

BREWER'S HILL COMMONS

TRAFFIC CIRCLE MAINTENANCE AGREEMENT

Two traffic circles have been installed in conjunction with the Brewer's Hill Commons residential development. These traffic circles are located at the intersection of N. Hubbard and E. Reservoir Streets and the intersection of N. Hubbard and E. Brown Streets. The traffic circles consist of round raised planters surrounded by a ribbon of stamped, colored concrete and a raised curb. Stamped, colored concrete crosswalks connect the corners of the intersections.

Tandem Developers LLC is the developer of Brewer's Hill Commons. Tandem anticipates that two condominium associations known as Cobblers Lofts Condominium Association and Shoeworks Lofts Condominium Association will eventually be assigned its obligations as outlined in this agreement. Together Tandem and the successor condominium associations shall be referred to herein as "Property Owner". Property Owner and the City of Milwaukee ("City") shall perform routine maintenance and shall undertake capital repairs of the traffic circles as outlined in Exhibit "A" (MAINTENANCE AND CAPITAL REPAIR RESPONSIBILITIES) attached hereto. The threshold for maintenance or repairs shall be the same as that used on other public right-of-way improvements in the city of Milwaukee.

If Property Owner fails to comply with its responsibilities as outlined in Exhibit "A", the City's Commissioner of Public Works ("Commissioner") shall provide Property Owner with a written notice setting forth the work which the Commissioner has determined has not been performed. If Property Owner does not commence such work within 30 days from the date of receipt of the Commissioner's written notice, the Commissioner may perform or cause to be performed the required work. The Commissioner shall bill Property Owner for all costs incurred performing such work. If the Property Owner has not paid any such bill within 60 days after having received it, the City may levy an assessment in the amount of the unpaid bill against property within the vicinity of the traffic circles owned by Property Owner.

The preceding paragraph notwithstanding, the Commissioner may, at his sole discretion, undertake emergency maintenance or repairs in cases where he has determined that the public health or safety is at risk. Should such maintenance or repairs pertain to an element of the traffic circles for which Property Owner has maintenance and repair responsibilities, the cost shall be billed to Property Owner following the procedures outlined above.

Approval by the Common Council of the City of Milwaukee of this agreement shall substitute for any Special Privilege Permit that might otherwise be required by Section 245-12 of the Milwaukee Code of Ordinances and Section 66.045 of State Statutes. The term of this agreement shall be 20 years but may be extended up to an additional 20 years upon the mutual agreement of both parties.

EXHIBIT "A"

MAINTENANCE AND CAPITAL REPAIR RESPONSIBILITIES

The City of Milwaukee shall be responsible for all maintenance and capital repair functions and related costs for the traffic circles unless specifically noted below as the responsibility of the Property Owner. The term "maintenance" shall mean repairs or services of a routine and ongoing nature. The term "capital repairs" shall mean non-routine and infrequent repairs or replacement necessitated by structural defect of significant deterioration.

1. Property Owner shall be responsible for maintenance of all plant material within the traffic circles. Landscape maintenance shall include, but need not be limited to, annual plantings, watering, removal and replacement of dead plants, weeding, and pruning.
2. When work performed under permit issued by the City will affect the stamped, colored concrete improvements in the two traffic circle intersections, the City shall ensure that the affected areas are restored to a condition and appearance consistent with their condition and appearance prior to the permitted work.
3. The City may use its customary standards and procedures to repair damage to the stamped, colored concrete surfaces when such damage is the result of normal wear and tear. It is recognized that the City's customary standards and procedures will not result in replication or replacement of the original appearance of the affected areas. If Property Owner wishes the City to undertake repairs in a way that preserves or restores the appearance of the affected area, Property Owner will be obligated to pay the difference in repair costs. At such time as the affected area must be resurfaced or replaced due to general deterioration, City and Property Owner shall mutually determine a resurfacing or replacement standard with the general understanding that Property Owner will pay the added cost for any work that exceeds normal and customary standards at the time.

THIS AGREEMENT, drafted by the City of Milwaukee, shall be binding upon the Property Owner, its lessees, successors and assigns, and upon the City, its successors and assigns.

PROPERTY OWNER

IN WITNESS WHEREOF, the Property Owner has caused this document to be signed and sealed this ____ day of _____, 2005.

Property Owner

In Presence Of:

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Personally came before me this ____ day of _____, 2005, who executed the foregoing instrument, and acknowledged that they executed the same.

Notary Public, State of Wisconsin

My Commission expires: _____

IN WITNESS WHEREOF, the proper City Officers have caused this document to be signed and the City's seal to be affixed this _____ day of _____, 2005.

CITY OF MILWAUKEE

In Presence Of:

Tom Barrett, Mayor

City Clerk

COUNTERSIGNED

Comptroller

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____, 2005, Tom Barrett, Mayor of the City of Milwaukee, a municipal corporation, to me known to be the person who executed the foregoing instrument and to me known to be such Mayor of said municipal corporation, and acknowledged that he executed the foregoing instrument as such officer as the deed of said municipal corporation, its authority, and pursuant to Resolution File No. _____ adopted _____, 2005.

Notary Public, State of Wisconsin

My Commission expires: _____

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____,
2005, Ronald Leonhardt, City Clerk of the above-named municipal corporation, to
me known to be the person who executed the foregoing instrument and to me
known to be such City Clerk of said municipal corporation, and acknowledged
that he executed the foregoing instrument as such officer as the deed of said
municipal corporation, its authority, and pursuant to Resolution File No.
_____, adopted _____, 2005.

Notary Public, State of Wisconsin
My Commission expires: _____

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____,
2005, W. Martin Morics, City Comptroller of the City of Milwaukee, a municipal
corporation, to me known to be the person who executed the foregoing instrument
and to me known to be such City Comptroller of said municipal corporation, and
acknowledged that he executed the foregoing instrument as such officer as the
deed of said municipal corporation, its authority, and pursuant to Resolution File
No. _____, adopted _____, 2005.

Notary Public, State of Wisconsin
My Commission expires: _____