



## Item No. 5 Town of Atherton

### CITY COUNCIL STAFF REPORT – REGULAR AGENDA

**TO:** HONORABLE MAYOR AND CITY COUNCIL  
GEORGE RODERICKS, CITY MANAGER

**FROM:** ROBERT OVADIA, PUBLIC WORKS DIRECTOR

**DATE:** JULY 27, 2020

**SUBJECT:** KNOX PLAYSCHOOL AMENDMENT TO LEASE TO ADDRESS  
COVID-19 RELATED RENT REDUCTIONS FOR THE  
SEPTEMBER 1, 2020 THROUGH AUGUST 30, 2021 PERIOD.

#### **RECOMMENDATION:**

Consider an amendment to the current lease with Knox Playschools, Inc., reducing the payable rent amount for the September 1, 2020 through August 31, 2021 term related to potential closures and enrollment reductions attributable to the COVID-19 pandemic.

#### **BACKGROUND**

The City Council approved rent adjustments for the current lease term expiring August 30, 2020. Knox Playschools Inc. paid 100% of the May lease payment and the Council authorized a 50% reduction in the lease payment for June, July and August. Under its current lease agreement, Knox Playschools Inc. has an option to extend the current lease for two successive one-year terms. The Amendments proposed here related only to a single-year extension.

Knox Playschools has expressed a concern regarding the ability to continue operating with the uncertainty of on-going impacts related to the COVID-19 pandemic. The City Council at its July 15, 2020 meeting directed the City Manager to negotiate potential lease rent adjustments with Knox Playschools to address potential closures and enrollment reductions due to the pandemic and associated County and State health orders.

#### **ANALYSIS**

Pursuant to Council direction, the City Manager met with Susan Knox to discuss potential rent reduction options and other additional concerns regarding flexibility in the event that the Playschool can no longer operate.

Two lease amendment options have been developed for Council consideration as follows:

- Option 1 – 50% rent reduction
- Option 2 – payable rent based on enrollment as follows:
  - \$66.99 per student per month during the academic year (September 1, 2020 through May 31, 2021)
  - \$133.98 per student per month during the summer term (June 1, 2020 through August 30, 2021)

Both options include: 1) rent relief for any month where the Playschool is required to close for two weeks or more due to State or County Health requirements; 2) a quarterly check in between the Town and Knox Playschools to discuss current and anticipated enrollment and operational issues, allowing for the potential adjustment in payable rent; and 3) the ability for Knox Playschools to terminate the lease with 30 days' notice.

Staff's recommendation is Option 2, as it will allow the Town to adjust the rent based on enrollment and would allow the Town to get monthly information on what is occurring in the Park.

Without an adjustment in the payable rent, Knox Playschools may elect not to exercise their option to lease the facilities at the park.

### **POLICY FOCUS**

The current situation associated with COVID 19 is unprecedented for the Town and the County and is having a significant impact to the livelihood of small businesses. Knox Playschool has been an asset to the Town and a rent reduction would assist in the viability of this small local business. Susan has rented the Playschool for 22 years and with the flexibility in the year extension it would allow Susan to rent the facilities in the park for another year.

### **FISCAL IMPACT**

For the lease extension the fiscal impact would depend on the option selected by the Council. The rent can be reduced to 50% or less if the enrollment basis is selected. No rent would be collected for months that full closure is required for two weeks or more. If no reduction is approved, the Playschool may elect not to exercise its lease option.

### **PUBLIC NOTICE**

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the project is also disseminated via the Town's electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town's electronic News Flash publications. Subscribers include residents as well as stakeholders – to include, but be not limited to, media outlets, school districts, Menlo Park Fire District, service providers (water, power, and sewer), and regional elected officials. The

Town maintains an active and up to date Project Website at <http://ca-atherton.civicplus.com/index.aspx?NID=290>.

**COMMISSION/COMMITTEE FEEDBACK/REFERRAL**

This item \_\_\_ has or  X  has not been before a Town Committee or Commission.

- Audit/Finance Committee (meets every other month)
- Bicycle/Pedestrian Committee (meets as needed)
- PMC & Civic Center Advisory Committee (meets as needed)
- Environmental Programs Committee (meets every other month)
- Park and Recreation Committee (meets each month)
- Planning Commission (meets each month)
- Rail Committee (meets every other month)
- Transportation Committee (meets every other month)

**ATTACHMENTS**

1. Lease Amendment Option 1
2. Lease Amendment Option 2

**EIGHTH AMENDMENT TO THE LEASE BETWEEN THE TOWN OF  
ATHERTON AND KNOX PLAYSCHOOLS, INC. (LICENSED PLAY  
SCHOOL)**

This Eighth Amendment to the May 24, 2001 Lease by and between the Town of Atherton ("Town") and Knox Playschools, Inc. a California Corporation, ("Lessee") is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2020, ("Effective Date") by and between the Town and Lessee (collectively "parties").

**RECITALS**

- A. Town and Lessee are parties to that certain Lease for Premises located at Holbrook-Palmer Park dated May 24, 2001, as amended effective June 30, 2006, January, 2011, April 18, 2012, April 8, 2013, April 14, 2014, May 10, 2016, and June 26, 2019 ("Lease"). The Lease currently expires on August 31, 2022.
- B. The global COVID-19 virus pandemic has impacted, and is highly likely to continue to impact, Lessee's business primarily due to temporary shut downs and decreased class sizes pursuant to State of California ("State") or San Mateo County ("County") public health mandates.
- C. Impacts from the global COVID-19 pandemic may force Lessee to cease all business operations.
- D. Town and Lessee now desire to enter into this Eighth Amendment to provide financial relief to Lessee from impacts of the global COVID-19 pandemic from September 1, 2020 through August 30, 2021.
- E. Such financial relief would benefit Atherton residents because it would enable Lessee to continue operations which allows for a day school in the city. Parents would have an opportunity during a time in which schools are not in session and COVID-19 orders have restricted many other alternatives.

NOW, THEREFORE, it is agreed by and between Town and Lessee, and the Lease is amended, as follows:

**AGREEMENT**

- 1. The recitals set forth above, and all defined terms set forth in such recitals and in the introductory paragraph preceding the recitals, are hereby incorporated into this Agreement as if set forth herein in full.
- 2. Section 6 of the Lease ("Base Rent") is amended by adding the following at the end of the Section:

“Beginning September 1, 2020 and ending August 30, 2021, the payable rent shall be temporarily reduced by 50% of the adjusted Base Rent amount, unless modified pursuant

to the terms of this Lease.

Beginning September 1, 2020 and ending August 30, 2021, for any month that Lessee is required to completely shut down for more than a two-week operational period to comply with State or County public health mandates, including but not limited to Judicial Orders, related to the global COVID-19 virus pandemic, the payable rent shall be reduced to \$0 per month for the month in which the shut-down occurs. If the shut-down falls within an overlapping month period, then rent shall be pro-rated accordingly; but in no case shall rent be reduced to \$0 per month for any month for which services were provided for at least a two-week operational period.

Lessee and Lessor shall meet quarterly on or about the 1<sup>st</sup> day of September and each third month after to review current and projected enrollment, COVID-19 related public health mandates, and operational impacts of those mandates. Upon ten (10) days' written notice to Lessee, Lessor may for any reason, and even if COVID-19 restrictions are still in place revert the payable rent to the Base Rent or other lesser amount.”

3. Section 32 is added to the Lease to read as follows:

32. Option to Terminate Lease due to COVID-19 Pandemic Impacts. Beginning September 1, 2020 and ending August 30, 2021, Lessee may terminate the Lease with thirty (30) days' written notice. Such notice shall be provided between September 1, 2020 and August 1, 2021 and shall be considered as an Expiration and all terms of the Lease associated with Expiration shall apply.

4. The parties acknowledge and agree that the Lease, except as amended by this Eighth Amendment, remains unmodified and in full force and effect in accordance with its current terms.

**ATTACHMENT 1**

**IN WITNESS THEREOF**, the parties have executed this Eighth Amendment to the Lease as of the Effective Date.

**TOWN OF ATHERTON:**

**LESSEE:**

By: \_\_\_\_\_ / \_\_\_\_\_  
George Rodericks, City Manager (Date)

By: \_\_\_\_\_ / \_\_\_\_\_  
Susan Knox, Owner (Date)

ATTEST:

\_\_\_\_\_  
Anthony Suber, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Mona G. Ebrahimi, City Attorney

## ATTACHMENT 2

### EIGHTH AMENDMENT TO THE LEASE BETWEEN THE TOWN OF ATHERTON AND KNOX PLAYSCHOOLS, INC. (LICESED PLAY SCHOOL)

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#### RECITALS

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- B. The global COVID-19 virus pandemic has impacted, and is highly likely to continue to impact, Lessee's business primarily due to temporary shut downs and decreased class sizes pursuant to State of California ("State") or San Mateo County ("County") public health mandates.
- C. Impacts from the global COVID-19 pandemic may force Lessee to cease all business operations.
- D. Town and Lessee now desire to enter into this Eighth Amendment to provide financial relief to Lessee from impacts of the global COVID-19 pandemic from September 1, 2020 through August 30, 2021.
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#### AGREEMENT

- 1. The recitals set forth above, and all defined terms set forth in such recitals and in the introductory paragraph preceding the recitals, are hereby incorporated into this Agreement as if set forth herein in full.
- 2. Section 6 of the Lease ("Base Rent") is amended by adding the following at the end of the Section:

## ATTACHMENT 2

“Beginning September 1, 2020 and ending August 30, 2021, unless modified pursuant to the terms of this Lease, the payable rent shall be temporarily reduced to an amount calculated per student enrolled in Lessee's business per month as follows. For the purposes of this calculation, a student is "enrolled" if he or she participates in Lessee's programs for any portion of the month.

- A. \$66.99 per student per month for the academic year, September 1, 2020 through May 31, 2021;
- B. \$133.98 per student per month for the summer term, June 1, 2021 through August 30, 2021;

On or before the first day of each month, Lessee shall provide Lessor with an enrollment summary statement detailing total student enrollment and collection of tuition for that month.

Beginning September 1, 2020 and ending August 30, 2021, for any month that Lessee is required to shut down for more than a two-week operational period to comply with State or County public health mandates, including but not limited to Judicial Orders, related to the global COVID-19 virus pandemic, the payable rent shall be reduced to \$0 per month for the month in which the shut-down occurs. If the shut-down falls within an overlapping month period, then rent shall be pro-rated accordingly; but in no case shall rent be reduced to \$0 per month for any month for which services were provided for at least a two-week operational period.

Lessee and Lessor shall meet quarterly on or about the 1<sup>st</sup> day of September and each third month after to review current and projected enrollment, COVID-19 related public health mandates, and operational impacts of those mandates. Upon ten (10) days' written notice to Lessee, Lessor may for any reason, and even if COVID restrictions are still in place revert the payable rent to the Base Rent or other lesser amount.”

3. Section 32 is added to the Lease to read as follows:

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**LESSEE:**

By: \_\_\_\_\_ / \_\_\_\_\_  
George Rodericks, City Manager (Date)

By: \_\_\_\_\_ / \_\_\_\_\_  
Susan Knox, Owner (Date)

ATTEST:

\_\_\_\_\_  
Anthony Suber, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Mona G. Ebrahimi, City Attorney