

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 09-014

Approving a Real Property Lease with Osbeck Properties LLC, for the New North Portland Library Branch, Located at 8226 North Denver Avenue in Portland, Oregon

The Multnomah County Board of Commissioners Finds:

- a. Measure No. 26-81, "Renew Five-Year Local Option Levy to Continue Library Services", approved in November 2006, included a specific requirement for new library branches in North Portland and East County. Funding for operations beginning in 2009 is included in the 2006 levy rate. There are separate program offers for siting leased library premises, constructing tenant improvements, purchasing computers and peripherals, and building the opening day collection.
- b. Resolution 08-095, adopted June 26, 2008, directed the Multnomah County Library ("Library") and Facilities and Property Management Division ("Facilities") to commence exclusive lease negotiations with Craig Osbeck, ("Landlord") owner of the property at 8226 North Denver Avenue in Portland, Oregon ("Property"), for the site of the new North Portland Library Branch. The Library and Facilities were directed to submit to the Board for consideration a draft lease for the Property as soon as practicable.
- c. After extensive due diligence, lease negotiations, and preliminary design, the Library and Facilities have negotiated the attached Lease with the Landlord and his representatives for the Property.
- d. It is in the best interests of the County to lease the Property on the terms and conditions set forth in the attached Lease.

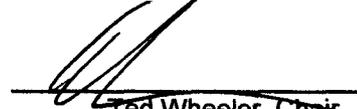
The Multnomah County Board of Commissioners Resolves:

1. The County Chair is authorized to execute a Lease substantially in conformance with the Lease attached to this Resolution.
2. The Library and Facilities are directed to prepare and to submit to the Board as soon as practicable, the capital planning requirements for the North Portland branch library approved in this Resolution under Multnomah County Administrative Procedure FAC-1.

ADOPTED this 29th day of January 2009.



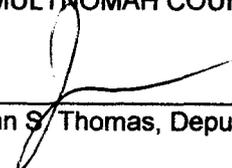
BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON



Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 

John S. Thomas, Deputy County Attorney

SUBMITTED BY:
Carol M. Ford, Director, Dept. of County Management

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

**SINGLE-TENANT NET LEASE
(OREGON)**

SECTION 1. LEASE TERMS.

1.1 Date of Lease _____

1.2 Tenant: **Multnomah County, Oregon**
Trade Name: **Multnomah County Library**
Premises Address: **8226 North Denver Avenue**
Portland, OR 97217

Notice Address: **401 North Dixon**
Portland, OR 97227
Phone: 503-988-3322

1.3 Landlord: **Osbeck Properties LLC**
Notice Address: **PO Box 17458**
Portland, OR 97217

Address For Payment of Rent: **Osbeck Properties LLC**
PO Box 17458
Portland, OR 97217

1.4 Premises: That certain real property, the building thereon (the "Building"), and the adjacent parking lot and improvements ("Parking Lot") with street addresses of **8226 North Denver Avenue and 1910 N. McClellan in Portland**, Oregon, as described on Exhibit A.

1.5 Building Area: Approximately **5,000** square feet on the Lease Commencement Date with an addition of approximately 1000 square feet to be added by Tenant all as described on Exhibit B.

1.6 Permitted Use of Premises:
A branch public library and ancillary uses.

1.7 Term of Lease:

Lease Commencement Date: **Upon Execution**
Lease Expiration Date: **December 31, 2019**
Rent Commencement Date: **January 1, 2010**

1.8 Base Rent: **\$ 8,500**/per Month

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52

1.9 Adjustment of Base Rent:

Months	New Base Rent/Month
<u>1-12</u>	<u>\$8,500</u>
<u>13-24</u>	<u>\$8,755</u>
<u>25-36</u>	<u>\$9,018</u>
<u>37-48</u>	<u>\$9,289</u>
<u>49-60</u>	<u>\$9,568</u>
<u>61-72</u>	<u>\$9,855</u>
<u>73-84</u>	<u>\$10,151</u>
<u>85-96</u>	<u>\$10,456</u>
<u>97-108</u>	<u>\$10,770</u>
<u>109-120</u>	<u>\$11,093</u>

1.10 Prepaid Rent: N/A

1.11 Security Deposit: \$ N/A

1.12 Broker(s): Landlord's Agent: GVA Kidder Mathews
Tenant's Agent: N/A

1.13 Guarantors: N/A

1.14 Exhibits:

The following Exhibits are attached hereto and incorporated as a part of this Lease:

- Exhibit "A" - Legal Description of the Premises
- Exhibit "B" - Site Plan of the Premises
- Exhibit "C" - Tenant Improvements
- Exhibit "D" - Right of First Negotiation
- Exhibit "E" - Option to Extend

THIS SINGLE-TENANT COMMERCIAL LEASE is made and entered into between Landlord and Tenant on the Date of Lease set forth in Section 1.1. The defined terms used in this Lease ("Lease Terms") shall have the meanings and definitions given them in Section 1. The Lease Terms, the Exhibits, the Addendum or Addenda described in the Lease Terms, and this Lease agreement are and shall be construed as a single instrument and are hereinafter referred to as the "Lease."

Now, therefore, for valuable consideration, Landlord and Tenant covenant and agree as follows:

SECTION 2. LEASE OF PREMISES.

2.1 Lease. Subject to the terms and conditions of this Lease, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Premises.

2.2 Term. The Lease Term shall be for the period commencing on the Lease Commencement Date and expiring on the Lease Expiration Date.

1 electromagnetic waves, vibration, noise, light, or radiation to be emitted from the Premises. Tenant shall not engage
2 in any activities that will in any manner degrade or damage the reputation of the Premises or increase Landlord's
3 insurance rates for any portion of the Premises.
4

5 4.2 Equipment. Tenant shall only install such equipment in the Premises as is customary for the
6 Permitted Use and shall not overload the floors or electrical circuits of the Premises or change the wiring or plumbing
7 of the Premises. Tenant shall obtain Landlord's prior written consent to the location of and manner of installing any
8 plumbing, wiring or electrical, heating, heat-generating or communication equipment or unusually heavy articles. Any
9 equipment, cables, wiring, conduit, additional dedicated circuits and any additional air conditioning required because
10 of any such equipment installed by Tenant shall be installed, maintained and operated at Tenant's sole expense and
11 in accordance with Landlord's requirements. Tenant shall not install any equipment on or through the roof of the
12 Building without first having obtained the prior written consent of Landlord, which consent Landlord shall not
13 unreasonably withhold.
14

15 4.3 Compliance with Laws. Landlord warrants that as of the Lease Commencement Date, the
16 Premises will comply with all applicable laws, statutes, ordinances, rules and regulations of any public authority for
17 the uses permitted under this Lease. (the "Laws").
18

19 4.4 Acceptance of Premises. Tenant accepts the premises "As Is" provided that, if Tenant shall be
20 unable, in spite of Tenant's best efforts, to obtain a conditional use permit, Design Review approval, and related
21 regulatory approvals for the Tenant's intended use of the Premises as a branch library and ancillary uses, Tenant
22 shall be entitled to terminate this lease upon written notice to Landlord. Upon such termination, neither party shall
23 have any liability to the other by reason of this Lease.
24

25 SECTION 5. TAXES AND INSURANCE

26
27 5.1 Taxes. The term "Taxes" shall include (i) all real and personal property taxes, charges, rates,
28 duties and assessments (including local improvement district assessments) levied or imposed by any governmental
29 authority with respect to the Premises and Building and any improvements, fixtures and equipment located therein or
30 thereon, and with respect to all other property of Landlord, real or personal, located in or on the Premises and
31 Building, and used in connection with the operation of the Building; (ii) any tax in lieu of or in addition to, or
32 substitution of a real property tax; and (iii) any tax or excise levied or assessed by any governmental authority on the
33 Rent payable under this Lease or Rent accruing from the use of the Premises and Building, provided that this shall
34 not include federal or state, corporate or personal income taxes. If Landlord receives a refund of Taxes, then
35 Landlord shall credit such refund, net of any professional fees and costs incurred by Landlord to obtain the same,
36 against the Taxes for the Lease Year (as defined below) to which the refund is applicable or the current Lease Year,
37 at Landlord's option. Notwithstanding the foregoing, Tenant shall pay before delinquency all taxes, assessments,
38 licenses, fees and charges assessed, imposed or levied on (a) Tenant's business operations, (b) all trade fixtures, (c)
39 leasehold improvements, (d) merchandise and (e) other personal property on the Premises.
40

41 Notwithstanding the above, Tenant intends to seek exemption from such real property taxes
42 pursuant to ORS 307.112. To the extent Tenant obtains such an exemption, Tenant shall not be required to pay an
43 additional sum to Landlord for such Taxes, but shall remain liable for all Taxes for which it does not receive an
44 exemption. Such Taxes (non-exempt) and insurance for the year in which the Lease commences and terminates will
45 be prorated and adjusted for any partial year. Tenant will pay such charges within five (5) days after notice from
46 Landlord of the amount due, or, in the case of personal property taxes, within five (5) days after receipt of notice from
47 the taxing authority of the amount due.
48

49 5.2 Tenant's Insurance. Tenant shall obtain comprehensive general liability insurance applying to the
50 use and occupancy of the Premises with limits of not less than **Three** Million Dollars (\$3,000,000) combined single
51 limit bodily injury and property damage. Such liability insurance shall include an endorsement naming Landlord, any
52 lender and Landlord's managing agent, if any, as additional insureds, shall insure the liability of Tenant under Section
53 10.1 of this Lease, and be in form and with companies reasonably approved by Landlord. Prior to possession or any
54 work by performed by Tenant, Tenant shall deliver to Landlord a certificate evidencing such insurance that shall

1 require no less than thirty (30) days' prior written notice to Landlord prior to any cancellation or material change. No
2 later than thirty (30) days' prior to expiration of any policy, Tenant shall deliver a renewal certificate to Landlord for
3 such insurance policy.
4

5 Tenant shall, at Tenant's expense, obtain and keep in force during the Lease Term an "all risk" insurance
6 policy with a sprinkler damage endorsement covering Tenant's personal property, inventory, alterations, fixtures,
7 equipment, plate glass and leasehold improvements located on or in the Premises, in an amount not less than one
8 hundred percent (100%) of their actual replacement value, providing coverage for risk of direct physical loss or
9 damage including sprinkler leakage, vandalism and malicious mischief. During the Lease Term, the proceeds of such
10 insurance coverage shall be used to repair or replace the personal property, inventory, alterations, fixtures, equipment
11 and leasehold improvements so insured, if the Premises are rebuilt following the casualty, and Landlord shall have no
12 claim to such proceeds.
13

14 At all times during the Lease Term and any extensions or renewals, Tenant agrees to keep and maintain,
15 and cause Tenant's agents, contractors, or subcontractors to keep and maintain, workmen's compensation insurance
16 and other forms of insurance as may from time to time be required by law or may otherwise be necessary to protect
17 Landlord and the Premises from claims of any person who may at any time work on the Premises, whether as a
18 servant, agent, or employee of Tenant or otherwise. This insurance shall be maintained at the expense of Tenant or
19 Tenant's agents, contractors, or subcontractors and not at the expense of Landlord.
20

21 Tenant is self-insured for the risks for which insurance is required under Section 5.2. So long as Tenant
22 remains self-insured, Tenant shall not be required to provide the insurance required by this paragraph. If requested,
23 Tenant shall provide to Landlord a certificate of self-insurance.
24

25 **5.3 Landlord's Insurance; Types of Coverage.** During the Lease Term, Landlord shall maintain in full
26 force and effect a policy or policies of insurance covering the Premises, which shall provide coverage against such
27 risks as are commonly covered under a "special form/all-risk" policy (including earthquake and/or flood coverage, at
28 Landlord's election), together with loss of rents and secondary liability insurance. Such insurance shall contain such
29 policy limits and deductibles, shall be competitively obtained through such insurance company or companies, and
30 shall be in such form as Landlord deems appropriate and is commercially reasonable, and shall provide coverage for
31 one hundred percent (100%) of the replacement value of the Building. All insurance proceeds payable under
32 Landlord's casualty insurance carried hereunder shall be payable solely to Landlord, and Tenant shall have no
33 interest therein.
34

35 **5.4 Written Statement of Estimate.** Prior to the Lease Commencement Date, Landlord shall furnish
36 Tenant with a written statement setting forth Landlord's estimate of the cost of Insurance for the first Lease Year.
37 Thereafter, prior to the commencement of each Lease Year after the first Lease Year, Landlord shall furnish Tenant
38 with a written statement setting forth the estimated cost of Insurance for the next Lease Year. Tenant shall pay to
39 Landlord as Additional Rent commencing on the Lease Commencement Date, and thereafter on the first day of each
40 calendar month, an amount equal to one-twelfth (1/12th) of the amount of the estimated cost of Insurance, as shown
41 in Landlord's written statement for that Lease Year. In the event Landlord fails to deliver said written estimate, Tenant
42 shall continue to pay to Landlord an amount equal to one-twelfth (1/12th) of the estimated cost of Insurance for the
43 immediately preceding Lease Year until Landlord does furnish the written estimate. Upon receipt of such written
44 estimate, Tenant shall pay an amount equal to the difference between the estimated cost of Insurance for the expired
45 portion of the current Lease Year and the Tenant's actual payments during such time, and any payments by Tenant in
46 excess of the estimated cost of Insurance shall be credited to the next due payment of Rent from Tenant. Landlord
47 reserves the right, from time to time, to adjust the estimated cost of Insurance, and Tenant shall commence payment
48 of one-twelfth (1/12th) of such revised estimate on the first day of the month following receipt of the revised estimate.
49

50 **5.5 Final Written Statement.** Within one hundred twenty (120) days after the close of each Lease Year
51 during the Term, Landlord shall deliver to Tenant a written statement (the "Operating Statement") setting forth the
52 actual cost of Insurance for the Property for the preceding Lease Year for each such item. In the event the actual
53 cost of Insurance for the preceding Lease Year is greater than the amount paid by Tenant for such Insurance,
54 Tenant shall pay the amount due to Landlord as Additional Rent within thirty (30) days after receipt by Tenant of such

1 statement. In the event the actual cost of Insurance for the preceding Lease Year is less than the amount paid by
2 Tenant for such Insurance, then Landlord shall, at Landlord's election, either (i) pay the amount of Tenant's
3 overpayment to Tenant within thirty (30) days following the date of such statement or (ii) apply such overpayment to
4 Tenant's next Rent payment, reimbursing only the excess over such next Rent payment, if any. If a Lease Year ends
5 after the expiration or termination of this Lease, any Additional Rent in respect thereof that is payable under this
6 Section shall be paid by Tenant within ten (10) days of its receipt of the Operating Statement for such Lease Year,
7 and any Additional Rent paid by Tenant in excess of the amount due under this Lease for the portion of the Lease
8 Year after expiration or termination of this Lease shall be refunded by Landlord to Tenant within ten (10) days of the
9 expiration of that Lease Year. The late delivery of any written statement by Landlord shall not constitute a waiver of
10 Tenant's obligation to pay Insurance, but Landlord shall use reasonable efforts to deliver such written statements as
11 soon as reasonably possible after the commencement of each Lease Year.

12
13 5.6 Tenant Examination. The Operating Statement referred to herein need not be audited but shall
14 contain sufficient detail to enable Tenant to verify the calculation of Insurance for the Premises. In addition, Tenant,
15 upon at least five (5) days' advance written notice to Landlord and during business hours, may examine any records
16 used to support the figures shown on the Operating Statement, provided however, that Tenant shall only be entitled to
17 make such an examination twice in each Lease Year, and the examination shall not be conducted by anyone who is
18 engaged on a contingent fee basis to represent Tenant. Tenant and any person conducting the examination on
19 behalf of Tenant shall enter into a confidentiality agreement reasonably satisfactory to Landlord and Tenant.

20 21 **SECTION 6. MAINTENANCE AND REPAIR.**

22
23 6.1 Landlord Repairs. Landlord shall repair, maintain and/or replace, where necessary, the
24 foundations, exterior walls, Parking Lot, including seal coating and striping, roof structure, downspouts and gutters
25 serving the Premises (excluding therefrom the interior doors and windows, plate glass and except for reasonable
26 wear and tear, any damage thereto caused by any act, negligence or omission of Tenant or its employees, agents,
27 invitees, licensees, contractors or subtenants, damage or destruction caused by any casualty not required to be
28 repaired under Section 12 and any condemnation or taking of the Building or any portion of or interest therein
29 governed by Section 11), ("Landlord Repairs"). Landlord shall not be responsible for any such Landlord Repairs to
30 the extent that Landlord establishes that such repairs are necessary because of design or construction defects in
31 work done as part of Tenant's Improvements described in Exhibit C or any other work done by Tenant under this
32 Lease. Tenant expressly waives the benefits of any statute now or later in effect that would otherwise give Tenant the
33 right to make repairs at Landlord's expense and deduct that cost from Rent owing to Landlord.

34
35 6.2 Tenant's Repairs. Except for Landlord Repairs set forth in Section 6.1 above, Tenant shall:

- 36 (a) maintain all portions of the Building and fixtures situated within the Building in good order
37 and repair;
38
39 (b) maintain, repair and replace, if necessary, all special equipment, and decorative
40 treatments installed by or at Tenant's request and that serve the interior of the Building;
41
42 (c) make all necessary repairs and replacements to all portions of the interior of the Building;
43
44 (d) maintain the HVAC system
45
46 (e) maintain all other improvements not specifically required to be maintained by Landlord,
47 and
48
49 (f) not commit waste to the Premises or any part thereof. If Tenant fails to perform Tenant's
50 obligations under this Section or under any other Section of this Lease, after ten (10) business days' prior written
51 notice to Tenant, except in an emergency when no notice shall be required, Landlord may enter upon the Premises,
52 perform the obligations on Tenant's behalf, and recover the cost of performance, together with interest at the rate of
53

1 twelve percent (12%) per year, as Additional Rent payable by Tenant with the next installment of Rent, provided that
2 such rate shall not exceed the maximum rate then allowed by law.
3

4 6.3 Liability. Landlord shall not be liable for any failure to maintain and repair the Premises as required
5 under Section 6.1 unless Tenant delivers written notice of such failure to Landlord and Landlord fails to perform such
6 maintenance or repair in a reasonable time and manner. Landlord may erect scaffolding and other apparatus
7 necessary to make repairs or alterations to the Premises. So long as Landlord uses commercially reasonable efforts
8 to minimize interference with Tenant's business and pursue diligent completion, Tenant shall have no claim against
9 Landlord for any interruption or reduction of services or interference with Tenant's occupancy because of repairs or
10 maintenance performed by Landlord to the Premises.
11

12 6.4 Negligent Damage. Tenant shall reimburse Landlord upon demand for the cost of repair incurred
13 by Landlord for damage caused by the negligent or intentional acts or any breach of this Lease by Tenant, its
14 employees, contractors, agents or invitees.
15

16 SECTION 7. ALTERATIONS. 17

18 7.1 Alterations by Tenant. Tenant shall not make any alterations, additions, or improvements to the
19 Premises (i) for which any governmental permit is required; or (ii) that modify any structural, mechanical, electrical or
20 plumbing component of the Building or (iii) that cost more than \$25,000, without first having obtained Landlord's
21 prior written consent, which consent shall not be unreasonably withheld. If Landlord consents in writing to any
22 proposed alteration of the Premises, Tenant shall (A) (A) obtain all necessary governmental permits and approvals
23 and deliver copies thereof to Landlord, and (C) cause all alterations to be completed promptly in compliance with
24 Landlord-approved plans and specifications with all due diligence in a good and workmanlike manner. Except for
25 removable machinery, bookcases, media racks, circulation desk, and unattached movable trade fixtures, all
26 improvements, alterations, wiring, cables or conduit installed by Tenant shall immediately become part of the
27 Premises, with title vested in Landlord. Landlord may require that Tenant remove any such improvements,
28 alterations, (excluding in slab wiring, cables or conduit) installed by or for Tenant and restore the Premises to good
29 condition and repair upon expiration or earlier termination of this Lease, customary wear and tear excepted. Any
30 contractor used by Tenant for any work in the Premises shall be subject to review by Landlord, and Landlord may
31 post notices of nonresponsibility in connection with any work being performed in the Premises by or at the request of
32 Tenant. All work in the Premises by or at Tenant's request must comply with all applicable Laws. Tenant shall not
33 permit any liens to attach to the Building or Tenant's interest in the Premises as a result of any work performed by or
34 at Tenant's request. Landlord approves the alterations described in Exhibit C.
35

36 7.2 Landlord's Contribution. Landlord shall pay to Tenant the sum of \$250,000 toward the
37 improvements described in Exhibit C, payable as follows:
38

39 \$41,000 per month for five months commencing July 1, 2009 on the first of each month thereafter
40 \$45,000 on December 1, 2009
41

42 Landlord may prepay any such amounts. Amounts not received on the due date shall bear interest at 9% per annum.
43

44 SECTION 8. UTILITIES AND SERVICES. 45

46 8.1 General. Tenant shall pay all charges for electricity, water, gas, telephone and other utility services
47 furnished to the Premises during the Lease Term and for all inspections, governmental fees and other like charges
48 associated therewith. Landlord makes no representation or warranty whatsoever as to the types, quantities,
49 availability or costs of any and all utility services for the Building.
50

51 Tenant shall comply with all Laws concerning the use or reduction of use of utilities in the Premises. Unless
52 caused by the sole, active negligence of Landlord, interruption of any service or utility shall not render Landlord liable
53 to Tenant for damages, relieve Tenant from performance of Tenant's obligations under this Lease or be deemed an
54 eviction or disturbance of Tenant's use and possession of the Premises. Tenant shall install surge protection systems

1 for power provided to the Premises, and Tenant releases Landlord from all liability for any damage caused by any
2 electrical surge.

3 4 **SECTION 9. SIGNS AND OTHER INSTALLATIONS.** 5

6 So long as Tenant first obtains all governmental permits required therefore, Tenant may install such signs as
7 deemed appropriate by Tenant on or attached to the Premises. All signs installed by Tenant shall comply with all
8 applicable governmental requirements. All signs and sign hardware shall be removed by Tenant, at Tenant's sole
9 cost and expense, upon termination of this Lease with the sign location restored to its former state unless Landlord
10 elects to retain all or any portion thereof. Tenant may not install any alarm boxes, foil protection tape or other security
11 equipment on the Premises without Landlord's prior written consent, which consent shall not be unreasonably
12 withheld.
13

14 **SECTION 10. TENANT INDEMNITY.** 15

16 10.1 By Tenant. Tenant shall indemnify, defend, and hold harmless Landlord and its managing agents
17 and employees from any claim, liability, damage, or loss, or any cost or expense in connection therewith (including
18 reasonable attorney fees), arising out of (a) any damage to any person or property occurring in, on or about the
19 Premises, as the result of the negligence or willful misconduct of Tenant, its employees, contractors, agents or
20 invitees, (b) use by Tenant or its agents, invitees or contractors of the Premises, and/or (c) Tenant's breach or
21 violation of any term of this Lease. The provisions of this Section 10 shall survive the termination or expiration of this
22 Lease.

23 10.2 By Landlord. Landlord shall indemnify, defend and hold harmless Tenant, and its employees and
24 invitees from any claim, liability, damage, or loss or any cost or expense in connection therewith (including reasonable
25 attorney fees) arising out of (a) any damage to any person or property occurring in, on or about the Premises as a
26 result of the negligence or willful misconduct of Landlord, its employees, contractors, agents or invitees and/or (b)
27 Landlord's breach or violation of any term of this Lease. The provisions of this Section 10.2 shall survive the
28 termination or expiration of this Lease.
29

30 **SECTION 11. EMINENT DOMAIN.** 31

32 If any portion of the Building or any portion of the Premises shall be permanently taken under any right of
33 eminent domain, or any transfer in lieu thereof (the "Taking") and such taking renders the Premises in the reasonable
34 opinion of Tenant unsuitable for Tenant's use, then Tenant may terminate this Lease by giving written notice to
35 Landlord, and such termination shall be effective on the date possession of the Building, Premises or portion of either
36 is delivered to the condemning authority. If this Lease is not so terminated, Landlord shall repair and restore the
37 Premises as close as practicable to its condition prior to the Taking, and this Lease shall continue, but, commencing
38 with the date on which Tenant is deprived of the use of any portion of the Premises or of any rights under this Lease,
39 Base Rent shall be proportionately abated or reduced, based on the extent to which Tenant's use of the Premises is
40 impaired. If Landlord fails to promptly commence and complete repair and restoration of the Premises, Tenant may,
41 after 10 day's written notice to Landlord, repair and restore the premises at Landlord's expense and in such event
42 shall have a claim against Landlord for the cost of such repair and restoration. Notwithstanding any provision herein
43 to the contrary, Landlord's obligation to repair or restore the premises is limited to the funds received by the
44 condemning authority. If the Landlord does not receive sufficient funds to repair and repair the portion not taken by
45 the condemning authority, the Landlord may terminate this Lease unless the Tenant provides the additional moneys
46 to repair and restore the premises so that the premises are acceptable to Tenant. If the Landlord elects to repair and
47 restore the premises after a partial taking and the Tenant qualifies for a portion of the award, the Tenant agrees to
48 pay to the Landlord so much of the Tenant's award so as to allow Landlord to restore and replace so much of the
49 premises as may be partially taken by the condemning authority should the Landlord elect to restore or repair the
50 premises to make the premises reasonably suitable for Tenant's use.

51 Any and all awards payable by the condemning authority shall be distributed between landlord and tenant in
52 accordance with their respective interests;
53

54 **SECTION 12. FIRE OR CASUALTY.**

1
2 12.1 Major Damage. In case of Major Damage to the Building, Tenant may elect to terminate this Lease
3 by notice in writing to Landlord within sixty (60) days after such date. "Major Damage" shall mean damage to the
4 Building by fire or other casualty (i) which causes any substantial portion of the Building to be unusable, or (ii) the
5 repair of which will cost more than twenty-five percent (25%) of the replacement value of the Building (iii) or which is
6 not required under this Lease to be covered by insurance. If Tenant does not terminate this Lease after any Major
7 Damage, or if damage occurs to the Building which is not Major Damage, Landlord shall promptly restore the Building
8 to the condition existing immediately prior to such damage, and this Lease shall continue in full force and effect. In
9 the event of any damage to the Building by fire or other casualty, Tenant shall promptly repair and restore all tenant
10 improvements or alterations installed or paid for by Tenant or pay the cost of such restoration to Landlord if Landlord
11 performs such restoration. In the event the Building is damaged by any casualty, Rent shall be reduced to the extent
12 that the Building and Premises are unusable from the date of damage until the date the damaged portion of the
13 Building and Premises has been restored and may be used by Tenant for the purposes permitted under this Lease .
14 If Landlord fails to promptly commence and complete repairs, Tenant may, after 10 day's written notice to Landlord,
15 make repairs at Landlord's expense and in such event shall have a claim against Landlord for the cost of such
16 repairs. Notwithstanding any provision herein to the contrary, Landlord's obligation to repair or restore the premises
17 is limited to the funds received from the insurance policy to repair and restore the premises. If the Landlord does not
18 receive sufficient funds to repair and restore the premises from the insurance policy, the Landlord may terminate this
19 Lease unless the Tenant provides additional moneys to repair and restore the premises so that the premises are
20 acceptable to Tenant.

21
22
23 12.2 Waiver of Subrogation. Landlord and Tenant each hereby releases and waives any and all rights to
24 recover from or proceed against the other party and its employees, agents and contractors, for loss or damage to any
25 property of the releasing party or any person claiming through the releasing party arising from any cause required to
26 be insured against by the releasing party under this Lease. Landlord and Tenant shall each cause their insurance
27 policies to contain a waiver of subrogation provision consistent with the foregoing.
28

29 **SECTION 13. ASSIGNMENT AND SUBLETTING.**

30
31 Tenant shall not assign or encumber its interest under this Lease or sublet all or any portion of the Premises
32 without having first provided thirty (30) days' written notice to Landlord and thereafter obtained Landlord's written
33 consent. Tenant shall deliver written notice of Tenant's desire to assign or sublet all or any portion of the Premises
34 and such notice shall include a recent audited financial statement and a statement of the intended use for such
35 proposed assignee or subtenant. So long as any proposed subtenant or assignee is (i) compatible with Landlord's
36 regular credit and use standards for the Premises and (ii) intends to use the Premises for a use permitted by current
37 zoning (A) Landlord's consent shall not be unreasonably withheld, conditioned or delayed; and (B) Landlord's consent
38 shall not be required if such assignment or subletting is in connection with an entity that is an affiliate or subsidiary of
39 Tenant or with a merger or change in control of Tenant, including, but not limited to, a library service district or similar
40 successor to the Tenant. No assignment shall relieve Tenant of its obligation to pay rent or perform other obligations
41 required by this Lease, and no consent to one assignment or subletting shall be a consent to any further assignment
42 or subletting.
43

44 If Tenant proposes a subletting or assignment for which Landlord's consent is required, and the subtenant
45 has proposed to pay rent in excess of that provided in this Lease, Landlord may terminate this Lease by written notice
46 to Tenant within thirty (30) days of receipt of Tenant's proposal, and thereafter, deal directly with the proposed
47 subtenant or assignee, or any other third party. Tenant may render void any notice of termination from Landlord by
48 written notice to Landlord, within thirty (30) days of receipt of Landlord's termination notice by agreement in writing to
49 pay to Landlord all excess rent for the term of the sublease. Tenant shall reimburse Landlord for any costs incurred in
50 connection with a proposed assignment or subletting, including reasonable attorney fees in an amount not to exceed
51 **\$ 2,500.**
52

53 **SECTION 14. DEFAULT.**

1 14.1 Events of Default. Each of the following shall be an Event of Default by Tenant under this Lease:

2
3 14.1.1 Failure by Tenant to pay Rent or any other charge due under this Lease within ten (10)
4 days after receipt of written notice from Landlord that the same is then due.

5
6 14.1.2 Failure by Tenant to comply with any other obligation of this Lease within twenty (20) days
7 following written notice from Landlord specifying the failure (except in the case of emergency, in which event Landlord
8 shall only be required to give such notice as is reasonable under the circumstances); provided, however, that if the
9 nature of Tenant's default requires more than twenty (20) days to correct, Tenant shall not be deemed in default of
10 this Lease so long as Tenant commences the cure of such failure within such twenty (20)-day period and thereafter,
11 proceeds in good faith and with all diligence to complete such cure as soon as possible.

12
13 14.1.3 Assignment or subletting by Tenant in violation of Section 13.

14
15 14.1.4 Tenant's failure to execute and deliver to Landlord the documents described in Section 18
16 or 22 within twenty (20) days of written notice from Landlord.

17
18 14.1.5 Tenant's insolvency, business failure or assignment for the benefit of its creditors.
19 Tenant's commencement of proceedings under any provision of any bankruptcy or insolvency law or failure to obtain
20 dismissal of any petition filed against it under such laws within the time required to answer; or the appointment of a
21 receiver for all or any portion of Tenant's properties or financial records.

22
23 14.2 Remedies for Default. Upon the occurrence of an Event of Default described in Section 14.1,
24 Landlord may exercise the following remedies as well as any other remedies at law or in equity, by statute or as set
25 forth in this Lease:

26
27 14.2.1 Landlord may terminate this Lease, reserving all rights to damages resulting from Tenant's
28 breach. Whether or not Landlord terminates this Lease, Landlord may retake possession of the Premises and any
29 relet or use of the Premises by Landlord shall not be deemed a surrender or waiver of Landlord's right to damages. If
30 Landlord retakes possession of the Premises, Landlord's mitigation efforts shall be deemed sufficient if Landlord
31 follows commercially reasonable procedures and otherwise complies with Law.

32
33 14.2.2 Tenant shall be liable to Landlord for all damages caused by Tenant's default, including,
34 but not limited to, , Lease commissions incurred for this Lease, Landlord may periodically sue Tenant to recover
35 damages as they accrue, and no action therefore shall bar a later action for damages accruing thereafter. Landlord
36 may elect in any one action to recover both accrued damages as well as damages attributable to the remaining term
37 of the Lease. .

38
39 14.3 Landlord's Right To Cure Default. Landlord may, but shall not be obligated to, make any payment
40 or perform any obligation under this Lease that Tenant has failed to perform, as and when required hereunder.
41 Tenant shall pay Landlord for all expenditures and costs incurred by Landlord in performing any obligation of Tenant,
42 upon demand, with interest thereon at the rate of Ten percent per month (10%), but in no event at a rate in excess
43 of that allowed by Law. Landlord's right to cure any Tenant default is for the sole protection of Landlord and in no
44 event shall Tenant be released from any obligation to perform all of Tenant's obligations and covenants under this
45 Lease. The contents of this Section shall not be deemed a waiver by Landlord of any other right that Landlord may
46 have arising from any default of this Lease by Tenant, whether or not Landlord exercises its rights under this Section.

47
48 14.4 Landlord's Default. Landlord shall not be deemed to be in default of the performance of any
49 obligation required to be performed by it hereunder unless and until Landlord fails to perform such obligation within
50 twenty (20) days after written notice by Tenant to Landlord specifying the nature of Landlord's alleged default;
51 provided, however, that if the nature of Landlord's alleged default is such that more than twenty (20) days are
52 required for its cure, then Landlord shall not be deemed to be in default if Landlord shall commence such
53 performance within such ten (10)-day period and thereafter diligently prosecute the same to completion.

1 in full force and effect and unmodified, if there are any modifications, that the Lease is in full force and effect as
2 modified; that Tenant is in possession of the Premises; the dates to which Rent has been paid in advance and the
3 amount of any Security Deposit or prepaid Rent; and such other matters as may be reasonably requested. If either
4 party fails to deliver a requested certificate within the specified time, such failure shall conclusively establish that the
5 party from whom the certificate was requested confirms that the Lease is in full force and effect, without modification
6 except as may be represented by the requesting party. The parties agree that any such certificate may be relied
7 upon by any existing or prospective holder of an Encumbrance or any prospective transferee of this Lease or the
8 Premises.

9
10 **SECTION 22. QUIET ENJOYMENT.**

11
12 Landlord warrants that so long as Tenant complies with all terms of this Lease, that Tenant shall have quiet
13 and peaceful possession of the Premises free of disturbance by Landlord or others claiming by or through Landlord.

14 **SECTION 23. FORCE MAJEURE.**

15
16
17 If the performance by either party of any provision of this Lease is prevented or delayed by any strikes,
18 lockouts, labor disputes, acts of God, government actions, civil commotions, fire or other casualty, or other causes
19 beyond the reasonable control of the party from whom performance is required, such party shall be excused from
20 such performance for the period of time equal to the time of that prevention or delay.

21 **SECTION 24. BROKERS.**

22
23
24 Each party represents that except for the broker(s) identified above, neither party has had any dealings with
25 any real estate broker, finder or other person with respect to this Lease. Landlord shall pay a leasing commission to
26 the party(s) identified in Section 1.12 in accordance with a separate agreement by and between Landlord and the
27 specified broker(s). Landlord and Tenant each agrees to indemnify and hold the other party harmless from and
28 against any and all costs, expenses or liability for commissions or other compensation or charges claimed by or
29 awarded to any broker or agent resulting from a breach of the representation set forth above in this Section 24.

30
31 **SECTION 25. GOVERNING LAW.**

32
33
34 This Lease shall be construed and interpreted and the rights of the parties determined in
35 accordance with the laws of the state of Oregon.

36 **SECTION 26. NONWAIVER.**

37
38
39 No delay by either party in promptly enforcing any right or remedy set forth in this Lease shall be deemed a
40 waiver thereof, and that right or remedy may be asserted at any time after the delaying party becomes entitled to the
41 benefit of such right or remedy notwithstanding such delay.

42 **SECTION 27. CAPTIONS.**

43
44
45 The Section headings of this Lease are for descriptive purposes only and in no way define, limit or describe
46 the scope, intent or meaning of this Lease.

47 **SECTION 28. CONSENT.**

48
49
50 Except where otherwise specifically provided in this Lease to the contrary, whenever a party's consent is
51 required under this Lease, such party shall not unreasonably withhold its consent.

52
53 **SECTION 29. TIME OF THE ESSENCE AND HOLIDAYS.**

1
2 Time is of the essence of each and every provision hereof. If the final date of any period of time set forth
3 herein occurs on a Saturday, Sunday or legal holiday, then in such event, the expiration of such period of time shall
4 be postponed to the next day which is not a Saturday, Sunday or legal holiday.
5

6 **SECTION 30. COMPLETE AGREEMENT; NO IMPLIED COVENANTS.**
7

8 This Lease and the attached Exhibits and schedules, if any, contain the entire agreement of the Landlord
9 and Tenant concerning the Premises, Building and Common Areas, and all prior written and oral agreements and
10 representations between the parties are void. Landlord and Tenant agree that there are no implied covenants or
11 other agreements between the parties except as expressly set forth in this Lease. Neither Landlord nor Tenant is
12 relying on any representations of the other party except those expressly set forth herein.
13

14 **SECTION 31. SUCCESSORS.**
15

16 This Lease shall bind and inure to the benefit of the parties, their respective heirs, successors, and permitted
17 assigns. IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this Lease:
18

19 LANDLORD: _____ TENANT: _____
20 By: _____ By: _____
21 Title: _____ Title: _____
22 Date: _____ Date: _____

**Exhibit A
Legal Description of the Premises**

Kenton; Lots 3, 4, 5, and 6 Block 3 Map 2228

**Exhibit B
Site Plan**

To be prepared

This plan is to be used for illustrative purposes to show the existing building and location of 1,000 SF addition. This plan does not reflect Multnomah County's space plan or improvements provided by the Landlord.

**Exhibit C
Tenant Improvements**

To be prepared

Exhibit D
Right of First Negotiation

So long as Tenant has not defaulted under this Lease, Tenant, including any successor organization operating the public library system within Multnomah County (but not any other assignee or sublessee) shall have a right of first negotiation with respect to the acquisition of the Premises or Building. If Landlord determines that Landlord desires to market the Premises or Building for sale, Landlord shall notify Tenant. If within ninety (90) days after Landlord's notice Landlord has not executed a Purchase and Sale Agreement on such terms and conditions as have been mutually agreed by Landlord and Tenant (with time being of the essence with respect to this provision of this Lease), Landlord shall have the right to sell the Premises or Building to any person or entity upon terms and conditions superior to those proposed by Tenant, free and clear of any obligations to Tenant under this Exhibit. Tenant shall have no rights hereunder with respect to any transfers to any person or entity related to Landlord or in which Craig or Kim Osbeck have any ownership interest provided that the rights of Tenant set forth in this Exhibit D shall survive such transfer

Exhibit E
Option to Extend

A. Right to Extend So long as this Lease remains free from default, and so long as Tenant does not assign the Lease or sublet any portion of the Premises, Tenant shall have the option to extend the term of this Lease for **Two (2)** successive term(s) of **Five (5)** years each, on the terms and conditions contained herein, except for Base Rent which shall be determined as hereinafter provided. Other than as set forth herein, Tenant shall have no further option to extend this Lease. Exercise of each extension option shall be by written notice given to Landlord at least 180 and not more than 360 days prior to expiration of the Lease Term, or the preceding Extension Term, if any.

B. Commencement The Extension Terms shall commence on the day following expiration of the Lease Term or the first Extension Term, as the case may be.

C. Terms and Conditions The terms and conditions of the lease for each Extension Term shall be identical with the Lease Term or prior Extension Term, as the case may be, except for the applicable Base Rent and except that the Tenant will no longer have the option(s) to extend this lease which has been exercised. Base Rent shall be adjusted as provided below.

D. Determination of Rent Base Rent for each year of the Extension Term shall be determined on or about the first day of such Lease Year, namely the anniversary of the Rent Commencement Date ("Anniversary"), by the following method of computation:

Compute the percentage increase, if any, of the Consumer Price Index published by the United States Department of Labor for the Portland, Oregon metropolitan area for All Urban Consumers or the nearest comparable data on changes in the cost of living for the Portland metropolitan area mutually selected by Landlord and Tenant if such index is no longer published ("CPI"), between that most recently published as of the current Anniversary and that most recently published as of the immediately preceding Anniversary;

Multiply the Base Rent for the immediately preceding Lease Year by said percentage; and

Add the product so obtained to the Base Rent for the immediately preceding year with the sum so obtained to be the Base Rent for the current Lease Year.

THIS DOCUMENT AND ANY ATTACHMENTS HERETO HAVE BEEN PREPARED FOR SUBMISSION TO YOUR ATTORNEY FOR REVIEW AND APPROVAL PRIOR TO SIGNING. NO REPRESENTATION OR RECOMMENDATION IS MADE BY COMMERCIAL ASSOCIATION OF REALTORS® OR BY THE REAL ESTATE LICENSEES INVOLVED WITH THIS DOCUMENT AND ANY ATTACHMENTS HERETO AS TO LEGAL SUFFICIENCY OR TAX CONSEQUENCES. THIS FORM SHOULD NOT BE MODIFIED WITHOUT SHOWING SUCH MODIFICATIONS BY REDLINING, INSERTION MARKS, EXHIBITS OR ADDENDA.