



# STAFF REPORT

## SAUSALITO CITY COUNCIL

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### AGENDA TITLE:

Adoption of a Resolution approving the Second Amendment to Lease Agreement by and between the City of Sausalito and John Donovan- MLK

### RECOMMENDED MOTION:

Adopt a Resolution of the City Council of the City of Sausalito approving the Second Amendment to the Lease Agreement by and between the City of Sausalito and John Donovan

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### BACKGROUND

The City and John Donovan (the "Tenant") entered into a Lease of Premises dated as of May 15, 2004 which provided for the lease of Suite 740 in Building 7 at the MLK Site – 610 Coloma Street, Sausalito. City and Tenant also entered into the First Amendment to the Lease dated October 1, 2004 which allowed for Tenant's occupancy of an additional 247 feet and removed the City's obligation to install a double wide door at the exterior entrance of Suite 740. The proposed Second Amendment to the Lease provides for the extension of the term of the Lease for an additional period of five years – until June 30, 2013. The monthly lease rate for Suite 740 will be \$2800 (\$1.50 per square foot). In addition, Tenant will pay \$100 per month for the location of a storage container adjacent to the premises. The monthly rental rate will increase 4% a year commencing July 1, 2009. It is important to note that Building 7 (aka the Bus Barn) is occupied nearly exclusively by artists and that the rental rates have been set accordingly to attract and maintain this desired use.

The OMIT Committee has reviewed and approved the terms of the proposed Second Amendment.

### FISCAL IMPACT

The proposed Second Amendment to the Lease provides for the lease of Suite 740 for a monthly rental rate of \$2800 which would increase annually by 4%. The City would also receive \$100/month for the location of a storage container.

### STAFF RECOMMENDATIONS

Staff recommends that the City Council:

Adopt a Resolution of the City Council of the City of Sausalito approving the Second Amendment to Lease Agreement by and between the City of Sausalito and John Donovan.

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Item #: July 1, 2008  
Meeting Date: \_\_\_\_\_  
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**ATTACHMENTS**

1. Resolution of the City Council of the City of Sausalito approving the Second Amendment to Lease Agreement by and between the City of Sausalito and John Donovan.
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PREPARED BY:

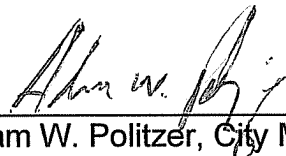
  
Mary A. Wagner, City Attorney

REVIEWED BY;

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Louise Ho, Finance Director

REVIEWED AND SUBMITTED BY;

  
Adam W. Politzer, City Manager

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF SAUSALITO, CALIFORNIA  
APPROVING THE SECOND AMENDMENT TO THE LEASE AGREEMENT BY AND  
BETWEEN  
THE CITY OF SAUSALITO AND JOHN DONOVAN**

**WHEREAS**, the City of Sausalito leases that certain real property located at 610 Coloma Street, Sausalito from the Sausalito School District (the "Site"); and

**WHEREAS**, the City and John Donovan ("Tenant") entered into a Lease dated May 15, 2004 (the "Lease") for Tenant's lease of a portion of the Site known as Suite 740; and

**WHEREAS**, the City and Tenant entered into the First Amendment to the Lease dated October 1, 2004 which allowed for Tenant's occupancy of an additional 247 feet and removed the City's obligation to install a double wide door at the exterior entrance of Suite 740; and

**WHEREAS**, the City and Tenant desire to enter into a Second Amendment to the Lease (the "Second Amendment") which is attached hereto as Exhibit "A" and incorporated herein by reference to extend the term of the lease as amended for an additional period of five years upon the terms and conditions set forth therein; and

**WHEREAS**, the approval of the Second Amendment is exempt from the application of the California Environmental Quality Act (California Public Resources Code Section 21000, et seq., "CEQA"), pursuant to Section 15301 (Class 1 Categorical Exemption) of the State CEQA Guidelines (Title 14, California Code of Regulations Section 15000, et seq.).

**Now, therefore**, the City Council of the City of Sausalito does hereby resolve as follows:

1. The City Council hereby finds that the Second Amendments is exempt from the application of CEQA pursuant to Section 15301 (Class 1 Categorical Exemption) of the State CEQA Guidelines and the City Clerk, or her designee, is directed to cause a Notice of Exemption to be posted in accordance with CEQA.
2. The Second Amendment to the Lease Agreement by and between the City of Sausalito and John Donovan which is attached hereto as Exhibit "A" is hereby approved and the Mayor is authorized to execute the Second Amendment on behalf of the City.
3. Upon execution of the Second Amendment by the Mayor, the City Manager (or his designee), is authorized, on behalf of the City, to approve and/or sign all documents necessary and appropriate to carry out and implement the

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Second Amendment, and to administer the City's obligations, responsibilities and duties to be performed under the Second Amendment and related documents.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Sausalito on the \_\_\_\_ day of \_\_\_\_\_, 2008, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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MAYOR OF THE CITY OF SAUSALITO

ATTEST

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DEPUTY CITY CLERK

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**Exhibit "A"**

**SECOND AMENDMENT TO LEASE OF PREMISES**

**THIS SECOND AMENDMENT TO LEASE OF PREMISES** ("Second Amendment"), dated effective as July 1, 2008 (the "Effective Date"), is entered into by and between the **CITY OF SAUSALITO**, a municipal corporation (the "Landlord"), and **JOHN DONOVAN**, an individual (the "Tenant").

**RECITALS**

The following Recitals are a substantive part of this Agreement:

A. Landlord and Tenant entered into a Lease of Premises dated as of May 15, 2004 (the "Lease") which provided for Tenants lease of that certain real property commonly known as Building 7, Suite 740, 610 Coloma Street, Sausalito, California.

B. Landlord and Tenant entered to the First Amendment to the Lease dated October 1, 2004 (the "First Amendment") which allowed Tenant to occupy additional space and which removed certain obligations of Landlord regarding the installation of a double door. The Lease and the First Amendment are referred to collectively herein as the "Lease." Capitalized terms used herein and not otherwise defined shall have the same meaning as set forth in the Lease.

C. The Lease expired on May 14, 2008.

D. Landlord and Tenant desire to enter into this Second Amendment to the Lease in order to extend the term of the Lease for an additional five year period upon the terms and conditions set forth herein.

**AGREEMENT**

In consideration of the mutual covenants and conditions contained in this Amendment, Landlord and Tenant hereby agree as follows:

**Section 1. Term.** Section 2.1 of the Lease is hereby amended to provide that the "Expiration Date" of the Lease is June 30, 2013.

**Section 2. Rent.** Commencing July1, 2008, Tenant agrees to pay Landlord, as "Rent" for the Premises, Two Thousand eight hundred dollars (\$2800.00) monthly, in advance on the first day of each month during the Term of this Lease. In addition, in consideration of Tenant being allowed to locate a storage container adjacent to the Premises, Tenant shall pay to Landlord, as "Rent" One hundred dollars (\$100.00) monthly, in advance on the first day of each month during the Term of this Lease. The monthly rent payable hereunder shall increase annually effective on July 1, 2009, July 1, 2010, July 1, 2011 and July 1, 2012 by an amount equal to four percent (4%) of the then applicable monthly rent.

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**Section 3. Insurance.** The insurance requirements of Article 9 shall apply to the storage container as well as the Premises and within thirty (30) days of the effective date of this Second Amendment Tenant shall supply Landlord with evidence of such insurance.

**Section 4. Effect on Lease.** Except as expressly set forth herein, the terms and conditions of the Lease shall remain in full force and effect. In the event of any inconsistency between the Lease and this Second Amendment, the terms of this Second Amendment shall control.

**Section 5. Entire Agreement; Conflicts.** This Second Amendment and the Lease contain the entire agreement between the parties with respect to the subject matter hereof. Except as otherwise specified herein, no prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. This Second Amendment and the Lease shall not be modified or altered except in writing signed by both parties.

**Section 6. Execution.** This Second Amendment may be executed in duplicate original counterparts each of which shall constitute on and the same instrument.

**LANDLORD:**

**CITY OF SAUSALITO**, a municipal corporation

Dated: \_\_\_\_\_, 2008

By: \_\_\_\_\_  
Amy Belser, Mayor

**ATTEST:**

\_\_\_\_\_  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney

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**TENANT:**

Dated: \_\_\_\_\_, 2008

By: \_\_\_\_\_  
John Donovan

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