



## Legislation Text

File #: 25770, Version: 1

### Fiscal Note

This Amendment to the Agreement retains the requirement for the donors to make an additional \$150,000 donation upon commencement of construction.

### Title

Authorizing the Mayor and City Clerk to execute a First Amendment to Definitive Agreement regarding the future branch public library at Grandview Commons

### Body

#### Preamble

In 2007 DJK Real Estate, LLC and the Simon and Rosenberg families (collectively, "Donors") entered into a Definitive Agreement with the City concerning a future branch library in the Grandview Commons subdivision (the "Agreement"). The Agreement provided for the donation by Donors to the City of a parcel of land in Grandview Commons and for certain cash donations to be used for the library. In 2008 Donors donated to the City a parcel of land encompassing approximately 42,000 square feet (the "Donated Lot"), and provided a cash donation to fund planning costs of the new library. The Agreement specifies that the City shall construct the branch library no later than January of 2015 or the Donated Lot shall revert to Donors.

To accommodate the future grocery store at Grandview Commons, Donors plan to reconfigure the lots at Town Center for Grandview Commons, including the Donated Lot. Donors have submitted a preliminary plat to the City including a revised location, size and dimension for the future library (the "Reconfigured Lot"). The proposed Reconfigured Lot, which will be approximately 24,000 square feet, is shown on the attached Site Plan. In order to facilitate the new development, Donors have requested that the City execute an amendment to the Agreement to allow for the reconveyance of the Donated Lot to Donors, the conveyance by Donors to the City of the Reconfigured Lot, an extension of time for the City to construct the branch library, an easement over the adjoining parking area for the non-exclusive use by library patrons and staff, and an additional cash donation to be made for the benefit of the library.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Clerk are authorized to execute a First Amendment to Definitive Agreement with Donors containing the following terms and conditions:

1. Land Conveyances. The City shall convey the Donated Lot to Donors or Donors' designees by quit claim deed, and simultaneously thereto Donors or their designees shall convey to the City the Reconfigured Lot by warranty deed, free and clear of all encumbrances, excepting municipal and zoning ordinances and agreements entered under them, recorded easements, recorded building and use restrictions and covenants for the subdivision, general taxes levied in the year of the conveyance, to be pro-rated through the date of the conveyance, and permitted exceptions acceptable to the City. Donors shall be responsible for the cost of title insurance, and transfer and recording fees for both conveyances. There shall be no purchase price for either conveyance.
2. Easement. As a condition of the City's conveyance, Donors will convey, at no charge to the City, such easements (the "Easement", whether one or more) as are necessary to: (a) grant the City, without charge, a non-exclusive, perpetual right to use, in common with other third parties including but not limited to the grocery store, the parking field designated on the Site Plan for parking, access, ingress and egress by motor vehicles and pedestrians in use of the library; (b) designate that 16 parking stalls located on the parking field close to the Reconfigured Lot be designated as not available for snow storage, and after discussions with Library staff, sign such 16 stalls as either half-hour parking or for Library use only; and (c) work with Library staff to cause a dedicated Library loading stall to be located on Sharpsburg Drive in front the of the Reconfigured Lot. The City shall not be required to pay common area maintenance charges relating to the subdivision common areas.
3. Donation. Donors shall provide an additional capital donation of \$150,000 for Library purposes if the Library obtains all PUD/SIP approvals (or their functional zoning approval equivalent) for the new branch by June 30,

2015 and if construction of the new branch has begun by December 31, 2015.

4. Contingencies. Unless otherwise waived, the execution of the First Amendment and the conveyances and donations as described herein are contingent upon the satisfaction of the following contingencies by December 31, 2012: (a) the parties' agreement as to the terms of the Easement; (b) Donors' obtaining approval of the final plat; and (c) the grocery store developer obtaining all necessary approvals for the construction of the grocery store substantially and materially as shown on the Site Plan.

5. Effect of First Amendment. The 2008 Agreement included provisions regarding naming rights, reversionary rights and a deed restriction. These provisions, as amended by the First Amendment, shall be applicable to the Reconfigured Lot.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Mayor and City Clerk are hereby authorized to execute all deeds, easements and other documentation necessary to effectuate the intent of this resolution, all in a form to be approved by the City Attorney.