



# STAFF REPORT

## SAUSALITO CITY COUNCIL

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**AGENDA TITLE:** Approval of Amendments to Lease of Premises by and between the City of Sausalito and: John Donovan, Gary Ferber, John Lund and David Maisel

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**RECOMMENDED MOTION:** Adopt a Resolution of the City Council of the City of Sausalito Approving the:

1. Third Amendment to Lease of Premises by and between the City of Sausalito and John Donovan;
  2. Third Amendment to Lease of Premises by and between the City of Sausalito and Gary Ferber;
  3. Fourth Amendment to Lease of Premises by and between the City of Sausalito and John Lund; and
  4. Third Amendment to Amended and Restated Lease of Premises by and between the City of Sausalito and David Maisel
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### **DISCUSSION**

The City Council is being asked to consider amendments to leases at the MLK School Site. The following is a summary of the proposed amendments the terms of which have been reviewed and approved by the OMIT Committee (Mayor Leone and Councilmember Kelly). As directed by the Committee language has been added to each of the amendments to allow the City to terminate the lease upon 60 days notice:

#### **John Donovan**

The proposed Third Amendment will reduce the rent being paid for Suite 740 and the related storage space from \$2900/month to \$2172.37/month for a period of three months – that is until September 30, 2009. The reduction results in a decrease of revenue to the MLK Fund of \$727.63 per month for three months resulting in a total rent reduction of \$2182.89.

#### **Gary Ferber**

The proposed Third Amendment will reduce the rent being paid for Suites 723 and 735 from \$748.43/month to \$597.32/month for a period of 5 months – that is until September 30, 2009. The proposed amendment also allows for the deferral of the rent payments for three months (July, August and September) in the total amount of \$791.96 until December 31, 2009. The reduction results in a decrease of revenue to the MLK Fund of \$151.11 per month for five months resulting in a total rent reduction of \$755.55.

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**John Lund**

The proposed Fourth Amendment will reduce the rent being paid for Suite 100 from \$2063/month to \$1710.00/month for a period of six months commencing April 1, 2009. The reduction results in a decrease of revenue to the MLK Fund of \$353 per month for six months resulting in a total rent reduction of \$2118.

**David Maisel**

The proposed Third Amendment will reduce the rent being paid for Suite 320 from \$1401.00/month to \$980.70/month for a period of three months. The reduction results in a decrease of revenue to the MLK Fund of \$420.30 per month for three months resulting in a total rent reduction of \$1260.90.

**FISCAL IMPACT**

The fiscal impact of each of the proposed amendments is set forth above.

**STAFF RECOMMENDATIONS**

It is recommended that the City Council adopt the Resolution of the City Council of the City of Sausalito Approving the Third Amendment to Lease of Premises by and between the City of Sausalito and John Donovan; the Third Amendment to Lease of Premises by and between the City of Sausalito and Gary Ferber; the Fourth Amendment to Lease of Premises by and between the City of Sausalito and John Lund; and Third Amendment to Amended and Restated Lease of Premises by and between the City of Sausalito and David Maisel

**ATTACHMENTS**

A Resolution of the City Council of the City of Sausalito Approving the Third Amendment to Lease of Premises by and between the City of Sausalito and John Donovan; the Third Amendment to Lease of Premises by and between the City of Sausalito and Gary Ferber; the Fourth Amendment to Lease of Premises by and between the City of Sausalito and John Lund; and Third Amendment to Amended and Restated Lease of Premises by and between the City of Sausalito and David Maisel

PREPARED BY:

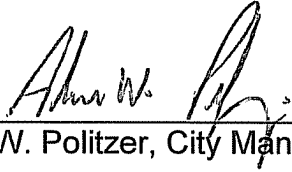
  
Mary Anne Wagner, City Attorney

REVIEWED BY:

  
Charlie Francis, Administrative Services Director

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SUBMITTED BY:



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Adam W. Politzer, City Manager

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

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF SAUSALITO, CALIFORNIA  
APPROVING THE THRID AMENDMENT TO THE LEASE AGREEMENT BY AND  
BETWEEN THE CITY OF SAUSALITO AND JOHN DONOVAN; THE THRID  
AMENDMENT TO THE LEASE AGREEMENT BY AND BETWEEN THE CITY OF  
SAUSALITO AND GARY FERBER; THE FOURTH AMENDMENT TO THE LEASE  
AGREEMENT BY AND BETWEEN THE CITY OF SAUSALITO AND JOHN LUND;  
AND THE THRID AMENDMENT TO THE AMENDED AND RESTATED LEASE  
AGREEMENT BY AND BETWEEN THE CITY OF SAUSALITO AND DAVID  
MAISEL**

**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 has entered into Lease Agreements with John Donovan, Gary Ferber, John Lund and David Maisel; and

**WHEREAS**, the City and John Donovan desire to enter into the attached Third Amendment to the Lease (the "Donovan Third Amendment") which is attached hereto as Exhibit "A" and incorporated herein by reference; and

**WHEREAS**, the City and Gary Ferber desire to enter into the attached Third Amendment to the Lease (the "Ferber Third Amendment") which is attached hereto as Exhibit "B" and incorporated herein by reference; and

**WHEREAS**, the City and John Lund desire to enter into the attached Fourth Amendment to the Lease (the "Lund Fourth Amendment") which is attached hereto as Exhibit "C" and incorporated herein by reference; and

**WHEREAS**, the City and David Maisel desire to enter into the attached Third Amendment to the Amended and Restated Lease (the "Maisel Third Amendment") which is attached hereto as Exhibit "D" and incorporated herein by reference; and

**WHEREAS**, the approval of the proposed Amendments are 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 proposed Amendments are exempt from the application of CEQA pursuant to Section 15301 (Class 1 Categorical

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Exemption) of the State CEQA Guidelines and the City Clerk, or her designee, is directed to cause Notices of Exemption to be posted in accordance with CEQA.

2. The Third 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 Third Amendment on behalf of the City.
3. The Third Amendment to the Lease Agreement by and between the City of Sausalito and Gary Ferber which is attached hereto as Exhibit "B" is hereby approved and the Mayor is authorized to execute the Third Amendment on behalf of the City.
4. The Fourth Amendment to the Lease Agreement by and between the City of Sausalito and John Lund which is attached hereto as Exhibit "C" is hereby approved and the Mayor is authorized to execute the Fourth Amendment on behalf of the City.
5. The Third Amendment to the Lease Agreement by and between the City of Sausalito and David Maisel which is attached hereto as Exhibit "D" is hereby approved and the Mayor is authorized to execute the Third Amendment on behalf of the City.
6. Upon execution of the Amendments 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 Amendments, and to administer the City's obligations, responsibilities and duties to be performed under the Amendments and related documents.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Sausalito on the \_\_\_\_ day of \_\_\_\_\_, 2009, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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MAYOR OF THE CITY OF SAUSALITO

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CITY CLERK

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**Exhibit "A"**

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## THIRD AMENDMENT TO LEASE OF PREMISES

**THIS THIRD AMENDMENT TO LEASE OF PREMISES** ("Third Amendment"), dated effective as July 1, 2009 (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 which was subsequently amended by the First Amendment to Lease dated October 1, 2004 (the "First Amendment") and the Second Amendment to Lease dated July 1, 2008 (the "Second Amendment"). The Lease of Premises as amended by the First Amendment and the Second Amendment shall be 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.

B. The Lease provides for Tenants lease of that certain real property commonly known as Building 7, Suite 740, 610 Coloma Street, Sausalito, California.

C. Landlord and Tenant desire to enter into this Third Amendment to the Lease to provide for a temporary, three month, rent reduction 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. Rent.** Commencing July 1, 2009, and for a period of three months thereafter that is until September 30, 2009 the monthly rental amount to be paid by Tenant for the Lease of the Premises shall be: Two Thousand Seventy Two Dollars and 37/100 (\$2702.37) for Suite 740 and One Hundred Dollars (\$100.00) for the related storage unit for a total monthly rental amount of Two Thousand One Hundred Seventy Two Dollars and 37/100 (\$2172.37). Commencing October 1, 2009 the Rent due and owing to Landlord shall return to the full amount due under Section 3 of the Lease.

**Section 2. Term.** Section 2.1 of the Lease is hereby amended to add the following language:

"Landlord shall have the right to terminate this Lease prior to the expiration of the Term for any reason upon sixty (60) days written notice to Tenant."

**Section 3. Utilities.** The monthly utility charges to be paid by Tenant as set forth in Article 5 of the Lease shall not be less than Ten Cents (\$0.10) per square foot nor more than Fifteen Cents (\$0.15) per square foot of the Premises which for purposes of this Section 3 include 1867 square feet.

**Section 4. Relocation.** A new Article 21 is hereby added to the Lease to read as follows:

**“ARTICLE 21. LANDLORD'S RIGHT TO RELOCATE TENANT.** Landlord, at any time and from time to time during the Term, shall have the right to relocate Tenant from the Premises as a whole or from one or more of the Suites comprising the Premises (the Premises, or portion thereof, from which Tenant is being relocated pursuant to this Section 21 being referred to herein as the "Old Premises") to other space at the MLK Site which is comprised of the buildings at 100 Ebbtide and 610 Colma (such other space being referred to as the "New Premises"; Landlord's aforesaid right to relocate Tenant from the Old Premises to the New Premises being referred to herein as the "Relocation Option").

Landlord shall have the right to exercise the Relocation Option only by giving notice thereof (the "Relocation Notice") to Tenant not later than sixty (60) days before the date that the aforesaid relocation becomes effective (the date that the relocation becomes effective being referred to herein as the "Relocation Date"). A Relocation Notice shall not be effective for purposes of this Section 21 unless Landlord includes therewith a floor plan identifying the New Premises. The New Premises shall (i) be comprised of rentable area equal to or greater than the rentable area of the Old Premises, and (ii) be similar in configuration to the Old Premises.

Tenant shall vacate the Old Premises and surrender vacant and exclusive possession of the Old Premises to Landlord on or before the Relocation Date, provided that Landlord has theretofore delivered vacant and exclusive possession of the New Premises to Tenant in accordance with the terms of this Section 21. Landlord shall reimburse Tenant for any reasonable moving expenses and for any other reasonable costs and expenses incurred by Tenant in so relocating to the New Premises from the Old Premises, within thirty (30) days after Tenant's written request and Tenant's submission to Landlord of reasonable supporting documentation therefore.

From and after the Relocation Date, all references to the Premises herein shall mean the New Premises rather than the Old Premises.”

**Section 5. 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 Third Amendment, the terms of this Third Amendment shall control.

**Section 6. Entire Agreement; Conflicts.** This Third 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 Third Amendment and the Lease shall not be modified or altered except in writing signed by both parties.



**Section 7. Execution.** This Third 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: \_\_\_\_\_, 2009

By: \_\_\_\_\_  
Jonathan Leone, Mayor

**ATTEST:**

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

**APPROVED AS TO FORM:**

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

**TENANT:**

Dated: \_\_\_\_\_, 2009

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

**Exhibit B**

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### THIRD AMENDMENT TO LEASE OF PREMISES

THIS THIRD AMENDMENT TO LEASE OF PREMISES ("Third Amendment"), dated effective as of July 1, 2009 (the "Effective Date"), is entered into by and between the CITY OF SAUSALITO, a municipal corporation (the "Landlord"), and GARY FERBER, an individual (the "Tenant").

#### RECITALS

The following Recitals are a substantive part of this Agreement:

A. Landlord and Tenant entered into the Lease of Premises dated as of June 1, 2000. The Lease of Premises was subsequently amended by the First Amendment to Lease of Premises dated May 1, 2006 (the "First Amendment") and the Second Amendment to Lease of Premises dated July 12, 2006 (the "Second Amendment"). The Lease of Premises, First Amendment and Second Amendment shall be referred to collectively herein as the "Lease." Capitalized terms utilized herein and not otherwise defined shall have the same meaning as set forth in the Lease.

B. The Lease provides for Landlord's lease to Tenant of approximately five hundred forty five (545) square feet located in Building 7, Suites 723 and 735 at 610 Coloma Street, City of Sausalito, County of Marin (the "Premises").

C. Landlord and Tenant desire to enter into this Third Amendment to the Lease in order to provide for Tenant's lease of the Premises at a reduced rental rate 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. Rent.** Commencing May 1, 2009, and for a period of five months thereafter that is until September 30, 2009 the monthly rental amount to be paid by Tenant for the Lease of the Premises shall be: Three Hundred Ninety Four Dollars and 56/100 (\$394.56) for Suite 723 and Two Hundred Two Dollars and 76/100 (\$202.76) for Suite 735 for a total monthly rental amount of Five Hundred Ninety Seven Dollars and 32/100 (\$597.32). Commencing October 1, 2009 the Rent due and owing to Landlord shall return to the full amount due under Section 3 of the Lease.

**Section 2. Deferred Rent.** Landlord and Tenant agree that Tenant shall be entitled to defer the Rental payments due on May 1, 2009, June 1, 2009 and July 1, 2009 until December 31, 2009 (the "Deferred Rent"). The Deferred Rent in a total amount due of One Thousand Seven Hundred Ninety One Dollars and 96/100 shall be paid in full on or before December 31, 2009. In the event that payment is not made in accordance with this Section 2 Landlord shall be entitled to exercise any of its rights under the Lease for the non-payment of Rent.

**Section 3. Term.** Section 2.1 of the Lease is hereby amended to add the following language:

“Landlord shall have the right to terminate this Lease prior to the expiration of the Term for any reason upon sixty (60) days written notice to Tenant.”

**Section 4. Utilities.** The monthly utility charges to be paid by Tenant as set forth in Article 5 of the Lease shall not be less than Ten Cents (\$0.10) per square foot nor more than Fifteen Cents (\$0.15) per square foot of the Premises which for purposes of this Section 3 include 360 square feet for Suite 723 and 185 square feet for Suite 735.

**Section 5. Relocation.** A new Article 21 is hereby added to the Lease to read as follows:

**ARTICLE 21. LANDLORD'S RIGHT TO RELOCATE TENANT.** Landlord, at any time and from time to time during the Term, shall have the right to relocate Tenant from the Premises as a whole or from one or more of the Suites comprising the Premises (the Premises, or portion thereof, from which Tenant is being relocated pursuant to this Section 21 being referred to herein as the "Old Premises") to other space at the MLK Site which is comprised of the buildings at 100 Ebbtide and 610 Colma (such other space being referred to as the "New Premises"; Landlord's aforesaid right to relocate Tenant from the Old Premises to the New Premises being referred to herein as the "Relocation Option").

Landlord shall have the right to exercise the Relocation Option only by giving notice thereof (the "Relocation Notice") to Tenant not later than sixty (60) days before the date that the aforesaid relocation becomes effective (the date that the relocation becomes effective being referred to herein as the "Relocation Date"). A Relocation Notice shall not be effective for purposes of this Section 21 unless Landlord includes therewith a floor plan identifying the New Premises. The New Premises shall (i) be comprised of rentable area equal to or greater than the rentable area of the Old Premises, and (ii) be similar in configuration to the Old Premises.

Tenant shall vacate the Old Premises and surrender vacant and exclusive possession of the Old Premises to Landlord on or before the Relocation Date, provided that Landlord has theretofore delivered vacant and exclusive possession of the New Premises to Tenant in accordance with the terms of this Section 21. Landlord shall reimburse Tenant for any reasonable moving expenses and for any other reasonable costs and expenses incurred by Tenant in so relocating to the New Premises from the Old Premises, within thirty (30) days after Tenant's written request and Tenant's submission to Landlord of reasonable supporting documentation therefore.

From and after the Relocation Date, all references to the Premises herein shall mean the New Premises rather than the Old Premises.”

**Section 6. 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 Third Amendment, the terms of this Third Amendment shall control.

**Section 7. Entire Agreement; Conflicts.** This Third 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 Third Amendment and the Lease shall not be modified or altered except in writing signed by both parties.

**Section 8. Execution.** This Third Amendment may be executed in duplicate original counterparts each of which shall constitute one and the same instrument.

**LANDLORD:**

**CITY OF SAUSALITO**, a municipal corporation

Dated: \_\_\_\_\_, 2009

By: \_\_\_\_\_  
Jonathan Leone, Mayor

**ATTEST:**

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

**APPROVED AS TO FORM:**

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

**TENANT:**

Dated: \_\_\_\_\_, 2009

By: \_\_\_\_\_  
Gary Ferber

**Exhibit C**

## FOURTH AMENDMENT TO LEASE OF PREMISES

**THIS FOURTH AMENDMENT TO LEASE OF PREMISES** ("FOURTH Amendment"), dated effective as July 1, 2009 (the "Effective Date"), is entered into by and between the **CITY OF SAUSALITO**, a municipal corporation (the "Landlord"), and **JOHN LUND**, 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 December 14, 2005, the First Amendment to Lease dated December 1, 2006 (the "First Amendment"), the Second Amendment to Lease dated July 1, 2008 (the "Second Amendment"), and the Third Amendment to Lease dated December 1, 2008 (the "Third Amendment") which provides for Tenant's lease of that certain real property commonly known as Building 1, Suites 100, 100 Ebbtide, Sausalito, California. The Lease of Premises, the First Amendment and the Second Amendment and the Third Amendment shall be referred to collectively herein as the "Lease".

B. Landlord and Tenant desire to enter into this Fourth Amendment to the Lease in order to provide for Tenant's lease of the Premises at a reduced rental rate for a period of three months 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. Rent.** Commencing April 1, 2009, and for a period of six months thereafter that is until September 30, 2009 the monthly rental amount to be paid by Tenant for the Lease of the Premises shall be: One Thousand Seven Hundred Ten Dollars (\$1710.00). Commencing October 1, 2009 the Rent due and owing to Landlord shall return to the full amount due under Section 3 of the Lease.

**Section 2. Term.** Section 2.1 of the Lease is hereby amended to add the following language:

"Landlord shall have the right to terminate this Lease prior to the expiration of the Term for any reason upon sixty (60) days written notice to Tenant."

**Section 3. Utilities.** The monthly utility charges to be paid by Tenant as set forth in Article 5 of the Lease shall not be less than Ten Cents (\$0.10) per square foot nor more than Fifteen Cents (\$0.15) per square foot of the Premises which for purposes of this Section 3 include 1103 square feet for Suite 100.

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**Section 4. Relocation.** A new Article 21 is hereby added to the Lease to read as follows:

**“ARTICLE 21. LANDLORD'S RIGHT TO RELOCATE TENANT.** Landlord, at any time and from time to time during the Term, shall have the right to relocate Tenant from the Premises as a whole or from one or more of the Suites comprising the Premises (the Premises, or portion thereof, from which Tenant is being relocated pursuant to this Section 21 being referred to herein as the "Old Premises") to other space at the MLK Site which is comprised of the buildings at 100 Ebbtide and 610 Colma (such other space being referred to as the "New Premises"; Landlord's aforesaid right to relocate Tenant from the Old Premises to the New Premises being referred to herein as the "Relocation Option").

Landlord shall have the right to exercise the Relocation Option only by giving notice thereof (the "Relocation Notice") to Tenant not later than sixty (60) days before the date that the aforesaid relocation becomes effective (the date that the relocation becomes effective being referred to herein as the "Relocation Date"). A Relocation Notice shall not be effective for purposes of this Section 21 unless Landlord includes therewith a floor plan identifying the New Premises. The New Premises shall (i) be comprised of rentable area equal to or greater than the rentable area of the Old Premises, and (ii) be similar in configuration to the Old Premises.

Tenant shall vacate the Old Premises and surrender vacant and exclusive possession of the Old Premises to Landlord on or before the Relocation Date, provided that Landlord has theretofore delivered vacant and exclusive possession of the New Premises to Tenant in accordance with the terms of this Section 21. Landlord shall reimburse Tenant for any reasonable moving expenses and for any other reasonable costs and expenses incurred by Tenant in so relocating to the New Premises from the Old Premises, within thirty (30) days after Tenant's written request and Tenant's submission to Landlord of reasonable supporting documentation therefore.

From and after the Relocation Date, all references to the Premises herein shall mean the New Premises rather than the Old Premises.”

**Section 5. 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 Fourth Amendment, the terms of this FOURTH Amendment shall control.

**Section 6. Entire Agreement; Conflicts.** This Fourth 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 FOURTH Amendment and the Lease shall not be modified or altered except in writing signed by both parties.

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**Section 7. Execution.** This Fourth 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: \_\_\_\_\_, 2009

By: \_\_\_\_\_  
Jonathan Leone, Mayor

**ATTEST:**

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

**APPROVED AS TO FORM:**

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

**TENANT:**

Dated: \_\_\_\_\_, 2009

By: \_\_\_\_\_  
John Lund

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**Exhibit D**

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## THIRD AMENDMENT TO AMENDED AND RESTATED LEASE OF PREMISES

**THIS THIRD AMENDMENT TO AMENDED AND RESTATED LEASE OF PREMISES** ("Third Amendment"), dated effective as July 1, 2009 (the "Effective Date"), is entered into by and between the **CITY OF SAUSALITO**, a municipal corporation (the "Landlord"), and **DAVID MAISEL**, an individual (the "Tenant").

### RECITALS

The following Recitals are a substantive part of this Agreement:

A. Landlord and Tenant entered into an Amended and Restated Lease of Premises dated as of July 1, 2005 and which was amended by the First Amendment to Lease of Premises dated December 1, 2008 and the Second Amendment to Lease of Premises dated February 1, 2009 (collectively the "Lease") which provides for Tenant's lease of that certain real property commonly known as Building 3, Suite 320, 100 Ebbtide, Sausalito, California.

B. Landlord and Tenant desire to enter into this Third Amendment to the Lease in order to provide for a temporary three month rent reduction.

### AGREEMENT

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

**Section 1. Rent.** Commencing July 1, 2009, and for a period of three months thereafter that is until September 30, 2009 Tenant agrees to pay Landlord, Nine Hundred Eighty Dollars and 70/100 (\$980.70) monthly, in advance of the first day of each month during the Term of this Lease (the "Base Rent"). Commencing October 1, 2009 the Rent due and owing to Landlord shall return to the full amount due under Section 3 of the Lease.

**Section 2. Term.** Section 2.1 of the Lease is hereby amended to add the following language:

"Landlord shall have the right to terminate this Lease prior to the expiration of the Term for any reason upon sixty (60) days written notice to Tenant."

**Section 3. Utilities.** The monthly utility charges to be paid by Tenant as set forth in Article 5 of the Lease shall not be less than Ten Cents (\$0.10) per square foot nor more than Fifteen Cents (\$0.15) per square foot of the Premises which for purposes of this Section 3 include 934 square feet.

**Section 4. Relocation.** A new Article 21 is hereby added to the Lease to read as follows:

**“ARTICLE 21. LANDLORD'S RIGHT TO RELOCATE TENANT.** Landlord, at any time and from time to time during the Term, shall have the right to relocate Tenant from the Premises as a whole or from one or more of the Suites comprising the Premises (the Premises, or portion thereof, from which Tenant is being relocated pursuant to this Section 21 being referred to herein as the "Old Premises") to other space at the MLK Site which is comprised of the buildings at 100 Ebbtide and 610 Colma (such other space being referred to as the "New Premises"; Landlord's aforesaid right to relocate Tenant from the Old Premises to the New Premises being referred to herein as the "Relocation Option").

Landlord shall have the right to exercise the Relocation Option only by giving notice thereof (the "Relocation Notice") to Tenant not later than sixty (60) days before the date that the aforesaid relocation becomes effective (the date that the relocation becomes effective being referred to herein as the "Relocation Date"). A Relocation Notice shall not be effective for purposes of this Section 21 unless Landlord includes therewith a floor plan identifying the New Premises. The New Premises shall (i) be comprised of rentable area equal to or greater than the rentable area of the Old Premises, and (ii) be similar in configuration to the Old Premises.

Tenant shall vacate the Old Premises and surrender vacant and exclusive possession of the Old Premises to Landlord on or before the Relocation Date, provided that Landlord has theretofore delivered vacant and exclusive possession of the New Premises to Tenant in accordance with the terms of this Section 21. Landlord shall reimburse Tenant for any reasonable moving expenses and for any other reasonable costs and expenses incurred by Tenant in so relocating to the New Premises from the Old Premises, within thirty (30) days after Tenant's written request and Tenant's submission to Landlord of reasonable supporting documentation therefore.

From and after the Relocation Date, all references to the Premises herein shall mean the New Premises rather than the Old Premises.”

**Section 5. 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 Third Amendment, the terms of this Third Amendment shall control.

**Section 6. Entire Agreement; Conflicts.** This Third 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 Third Amendment and the Lease shall not be modified or altered except in writing signed by both parties.

**Section 7. Execution.** This Third 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: \_\_\_\_\_, 2009

By: \_\_\_\_\_  
Jonathan Leone, Mayor

**ATTEST:**

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

**APPROVED AS TO FORM:**

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

**TENANT:**

Dated: \_\_\_\_\_, 2009

By: \_\_\_\_\_  
David Maisel

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