

SETTLEMENT AGREEMENT

This Agreement is between Menard, Inc. ("Menard" or "Plaintiff"), and the City of La Crosse, Wisconsin (the "City"). Menard is a domestic corporation licensed to conduct business in the State of Wisconsin. The City is a municipal corporation organized and existing under the laws of the State of Wisconsin.

1. Definitions. In this Agreement:

(a) The "Property" means the parcels of real estate comprising the land and improvements located at 223 Lang Drive in the City, more generally known as the Menard's Home Improvement Retail Store, within the City.

(b) "Cases" means the actions pending in the circuit court for La Crosse County, Wisconsin titled *Menard, Inc. v. City of La Crosse*, Case Nos. 16-CV-348 and 17-CV-385.

(c) "Court" means the Circuit Court for La Crosse County.

(d) A "tax year" means a year in which an assessment is made as of January 1, with taxes based on the assessment payable in the year following the tax year.

2. Refund of Taxes. The City shall issue a refund payable to Menard, Inc., pursuant to Wis. Stat. § 74.37, in the amount of \$35,302.45 as a refund of property taxes previously paid by or billed to Plaintiffs based on the property tax assessment of the Property for the tax years 2016 and 2017, based on an agreed value of \$9,900,000 for 2016 and \$9,800,000 for 2017. The parties agree that no portion of this amount constitutes interest.

3. 2018 Assessment. The parties agree that the 2018 assessment of the Property will reflect an assessed value not to exceed \$9,400,000. As long as the 2018 assessment does not exceed this amount, Menard shall not file an action or claim for refund in any form for any taxes paid with respect to the 2018 assessment of the Property. In the event the 2018 assessment exceeds this amount, then Menard shall have the right to file a claim for refund for the amount of taxes paid on the 2018 value in excess of \$9,400,000 and the City shall grant any such claim for refund.

4. Waiver of Costs. Each party waives all claims for costs.

5. Time of Payments. The City shall pay the refund of taxes in full, as provided in Section 2 of this Agreement, within 30 days of the date this Agreement is signed by both parties.

6. Stipulation for Dismissal. No later than ten days after Plaintiff receives payment in full of the refund of taxes provided in section 2 of this Agreement, the parties shall (a) enter into a stipulation, attached hereto as Exhibit A, signed by their respective attorneys, for the dismissal of the Cases (including, but not limited to, all claims asserted in the Complaints in the Cases) on the merits, with prejudice, and without costs to either party; and (b) file the stipulation with the Court.

7. Responsibility for Fees and Expenses of Attorneys and Experts. Each party shall be solely responsible for the fees of its attorneys and experts.
8. No Representations. Each party acknowledges and agrees that no representation or promise not expressly contained in this Agreement has been made by the opposing party or any of its employees, attorneys, agents, or representatives. Each party acknowledges that it is not entering into this Agreement on the basis of any such representation or promise, express or implied.
9. Binding on Successors. This Agreement shall be binding upon and inure to the benefit of each of the parties and their respective heirs, successors, and assigns.
10. Governing Law. This Agreement shall be governed and interpreted by the laws of the State of Wisconsin.
11. Interpretation of Agreement. The parties acknowledge that this Agreement is the product of joint negotiations. If any dispute arises concerning the interpretation of this Agreement: (a) neither party shall be deemed the drafter of this Agreement for purposes of its interpretation; and (b) the parties shall attempt in good faith to resolve the dispute. The parties agree that the Court retains jurisdiction to enforce this Agreement and that a party may ask the Court to enforce this Agreement by filing a motion in the Case and serving the same on the other party.
12. Representation By Counsel; Reliance. Each party acknowledges that it has been represented throughout all negotiations leading up to this Agreement by attorneys of its choice and that its attorneys have approved this Agreement. Each party represents that in entering into this Agreement, the party has relied on its own judgment and on the advice of its attorneys, and that no statements or representations made by the other party or any of its agents, except statements or representations expressly made in this Agreement, have influenced or induced the party to sign this Agreement.
13. No Assignment or Transfer. Plaintiffs represent and warrant that it has not assigned or transferred to anyone and will not assign or transfer to anyone any of the claims in the Case.
14. Entire Agreement. This Agreement states and constitutes the entire agreement of the parties concerning its subject matter and supersedes all prior or contemporaneous agreements (written or oral), representations, negotiations, and discussions concerning its subject matter, including but not limited to, all agreements (written or oral), representations, negotiations, and discussions made in the course of mediation of the Case.
15. Use of this Agreement. This Agreement shall not be filed with the Court in this Case or in any other case or proceeding, except for the purpose of enforcing this Agreement. This Agreement and any part of this Agreement shall not be admissible in the lawsuit or in any future judicial or administrative proceeding and shall not be offered as evidence or presented by any Party in the Lawsuit or any future judicial or administrative proceeding, except for the purpose of enforcing this Agreement.

16. No Admissions of Liability or Concerning Assessments or Fair Market Value. This Agreement is the settlement of disputed claims. By entering into this Agreement, the City does not admit any liability to Plaintiff for any of the claims asserted in the Case or Plaintiff's objections to the assessments, and the payments made under this Agreement shall not be construed as an admission of any such liability. Except as explicitly provided herein, neither Party makes an admission about the assessments or the fair market value of the Property as of January 1, 2016, January 1, 2017, January 1, 2018, or any other date nor any other admission concerning the assessment of Plaintiff's property. In addition, none of the agreed upon values or assessments shall be admissible in any proceeding or assessment challenge in any subsequent year.

17. Waiver. No waiver of any breach of this Agreement shall be deemed a continuing waiver of that breach or a waiver of any other breach of this Agreement.

18. Amendments or Modifications. This Agreement may not be amended, modified or altered in any manner whatsoever, except by a further written agreement duly authorized and signed by the parties.

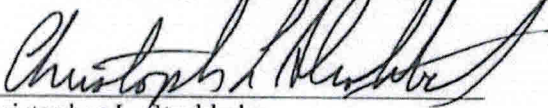
19. Authorization to Sign Agreement. Each person signing this Agreement on behalf of any party represents and warrants that the person holds the position indicated beneath the person's signature and that the person has the requisite corporate or other authority to sign this Agreement on behalf of the party. Each party represents that entry into this Agreement is not in contravention of any agreement or undertaking to which the party is bound.

20. Reading of Agreement. Each person signing this Agreement on behalf of either party acknowledges that the person has read this Agreement, that the person understands the terms and conditions of this Agreement, that the person (if other than an attorney for the party) has been advised by legal counsel concerning this Agreement, and that the person freely and voluntarily signs this Agreement.

Dated: October 31, 2018.

APPROVED AS TO FORM

BY: Gimbel Reilly Guerin & Brown LLP


Christopher L. Strohbehn
State Bar ID 1041495

Dated: October 31, 2018.

MENARD, INC.

D. Michlig
Daniel J. Michlig Tax Manager.
By its authorized representative

Dated: _____, 2018.

APPROVED AS TO FORM

BY: Crivello Carlson, S.C.
131 W. Wilson St., #1004
Madison, WI 53703

Ryan G. Braithwaite
State Bar ID No. 1037232

Dated: _____, 2018.

CITY OF LA CROSSE

BY:

Timothy Kabat, Mayor

BY:

Teri Lehrke, City Clerk

Dated: Nov. 30, 2018.

APPROVED AS TO FORM

BY: Crivello Carlson, S.C.
131 W. Wilson St., #1004
Madison, WI 53703



Ryan G. Braithwaite
State Bar ID No. 1037232

Dated: Nov. 19, 2018.

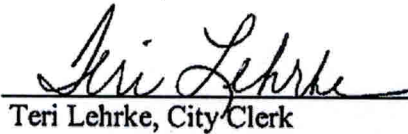
CITY OF LA CROSSE

BY:



Timothy Kabat, Mayor

BY:



Teri Lehrke, City Clerk

EXHIBIT A

STATE OF WISCONSIN

CIRCUIT COURT

LA CROSSE COUNTY

MENARD, INC.

Plaintiff,

v.

Case No. 16-CV-348

Case No. 17-CV-385

Money Judgment – 30301

CITY OF LA CROSSE

Defendant.

STIPULATION FOR DISMISSAL

IT IS STIPULATED by the parties, through their respective counsel, as follows:

1. The claims in this action shall be dismissed with prejudice and without costs and fees to any party.
2. The parties have entered into a separate Settlement Agreement. The Court shall retain jurisdiction and competency over this matter in order to enforce this Stipulation or the Settlement Agreement. Any party may reopen this matter by motion to this Court in the event of a violation or alleged violation of this Stipulation or of the Settlement Agreement.

IT IS FURTHER STIPULATED that an Order to this effect may be entered without further notice to either party.

Dated: _____, 2018.

MENARD, INC.

BY: Gimbel Reilly Guerin & Brown LLP

Christopher L. Strohbehn
State Bar ID 1041495

Dated: _____, 2018.

CITY OF LA CROSSE

BY: Crivello Carlson, S.C

Ryan G. Braithwaite
State Bar ID No. 1037232

EXHIBIT B

STATE OF WISCONSIN

CIRCUIT COURT

LA CROSSE COUNTY

MENARD, INC.

Plaintiff,

v.

Case No. 16-CV-348

Case No. 17-CV-385

Money Judgment – 30301

CITY OF LA CROSSE

Defendant.

ORDER FOR DISMISSAL

Based upon the Stipulation signed by the parties and filed with the court on _____
2018, IT IS HEREBY ORDERED that this case is dismissed, subject to the terms of that
stipulation, with prejudice and without court costs and fees to any party.

Dated this ____ day of _____, 2018.

BY THE COURT: