

Q-1724 Anchor
Q 1902 McDowell (mts)

158484

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8th 33/380
12-A/4-B
Cert # 158484
Cert # 161527

**REGISTERED AND
UNREGISTERED LAND**
421-A

EASEMENT AGREEMENT

This Easement Agreement ("Agreement") is made by and between Anchor Mariemont Limited Partnership, an Ohio limited partnership ("Anchor") and Alamin Family Partnership, an Ohio general partnership ("Alamin"), as of May 25, 1994.

1. Recitals

1.1 Alamin is the fee simple owner of the real property more particularly described on the attached Exhibit A-1 (the "Alamin Tract"). Anchor is the owner in fee simple of the real property more particularly described on the attached Exhibit B-1 (the "Anchor Tract") and the attached Exhibit C-1 (the "Roadway Tract"). The Anchor Tract and the Alamin Tract are contiguous, the Roadway Tract is contiguous to both the Anchor Tract and the Alamin Tract, and the Anchor Tract, the Alamin Tract, and the Roadway Tract will be referred to collectively as the "Property".

1.2 Anchor and Alamin agree that Anchor at Anchor's sole cost and expense shall (i) construct a paved road which shall at no point be less than twenty-five feet in width across a portion of the Roadway Tract connecting the Alamin Tract to Wooster Pike (the "Access Road") in accordance with plans and specifications for the Access Road submitted to and approved by The Kroger Co. ("Kroger"), which Access Road shall intersect the Alamin Tract in two locations submitted to and approved by Kroger, and further (ii) obtain all necessary approvals and perform the installation of a traffic signal at the intersection of the Access Road and Wooster Pike (the "Signal"). Anchor and Alamin each desire easements over the property of the other for the purpose of unobstructed vehicular and pedestrian access.

2. Agreement

In consideration of the mutual grants contained herein and other good and valuable consideration the sufficiency and adequacy of which is hereby acknowledged, Anchor and Alamin agree as follows:

2.1 (a) Anchor hereby grants Alamin a perpetual non-exclusive easement for the sole purpose of unobstructed vehicular and pedestrian ingress and egress over a portion of the Roadway Tract at least twenty-five (25) feet in width, connecting the Alamin Tract to Wooster Pike. In the event that Anchor fails to complete the items set forth in Paragraph 1.2 above within one (1) year of the date hereof, this easement shall include the right, but not the obligation, of Alamin to complete such items, provided that so long as Kroger has a legal, equitable or leasehold interest in the Alamin Tract, Alamin will not construct any such items without first submitting and obtaining prior written approval from Kroger and in accordance with any specifications or requirements of Kroger. Any such construction by Alamin shall

TRANSFER NOT NECESSARY

DUSTY RHODES
COUNTY AUDITOR

6485-1614

Examined & Compliant with Sec. 319.202 R.C. Conveyance
is exempt from fee under Sec. Sec. 318.54 (F) 3.

DUSTY RHODES
HAMILTON COUNTY, OHIO

not relieve Anchor of the obligations under this Agreement, including but not limited to the obligations set forth in paragraph 2.1(c) herein and Anchor shall reimburse Alamin for the cost of such construction.

(b) Upon completion of all items set forth in Paragraph 1.2 above, Anchor and Alamin each grant to the other a perpetual and non-exclusive easement and right of way, for the sole purpose of unobstructed vehicular and pedestrian ingress and egress, across those portions of the Anchor Tract and the Alamin Tract, respectively, which may from time to time be used or marked for vehicular lanes, driveways, access ways, sidewalks, walkways, entrances, and exits; provided, however, that four wheel vehicles only will be permitted to cross the Alamin Tract for purposes of reaching the Anchor Tract or the Access Road or leaving the Anchor Tract or the Access Road. Notwithstanding the foregoing, the easements for ingress and egress created by this Paragraph 2.1(b) will not be effective until the last to occur of (i) the construction of the paved Access Road, and (ii) the installation and operation of the Signal (the "effective date"). In no event may the Access Road or access from the Alamin Tract to the Access Road be relocated without the prior written consent of Kroger (so long as Kroger has a legal, equitable, or leasehold interest in the Alamin Tract) and Alamin. Kroger (so long as Kroger has a legal, equitable, or leasehold interest in the Alamin Tract) and Alamin have the right to relocate vehicular lanes, driveways, access ways, sidewalks, walkways, entrances and exits along the Alamin Tract from time to time. Anchor and the lessees of the Anchor Tract will have the right to relocate vehicular lanes, driveways, access ways, sidewalks, walkways, entrances and exits along the Anchor Tract from time to time.

(c) Anchor agrees (i) to construct the Access Road in accordance with all applicable laws, rules, regulations and ordinances necessary for dedication and acceptance by the governmental authority, (ii) to obtain all necessary approvals for the Access Road and for the installation of the Signal, and (iii) to maintain the Access Road in good condition and repair, including the removal of accumulations of snow and ice. In the event Anchor fails to maintain the Access Road in good condition and repair, including the removal of accumulations of snow and ice (such failure to be referred to as a "Condition"), Kroger (so long as Kroger has a legal, equitable, or leasehold interest in the Alamin Tract) or Alamin may give Anchor written notice of such Condition. If Anchor does not begin to repair or remedy a particular Condition within fifteen (15) days of its receipt of such notice or does not diligently pursue such repair or remedy to completion thereafter, Kroger (so long as Kroger has a legal, equitable, or leasehold interest in the Alamin Tract) or Alamin may complete the repair or remedy of such Condition, and Anchor will reimburse Kroger or Alamin, as the case may be, for its cost of performing such repair or remedy within thirty (30) days after receipt of said notice and the performing party shall have a lien on the Anchor Tract to secure the payment.

(d) Anchor and Alamin acknowledge that all or a part of the Access Road may be dedicated to a governmental authority with jurisdiction over the Access Road as a public dedicated road and upon the acceptance by such authority, those portions of the Access Road so dedicated and accepted will be released from the operation of this Agreement. Notwithstanding the foregoing, in the event that a portion of the Access Road is dedicated but the acceptance of such portion by the governmental authority does not include a

6485-1615



EXHIBIT A-1

793 Compton Road
Cincinnati, Ohio 45231
513-521-4760
Telecopier 513-521-2439

January 11, 1994

Description:

Situated in Section 3, Township 4, Fractional Range 2, Miami Purchase, Columbia Township, Hamilton County, Ohio, and being more particularly described as follows:

Commencing at a cross notch at the intersection of the South right of way of Wooster Pike (U.S. 50) as shown on the Ohio Department of Transportation right of way plans dated January 6, 1937, and the West right of way of Walton Creek Road, thence South 13° 47' 08" West, 116.58 feet to a point on the former North right of way of the Little Miami Railroad and the true point of beginning; thence South 13° 48' 13" West, 57.57 feet; thence North 66° 11' 26" West, 64.70 feet; thence South 23° 48' 34" West, 159.37 feet; thence North 75° 28' 04" West, 175.97 feet; thence North 66° 11' 26" West 406.37 feet; thence North 60° 58' 48" West, 239.40 feet; thence North 23° 48' 34" East, 55.51 feet; thence South 66° 11' 26" East, 9.66 feet; thence South 88° 01' 06" East, 36.07 feet; thence North 70° 09' 16" East, 162.31 feet; thence North 65° 11' 35" East, 51.57 feet to a point on the North right of way of the Little Miami Railroad; thence leaving said right of way North 19° 19' 03" East, 164.03 feet to a point in the centerline of old Wooster Pike; thence with the centerline South 64° 45' 57 East, 516.87 feet; thence leaving said former centerline, South 24° 27' 03" West, 125.17 feet to a point on the former North right of way of the Little Miami Railroad; thence with said right of way line with a curve to the right having a radius of 1918.82 feet, an arc length 177.50 feet, long chord bearing South 58° 54' 51" East, 177.44 feet to the true point of beginning, containing 5.965 acres and containing within a portion of Registered Land Certificate Number 134453, being more particularly described as follows:

Situated in Section 3, Township 4, Fractional Range 2, Miami Purchase, Columbia Township, Hamilton County, Ohio and being more particularly described as follows:

Beginning at a cross notch at the intersection of the South right of way of Wooster Pike (U.S. 50) as shown on the Ohio Department of Transportation right of way plans dated January 6, 1937, and the West right of way of Walton Creek Road, thence South 13° 47' 08" West, 183.66 feet to the former South right of way of the Little Miami Railroad; thence along said right of way with a curve to the left having a radius of 1852.82 feet, an arc length 254.60 feet, long chord bearing North 59° 27' 29" West, 254.40 feet to the true point of beginning; thence with the East line of Registered Land Certificate Number 50765 for the following two (2) courses; South

6485-1619

38° 42' 00" West, 125.30 feet, thence South 49° 43' 00" West, 93.23 feet passing an iron pin at 31.00 feet; thence leaving said East line and with a new division line for the following six (6) courses; North 66° 11' 26" West, 321.40 feet; thence North 60° 58' 48" West, 239.40 feet; thence North 23° 48' 34" East, 55.51 feet; thence South 66° 11' 26" East, 9.66 feet; thence South 88° 01' 06" East, 36.07 feet; thence North 70° 09' 16" East, 95.42 feet to a point on the North line of Registered Land Certificate Number 50765, said point also being on the former South right of way of the Little Miami Railroad; thence with said right of way with a curve to the right having a radius of 1852.82 feet, an arc length 524.56 feet, long chord bearing South 71° 30' 18" East, 522.81 feet to the true point of beginning, containing 2.381 acres.

Together with that certain Sewer Easement recorded in Official Record Book 6188, page 262 of the Hamilton County, Ohio Recorder's Records; and

Together with that certain easement and right of way for the operation, maintenance, repair and replacement of the existing light fixture and pole located on the premises as shown on that certain "Final As-Built Survey" prepared by Thomas Graham and Associates dated October 26, 1993 and last revised November 18, 1993 serving the above-described Alamin Tract.

6485-1620

"ANCHOR TRACT"
EXHIBIT B-1

Situate in Section 3, Town 4, Fractional Range 2, Columbia Township, Hamilton County, Ohio, and being in part, part of the lands registered as Certificate Number _____ and also, in part, part of the lands now or formerly registered as Certificate Number 50765, Hamilton County Registered Land Office, and being more particularly described as follows:

- 0.959 Acres

Beginning at the intersection of the west line of Section 3, said line also being the east line of Section 9 and the east line of the Village of Mariemont, with the centerline of Wooster Road (U.S. Route No. 50);

Thence along said west line of Section 3, east line of Section 9 and east line of the Village of Mariemont, South 02°00'35" West, 40.05 feet to a point in the south line of Wooster Road;

Thence along said south line of Wooster Road the following three (3) courses and distances:

1. along an arc deflecting to the right, having a central angle of 19°22'10" and a radius of 1233.24 feet, a distance of 416.90 feet, the chord of said arc bears South 75°22'30" East, 414.92 feet;
2. South 65°41'25" East, 340.71 feet;
3. along an arc deflecting to the left, having a central angle of 05°53'40" and a radius of 6915.50 feet, a distance of 711.44 feet, the chord of said arc bears South 68°38'15" East, 711.12 feet to the REAL POINT OF BEGINNING for this description;

Thence from said REAL POINT OF BEGINNING, continuing along said south line of Wooster Road, along an arc deflecting to the left, having a central angle of 00°10'20" and a radius of 6915.50 feet, a distance of 20.80 feet, the chord of said arc bears South 71°40'15" East, 20.80 feet and South 71°45'25" East, 207.66 feet to a point;

Thence leaving said south line of Wooster Road, South 15°08'35" West, 123.63 feet to a point in the south line of said Registered Land Certificate No. _____;

Thence with said line, along an arc deflecting to the right, having a central angle of 00°45'17" and a radius of 1918.82, a distance of 25.28 feet, the chord of said arc bears South 81°10'57" East, 25.28 feet to a point;

Thence South 61°01'07" West, 51.57 feet to a point;

Thence North 82°37'28" West, 230.52 feet to a point;

Thence North 18°37'21" East, 200.66 feet to the real point of beginning.

Containing 0.959 acres of land.

Page 1 of 2

6485-1621

The above described 0.959 acres of land contains the following portion of Registered Land Certificate No. _____:

Beginning at the intersection of the west line of Section 3, said line also being the east line of Section 9 and the east line of the Village of Mariemont, with the centerline of Wooster Road (U.S. Route No. 50);

Thence along said west line of Section 3, east line of Section 9 and east line of the Village of Mariemont, South 02°00'35" West, 40.05 feet to a point in the south line of Wooster Road;

Thence along said south line of Wooster Road the following three (3) courses and distances:

1. along an arc deflecting to the right, having a central angle of 19°22'10" and a radius of 1233.24 feet, a distance of 416.90 feet, the chord of said arc bears South 75°22'30" East, 414.92 feet;
2. South 65°41'25" East, 340.71 feet;
3. along an arc deflecting to the left, having a central angle of 05°53'40" and a radius of 6915.50 feet, a distance of 711.43 feet, the chord of said arc bears South 68°38'15" East, 711.12 feet to the REAL POINT OF BEGINNING for this description;

Thence from said REAL POINT OF BEGINNING, continuing along said south line of Wooster Road, along an arc deflecting to the left, having a central angle of 00°10'20" and a radius of 6915.50 feet, a distance of 20.80 feet, the chord of said arc bears South 71°40'15" East, 20.80 feet and South 71°45'25" East, 207.66 feet to a point;

Thence leaving said south line of Wooster Road, South 15°08'35" West, 123.63 feet to a point in the south line of said registered land;

Thence with said line, along an arc deflecting to the left, having a central angle of 07°15'38" and a radius of 1918.82, a distance of 243.15 feet, the chord of said arc bears North 85°11'24" West, 242.99 feet to a point;

Thence North 18°37'21" East, 179.94 feet to the real point of beginning.

Containing 0.797 acres of land.

Page 2 of 2

6485-1622

"ROADWAY TRACT"

EXHIBIT C-1

McDonald's Parcel 3
OR 10063-1359

The "Roadway Tract" consists of two parcels totalling 0.743 acres, situated in Section 3, Township 4, Fractional Range 2, Miami Purchase, Columbia Township, Hamilton County, Ohio, such parcels being more particularly described as follows:

Parcel 1 - 0.253 Acres (Part of Registered Land Certificate #158484)

Commencing at a cross notch at the intersection of the South right of way of Wooster Pike (U.S. 50) as shown on the Ohio Department of Transportation right of way plans dated January 6, 1937, and the West right of way of Walton Creek Road, thence South 13° 47' 08" West, 116.58 feet to a point on the former North right of way of the Little Miami Railroad; thence South 13° 48' 13" West, 57.57 feet; thence North 66° 11' 26" West, 64.70 feet; thence South 23° 48' 34" West, 159.37 feet; thence North 75° 28' 04" West, 175.97 feet; thence North 66° 11' 26" West, 406.37 feet; thence North 60° 58' 48" West, 239.40 feet to the real point of beginning; thence North 60° 58' 48" West, 46.89 feet; thence North 22° 37' 26" West, 89.76 feet to a point on the North line of Registered Land Certificate #158484, said point also being on the former South right of way of the Little Miami Railroad; thence along said right of way and with a curve to the right whose radius is 1852.82 feet, clockwise, 234.37 feet (chord of said arc bears South 83° 14' 22" East, 234.21 feet); thence South 70° 09' 16" West, 95.42 feet; thence North 88° 01' 06" West, 36.07 feet; thence North 66° 11' 26" West, 9.66 feet, thence South 23° 48' 34" West, 55.51 feet to the point of beginning, containing 0.253 acres.

PARCEL 2 - 0.490 Acres

McDonald's Parcel 2
OR 10063-1359

Beginning at the intersection of the west line of Section 3, said line also being the east line of Section 9 and the east line of the Village of Mariemont, with the centerline of Wooster Road (U.S. Route No. 50);

Thence along said west line of Section 3, east line of Section 9 and east line of the Village of Mariemont, South 02°00'35" West, 40.05 feet to a point in the south line of Wooster Road;

Thence along said south line of Wooster Road the following three (3) courses and distances:

1. along an arc deflecting to the right, having a central angle of 19°22'10" and a radius of 1233.24 feet, a distance of 416.90 feet, the chord of said arc bears South 75°22'30" East, 414.92 feet;
2. South 65°41'25" East, 340.71 feet; **6485-1623**
3. along an arc deflecting to the left, having a central angle of 05°28'48" and a radius of 6915.50 feet, a distance of 661.44 feet, the chord of said arc bears South 68°25'49" East, 661.18 feet to the REAL POINT OF BEGINNING for this description;

Thence from said REAL POINT OF BEGINNING, continuing along said south line of Wooster Road, along an arc deflecting to the left, having a central angle of $00^{\circ}24'51''$ and a radius of 6915.50 feet, a distance of 50.00 feet, the chord of said arc bears South $71^{\circ}22'39''$ East, 50.00 feet to a point;

Thence South $18^{\circ}37'21''$ West, 200.66 feet to a point;

Thence South $82^{\circ}37'28''$ East, 230.52 feet to a point;

Thence South $65^{\circ}58'48''$ West, 66.89 feet to a point in the north line of Registered Land Certificate No. 158484;

Thence along said line, along an arc deflecting to the left, having a central angle of $07^{\circ}14'51''$, a radius of 1852.82 feet, a distance of 234.37 feet, the chord of said arc bears North $87^{\circ}24'50''$ West (Registered Land bearing North $83^{\circ}14'22''$ West), 234.21 feet to a point;

Thence North $01^{\circ}05'06''$ West, 55.00 feet to a point;

Thence South $82^{\circ}37'28''$ East, 17.07 feet to a point;

Thence North $18^{\circ}37'21''$ East, 210.61 feet to the real point of beginning.

Containing 0.490 acres of land.

The above described 0.490 acres of land contains the following portion of Registered Land Certificate No. 160121:

Beginning at the intersection of the west line of Section 3, said line also being the east line of Section 9 and the east line of the Village of Mariemont, with the centerline of Wooster Road (U.S. Route No. 50);

Thence along said west line of Section 3, east line of Section 9 and east line of the Village of Mariemont, South $02^{\circ}00'35''$ West, 40.05 feet to a point in the south line of Wooster Road;

Thence along said south line of Wooster Road the following three (3) courses and distances:

1. along an arc deflecting to the right, having a central angle of $19^{\circ}22'10''$ and a radius of 1233.24 feet, a distance of 416.90 feet, the chord of said arc bears South $75^{\circ}22'30''$ East, 414.92 feet;
2. South $65^{\circ}41'25''$ East, 340.71 feet;
3. along an arc deflecting to the left, having a central angle of $05^{\circ}28'48''$ and a radius of 6915.50 feet, a distance of 661.44 feet, the chord of said arc bears South $68^{\circ}25'49''$ East, 661.18 feet to the REAL POINT OF BEGINNING for this description;

Thence from said REAL POINT OF BEGINNING, continuing along said south line of Wooster Road, along an arc deflecting to the left, having a central angle of $00^{\circ}24'51''$ and a radius of 6915.50 feet, a distance of 50.00 feet, the chord of said arc bears South $71^{\circ}22'39''$ East, 50.00 feet to a point;

6485-1624

Page 2 of 3

Thence South 18°37'21" West, 179.94 feet to a point in the south line of said registered land;

Thence along said line, along an arc deflecting to the left having a central angle of 01°34'19" and a radius of 1918.82 feet, a distance of 52.64 feet, the chord of said arc bears North 89°36'22" West, 52.64 feet to a point;

Thence North 18°37'21" East, 196.40 feet to the real point of beginning.

Containing 0.216 acres of land.

Subject to all legal highways, easements and restrictions of record.

The above description is based on a Plat of Survey prepared by McGill Smith Punshon, Inc. dated October 21, 1993 and revised through March 21, 1994.

6485-1625

HAMILTON COUNTY RECORDER'S OFFICE
Doc #94 - 102732 Type: EASE
Filed: 06/07/1994 10:13:12 AM \$ 64.00
Off. Rec.: 6485 1E14 R G2 12
Cert No.: 158484 161527

Page 3 of 3

161526 & 161528