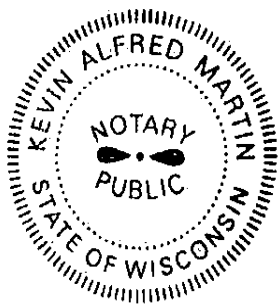
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STATE OF WISCONSIN)
) SS
COUNTY OF EAU CLAIRE)

CERTIFICATION

I, the undersigned, a Notary Public, in and for the County and State aforesaid, CERTIFIES that the above-named Theron J. Berg, personally known to me to be the Real Estate Manager of Menard, Inc., and also known to me to be the same person whose name is subscribed to the foregoing Agreement as such Real Estate Manager, appeared before me this day in person and severally acknowledged that, as such Real Estate Manager, he/she signed and delivered the signed Agreement, pursuant to authority given by Menard, Inc., as his/her free and voluntary act, and as the free and voluntary act and deed of Menard, Inc., for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this 7th day of February, 2018.



Kevin A. Martin
Notary Public
My commission is permanent.

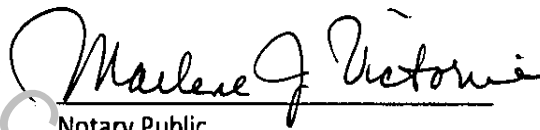
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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

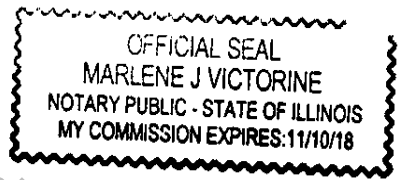
CERTIFICATION

I, the undersigned, a Notary Public, in and for the County and State aforesaid, CERTIFIES that the above-named Steven C. Vinezeano, personally known to me to be the Chairperson of the Morton Grove-Niles Water Commission, and also known to me to be the same person whose name is subscribed to the foregoing Agreement as such Chairperson, appeared before me this day in person and severally acknowledged that, as such Chairperson, he signed and delivered the signed Agreement, pursuant to authority given by the Morton Grove-Niles Water Commission, as his free and voluntary act, and as the free and voluntary act and deed of the Morton Grove-Niles Water Commission, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this 15th day of February, 2018.


Notary Public

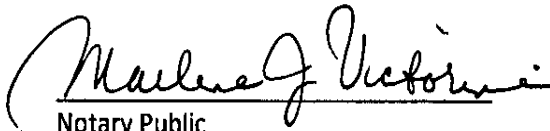
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)



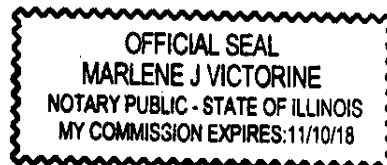
CERTIFICATION

I, the undersigned, a Notary Public, in and for the County and State aforesaid CERTIFIES that the above-named Ralph E. Czerwinski, personally known to me to be the Village Administrator of the Village of Morton Grove, and also known to me to be the same person whose name is subscribed to the foregoing Agreement as such Village Administrator, appeared before me this day in person and severally acknowledged that, as such Village Administrator, he signed and delivered the signed Agreement, pursuant to authority given by the Village of Morton Grove, as his free and voluntary act, and as the free and voluntary act and deed of the Village of Morton Grove, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this 15th day of February, 2018.


Notary Public

Easement Menards to MGNWC
6301 Dakton Street, Morton Grove, Illinois
PIN: 10-29-100-001



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EXHIBIT "A"

Exhibit of Permanent Easement Area 1 and Temporary Easement Area 1
PIN: 10-29-100-001

COOK COUNTY
RECORDER OF DEEDS

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