



# STAFF REPORT

## SAUSALITO CITY COUNCIL

---

**AGENDA TITLE:** Approval of the Second Amendment to Lease of Premises by and between the City of Sausalito and the New Village School

---

---

**RECOMMENDED MOTION:** Adopt a Resolution of the City Council of the City of Sausalito Approving the Second Amendment to Lease of Premises by and between the City of Sausalito and the New Village School

---

---

### DISCUSSION

The City and the New Village School entered into a lease for the use of Suite 144 at the MLK property for a K-8 school on February 1, 2009. In July, 2009 the City Council approved the First Amendment to the lease to provide for the lease of additional space at MLK to meet the school's expanding needs. Specifically the lease was amended to allow the School to lease Suites 100-S, 154 and 350.

The lease for Suite 350 was set to expire at the end of June, 2010 with the expectation that the City and the School would work together to facilitate the School moving into the kitchen space in Building 1 (Suite 138) which has not been utilized since Melon's Catering vacated the space in 2002.

The City and the New Village School (NVS) wish to expedite the School's move from Suite 350 to Suite 138 as set forth in the attached Second Amendment. The following is a summary of the terms of the Second Amendment:

1. **Suite 138:**

- Rent - \$1922.50/month for the 1538 square feet space.
- 
- Term – 1 year – that is until January 31, 2011 with one option to renew for an additional 1 year period – the option must be exercised by October 1, 2010.
- Lease Commencement Date: following Council approval (December 9<sup>th</sup> assuming Council approval on December 8<sup>th</sup>).
- Rent Commencement Date: earlier to occur of actual occupancy and utilization as classroom space or February 1, 2010.
- Tenant Improvements:

4B7  
12-8-09  
1

- Clean, repair and paint interior walls;
  - Level, repair and seal existing concrete floor;
  - Install new bamboo flooring;
  - Add grab bars to existing restroom;
  - Enclose the openings in interior walls separating Suite 138 from Suite 138B; and
  - Add an interior door through closet opposite existing main entry in Suite 144 into Suite 138.
- City Improvements: Prior to December 31<sup>st</sup> the City will:
1. Remove the oven hood, stove, freezer door, fan vent and obsolete freezer equipment;
  2. Cap obsolete gas and plumbing lines; and
  3. Replace exterior back door leading to the Rock Garden with a standard exterior door.

The City has a bid for this work in the amount of \$1100.00.

2. **Rock Garden**: The School will be allowed to enclose the exterior space located immediately outside the rear door of Suite 138 between Building 1 and the boiler room and defined by the existing wooden fence and which is approximately 30' x 15'
  - Additional rental amount of \$75/month
  - NVS will replace the missing portion of the fence and will be required to maintain and replace the fence as necessary
  - The ground will not be disturbed for planting – that is only raised beds or pots will be utilized for planting
3. **Suite 350**: NVS would be released from the lease for Suite 350 effective January 15<sup>th</sup>.

The OMIT Committee (Mayor Leone and Councilmember Kelly) has reviewed and approved the terms of the proposed Second Amendment.

## FISCAL IMPACT

The City currently receives the following monthly rental amounts from NVS:

- |               |            |
|---------------|------------|
| - Suite 144   | \$1,718.75 |
| - Suite 154   | \$ 447.50  |
| - Suite 100-S | \$80.00    |
| - Suite 350   | \$2,956.00 |

437  
2

Under the proposed Second Amendment the City will receive the following monthly rent from NVS:

- Suite 144            \$1,718.75
- Suite 154            \$ 447.50
- Suite 100-S         \$80.00
- Suite 138            \$1,992.50
- Rock Garden        \$75.00

**STAFF RECOMMENDATIONS**

Adopt a Resolution of the City Council of the City of Sausalito Approving the Second Amendment to Lease of Premises by and between the City of Sausalito and the New Village School

**ATTACHMENTS**

A Resolution of the City Council of the City of Sausalito Approving the Second Amendment to Lease of Premises by and between the City of Sausalito and the New Village School

Second Amendment to Lease of Premises by and between the City of Sausalito and the New Village School

PREPARED BY:



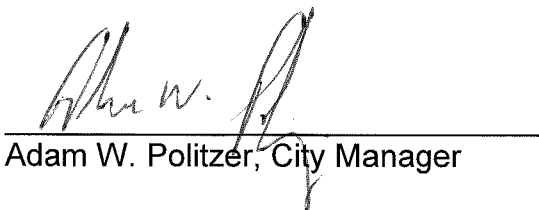
\_\_\_\_\_  
Mary Anne Wagner, City Attorney

REVIEWED BY:



\_\_\_\_\_  
Charlie Francis, Administrative Services Director

SUBMITTED BY:



\_\_\_\_\_  
Adam W. Politzer, City Manager

4/3/17  
3



**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 THE NEW VILLAGE SCHOOL**

**WHEREAS**, the City of Sausalito leases that certain real property located at 100 Ebbtide, Sausalito from the Sausalito School District (the "Site"); and

**WHEREAS**, the City has entered into a Lease Agreement and First Amendment to Lease with the New Village School for the Lease of Suites 144, 154, 100-S and 350; and

**WHEREAS**, the City and the New Village School desire to enter into the attached Second Amendment to the Lease which is attached hereto as Exhibit "A" and incorporated herein by reference to provide for the lease of Suite 138 and the adjacent Rock Garden at the Site for school purpose and to provide for the termination of the lease of Suite 350; and

**WHEREAS**, the approval of the proposed 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 proposed Amendment 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 Notices 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 the New Village School 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 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 Amendment, and to administer the City's obligations, responsibilities and duties to be performed under the Amendment 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:

---

MAYOR OF THE CITY OF SAUSALITO

---

CITY CLERK

437  
6

**Exhibit "A"**

4B7  
7





## SECOND AMENDMENT TO LEASE OF PREMISES

**THIS SECOND AMENDMENT TO LEASE OF PREMISES** ("Second Amendment"), dated effective as of December 9, 2009 (the "Effective Date"), is entered into by and between the **CITY OF SAUSALITO**, a municipal corporation (the "Landlord"), and **THE NEW VILLAGE SCHOOL**, a California Non-Profit Public Benefit Corporation ("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 February 1, 2009 (the "Original Lease") and the First Amendment to Lease of Premises dated as of August 1, 2009 (the "First Amendment"). The Original Lease and the First Amendment shall be referred to collectively herein as the "Lease." Capitalized terms used herein and not otherwise defined shall have the meaning set forth in the Lease.

B. The Original Lease provides for Landlord's lease to Tenant of a portion of the real property located at Building 1, Suite 144 and the adjacent entry and bathrooms at 100 Ebbitide, City of Sausalito, County of Marin, State of California (collectively Suite 144). Tenant has exercised its option to extend the Term of the lease of Suite 144 which now expires on January 31, 2012.

C. The First Amendment revised the Original Lease to provide for Landlord's lease of additional premises, specifically, Suites 154, 100-S and 350. The lease for Suite 154 expires on January 31, 2012, the lease for Suite 100-S is on a month to month basis and the lease for Suite 350 expires on June 30, 2010.

D. Landlord and Tenant desire to enter into this Second Amendment in order to provide for Tenant's lease of Suite 138 and to allow for the early termination of Tenant's lease of Suite 350 on the terms and conditions set forth herein.

### AGREEMENT

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

**Section 1. Premises.** Article 1 of the Lease is hereby amended to provide that commencing upon the Effective Date of this Amendment, Landlord leases to Tenant and Tenant leases from Landlord Suite 138, 100 Ebbitide, City of Sausalito, State of California (Suite 138) and the adjacent exterior space located immediately outside the rear door of Suite 138 between Building 1 and the boiler room and defined by the existing wooden fence and which is approximately 30' x 15' (the "Rock Garden"). Suite 138 and the Rock Garden are subject to all of the terms and conditions of the Lease as amended by this Second Amendment. As utilized in the Lease the term "Premises" shall include Suite 138 and the Rock Garden. For purposes of the Lease the parties agree that Suite 138 consists of 1538 square feet.

Article 1 shall also be amended to remove Suite 350 from the "Premises" effective as of January 15, 2010.

**Section 2. Term.** The Term of the lease of Suite 138 and the Rock Garden ("Term") shall commence on the Effective Date of this Second Amendment ("Commencement Date") and shall expire at midnight on January 31, 2011 ("Expiration Date"), unless otherwise terminated or extended in accordance with the provisions of the Lease. Provided that Tenant is not in default under this Lease, Tenant shall have one (1) option to extend the Term for one additional period of one (1) year, that is from February 1, 2011 until midnight on January 31, 2012 (the "Extension Term") upon all of the terms and conditions of the Lease; provided, however that upon the valid exercise of the option the Termination Date for Suite 138 and the Rock Garden shall be January 31, 2012 and the monthly Rent payable by Tenant hereunder shall be increased as set forth in Section 3.3 of the Lease. Tenant shall exercise its option by delivering written notice of its election to extend the term of this Lease to Landlord on or before October 1, 2010.

The Term of the Lease of Suite 350 shall be revised to expire at midnight on January 15, 2010. Notwithstanding the foregoing Landlord shall have the right to enter Suite 350 commencing January 1, 2010 for the purpose of showing the space to prospective tenants upon reasonable oral notice to Tenant.

**Section 3. Base Rent.** In addition to the amounts paid by Tenant for Suites 144, 154 and 100-5, Section 3.1 of the Lease is amended to provide that commencing on the earlier to occur of: (a) occupancy of Suite 138 and utilization as class room space; or (b) February 1, 2010 Tenant agrees to pay Landlord the following amounts as Base Rent for the Suite 138 and the Rock Garden monthly in advance on the first of the month during the Term:

- i. Suite 138: One Thousand Nine Hundred Twenty Two Dollars and 50/100 (\$1,922.50); and
- ii. Rock Garden: Seventy Five Dollars and 00/100 (\$75.00).

With respect to Suite 350, Tenant shall be obligated to pay the current monthly rental rate through the revised term – that is through January 15, 2010. Tenant agrees that it shall not utilize Suite 138 as class room space until the City has issued an occupancy permit.

**Section 4. Security Deposit.** On or before the Effective Date the Security Deposit provided by Tenant in accordance with Article 6 of the Lease shall be increased by an amount equal to two month's rent for Suites 138 and the Rock Garden or Three Thousand Nine Hundred Ninety Five Dollars and 00/100 (\$3995.00).

**Section 5. Insurance.** Prior to the Effective Date Tenant shall deliver to Landlord certificates reasonably acceptable to the Landlord's City Manager or his designee evidencing that Tenant has obtained insurance meeting the requirements of Article 9 of the Lease for Suite 138 and the Rock Garden.

**Section 6. Improvements.**

a. Landlord's Improvements: On or before December 31, 2009 Landlord shall cause the following improvements to be completed at Suite 138 at its sole cost and expense:

- i. Remove the oven hood, stove, freezer door, fan vent and obsolete freezer equipment;
- ii. Cap obsolete gas and plumbing lines; and
- iii. Replace exterior back door leading to the Rock Garden with a standard exterior door.

b. Tenant Improvements and Additional Obligations: Commencing upon the Effective Date Tenant shall have the right to perform the following improvements at its sole cost and expense; Tenant shall comply with the provisions of Section 8.4 of the Lease with respect to the installation/construction of these improvements:

i. Suite 138:

- Clean, repair and paint interior walls;
- Level, repair and seal existing concrete floor;
- Install new bamboo flooring;
- Add grab bars to existing restroom;
- Enclose the openings in interior walls separating Suite 138 from Suite 138B; and
- Add an interior door through closet opposite existing main entry in Suite 144 into Suite 138.

ii. Rock Garden:

- Install additional fencing to enclose the Rock Garden; fencing shall be consistent with existing fencing so as to present a uniform appearance;
- Tenant shall be required to repair and maintain the existing fencing and the new fencing installed pursuant to this Second Amendment; and
- Tenant shall not disturb the soil in the Rock Garden and shall only utilize planters and raised beds for planting.

**Section 7. 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 8. 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.

487  
41

**Section 9. Execution.** This Second 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:

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

APPROVED AS TO FORM:

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

TENANT:

THE NEW VILLAGE SCHOOL, A California-Non-Profit Public Benefit Corporation

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

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Its: \_\_\_\_\_

487  
12