



Legislation Text

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Fiscal Note

The 2006 Library Capital Budget includes a new Eastside Branch Library (project #6). It anticipates the donation of land and planning funds in 2006, consistent with this agreement. This land donation is contingent upon the City commencing construction of a branch library on this site within 7 years.

Title

Authorizing the Mayor and City Clerk to execute a Definitive Agreement with DJK Real Estate, LLC and accepting donations of lands and capital for the development of a new library branch to be located in Grandview Commons. 3rd Ald. Dist.

Body

PREAMBLE

DJK Real Estate, LLC, and its affiliates, members of the Simon and Rosenberg families (collectively, "Donors") own and are developing Grandview Commons, a subdivision located on Cottage Grove Road. The Madison Public Library Board has identified a site within Grandview Commons as an appropriate location for a new library branch (the "New Library Branch") and has worked with Donors towards the development of and donations for the New Library Branch. The Common Council, by adoption of RES-06-00125 on February 21, 2006, authorized the execution of a non-binding Memorandum of Understanding between the City and Donors (the "MOU") which set forth the parties' preliminary intent to work towards development of and donations for the New Library Branch. The parties have since negotiated the terms and conditions of a binding agreement which addresses, among other matters, the timing of donations; deed restrictions; site plan approval; the Donors' reversionary rights; and the City's payment of common expenses for the New Library Branch.

NOW, THEREFORE, BE IT RESOLVED, that:

1. The Mayor and City Clerk are hereby authorized to execute a Definitive Agreement with DJK Real Estate, LLC, regarding the development of and donations for a New Library Branch to be located at Grandview Commons, which Agreement shall contain the following terms and conditions:
 - (a) Donated Property. The Donors will donate to the Library for use as the New Library Branch the parcel of land described on the attached Exhibit A (the "Donated Property"). The Donors will execute a warranty deed conveying title to the Donated Property to the City of Madison, free and clear of all liens and encumbrances, except municipal and zoning ordinances and agreements entered under them, recorded easements, recorded building and use restrictions and covenants for the Subdivision, prorated general taxes levied in the year of the conveyance and such other matters specifically set forth herein. The final legal description and boundaries of the Donated Property shall be agreed to by the parties and the Donors shall prepare and record, at their sole cost, any land division instruments necessary to cause the Donated Property to be created as a separate legal parcel. The land division instruments will be prepared no later than 180 days from the date the Definitive Agreement is executed, and the Donated Property will be conveyed within 30 days of the land division instruments being recorded. The City shall be responsible for the cost of preparing and submitting a Specific Implementation Plan or other amendment to the existing General Development Plan which may be necessary for construction and operation of the New Library Branch. Donors will be responsible for paying any required transfer fee related to the conveyance.
 - (b) Public Improvements for Donated Property. All public infrastructure costs for improvements including but not limited to streets, lighting, street trees and water and sewer laterals in the subdivision serving the Donated Property shall be the responsibility of the Donors. The City will grant to Donors and their contractors access to the Donated Property to construct initial improvements related to the subdivision, including but not limited to grading activities, the installation of roadways, pedestrian paths and utilities.
 - (c) Parking for Donated Property. The Donated Property will contain certain parking spaces for employees and users of the New Library Branch ("Onsite Parking"). In addition, certain "Additional Parking" will be provided for the employees and users of the Library on adjoining and neighboring parcels. The parties agree to cooperate in planning and development of the Donated Property and the adjoining and neighboring parcels so that the combined amount of the Onsite Parking and Additional Parking will be sufficient for the contemplated size and use of the New Library Branch, as well as the facilities and improvements to be located on the adjoining and neighboring parcels.
 - (d) Payment of Common Expenses for Donated Property. The Donated Property will be deemed a part of a commercial

lot owners association for the subdivision. Pursuant to its inclusion in such commercial lot owner's association, the Donated Property will be subject to, and the City must pay, certain common area expenses assessed for expenses relating to maintenance of common parking areas serving the New Library Branch and neighboring properties, and such other matters as determined by the association. Notwithstanding anything to the contrary set forth herein, the City will not be required to pay any portion of the common area expenses related to real estate taxes.

(e) Deed Restrictions on Donated Property. The Donated Property will be conveyed subject to a Restrictive Covenant, which shall provide the following restrictions on the Donated Property:

(i) Use of Property. The Donated Property will be used as a City public library for a term of not less than fifty (50) years. In the event the Library or City decides to permanently close the New Library Branch during the required period, the Donors, or their successors and assigns, will have the right to purchase the land and building constituting the New Library Branch (the "New Branch Property") from the City at a fair market value to be determined by an independent appraisal of the New Branch Property to be obtained at the Donor's cost and agreed to by the parties; and

(ii) Site Plan Approval. The Donors will have the right to review and approve the site plan and design of the proposed New Library Branch improvements to insure that the design will comply with the applicable design parameters for the subdivision; and

(iii) Reversion Rights. The ownership of the Donated Property, along with any remaining unexpended amount of the Capital Donations, will revert back to Donors, or their successors and assigns, if construction of the New Library Branch is not commenced within seven (7) years from the date of the conveyance of the Donated Property to the City.

(f) Capital Donation. Donors have deposited \$25,000 in a segregated account with the Madison Public Library Foundation for the benefit of the New Library Branch, and will agree to further deposit with the Foundation \$40,000 annually on each of the five anniversaries of the MOU. The parties agree that these donations, totaling \$225,000 (the "Capital Donation"), shall be used by the City exclusively for planning the construction, the actual construction and the operation of the New Library Branch, as well as for the signage, promotions, web page development, advertising and managing the fundraising campaign for the New Library Branch.

(g) Naming Rights. The parties agree that the Donors shall have the right to name the New Library Branch ("Naming Rights Option") provided Donors deposit in a segregated account with the Madison Public Library Foundation an additional sum of One Million Five Hundred Thousand and no/100 dollars (\$1,500,000.00) (the "Supplemental Capital Donation"). In the event that Donors exercise the Naming Rights Option described above by making the Supplemental Capital Donation, the approval of the proposed name (which as of the date of this Resolution is planned to be the "Rosenberg/Simon Library" or some variation thereof) will be subject to the final approval of the Madison Public Library Board (the "Board"), which will not be unreasonably withheld and which will be consistent with current Board policy regarding naming rights; provided, however, that if the Board rejects the name selected by Donors, the Donors will have the right to withdraw and receive back the Supplemental Capital Donation. The parties agree that the Naming Rights Option shall terminate, upon thirty (30) days written notice from the City informing Donor that (i) the proposed name is unacceptable, or (ii) the City has procured a donation of a minimum of Two Million and no/100 dollars (\$2,000,000.00) from a third party or parties ("Third Party Donation") prior to Donors exercising the Naming Rights Option. At the time of such Third Party Donation, the donating party/parties shall have the right for up to thirty (30) days to come to an agreement with the City as to the name of the New Library Branch. In the event that the City and the third party cannot reach an agreement as to the name of the New Library Branch, or the third party decided not to name the New Library Branch, then the Donors shall once again have the right to exercise the Naming Rights Option by making the Supplemental Capital Donation.

2. The City hereby accepts from Donors the donation of the Donated Property as legally described on Exhibit A, attached hereto, the Capital Donation and the Supplemental Capital Donation, subject to the terms and conditions in the Definitive Agreement.

3. The Mayor and City Clerk are hereby authorized to execute their consent to a Declaration of Restrictive Covenant, which Declaration shall contain the conditions regarding use restrictions, site plan approval and reversion rights as described above.

4. The Mayor and City Clerk are hereby authorized to execute any other documents necessary to effectuate the intentions set forth in this Resolution, all in a form approved by the City Attorney.

EXHIBIT A

Description of Donated Property

Part of Lot 3 Certified Survey Map No. 11058 recorded in Volume 66 of Certified Surveys pages 221 through 225 Dane County Registry as Document No. 3908382 located in the SE1/4 of the NW1/4 of Section 11, T7N, R10E, City of Madison, Dane County, Wisconsin, to-wit: Commencing at the southeast corner of said Lot 3; thence N00°57'41"E, 400.79 feet; thence S50°53'16"W, 100.00 feet to the point of beginning; thence continuing S50°53'16"W, 169.46 feet; thence N39°06'44"W, 250.21 feet to the southeasterly right-of-way line of Sharpsburg Drive; thence N51°43'30"E along said southeasterly right-of-way line, 169.48 feet; thence S39°06'44"E, 247.73 feet to the point of beginning. Containing

42,191 square feet.