



STAFF REPORT

SAUSALITO CITY COUNCIL

AGENDA TITLE: Approval of the Fourth Amendment to Lease of Premises by and between the City of Sausalito and the Marin School

RECOMMENDED MOTION: Adopt a Resolution of the City Council of the City of Sausalito Approving the Fourth Amendment to Lease of Premises by and between the City of Sausalito and the Marin School

DISCUSSION

The City and the Marin School entered into a lease for the use of Suites 400 through 540, situated in Buildings 4 and 5, together with the outdoor area located between Buildings 4 and 5 and Suites 300, 301, 325 and 335 in Building 3 along with the outdoor area located between Buildings 3 and 4 at the MLK site.

The Marin School has performed improvements to the site including the construction of an accessible entry way ramp and landscaping. While the ramp benefits the Marin School's use of the premises there is additional benefit to the City for future use of the premises. During the course of construction a previously unidentified electrical power line was cut causing the Marin School to incur additional costs. The City and the Marin School desire to enter into the proposed Fourth Amendment in order to provide for a rent credit to the Marin School to offset some of these costs and to reflect an agreement not to increase the base monthly rent for the period from October 1, 2009 to September 30, 2010 as would otherwise be provided under the Lease.

The OMIT Committee has recommended approval of the proposed amendment.

FISCAL IMPACT

Under the proposed Fourth Amendment the City will pay for a portion of the improvements to the premises made by the Marin School which will benefit future use via a monthly rent credit of \$2958.33 for 24 months. In addition the 4% annual escalator will not apply to the time period from October 1, 2009 to September 30, 2010.

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STAFF RECOMMENDATIONS

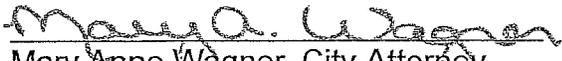
Adopt a Resolution of the City Council of the City of Sausalito Approving the Fourth Amendment to Lease of Premises by and between the City of Sausalito and the Marin School

ATTACHMENTS

A Resolution of the City Council of the City of Sausalito Approving the Fourth Amendment to Lease of Premises by and between the City of Sausalito and the Marin School

Fourth Amendment to Lease of Premises by and between the City of Sausalito and the Marin School

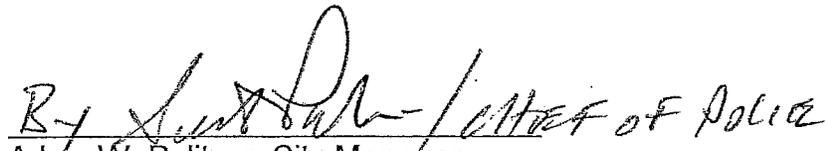
PREPARED BY:


Mary Anne Wagner, City Attorney

REVIEWED BY:


Charlie Francis, Administrative Services Director

SUBMITTED BY:


Adam W. Politzer, City Manager

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF SAUSALITO, CALIFORNIA
APPROVING THE FOURTH AMENDMENT TO THE LEASE AGREEMENT BY AND
BETWEEN THE CITY OF SAUSALITO AND THE MARIN 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, First Amendment, Second Amendment and the Third Amendment to Lease with the Marin School for the Lease of Suites 400 through 540, situated in Buildings 4 and 5, together with the outdoor area located between Buildings 4 and 5 and Suites 300, 301, 325 and 335 in Building 3 along with the outdoor area located between Buildings 3 and 4 at the Site; and

WHEREAS, the City and the Marin School desire to enter into the Fourth Amendment to the Lease which is attached hereto as Exhibit "A" and incorporated herein by reference to provide for a rent credit to the Marin School to offset a portion of costs incurred by the School in making improvements to the buildings which will benefit future use and to reflect an agreement not to increase the base monthly rent for the period from October 1, 2009 to September 30, 2010 as would otherwise be provided under the Lease; 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 Fourth Amendment to the Lease Agreement by and between the City of Sausalito and the Marin School which is attached hereto as Exhibit "A" is hereby approved and the Mayor is authorized to execute the Fourth 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 _____, 2010, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

MAYOR OF THE CITY OF SAUSALITO

CITY CLERK

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Exhibit "A"

FOURTH AMENDMENT TO LEASE OF PREMISES

THIS FOURTH AMENDMENT TO LEASE OF PREMISES ("Amendment"), dated effective as of January 26, 2010 (the "Effective Date"), is entered into by and between the **CITY OF SAUSALITO**, a municipal corporation (the "Landlord"), and **THE MARIN SCHOOL**, A California Not-for-profit 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 June 1, 2003, the First Amendment to Lease of Premises dated as of November 1, 2003, the Second Amendment to Lease of Premises dated as of February 6, 2007 and the Third Amendment to Lease of Premises dated July 9, 2008 (collectively, the "Lease"). Capitalized terms used herein and not otherwise defined shall have the meaning set forth in the Lease.

B. The Lease provides for Landlord's lease to Tenant of a portion of the real property located at 100 Ebbtide, City of Sausalito, County of Marin, State of California and more particularly described as follows: Suites 400 through 540, situated in Buildings 4 and 5, together with the outdoor area located between Buildings 4 and 5 and Suites 300, 301, 325 and 335 in Building 3 along with the outdoor area located between Buildings 3 and 4.

C. Tenant has performed improvements to the Premises including the construction of an accessible entry way ramp and landscaping. While the ramp benefits Tenants use of the Premises there is additional benefit to the City for future use of the Premises. During the course of construction a previously unidentified electrical power line was cut causing Tenant to incur additional costs.

D. Landlord and Tenant desire to enter into this Amendment in order to provide for a rent credit to Tenant to offset some of these costs and to reflect an agreement not to increase the base monthly rent for the period from October 1, 2009 to September 30, 2010 as would otherwise be provided under the Lease.

AGREEMENT

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

Section 1. Rent Credit. Commencing February 1, 2010 and monthly thereafter for the next 23 months Tenant shall be entitled to a credit against its monthly rental payment in the amount of Two Thousand Nine Hundred Fifty-eight Dollars and 33/100 (\$2,958.33) (the "Credit") provided, however, that the Credit shall cease to apply upon the earlier to occur of August 31, 2013 or the date on which the full amount of the Credit equals Seventy Thousand Dollars and 00/100 (\$71,000.00).

Section 2. Rent Increase. Notwithstanding any other provisions of the Lease, the four percent (4%) annual rent increase provided for in Section 3.4 of the Lease and the annual rent increase provided by Section 5 of the Third Amendment to the Lease shall not be applicable to the Base Rent payable under the Lease for the period commencing October 1, 2009 and ending September 30, 2010.

Section 3. 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 Amendment, the terms of this Amendment shall control.

Section 4. Entire Agreement; Conflicts. This 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 Amendment and the Lease shall not be modified or altered except in writing signed by both parties.

Section 5. Execution. This 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: _____, 2010

By: _____
Jonathan Leone, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

TENANT:

THE MARIN SCHOOL, A California-Not-for-profit Corporation

Dated: _____, 2010

By: _____
Barbara Schakel, Head of School

