

GRANT AGREEMENT

THIS AGREEMENT entered into this _____ day of _____, 2012, by and between THE SHERMAN LIBRARY ASSOCIATION, INCORPORATED. (“Association”), a nonprofit charitable corporation organized and existing under the laws of the State of Connecticut and having an address of P.O. Box 40, Sherman, CT 06784, and the TOWN OF SHERMAN (“Town”), a municipal corporation organized and existing under the laws of the State of Connecticut and having an office and place of business at Mallory Town Hall, Sherman, Connecticut 06784:

WITNESSETH:

Whereas, the Association owns and operates the Sherman Public Library on land located at 1 Sherman Center, on Conn. Route No. 37 in the Town of Sherman as more particularly described in deeds recorded at Volume 11, Page 411, Volume 21, Page 266 and at Volume 123, Page 141 of the Sherman Land Records; and

Whereas, the Association has developed plans to expand the existing library building from approximately 4,000 square feet to approximately 9,706 square feet; and

Whereas, the Association estimates that the cost of the library expansion will not exceed the sum of \$3,300,000, which sum includes design and construction management costs and an estimated \$250,000 expense for library furnishings and equipment, the “not-to-exceed” sum of the project to be determined in consultation with a Construction Manager; and

Whereas, the Association has requested that the Town finance a portion of said costs by grant-in-aid of said project (hereafter “Grant”); and

WHEREAS, the Town is empowered under Section 7-148(c)(2)(E) of the General Statutes, Revision of 1958, as amended (the “General Statutes”) to appropriate funds for the performance of public functions by nonprofit libraries; and

WHEREAS, the Town is further empowered under Section 11-20 of the General Statutes to expend such sums of money as may be necessary to provide and maintain such suitable buildings as may be necessary for any library which is the property of any corporation without capital stock or for any public library established in such municipality, provided the use of such library shall be free to its inhabitants under such regulations as its directors or trustees may prescribe; and

WHEREAS, the Town recognizes the substantial benefits to be derived by the Town from the proposed library expansion and the efforts made by the Association in planning and raising funds for said library expansion and further desires to facilitate the financing, construction and equipping of said library expansion to assure its successful completion and to

provide the Grant described herein, which Grant is to be financed with proceeds of the Town's tax exempt general obligation bonds, notes or temporary notes (the "Bonds"):

NOW, THEREFORE, in consideration of the above premises and the following promises, commitments and agreements, the parties do hereby agree as follows:

1. Association Representations and Warrantees: The Association represents and warrants as follows:

(a) The Association is: (i) a Connecticut nonstock corporation in good standing; and (ii) is recognized as a charitable organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code").

(b) The Association holds title to the existing library lands and building, free and clear of all encumbrances.

(c) The existing library building and facilities are used by the Association for the purposes of a public library, which public library is free to all of the inhabitants of the Town, as provided by the Connecticut General Statutes.

(d) The Association's execution and delivery of this Agreement, and its performance hereunder, are duly authorized and do not conflict with any other material obligation of the Association.

2. Association's Covenants: The Association covenants and agrees as follows:

(a) The Association shall take all necessary action to ensure that: (i) it remains a Connecticut nonstock corporation in good standing; and (ii) it remains recognized as a charitable organization described in Section 501(c)(3) of the Code.

(b) The Association shall not encumber the library lands and building, as expanded, nor permit the library lands and building, as expanded, to become encumbered without the prior written approval of the Town, which approval shall not be unreasonably withheld.

(c) In the administration and execution of the library expansion project, the Association shall comply with all pertinent provisions of local, State and Federal law applicable to it and/or its properties and/or its business, and shall maintain its property in good condition and repair.

(d) The Association will pay and discharge promptly when due and payable all taxes, assessments and governmental charges levied or imposed upon it, its property, or any part thereof, or upon its income or profits, or any part thereof, as well as all lawful claims for labor, materials and supplies, which, if unpaid, might by law become a lien or charge upon its property, provided that such charges need not be paid while being contested by the Association in good faith and by appropriate legal proceedings so long as adequate reserves have been established

with respect thereto and the Association's title to, and its right to use, its property is not materially and adversely affected thereby.

(e) The Grant provided by the Town shall be used by the Association only to fund costs of construction and equipment and furnishings related to the expansion of the library as contemplated herein. Without limiting the generality of the foregoing, no portion of the Grant may be used to fund any expense of the project that would not be of a type properly chargeable to a capital account (or would be so chargeable with a proper election or with the application of the definition of "placed in service" under Department of the Treasury of the United States Regulation § 1.150-2(c)) under general Federal income tax principles.

(f) The Association shall maintain its books and records in such a manner as to permit verification of its compliance with the terms of this Agreement, including without limitation the accomplishment of the library building expansion as contemplated herein and the expenditure of all proceeds of the Grant, and shall make such books and records immediately available for review at the Town's request. The Association shall provide such certifications as to the expenditure, investment, and/or earnings on other funds pledged or obtained for the library expansion as may be required by the Town.

(g) As a condition of the Grant, the Association shall provide to the Board of Selectmen copies of minutes of the Association's Board of Directors' meetings, Treasurer's reports, and Director's reports upon their approval and/or acceptance by the Board of Directors. Additionally, the Board of Selectmen may appoint an ex officio, non-voting member of the project Building Committee.

(h) As a condition of the Grant and prior to any payment of Grant funds, the Association shall cause the contract for the construction of the library expansion to be submitted to competitive public bidding substantially in accordance with the requirements of the Town's compulsory bidding ordinance, and to award such contract, if at all, to the lowest responsible and qualified bidder who is prequalified for such work pursuant to Section 4b-91 and Section 4a-100 of the General Statutes. The contract documents shall require the successful bidder to post a performance bond and a labor and materials payment bond for the protection of the Association, as obligee, from default by the contractor in the performance of the contract or in the payment of materialmen and subcontractors. The payment provisions of the contract documents shall provide for a retainage to be withheld by the Association of not less than five percent (5%) until substantial completion of the contract and not less than two and one-half percent (2 ½%) until final completion and acceptance of the contract work by the Association.

(i) As a condition of the Grant and prior to the execution of the construction contract or contracts with the successful bidder(s), the Association shall demonstrate to the satisfaction of the Town that the bid of the successful bidder or the aggregate bids of all successful bidders, together with a reserve of 15 % of the bid price or aggregate bid prices for contingencies, is within or below the unencumbered funds available for construction after accounting for all other project expenses such as the costs of architectural and engineering services, construction

management, incidental services such as utility, water and sewage disposal, and the costs of furnishings and equipment. Grant funds will be provided to the Association to fund construction provided that at the time the construction contract is awarded the Association can demonstrate to the Town's satisfaction that sufficient funds are in place and available to complete the proposed construction and furnishing of the library expansion. Except for funds to be received pursuant to a State Public Library Construction Grant Contract between the Association and the State of Connecticut, Connecticut State Library Board, and except for funds to be received pursuant to this Grant Agreement, no funds that are not legally available and payable to the Association within thirty (30) days shall be deemed to be "in place and available" under this paragraph.

3. Implementation of Library Expansion: The Association agrees that it shall construct and equip the proposed library expansion. The Association further agrees that it shall maintain, operate and use the expanded building and facilities for the purposes of a public library, which public library shall be free and reasonably available to all of the inhabitants of the Town, subject to such reasonable rules and regulations as the Association may adopt from time to time as provided by the Connecticut General Statutes. The phrase "reasonably available" as used herein means that the library shall be open to the public for not less than twenty (20) hours per week and not less than four (4) days per week and for not less than 50 weeks per year. A temporary closure of the library for up to forty-five (45) consecutive days for emergency repairs, renovations, or because of fire or other casualty shall not be deemed to be a violation of this paragraph, provided that the Association shall give the Town written notice of such closure and the justified reason therefore within seven (7) days of such closure.

4. Grant for Capital Improvements Related to the Library Expansion: The Town shall provide grant assistance to the Association in an amount not to exceed in the aggregate the sum of One Million Dollars and 00/100 Dollars (\$1,000,000), subject to, and payable in accordance with, the terms and conditions hereof (the "Grant"). The following expenses incurred by the Town up to a maximum amount of \$75,000.00 shall be charged against the Grant: the legal and other direct expenses incurred by the Town in issuing bonds, notes or other debt obligations necessary to raise the Grant funds; the unreimbursed expense incurred by the Town in reviewing and processing the Association's land use applications; the unreimbursed expense, if any, incurred by the Town in monitoring construction of the library facilities; the expense incurred by the Town in obtaining highway and drainage easements associated with the expansion of the library facilities; and the expense incurred by the Town in connection with the preparation and execution of the Grant Agreement and in monitoring and/or auditing the Association's obligations and compliance hereunder.

The Association agrees that it shall use the Grant proceeds to pay for the capital costs incurred in connection with the library expansion, and for no other purpose. Specifically, unless otherwise authorized by the Town, the Association shall not reimburse itself from the Grant proceeds for any expenditures made on account of the library expansion prior to the date of this Agreement nor shall any unexpended grant assistance funds from the Town be added to the Association's reserves.

All costs in excess of the Town's Grant shall be the sole responsibility and obligation of the Association.

4.A. As a condition of this Grant, all or a portion of the funds advanced or expended by the Town pursuant to this Grant Agreement, together with interest thereon at the rate of six percent (6%) per annum, shall be repaid to the Town as follows upon the occurrence of any of the following events:

- a) if the Association fails to maintain, operate and use the expanded building and facilities for the purposes of a public library, free and reasonably available to all of the inhabitants of the Town for not less than twenty (20) hours per week and not less than four (4) days per week and for not less than 50 weeks per year. A temporary closure of the library for up to forty-five (45) consecutive days for emergency repairs, renovations or because of fire or other casualty shall not be deemed a violation of this provision, provided that the Association shall give the Town written notice of such closure and the justified reason therefore within seven (7) days of such closure.
- b) if the Association fails to complete construction or fails to open the expanded library building and facilities financed by the proceeds this Grant as a public library, free and reasonably available to all of the inhabitants of the Town, within **thirty-six (36) months** of the date of this Agreement.
- c) if the Association, without the prior written approval of the Town, shall transfer, sell or assign all or a material portion of its properties or assets, or enter into any merger or consolidation with another entity or transfer title to any portion of the library building and facilities.
- d) if the Association, without the prior written approval of the Town, shall lease the library building, as expanded, other than in the ordinary course of the conduct of the Association's affairs;
- e) if the Association either voluntarily or involuntarily discontinues its business;
- f) if the Association shall be dissolved or otherwise suffer or permit any termination of its corporate existence

The percentage of such \$1,000,000 to be repaid shall be determined based on the date that the event triggering the repayment obligation occurs, as follows:

January 1, 2012 to December 31, 2017	100%
January 1, 2018 to December 31, 2018	95%
January 1, 2019 to December 31, 2019	90%
January 2, 2020 to December 31, 2020	85%

January 1, 2021 to December 31, 2021	80%
January 1, 2022 to December 31, 2022	75%
January 1, 2023 to December 31, 2023	70%
January 2, 2024 to December 31, 2024	65%
January 1, 2025 to December 31, 2025	60%
January 2, 2026 to December 31, 2026	55%
January 1, 2027 to December 31, 2027	50%
January 1, 2028 to December 31, 2028	45%
January 1, 2029 to December 31, 2029	40%
January 2, 2030 to December 31, 2030	35%
January 1, 2031 to December 31, 2031	30%
January 2, 2032 to December 31, 2032	25%
January 1, 2033 to December 31, 2033	20%

On December 31, 2033 and provided that no triggering event has previously occurred, all of the Association’s repayment obligation shall terminate.

The repayment obligation shall be evidenced by the Association’s promissory note and secured by a first mortgage upon the Association’s premises located at 1 Sherman Center as more particularly described in deeds recorded at Volume 21, Page 266 and at Volume 123, Page 141 of the Sherman Land Records. The note and mortgage shall be substantially in the form attached hereto as Exhibit B and Exhibit C.

5. Payment of the Grant: The Town shall make payment to the Association on a reimbursement basis for capital costs incurred and due from the Association, net of any required retainage, with respect to the construction, equipping and furnishing of the library expansion. The total amount of the Town’s grant payments shall not exceed \$1,000,000.00, less any sums chargeable against the Grant as specified in Paragraph 4.

The Association shall submit a duly executed requisition for payment in the form attached hereto as Exhibit A (each a “Payment Requisition Certificate”) not more than once each month, attaching to such requisitions the Association approved invoices to be paid with grant funds. Provided that the Payment Requisition Certificate is duly certified and the required attachments submitted and the payment requisition is approved by the First Selectman, the Town shall make payment from the Grant funds due within thirty (30) days of the presentation of such requisition to the Town or within thirty (30) days of the date of issuance of the Bonds, whichever is later.

Until such time as the work in place, services rendered and equipment delivered and installed on the project represent fifty percent (50%) of the total project value as certified by the Association or its architect to the Connecticut State Library Board, the amount of the Town’s grant payment shall be up to one-half (1/2) of the amount, less retainage, then due from the Association to the contractor or other provider of services, material, equipment or furnishings.

Thereafter, the amount of the Town's grant payment shall be up to one-quarter (1/4) of the amount, less retainage, then due from the Association to the contractor or other provider of services, material, equipment or furnishings.

Notwithstanding any of the foregoing, the Town may, in its sole and exclusive discretion, withhold payment of all or any part of the amount requested in any Payment Requisition Certificate during any period that the Town requires to investigate the Association's compliance with any of the Association's covenants or the accuracy and truth of any of the Association's representations or warranties hereunder; and the Town shall withhold payment of all or any part of the amount sought in any Payment Requisition Certificate during any period that the Town determines the Association is not in compliance with any of the Association's covenants hereunder or that any of the Association's representations or warranties are not accurate and true.

6. Obligations of the Town under this Agreement: The Town shall have no obligations under this Agreement until such time as the Town shall have issued its Bonds in the amount of One Million Dollars (\$1,000,000) to fund the Grant and the costs associated with the financing thereof.

By providing grant assistance to the Association, the Town assumes no responsibility and shall have no obligation for the maintenance, repair or upkeep of the library property, including without limitation, the building, grounds, sidewalks, driveways and parking areas and other improvements and appurtenances nor for funding any portion of the Association's operating budget.

7. Indemnification and Insurance: The Association shall indemnify and hold the Town and all of its officials, employees and agents harmless from any and all suits, actions, claims, losses, costs, damages, liabilities, fines, expenses and penalties (including, but not limited to, reasonable attorneys fees) arising out of: (i) the Association's breach of any term or condition hereof; (ii) the accomplishment of the library expansion as contemplated hereby; (iii) any use of the library building as expanded; and (iv) the negligence or willful misconduct of the Association. Throughout the term hereof, the Association shall carry a policy of comprehensive general liability insurance plus an umbrella liability policy each with a combined single limit of at least \$1,000,000, or such greater amount as shall from time-to-time be reasonably requested by the Town, and of all risk casualty insurance in an amount sufficient to provide for the replacement of the library building, as expanded, and the personal property related thereto, and each issued by an insurer satisfactory to the Town. Each such insurance policy shall provide that such policy shall not lapse or be cancelled or modified except upon not less than thirty (30) days' prior written notice to the Town. The Town will be named as an additional insured on all such insurance policies. A copy of each such insurance policy shall be delivered to the Town prior to the disbursement of any portion of the Grant funds to the Association. Annually prior to the close of each calendar year, the Association shall deliver to the Town a certificate of insurance evidencing the foregoing insurance coverage.

8. Town's Powers and Remedies:

(a) The Town shall have the power to investigate the Association's compliance with the terms and conditions hereof, including, but not limited to, the power to review, during normal business hours, the Association's books and records with respect to: (i) the costs of the library expansion as contemplated herein and the expenditure of all proceeds of the Grant; and (ii) the use of the library building, as expanded.

(b) The Town shall have the power to declare a default by the Association hereunder, upon a determination by the Town that the Association is in violation of any of its representations and warranties or not in compliance with any of its obligations hereunder. If the Town makes a good faith determination that the Association is in violation of any of its representations and warranties or not in compliance with any of its obligations hereunder, it shall provide written notice thereof to the Association which articulates in reasonable detail the facts and circumstances which the Town believes have caused the default, together with a request that the Association either cure the default within fifteen (15) days of the notice or commence the cure and diligently attend thereto if the default is of a type that cannot be remedied within fifteen (15) days.

(c) Upon a default by the Association hereunder and a failure to cure as provided in subparagraph (b) hereof, **(i) the Town may immediately cease further payments of the Grant until such time as the question of such default is resolved by arbitration as provided in Paragraph 16 hereof.** The foregoing remedy shall be in addition to, and not in substitution for, any other remedy to which the Town is or may be entitled by law or in equity, including, but not limited to, the right of specific performance hereof by the Association.

9. Waiver: Enforcement of the agreements and covenants established by this Agreement shall be at the sole discretion of the Town (subject, as applicable, to the provisions of Paragraphs 8 and 16), and no forbearance, delay or omission by the Town in the exercise of any right or remedy upon any breach by Association nor upon the occurrence of a library closure as prohibited by Paragraph 3, shall impair such right, remedy or privilege or be construed as a waiver of same. The Association hereby waives any defense of lack of consideration, laches, estoppel or prescription with respect to any delay by the Town in acting to enforce any provisions or to exercise any rights it may have under this Agreement, or in any action to enforce same (subject, as applicable, to the provisions of Paragraphs 8 and 16).

10. Notices: Notices under this Agreement shall be in writing and shall be delivered by certified mail, return receipt requested, or by courier or overnight delivery service, or by in hand service. Notices to the Town shall be directed to:

Town of Sherman
Attention: First Selectman
Mallory Town Hall
9 Route 39 North,
P. O. Box 39
Sherman, Connecticut 06784

Notices to the Association shall be addressed to:

Sherman Library Association, Inc.
Attention: Board of Trustees
P. O. Box 40
Sherman, Connecticut 06784

Either the Town or the Association may unilaterally inform the other of a change in the person or address to which notices are to be given by giving written notice of such change in accordance with this Paragraph.

11. Entire Agreement - Amendment, Assignment: This Agreement, including, but not limited to, the attachments hereto, constitutes the entire agreement between the Town and the Association with respect to the subject matter hereof and supersedes any and all prior agreements, either oral or written, with respect thereto. Any modification to this Agreement shall be in writing, duly authorized and executed by both the Association and the Town. This Agreement is not assignable by the Association without the prior written consent of the Town. Any such assignment without the consent of the Town is void and of no force or effect.

12. Survival of Representations: For the purposes of this Agreement, the term “the Association” shall mean and include any successor or assigns of the Association including any representative of the Association under the provisions of any state or Federal law governing bankruptcy, insolvency, receivership or reorganization. All warranties, representations and covenants made by the Association in this Agreement or in any certificate or instruments delivered to the Town in connection with the Grant shall be considered to have been relied upon by the Town. This Agreement shall be binding upon and insure to the benefit of the successors and assigns of each of the parties, provided, however, that nothing in this provision shall imply that the Association has the right or authority to assign its rights, duties or obligations hereunder without the written consent of the Town.

13. Governing Law: This Agreement shall be governed by the laws of the State of Connecticut.

14. Counterparts: This Agreement may be executed in counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

15. Effective Date of Agreement: This Agreement shall become effective as of the date first written above.

16. Resolution of Disputes: a) Disputes arising out of or in connection with the interpretation or performance of this Agreement **except those arising under Paragraph 3, Paragraph 4A or the note and mortgage deed** executed by Association pursuant to this Agreement shall be settled by arbitration.

b) Arbitration proceedings shall be conducted at a location mutually agreeable to the parties within 30 miles of the Sherman Town Hall by a single arbitrator selected by the parties. Unless the parties otherwise agree, the arbitrator shall be an attorney licensed and actively practicing law in Connecticut for a period of not less than ten (10) years who shall not have been previously employed or affiliated with any of the parties hereto. If the parties fail to agree on the arbitrator within thirty (30) days of the date on which one of them invokes this arbitration provision, either party may apply to the American Arbitration Association to make an appointment of an arbitrator. The arbitrator shall conduct the proceedings pursuant to the Commercial Arbitration Rules of the American Arbitration Association, as now or hereafter amended. Judgment on the award of the arbitrator may be entered in the Superior Court for the Judicial District of Danbury, Connecticut or in any other court having jurisdiction over the party against which enforcement of the award is sought and the parties hereby irrevocably consent to the jurisdiction of any such court for the purpose of enforcing any such award. The cost of any arbitration proceeding under this Agreement shall be shared equally by the parties to the dispute and each party shall be responsible for its own legal and other professional fees.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals by their duly authorized officers to the original and to two duplicate copies thereof each of which shall constitute an original and one and the same instrument.

Signed, Sealed and Delivered
in the presence of:

The Sherman Library Association, Inc.

By: _____
Karen Cushnie, President

Town of Sherman

By: _____
Clay Cope, First Selectman

STATE OF CONNECTICUT)
)
COUNTY OF FAIRFIELD) ss: Sherman _____, 2012

Personally appeared Karen Cushnie, who acknowledged herself to be the President of The Sherman Library Association, Inc., a Connecticut corporation organized and existing under the laws of the State of Connecticut, and that she, as such President, being authorized to do so, executed the foregoing instrument on behalf of said corporation for the purposes therein contained by signing the name of the corporation as her and its free act and deed, before me.

In witness whereof I hereunto set my hand and seal.

Notary Public:
My commission expires:

STATE OF CONNECTICUT)
)
COUNTY OF FAIRFIELD) ss: Sherman _____, 2012

Personally appeared Clay Cope, who acknowledged himself to be the First Selectman of the Town of Sherman, a Connecticut municipal corporation organized and existing under the laws of the State of Connecticut, and that he, as such First Selectman, being authorized to do so, executed the foregoing instrument on behalf of said Town of Sherman for the purposes therein contained by signing the name of the corporation as his and its free act and deed, before me.

In witness whereof I hereunto set my hand and seal.

Notary Public
My commission expires:

EXHIBIT A

Form of Grant Requisition Certificate

I, _____, being the duly authorized _____ of Sherman Library Association, Inc. (the "Association"), hereby request payment of \$ _____ (the "Requested Grant Payment"), in accordance with that certain Grant Agreement (the "Grant Agreement") by and between the Association and the Town of Sherman, Connecticut (the "Town"), dated as of _____, 2012. All defined terms used in this Certificate shall have the meaning set forth in the Grant Agreement.

With respect to the Requested Grant Payment, I hereby certify as follows:

1. The Association is in full compliance with all of its obligations under the Grant Agreement as of the date hereof.
2. The entire Requested Grant Payment shall be used only to pay vendors' purchase orders, contractors' invoices or similar evidences of the Association's obligation to make payment to third parties, directly in connection with the library building expansion contemplated by the Agreement, and photocopies of such vendors' purchase orders, contractors' invoices or similar evidences of the Association's obligation to make payment to third parties, totaling in the aggregate not less than the Requested Grant Payment, are attached hereto. All of such expenses are costs of the Association of a type that is properly chargeable to capital account (or would be so chargeable with a proper election or with the application of the definition of 'placed in service' under Department of the Treasury of the United States Regulation § 1.150-2(c)) under general Federal income tax principles; and none of such expenses were with respect to expenditures made by the Association prior to the date of the Town's execution of the Grant Agreement.
3. The amount of the Requested Grant Payment when aggregated with the amount of all prior grant payments requested by the Association pursuant to the Grant Agreement and net of all expense chargeable against the Grant pursuant to Paragraph 4 of the Grant Agreement does not exceed \$1,000,000.
4. The total value of work in place, services rendered and equipment delivered and installed on the project represents _____ percent (___ %) of the total project construction value as certified by the Association architect/engineer.
5. The amount of the Requested Grant Payment represents _____ percent (___ %) of the sums currently approved for payment by the Association to contractors / vendors.

Dated this _____ day of _____ 201__

Sherman Library Association, Inc.

By: _____
Name: _____
Title: _____

EXHIBIT B

PROMISSORY NOTE

\$1,000,000.00

Sherman, Connecticut
_____, 2012

FOR VALUE RECEIVED, the undersigned Sherman Library Association, Incorporated (hereinafter called the "Association"), promises to pay to the order of the Town of Sherman (hereinafter called the "Town"), a municipal corporation, at its offices at Mallory Town Hall, Sherman, Connecticut 06784-0039, the sum of **ONE MILLION DOLLARS (\$1,000,000.00)**, or so much thereof as shall have been advanced pursuant to a the terms of a Grant Agreement of even date herewith entered into by and between the Association and the Town of Sherman, together with interest as provided below.

The sums advanced pursuant to said Grant Agreement are to be used by the Association to make improvements to existing library facilities by expanding the existing library building and facilities from approximately 4,000 square feet to approximately 9,706 square feet and to equip such expanded facilities for use as a free public library.

Except for funds otherwise expended by the Town as provided in the Grant Agreement, the Town shall make Advances to the Association in installments as the work progresses, the time and amount of each Advance to be at the sole discretion and upon the approval of the Town, so that when all of the improvements have been completed, the Town shall have expended or paid over to the Association grant proceeds up to the amount of \$1,000,000.00

The rate of interest payable on sums advanced and payable under this Note is six percent (6.00%) per annum.

The undersigned Association shall be obligated to repay the sums expended or advanced by the Town pursuant to said Grant Agreement only upon the occurrence of a Triggering Event. For the purposes of this Note, a Triggering Event shall be

- a) if the Association fails to maintain, operate and use the expanded library building and facilities for the purposes of a public library, free and reasonably available to all of the inhabitants of the Town for not less than twenty (20) hours per week and not less than four (4) days per week and for not less than 50 weeks per year. A temporary closure of the library for up to forty-five (45) consecutive days for emergency repairs, renovations or because of fire or other casualty shall not be deemed a triggering event, provided that the Association shall give the Town written notice of such closure and the justified reason therefore within seven (7) days of such closure.

- b) if the Association fails to complete construction or fails to open the expanded library building and facilities financed by said Grant Agreement within thirty-six (36) months of the date of that Agreement.
- c) if the Association, without the prior written approval of the Town, shall transfer, sell or assign all or a material portion of its properties or assets, or enter into any merger or consolidation with another entity or transfer title to any portion of the library building and facilities.
- d) if the Association, without the prior written approval of the Town, shall lease the library building, as expanded, other than in the ordinary course of the conduct of the Association's affairs;
- e) if the Association either voluntarily or involuntarily discontinues its business;
- f) if the Association shall be dissolved or otherwise suffer or permit any termination of its corporate existence

Upon the occurrence of a Triggering Event, Association shall give notice to the Town of the occurrence of any Triggering Event and the date thereof. Failure to give such notice shall constitute an event of default and shall itself constitute a Triggering Event. Unless such Triggering Event is expressly waived in writing by the Board of Selectmen (or other subsequent executive body) of the Town, the Association shall immediately pay to the Town the principal amount of all sums expended or advanced, together with interest upon said principal amount, due as of the date of the occurrence of such Triggering Event as follows:

January 1, 2012 to December 31, 2017	100%
January 1, 2018 to December 31, 2018	95%
January 1, 2019 to December 31, 2019	90%
January 2, 2020 to December 31, 2020	85%
January 1, 2021 to December 31, 2021	80%
January 1, 2022 to December 31, 2022	75%
January 1, 2023 to December 31, 2023	70%
January 2, 2024 to December 31, 2024	65%
January 1, 2025 to December 31, 2025	60%
January 2, 2026 to December 31, 2026	55%
January 1, 2027 to December 31, 2027	50%
January 1, 2028 to December 31, 2028	45%
January 1, 2029 to December 31, 2029	40%
January 2, 2030 to December 31, 2030	35%
January 1, 2031 to December 31, 2031	30%
January 2, 2032 to December 31, 2032	25%
January 1, 2033 to December 31, 2033	20%

If the Triggering Event occurs after December 31, 2033, no amounts will be due hereunder.

In the event that the Town waives a Triggering Event, such waiver shall not constitute a waiver of any subsequent Triggering Event and upon the occurrence of such subsequent Triggering Event, the Town shall have the right to require the undersigned to pay immediately and in full all amounts due hereunder by virtue of such subsequent Triggering Event.

The Association agrees to pay all costs and expenses, including reasonable attorney's and appraiser's fees, incurred in the collection of this Note, or in any litigation or controversy arising from or connected with this Note.

The undersigned waives the right of presentment and notice of dishonor.

Any notice required to be given under this Note shall be given to the Town by mailing such notice via first class mail, postage prepaid, certified and return receipt requested to First Selectman, Town of Sherman, Mallory Town Hall, Sherman, Connecticut 06784-0039 or to such other address as the Town of Sherman may specify in writing; and to the Association by mailing such notice via first class mail, postage prepaid, certified and return receipt requested to President, Sherman Library Association, Incorporated, 1 Sherman Center, Sherman, Connecticut 06784 or to such other address as the Association may specify in writing.

This Note is secured by a mortgage of even date herewith on real estate known as 1 Sherman Center, Sherman, Connecticut

SHERMAN LIBRARY ASSOCIATION, INCORPORATED

by _____
Karen Cushnie, its President, duly authorized

EXHIBIT C

MORTGAGE DEED

KNOW YE, THAT **SHERMAN LIBRARY ASSOCIATION, INCORPORATED**, a Connecticut Corporation having an office and place of business at 1 Sherman Center, Sherman, Connecticut 06784, hereinafter referred to as the "Grantor", for a valuable consideration received to its satisfaction from the **TOWN OF SHERMAN**, a municipal corporation organized under the laws of the State of Connecticut, located in the County of Fairfield and having an office at Mallory Town Hall, Sherman, Connecticut 06784-0039, hereinafter referred to as the "Grantee", does hereby give, grant, bargain, sell and confirm unto the Grantee, its successors and assigns, those certain pieces or parcels of land together with the buildings and all other improvements located thereon known as 1 Sherman Center, in the Town of Sherman, Connecticut, as more particularly bounded and described on **Schedule B**, attached hereto and made a part hereof.

Together with all plumbing, gas and electric fixtures, hot water heaters, gas and oil burners and equipment, ventilating and air conditioning equipment, electrical, telephone, cable and other wiring, communications antenna and equipment, mantels, windows and storm windows, shrubbery and plantings, timber, gravel and top soil, now or hereafter placed on, installed in, growing on or attached to said premises, all of which are hereby declared to be a part of the realty.

TO HAVE AND TO HOLD the above granted and bargained premises, with all the appurtenances thereto, unto the said Grantee, its successors and assigns, forever, to it and their proper use and behoof. And also the said Grantor does for itself and its successors and assigns covenant with the said Grantee, its successors and assigns, that at and until the ensembling of the these presents, it is well seized of the premises as a good and indefeasible estate in fee simple; and has good right to bargain and sell the same in manner and form as above written; and that the same are free from all encumbrances whatsoever except as stated in said **Schedule B**.

AND FURTHERMORE, the said Grantor does by these presents bind itself and its successors and assigns forever to **WARRANT AND DEFEND** the above granted and bargained premises to it the said Grantee, its successors and assigns, against all claims and demands whatsoever, except as aforesaid.

The condition of this deed is that the Grantor is indebted to the Grantee in the principal sum of One Million Dollars (\$1,000,000.00), or so much thereof as shall have been advanced pursuant to a the terms of a Grant Agreement of even date herewith entered into by and between the Grantor and the Grantee, with interest thereon, as evidenced by a promissory note of even date herewith, the terms of which are incorporated herein by reference, and a copy of which is attached hereto as **Schedule A**.

The Grantor for itself and its successors and assigns assigns, in order more fully to protect the security of this Mortgage and the Note secured hereby, does hereby covenant and agree with the said Grantee, its successors and assigns, as follows:

(1) That Grantor will pay all costs and expenses, including reasonable attorney's fees, incurred in the collection of said Note or in the foreclosure of this Mortgage or in protecting or sustaining the lien of this mortgage. The interest rate as set forth in said Note or the statutory judgment interest rate, whatever is higher, shall accrue on the indebtedness subsequent to any judgment of foreclosure.

(2) That Grantor will furnish all waivers of liens or claims on said premises and such surveys as said Grantee may deem necessary or request for the protection of this mortgage, and pay, when due, all insurance premiums and taxes and assessments made or levied upon said premises and upon the Note hereby secured.

(3) That Grantor will promptly pay the principal of and interest on the indebtedness evidenced by the said Note, at the times and in the manner therein provided.

(4) That Grantor shall pay when due all obligations, lawful claims or demands of any person which, if unpaid, might result in or permit the creation of a lien or encumbrance on the premises or on the rents, issues, income and profits arising therefrom, if any, whether such lien would be senior or subordinate hereto, including, but without limiting the generality of the foregoing, all claims of mechanics, materialmen, laborers and others for work or labor performed, or materials or supplies furnished in connection with any work or demolition, alteration, improvements of or construction upon the premises and in general shall do or cause to be done anything necessary so that the first lien of this Mortgage shall be fully preserved, at the cost of Grantor, without expense to the Grantee; and in default thereof the Grantee may pay the same and add the same to the debt.

(5) That Grantor shall pay in full when due, and in any event before any penalty or interest attaches, all general taxes and assessments, special taxes, special assessments, water charges, sewer service charges, and all other charges, fines or penalties imposed against Grantor or against the premises and shall promptly thereafter furnish to Grantee upon demand, official receipts evidencing the payment thereof; and in default thereof the Grantee may pay the same and add the same to the debt.

(6) That Grantor shall appear in and defend any suit, action or proceeding that might in any way and at the sole judgment of Grantee affect the value of the premises, the priority of the Mortgage or the rights and powers of Grantee. Grantor shall, at all times, indemnify, hold harmless and, on demand, reimburse Grantee for any and all loss, damage, expense or cost, including cost of evidence of title and attorneys' fees, arising out of or incurred in connection with any such suit, action or proceeding, and the sum of such expenditures shall be secured by this Mortgage and shall bear interest at the rate provided in the Note and shall be due and payable on demand. Grantor shall pay all costs of suit, cost of evidence of title, cost of any surveys and reasonable attorneys' fees in any proceeding or suit brought by Grantee to foreclose this Mortgage, to collect the Note, or to protect, sustain, or defend the lien of this Mortgage.

(7) That Grantor will maintain said premises in good order and condition, and free from all contamination, pollution and unlawful discharges, and will not commit or permit any waste thereof, reasonable wear and tear excepted; and further that no building on the premises

shall be removed, substantially altered or demolished, nor shall the premises be substantially altered, nor shall any soils, minerals or gravel be removed, without the written consent of the Grantee. Grantor shall permit the Grantee or its agents the opportunity to inspect the premises, including the interior of any structures, at any reasonable time. Any violation of the provisions of this clause shall constitute an event of default under this mortgage.

(8) That Grantor will keep all buildings on said premise in good repair and insured against loss by fire or other casualty in an amount and by such companies as shall be satisfactory to said Grantee, and maintain said insurance for the benefit of and first payable in case of loss to said Grantee, and claim no cancellation or return of any policy or premium except from and after the redemption of this mortgage by the Grantor. Such insurance shall not be cancelable except on not less than ten (10) days written notice to Grantee. The Grantor shall provide Grantee such evidence of such insurance as Grantee deems acceptable not less than ten (10) days after receipt of request for same, but in no event less than annually.

(9) That if the premises or any part thereof shall be damaged by fire or other hazard against which insurance is held as herein provided, the amounts paid by any insurance company by reason of such damage, in pursuance of the contract of insurance, to the extent of the indebtedness upon the note secured hereby remains unpaid, shall be paid to the Grantee and at its option, may be applied to the debt or for the repair or rebuilding of the premises.

(10) If any part of all of said property shall be taken by condemnation or other eminent domain proceedings, the Grantee may take all or any of the money due therefrom and apply same or any part thereof toward payment of the note hereby secured or any other obligation secured by this Mortgage; or may allow same or any part thereof to be paid to the owner of said mortgaged property or applied to repair or replace the condemned property, without reducing or affecting the amount of the debt hereby secured or any liability thereon; and in either case, at the option of said Grantee, all indebtedness hereby secured shall immediately become due and payable without demand or notice.

(11) This entire contract is primarily one between the Grantor and the Grantee, and if the Grantor shall cease to own said property or be adjudged bankrupt or insolvent, or if the premises or any part thereof or interest therein, whether equitable or legal, is sold, assigned, transferred, conveyed or otherwise alienated by the Grantor whether voluntarily, or involuntarily or by operation of law, without the prior written consent of the Grantee; or if the property shall be substantially damaged in any manner; or if the Grantor shall violate or fail to perform any of the provisions or covenants in this mortgage, or in said note; or if any foreclosure proceeding shall be instituted or any lien or mortgage of any kind affecting said property; or if any legal or equitable process or action affecting any part of said loan remaining to be advanced is pending, then, at the option of said Grantee, the entire indebtedness hereby secured shall become due and payable without necessity for demand or notice.

(12) Upon and after any event of default, Grantee may declare the entire principal of the Note then outstanding (if not then due and payable), and all accrued and unpaid interest thereon, all premiums payable thereunder and all other monetary obligations of Grantor hereunder, to be due and payable immediately, and upon any such declaration the principal of the

Note and said accrued and unpaid interest, premiums, and other obligations shall become and be immediately due and payable, anything in the Note or in the Mortgage to the contrary notwithstanding.

(13) Upon and after any event of default, or upon failure of the Grantor to perform any obligation hereunder, or upon the occurrence of any of the events recited in paragraph 9, Grantee may enter into and upon all or any part of the premises, and may exclude Grantor, its agents and servants wholly therefrom; and having and holding the same, may use, operate, manage and control the premises and conduct the business thereof; and upon every such entry, Grantee, at the expense of the premises, may maintain, repair and restore the premises, may complete construction of any improvements as it may deem desirable and may insure the same; and likewise, from time to time, Grantee may make all necessary or proper repairs, renewals and replacements and such useful alterations, additions, and improvements thereto as to it may deem advisable; and in every such case Grantee shall have the right to manage and operate the premises and to carry on the business thereof and exercise all rights and powers of Grantor with respect thereto either in the name of Grantor or otherwise as it shall deem best; and Grantee shall be entitled to collect and receive all earnings, revenues, rents, issues, profits and income of the premises and every part thereof, all of which shall for all purposes constitute property of Grantee; and after deducting the expenses of conducting the business thereof and of all maintenance, repairs, renewals, replacements, alterations, additions, and improvements and amounts necessary to pay for taxes, assessments, insurance and prior or other proper charges upon the premises or any part thereof, as well as just and reasonable compensation for the services of Grantee and for all attorneys, counsel, agents, servants and other employees by it engaged and employed, Grantee shall apply the moneys arising as aforesaid, first, to the payment of the principal of the Note and the interest thereon, when and as the same shall become payable and second, to the payment of all other sums required to be paid by Grantor under this Mortgage; and in furtherance of such rights hereby granted and conveyed to Grantee, Grantor hereby assigns to Grantee any and all leases, rental or occupancy agreements now or hereafter existing with respect to the mortgaged premises.

(14) That notice of the exercise of any option granted to the Grantee herein or in said Note, or any renewals or extensions thereof, is not required to be given, the Grantor hereby waiving any such notice.

(15) If any term of this Mortgage, or the application thereof to any person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of the Mortgage, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Mortgage shall be valid and enforceable to the fullest extent permitted by law.

This Mortgage shall be construed according to and governed by the laws of the State of Connecticut.

The covenants herein contained shall bind, and the benefits and advantages shall inure to the respective heirs, executors, administrators, successors and assigns of the parties hereto.

EXHIBIT A

PROMISSORY NOTE

\$1,000,000.00

Sherman, Connecticut
_____, **2012**

FOR VALUE RECEIVED, the undersigned Sherman Library Association, Incorporated (hereinafter called the "Association"), promises to pay to the order of the Town of Sherman (hereinafter called the "Town"), a municipal corporation, at its offices at Mallory Town Hall, Sherman, Connecticut 06784-0039, the sum of **ONE MILLION DOLLARS (\$1,000,000.00)**, or so much thereof as shall have been advanced pursuant to a the terms of a Grant Agreement of even date herewith entered into by and between the Association and the Town of Sherman, together with interest as provided below.

The sums advanced pursuant to said Grant Agreement are to be used by the Association to make improvements to existing library facilities by expanding the existing library building and facilities from approximately 4,000 square feet to approximately 9,706 square feet and to equip such expanded facilities for use as a free public library.

Except for funds otherwise expended by the Town as provided in the Grant Agreement, the Town shall make Advances to the Association in installments as the work progresses, the time and amount of each Advance to be at the sole discretion and upon the approval of the Town, so that when all of the improvements have been completed, the Town shall have expended or paid over to the Association grant proceeds up to the amount of \$1,000,000.00

The rate of interest payable on sums advanced and payable under this Note is six percent **(6.00%)** per annum.

The undersigned Association shall be obligated to repay the sums expended or advanced by the Town pursuant to said Grant Agreement only upon the occurrence of a Triggering Event. For the purposes of this Note, a Triggering Event shall be

- a) if the Association fails to maintain, operate and use the expanded library building and facilities for the purposes of a public library, free and reasonably available to all of the inhabitants of the Town for not less than twenty (20) hours per week and not less than four (4) days per week and for not less than 50 weeks per year. A temporary closure of the library for up to forty-five (45) consecutive days for emergency repairs, renovations or because of fire or other casualty shall not be deemed a triggering event, provided that the Association shall give the Town written notice of such closure and the justified reason therefore within seven (7) days of such closure.

- b) if the Association fails to complete construction or fails to open the expanded library building and facilities financed by said Grant Agreement within **thirty-six (36) months** of the date of that Agreement.
- c) if the Association, without the prior written approval of the Town, shall transfer, sell or assign all or a material portion of its properties or assets, or enter into any merger or consolidation with another entity or transfer title to any portion of the library building and facilities.
- d) if the Association, without the prior written approval of the Town, shall lease the library building, as expanded, other than in the ordinary course of the conduct of the Association's affairs;
- e) if the Association either voluntarily or involuntarily discontinues its business;
- f) if the Association shall be dissolved or otherwise suffer or permit any termination of its corporate existence

Upon the occurrence of a Triggering Event, Association shall give notice to the Town of the occurrence of any Triggering Event and the date thereof. Failure to give such notice shall constitute an event of default and shall itself constitute a Triggering Event. Unless such Triggering Event is expressly waived in writing by the Board of Selectmen (or other subsequent executive body) of the Town, the Association shall immediately pay to the Town the principal amount of all sums expended or advanced, together with interest upon said principal amount, due as of the date of the occurrence of such Triggering Event as follows:

January 1, 2012 to December 31, 2017	100%
January 1, 2018 to December 31, 2018	95%
January 1, 2019 to December 31, 2019	90%
January 2, 2020 to December 31, 2020	85%
January 1, 2021 to December 31, 2021	80%
January 1, 2022 to December 31, 2022	75%
January 1, 2023 to December 31, 2023	70%
January 2, 2024 to December 31, 2024	65%
January 1, 2025 to December 31, 2025	60%
January 2, 2026 to December 31, 2026	55%
January 1, 2027 to December 31, 2027	50%
January 1, 2028 to December 31, 2028	45%
January 1, 2029 to December 31, 2029	40%
January 2, 2030 to December 31, 2030	35%
January 1, 2031 to December 31, 2031	30%
January 2, 2032 to December 31, 2032	25%
January 1, 2033 to December 31, 2033	20%

If the Triggering Event occurs after December 31, 2033, no amounts will be due hereunder.

In the event that the Town waives a Triggering Event, such waiver shall not constitute a waiver of any subsequent Triggering Event and upon the occurrence of such subsequent Triggering Event, the Town shall have the right to require the undersigned to pay immediately and in full all amounts due hereunder by virtue of such subsequent Triggering Event.

The Association agrees to pay all costs and expenses, including reasonable attorney's and appraiser's fees, incurred in the collection of this Note, or in any litigation or controversy arising from or connected with this Note.

The undersigned waives the right of presentment and notice of dishonor.

Any notice required to be given under this Note shall be given to the Town by mailing such notice via first class mail, postage prepaid, certified and return receipt requested to First Selectman, Town of Sherman, Mallory Town Hall, Sherman, Connecticut 06784-0039 or to such other address as the Town of Sherman may specify in writing; and to the Association by mailing such notice via first class mail, postage prepaid, certified and return receipt requested to President, Sherman Library Association, Incorporated, 1 Sherman Center, Sherman, Connecticut 06784 or to such other address as the Association may specify in writing.

This Note is secured by a mortgage of even date herewith on real estate known as 1 Sherman Center, Sherman, Connecticut

SHERMAN LIBRARY ASSOCIATION, INCORPORATED

by s/ Karen Cushnie
Karen Cushnie, its President, duly authorized

SCHEDULE B

LEGAL DESCRIPTION

All those certain pieces or parcels of land owned by the Sherman Library Association, Incorporated consisting of a total of 1.591 acres, more or less, situated in the Town of Sherman, County of Fairfield and State of Connecticut and located at the intersection of Connecticut Route 37 and Saw Mill Road and consisting of premises conveyed to the Sherman Library Association, Incorporated by the following deeds:

1. A deed from Edna Allen to The Sherman Library Association, Inc. dated July 4, 1925 and recorded at Volume 11, Page 411 of the Sherman Land Records;

2. A deed from Edna Allen to The Sherman Library Association, Inc. dated October 16, 1957 and recorded at Volume 21, Page 266 of the Sherman Land Records; and

3. A deed from Thorp, LLC to the Sherman Library Association dated march 30, 2005 and recorded at Volume 123, Page 141 of the Sherman Land Records

Said premises are more particularly shown and designated as “Revised Lot Area = 69,325 S.F. / 1.5915 Ac.” on that certain map entitled: “Highway Conveyance and Easement Map Prepared For Sherman Library Association, Inc., CT Route 37 and Saw Mill Road, Town of Sherman, County of Fairfield, State of Connecticut, December 7, 2009, Scale 1” = 20”, prepared by Arthur H. Howland & Associates, P.C. of 30 Bridge Street, Suite #3, New Milford, Connecticut 06776, which map is recorded as Map #1984 in the Office of the Town Clerk of the Town of Sherman.