

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT
(MENARD, INC.)

THIS FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT (“Amendment”) is, made this ___ day of _____, 2024, by and between Menard, Inc., a Wisconsin Corporation, party of the first part, hereinafter referred to as the “Developer” and City of Baxter, Minnesota, a municipal corporation duly organized and existing under the laws of the State of Minnesota, party of the second part, hereinafter referred to as “City”,

WITNESSETH:

WHEREAS, the Parties entered into a Development Agreement dated August 11, 2023 (“Development Agreement”) and recorded with the Crow Wing County Recorder on September 15, 2023 as Document No. 988682, describing Developer’s development of the Project; and

WHEREAS, the Developer has deposited a cash escrow in the amount of **\$246,720.81** as detailed in **Attachment A** of the Development Agreement (125% of the Construction Contract Amount of the “Municipal Portion” (defined in the Development Agreement) as detailed on **Attachment B** of the Development Agreement) with the City for the platting and development of what is to be known as Lot 1, Block 1 and Lot 1, Block 2, of MENARD THIRD ADDITION in the City of Baxter, Crow Wing County, Minnesota, **Attachment C** of the Development Agreement hereinafter referred to as the “Project”; and

WHEREAS, the Project includes the construction and installation of municipal water lines, private drainage controls, private 100-year storm water design, private bituminous surfaced parking lot, and related improvements (hereinafter collectively referred to as the “Privately Installed Improvements”) hereinafter described; and

WHEREAS, the Parties wish to amend the Development Agreement to memorialize additional development responsibilities and duties will take place as a result of Developer’s Project; and

WHEREAS, the Developer will construct the Privately Installed Improvements pursuant to the terms of the Development Agreement and as described in Sheets C0.0 through C7.5 (24 sheets total), Construction Plans and Specifications for Water, Storm Sewer, Streets, Grading, Drainage and Erosion Control and for Menard, Inc., dated March 27, 2024 and prepared by Paul Phillips, P.E., of JSD Professional Services, Inc, a copy of which is attached hereto as **Attachment D-1**, and pay for all related costs, including any reasonable costs incurred or to be incurred by the City for engineering, legal and administrative services related to the Privately Installed Improvements; and

WHEREAS, in anticipation of the Project, the City has received from the Developer an Engineer’s Estimate from JSD Professional Services for completion of certain Project related

improvements to be turned over to and owned by the City as detailed on **Attachment B** of the Development Agreement, and has had said estimate, plans, and specifications reviewed and approved by the City Engineer, the Utilities Commission and the City Council; and

WHEREAS, the City has approved the final plat of MENARD THIRD ADDITION subject to certain conditions; and

WHEREAS, except as amended in this Amendment, all other terms, provisions and conditions contained in the Development Agreement shall remain in full force and effect and are not modified except as specifically amended herein.

NOW, THEREFORE, it is stipulated and agreed by and between the parties hereto that the Development Agreement shall be amended as follows:

1. Attachment D of the Development Agreement is deleted in its entirety and replaced with Attachment D-1.

[SIGNATURES APPEAR ON THE NEXT PAGE]

IN TESTIMONY WHEREOF, the parties hereto have executed this Agreement as of the day and year set forth above.

CITY:

By: _____
Darrel Olson, Its Mayor

By: _____
Kelly Steele, Its Asst. City Administrator/City Clerk

RATIFIED AND APPROVED BY THE CITY COUNCIL OF BAXTER, MINNESOTA, THIS _____ DAY OF _____, 2024.

By: _____
Darrel Olson , Its Mayor

By: _____
Kelly Steele, Its Asst. City Administrator/City Clerk

STATE OF MINNESOTA)
)ss.
COUNTY OF CROW WING)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by Darrel Olson and Kelly Steele, the Mayor and Assistant City Administrator/City Clerk of the City of Baxter, a municipal corporation under the laws of Minnesota, on behalf of the corporation.

Notary Public

DEVELOPER:

MENARD, INC.

By: _____
Its: General Manager Properties

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

The foregoing instrument was acknowledged before me this ____ day of _____, 2024, by Theron J. Berg, the General Manager Properties of Menard, Inc., a Wisconsin Corporation, on behalf of the company.

Notary Public

THIS INSTRUMENT WAS DRAFTED BY:
City of Baxter
13190 Memorywood Dr.
Baxter, Minnesota 56425
218/454-5100

SCHEDULE OF ATTACHMENTS

ATTACHMENT D-1

Construction Plans and Specifications for Water, Storm Sewer, Trail, Streets, Grading, Drainage and Erosion Control dated March 27, 2024, prepared by JSD Professional Services, Inc.