

Document No.

**DECLARATION OF RESTRICTIVE COVENANT**

Return to: Matthew C. Carlson, Esq.  
Michael Best & Friedrich LLP  
P.O. Box 1806  
Madison, WI 53701-1806

See attached Exhibit A  
Parcel Identification Number

THIS DECLARATION OF RESTRICTIVE COVENANT (the "Declaration") is made as of the 1<sup>st</sup> day of January, 2008, by DJK Real Estate, LLC, a Wisconsin limited liability company ("Owner").

**RECITALS:**

WHEREAS, Owner owns certain land which is legally described as set forth on attached Exhibit A (the "Property"); and

WHEREAS, as of the same date hereof, Owner is conveying ownership of the Property to the City of Madison (the "City") for development and use as a Madison Public Library (the "Library"), pursuant to the terms and conditions set forth in that certain Definitive Agreement dated as of March 1, 2007 ("Definitive Agreement"); and

WHEREAS, the Owner desires to subject the Property to the conditions, restrictions, covenants and reservations set forth below, which shall encumber the Property, and shall bind the successors in interest, any owner thereof, and the owner of any interest therein.

NOW, THEREFORE, Owner declares that the Property shall be used, held, sold and conveyed subject to the conditions, restrictions, covenants and reservations set forth below, which shall encumber the Property, and run with the land, and shall bind the successors in interest, any owner thereof, and the owner of any interest therein.

1. Restriction on Use of Property. The Property will be used as a City public library (the "Library") for a term of not less than fifty (50) years ("Period of Library Use") from the date of this Declaration. In addition, in the event the City decides to permanently close the Library for any reason during the Period of Library Use, the Owner, or its successors and assigns, will have the right to purchase the land and building comprising the Library (the "Library Property") from the City at a fair market value to be determined by an independent appraisal obtained at the Owner's cost and agreed to by the parties. In the event the parties do not both accept the appraised value determined in the first appraisal, the first appraiser shall select a second appraiser to obtain an additional independent appraisal of the Library Property and the average of the two appraisals shall be determined to be the fair market value of the Library Property. For purposes of determining the final purchase price to be paid by Owner for the Library Property, the parties agree that only the appraised value of the improvements situated upon the Donated Property will be included in the final purchase price that is determined pursuant to the appraisal process described in the previous two sentences (i.e., the appraised value of the land itself will not be included in the final purchase price). In the event that the Owner does not exercise its right to purchase the Library Property within thirty (30) days of receipt of the final agreed upon appraisal (or the average of the two appraisals as described above, if applicable), then their repurchase rights as set forth herein shall be deemed null and void.

2. Site Plan Approval. The Owner, including any subsidiary or affiliate in control of the Grandview Commons subdivision development (in which such development the Property is located) (the "Subdivision"), which such subsidiary or affiliate of Owner shall include but not be limited to any Architectural Control Committee, or similar Subdivision planning and design oversight entity, formed pursuant to certain restrictive covenants recorded for the Subdivision, will have the right to review and approve the site plan and design of the proposed Library improvements to insure that the design of same will comply with the applicable design parameters for the Subdivision.

3. Reversion Rights. The ownership of the Property will revert back to the Owner, or its successors and assigns, unless within seven (7) years from the date hereof (i) all required permits for the construction and operation of the Library have been obtained, and (ii) construction of the foundation of the Library has been substantially completed. In the event that both of the requirements set forth in the previous sentence have not been satisfied within the time period provided, the City will convey the Property to the Owner free and clear of any liens and encumbrances except for the Permitted Exceptions set forth in the Definitive Agreement.

4. Term and Amendment. Unless amended as provided herein, this Declaration shall run with the land and shall be binding upon all persons claiming an interest in the Property for a period of fifty-seven (57) years from the date this Declaration is initially recorded. This Declaration may be amended or terminated by the recording of a written instrument executed by or on behalf of the Owner, or its successors and assigns.