

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 01-099**

Approving Addendum to Retail Lease of Columbia-Fairview Library facility And Authorizing the County Chair to Execute the Addendum

**The Multnomah County Board of Commissioners Finds:**

- a) That Multnomah County entered into a Retail Lease dated April 28, 1999 of the Columbia Fairview Library facility to be constructed.
- b) That the said Retail lease contains a provision for optional extension of the term by Multnomah County to a period of 360 months.
- c) That the consideration for the exercise of the term extension was intended by the parties in negotiating the Retail Lease to constitute a reimbursement of construction cost, related cost and profit in the event of exercise of the option, but was not so stated in the Retail Lease.
- d) That the parties to the Retail Lease wish to clarify the nature of the consideration for exercise of said option by executing the Addendum to Retail Lease before the Board in this matter.

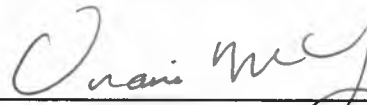
**The Multnomah County Board of Commissioners Resolves:**

- 1. That the Addendum to Retail Lease of the April 28, 1999 Columbia-Fairview facility lease before the Board in this matter be, and the same is hereby, approved.
- 2. That the County Chair is hereby authorized to execute and deliver said Addendum to Retail Lease.

ADOPTED this 26th day of July, 2001.

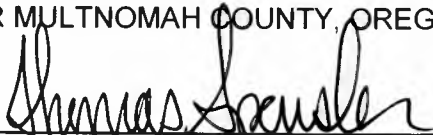


BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
\_\_\_\_\_  
Diane M. Linn, Chair

REVIEWED:

THOMAS SPONSLER, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
\_\_\_\_\_  
Thomas Sponsler, County Attorney

**ADDENDUM TO RETAIL LEASE**  
**1511 NE Village St.**  
**Fairview, OR 97024**

This Addendum to Retail Lease (the "Addendum") is entered into as of this \_\_\_\_ day of July, 2001, by and between SOUTH MARKET SQUARE LLC, an Oregon Limited Liability Company ("Landlord") and MULTNOMAH COUNTY ("Tenant").

**RECITALS**

WHEREAS, on or about April 28, 1999, Landlord and Tenant entered into a Retail Lease (the "Lease") regarding certain property located in Fairview, Oregon (as more particularly described in the Lease) and a portion of the building to be constructed thereon; and

WHEREAS, under the terms of the Lease, tenant is entitled to occupancy of the Leased Premises for 120 months; and

WHEREAS, the building is nearing completion, that portion of which that is leased to Tenant has been built to suit the unique purposes of Tenant as a library; and

WHEREAS, it is the standard practice of Tenant to secure an option to purchase any property leased for County use; however, under the Lease here, that portion of the building which will not be occupied by Tenant is residential, which Tenant does not desire to own or occupy; Tenant, therefore, seeks an alternative for securing occupancy of the useful life of the Leased Premises; and

WHEREAS, the useful life of the building, including the Leased Premises, is approximately 30 years; and

WHEREAS, provided Tenant will reimburse Landlord for its construction costs as provided for herein, Landlord is willing to extend the occupancy of premises to 360 months; and

WHEREAS, pursuant to this Addendum, the parties now desire to modify the Lease in accordance with the terms and conditions stated herein.

NOW, THEREFORE, in consideration of the parties' mutual execution of this Addendum, the conditions and covenants contained herein, and other good and valuable consideration, the

receipt of which is hereby acknowledged, the parties agree as follows:

#### **AGREEMENT**

##### **1. Option to Extend Occupancy.**

(a) Option. At any time during the first two Lease Years of the term of the Lease, Tenant may, in accordance with this Paragraph 1, extend the term of the Lease from 120 months from the Commencement Date to 360 months following the date of exercise of this option.

(b) Exercise of Option. At least thirty (30) days prior to the exercise of the option, Tenant must give Landlord written notice of Tenant's intention to exercise the option. In order to exercise the option, Tenant must deliver written notice of such exercise to Landlord together with the option consideration as provided for in subparagraph (c); provided, however, at any time after Tenant has provided Landlord with the notice of intent to exercise the option, as provided for in the preceding sentence, Landlord may designate, by written notice to Tenant, any third-party to receive the extension payment on Landlord's behalf, in which case Tenant shall deliver the extension payment to such third-party.

(c) Extension Payment. If Tenant exercises the option during the first Lease Year, Tenant shall pay to Landlord the amount of \$878,933.33, to reimburse Landlord for its costs to construct the building, related expenses and profit. If Tenant exercises the option during the second Lease Year, Tenant shall pay to Landlord the amount of \$905,301.33, to reimburse Landlord for its costs to construct the building, related expenses, interest carry, and profit.

(d) Rent After Exercise of Option. Beginning with the next full month following the exercise of the option, Tenant shall no longer be obligated to pay Base Rent as called for in the Lease.

(e) Closure of Facility. If at any time following the exercise of the option Tenant ceases library operations at the leased Premises, Landlord shall have the right to sublease the Premises from Tenant at an annual Base Rent equal to the amount of the extension payment paid by Tenant divided by thirty (30); provided, however, this right shall not in any manner be construed as Landlord's sole or exclusive right upon Tenant

ceasing library operations at the Premises -- this right of Landlord's shall be in addition to and not in any way in derogation of any other right of any nature whatsoever otherwise provided for under the Lease.

(f) Extinguishment of Supplemental Provision

Paragraph 4. In the event Tenant exercises the option provided for in this Addendum, Tenant shall not have the right to exercise the Option to Extend the Lease term as provided in Paragraph 4 of the Supplemental Provisions to the Lease.

(g) Memorandum of Option. Upon the request of either party, the other party shall execute a Memorandum of Option to Extend Lease Term concerning the option as provided in this Addendum in proper form for recording in the appropriate records of Multnomah County, Oregon.

2. Subordination, Attornment and Nondisturbance. The rights and interests of Tenant under this Lease and in and to the Leased Premises shall be subject and subordinate to all deeds of trust, mortgages and other security instruments ("Security Documents") heretofore or hereafter executed by Landlord covering the Leased Premises or any parts thereof and Tenant agrees to attorn to the holder of such Security Documents in the event of transfer, assignment of the Lease to such holder by Landlord or as a result of any foreclosure by such holder or holders of the Security Documents; provided, however, any such subordination and attornment shall be upon the express conditions that the validity of this Lease shall be recognized by the holder of such Security Documents, and that notwithstanding any default by Landlord with respect to such Security Documents or foreclosure thereof, Tenant's possession and right of use under this Lease in and to the Leased Premises shall not be disturbed by such holder unless and until Tenant shall be in default of any of the provisions of this Lease and Tenant's right of possession hereunder shall have been terminated in accordance with the provisions of this Lease. At the request of the Landlord, Tenant shall execute such documents as may be required to set forth such subordination and attornment. Notwithstanding any provision of the Lease to the contrary, the holder of the Security Documents shall have the right to cause such Security Documents to be subject and subordinate to this Lease by giving the Tenant express written notice thereof.

3. This Addendum shall be incorporated into and shall be deemed to be a part of the Lease for all purposes and shall

supercede all provisions that are inconsistent therewith. Except as expressly modified by this Addendum, all terms and conditions of the Lease shall remain in full force and effect, including, without limitation, Tenant's obligation to pay Additional Rent as defined in the Lease.

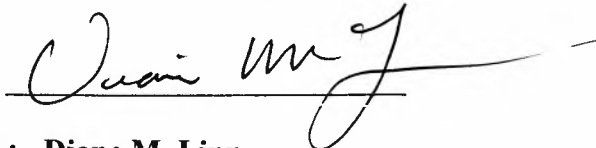
IN WITNESS WHEREOF, this Addendum has been duly executed as of the day and year first written above.

SOUTH MARKET SQUARE LLC  
By: Fairview Village  
Development Corp.  
Its: Manager

**BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON**

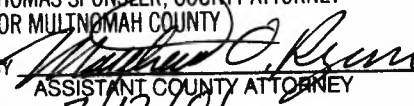
By: \_\_\_\_\_

Charles V. Haugh  
Its: President

By: 

Name: **Diane M. Linn**

Its: **Multnomah County Chair**

REVIEWED:  
THOMAS SPONSLER, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY  
BY   
ASSISTANT COUNTY ATTORNEY  
DATE 7/12/01