

SILVER MILL MALL POLICE LICENSE AGREEMENT

This Agreement (“Contract”) is by and between the City of Milwaukee (“City”) and Silver Mill Management Company, LLC. (“Silver”), and is dated as of this _____ day of December, 2005 (the “Effective Date”).

Recitals.

- A. Silver owns the Silver Mill Mall (“Mall”) located at 6101 N. Teutonia Avenue, Milwaukee, 159-9967-112-5 (also known as 6063-6245 North Teutonia Avenue).
- B. The Mall is located in Police District 4.
- C. Silver wishes to have the Milwaukee Police Department (the “MPD”) use a portion of the Mall (i.e. the storefront designated as 6245 North Teutonia Avenue, shown on the map attached hereto as **EXHIBIT A** and consisting of approximately 1,000 square feet) (the “MPD Space”) on the terms and conditions hereof, and the MPD wishes to so use the MPD Space.
- D. The City’s Common Council, by Resolution File No. _____, on _____, 2005, approved City entry into this Contract.
- E. Silver duly approved Silver entry into this Contract.

Agreement.

- 1. **Recitals.** The above recitals are hereby incorporated herein and agreed to.
- 2. **License by Silver to City.** Silver hereby grants to City a license to use the Mall Space on the terms and conditions contained herein. The City shall also be entitled to use the parking lot at the Mall for ingress and egress and parking purposes associated with City’s use of the Mall Space.
- 3. **Term.** The term of this Contract is from the date hereof (the Effective Date) and shall continue until revoked by Silver or terminated by City. Silver shall give City 30 days advance written notice of revocation. City shall give Silver 30 days advance written notice of termination.
- 4. **Rent/License Fee.** Silver, recognizing benefits of MPD use of the MPD Space (including but not limited to positive community relations and the periodic presence of MPD personnel), will not charge or impose any monetary consideration to the City for MPD use of the Mall Space or the license herein granted.
- 5. **No Security Deposit.** There shall be no security deposit required of City hereunder.

6. **Use.** Use of the Mall Space shall be for meeting purposes held or coordinated by the the MPD or by the MPD's Community Liaison Officer, and for monthly and other periodic meetings of the MPD's Auxiliary Police Officers. Parking shall be for motor vehicles on a daily basis only. No vehicle or trailer or other storage is allowed. No long-term or overnight parking is allowed.
7. **Hours of Operation.** There are no set hours or days for City's use of the Mall Space or City or MPD operations thereat. City's use shall be determined by City and be on an "as-needed" basis. When not being used by City hereunder, City shall keep the doors to the Mall Space locked (using Silver's locks and the Silver-provided keys therefore).
8. **Signage.** Silver shall install or affix signage at the Mall Space, at Silver's expense, that meets the mutual approval of Silver and the Chief of the MPD (or her designee) (herein, "Chief").
9. **Utilities.** Silver shall pay electricity, water, sewer, and heating and air-conditioning used at or associated with the MPD Space. In the event City chooses to have phone or computer service at the MPD Space, City shall pay for the telephone and computer service it uses at the MPD Space.
10. **Maintenance.** Silver shall, at its expense, be solely responsible for keeping the Mall, parking lot at the Mall, and the MPD Space in good repair and condition (including snow removal from the parking lot). Notwithstanding the foregoing, City shall be responsible for any damage to the Mall Space that it causes or that results from City's use hereunder, and City shall keep the Mall Space in clean condition.
11. **Silver Access.** Silver shall provide a set of keys to the Mall Space to the Chief. Silver reserves the right to enter the Mall Space at any time without advance notice in the case of emergency, and at any other time upon 12 hours prior notice to the Chief to inspect the same and to perform necessary repairs and/or maintenance.
12. **No Hazardous Materials; Rubbish Removal.** City shall not allow any environmentally hazardous, noxious, or dangerous substances or materials to be brought into the Mall Space (except typical over-the-counter cleaning supplies). Trash baskets from the Mall Space shall be emptied by City by dumping same into Silver's rubbish containers located in the rear of the Mall.
13. **Alterations.** City may not alter or improve the Mall Space without Silver's prior written consent.
14. **Removal.** Upon the effective termination or revocation date of this License, this Contract shall terminate, City shall remove its personal property from the Mall Space, City shall repair any damage to the Mall Space relating to City's property removal or caused by City, and City shall leave the Mall Space in a clean condition.

15. **Occupancy Permit.** Silver shall apply for, and obtain, at its expense, an Occupancy Permit from the City for MPD's use and occupancy of the MPD Space. MPD shall cooperate with Silver regarding the completion of the application form if required. If, as a condition to issuance of an Occupancy Permit, the City requires corrections or repairs to the MPD Space to make the same code-compliant and able to be occupied, Silver shall be responsible, at its expense, for making such corrections or repairs.
16. **Successors and Assigns.** This Contract binds and inures to the benefit of the parties hereto and their successors and assigns.
17. **Counterparts.** This Contract may be executed in one or more counterparts which, when taken together, shall constitute one and the same document.
18. **Entire Agreement.** This Contract constitutes the entire agreement between the parties and all prior statements, written or oral, are terminated and of no effect. This Contract may only be amended by a written agreement signed by all the parties hereto.
19. **Remedies.** Each party shall have all rights hereunder and available at law and in equity in the event of the other party's breach or default hereunder. Notwithstanding anything to the contrary contained herein, City does not waive, and City expressly retains, all rights and protections accorded to it under Wisconsin law, including but not limited to, the protections of Wis. Stat. § 893.80.
20. **Public Records.** This Contract and certain documents relating thereto are, or may be, subject to Wisconsin's Open Records Law (see Wis. Stat. Ch. 19, Subch. II, and, esp. Wis. Stat. §19.36(3) which includes records produced or collected under this Contract). Silver agrees to cooperate with City in the event City receives a request under Wisconsin's Open Records Law for this Contract or for any record relating to, or produced or collected under, this Contract.
21. **Waiver.** No delay, waiver, omission or forbearance on the part of any party to exercise any right, option, duty or power arising out of any breach or default by any other party of any of the terms, provisions or covenants contained herein, shall be deemed a waiver by that party of such right, option, or power, as against the other party for that breach, or for any subsequent breach or default by that party.
22. **Notices.** All notices permitted or required hereunder shall be considered given **(i)** upon receipt if hand-delivered by commercial courier or otherwise personally delivered, **(ii)** if sent by facsimile, then the notice must be sent during business hours (i.e. 8:30 A.M to 4:30 P.M., Monday through Friday) on days that City's City Hall is open for business, and the notice shall be deemed given when sent as per the following and so long as the notice is successfully sent (i.e. the sender does not receive any error or "busy" or "inability to send" notification), and **(iii)** within two business days of depositing same in the U.S. mail, postage-paid, addressed by name and address to the party intended as follows. Notices alleging breach hereunder and notices of revocation or termination must

be given in accordance with this paragraph. Notice addresses or information may be changed, from time to time, by sending notice of the change to the other party in accordance with this paragraph.

A. If to City:

Chief, Milw. Police Dept.
749 W. State Street, Room 705A
Milwaukee, WI 53233

Fax:: 414-935-7109
Phone: 414-935-7200

With a further copy to:

Gregg Hagopian
City Attorney's Office
800 City Hall
200 East Wells Street
Milwaukee, WI 53202

Fax: 414-286-8550
Phone: 414-286-2620

B. If to Silver:

Silver Mill Management Co., LLC
6101 North Teutonia Avenue
Milwaukee, WI 53209-0000

Fax: 414-438-4290
Phone: 414-438-4280

IN WITNESS WHEREOF, the parties caused this Contract to be entered into and executed as of the Effective Date first written above.

CITY: City of Milwaukee

By: Milwaukee Police Department

By: _____
Chief Nanette H. Hegerty, Per Council
Resolution File No. _____

By: _____
Ronald D. Leonhardt, City Clerk

CITY ATTORNEY'S OFFICE
(Milwaukee Code of Ordinances § 304-21)¹

Approved by: _____
Gregg C. Hagopian
Assistant City Attorney

SILVER:
SILVER MILL MANAGEMENT CO., LLC

By: _____
David J. Cunningham, Managing Member

1032-2005-1784:96708

¹ There is no Comptroller countersignature on this document (City Charter § 3-18-2) because City pays no rent hereunder, and no immediate appropriation of funds is required by or as a result of the Contract. See City Attorney Opinions dated April 19, 2001 and June 26, 1990.

EXHIBIT A

MAP