

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: City Manager – Approve Assignment and Assumption of Lease of City-owned property at 2901 Airport Drive.

RECOMMENDATION

Recommendation of the City Manager that City Council approve an Assignment and Assumption of Lease from William Stirton, as Trustee of the Barbara Robinson Living Trust, dated November 14, 2007, as successor-in-interest to Barbara K. Robinson (Assignor) to William Stirton, as Trustee of the Mark Robinson Trust, dated November 14, 2007 (Mark's Trust) and William Stirton, as Trustee of the Cindy Robinson Trust, dated November 14, 2007 (Cindy's Trust); Cindy's Trust and Mark's Trust collectively known as "Assignee" for a Lease of City-owned property located at 2901 Airport Drive with facilities known as Robinson Helicopter Company.

Funding

Funding is not required for this transaction.

BACKGROUND/ANALYSIS

The subject Lease is for City-owned property located at 2901 Airport Drive. The property has been improved and is operating with the business known as Robinson Helicopter, Inc. In July 2009, the Master Tenant Barbara K. Robinson, an individual as Lessee requested that the Lease be transferred from her as an individual into her Trust known as "Barbara K. Robinson, as Trustee of the Barbara Robinson Living Trust, dated November 14, 2007". Since that transaction was approved, Barbara Robinson has passed away. William Stirton is currently the Trustee of the Barbara Robinson Living Trust, dated November 17, 2007. The Trust has requested a new Assignment and Assumption Agreement assigning the Leasehold from the current Trust to the Mark Robinson Trust and Cindy Robinson Trust with William Stirton as Trustee for both Trusts.

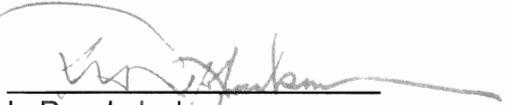
The Assignment and Assumption document has been reviewed and is recommended for approval.

Respectfully submitted,

LeROY J. JACKSON
CITY MANAGER

By 
Brian K. Sunshine
Assistant to City Manager

CONCUR:


LeRoy J. Jackson
City Manager

Attachments: A. Assignment and Assumption Agreement
B. Council Item dated July 21, 2009 – LIMITED DISTRIBUTION

**AGREEMENT TO ASSIGN AND ASSUME LEASE
AND LANDLORD'S CONSENT**

This Agreement to Assign and Assume Lease and Landlord's Consent (this "**Agreement**") is dated as of _____, 2012 ("**Effective Date**"), by and among William Stirton, as Trustee of the Barbara Robinson Living Trust, dated November 14, 2007, as successor-in-interest to Barbara K. Robinson ("**Assignor**"), William Stirton, as Trustee of the Mark Robinson Trust, dated November 14, 2007 ("**Mark's Trust**"), William Stirton, as Trustee of the Cindy Robinson Trust, dated November 14, 2007 ("**Cindy's Trust**"), and the City of Torrance, a municipal corporation ("**Landlord**"). Cindy's Trust and Mark's Trust are sometimes referred to herein collectively as "**Assignee**", and Assignor, Assignee and Landlord are each sometimes referred to herein as a "**Party**," and, collectively, as the "**Parties**." The Parties are entering into this Agreement with reference to the following facts:

RECITALS

A. Landlord and Assignor are parties to that certain Lease dated as of January 28, 2003, as amended by (i) that certain First Amendment to Lease dated July 13, 2004, (ii) that certain Second Amendment to Lease, dated May 8, 2007, (iii) that certain Third Amendment to Lease dated May 20, 2008, (iv) that certain Fourth Amendment to Lease dated August 25, 2009 (the "**Fourth Amendment**"), and (v) that certain Fifth Amendment to Lease dated June 22, 2010; and as previously assigned by that certain Assignment and Assumption of Lease, dated as of July 21, 2009 (collectively, the "**Lease**"), pursuant to which Landlord leases to Assignor certain real property located in the City of Torrance, State of California, as described more particularly in the Lease (the "**Leased Premises**").

B. Assignor desires to assign to Assignee all of Assignor's rights, title and interest in, to and under the Lease, and delegate to Assignee all of Assignor's obligations under the Lease to the extent arising or accruing from and after the Effective Date, and Assignee desires to accept such assignment and assume all of Assignor's obligations under the Lease to the extent arising or accruing from and after the Effective Date.

C. Pursuant to Paragraph 21 of the Lease, Landlord's consent to the proposed assignment and assumption may be required, and Assignor has requested Landlord's consent to the assignment and assumption. Landlord is willing to consent to the assignment and assumption as set forth herein.

D. The Parties also desire to reaffirm the termination date and extended termination date as set forth in the Lease.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

AGREEMENT

1. Incorporation of Recitals. The Recitals above are hereby incorporated into this Agreement as if fully set forth herein.

2. Assignment and Assumption. Effective as of the Effective Date, Assignor hereby assigns an undivided fifty percent (50%) interest in the Lease to Mark's Trust, and an undivided fifty percent (50%) interest in the Lease to Cindy's Trust, and each of Mark's Trust and Cindy's Trust hereby expressly assumes the obligations of Assignor under the Lease and agrees to be bound by and to perform and comply with, for the benefit of Landlord, each and every obligation of the "Lessee" under the Lease, including, without limitation, the obligation to pay rent, to the extent such obligations arise or accrue from and after the Effective Date. Assignor shall remain liable for each and every obligation of the "Lessee" under the Lease to the extent such obligations arise or accrue prior to the Effective Date. Assignee shall not be liable for any obligations of the "Lessee" under the Lease to the extent accrued prior to the Effective Date.

3. Several, Not Joint, Obligations. The obligations and liabilities of Mark's Trust, on one hand, and Cindy's Trust, on the other hand, shall be several and not joint, with the obligations and liabilities of each being limited to fifty percent (50%) of the obligations and liabilities of the "Lessee" under the Lease.

4. Landlord Consent; Assumption; Acknowledgement; Release. Landlord hereby consents to the assignment and assumption of the Lease set forth in Paragraph 2 above. Assignor and Assignee warrant to Landlord that under the terms of the Barbara Robinson Living Trust, dated November 14, 2007, of which Mark's Trust and Cindy's Trust are a part, the Trustee has the authority to transfer trust assets, which include interests in the Lease, (i) between Mark's Trust and Cindy's Trust; (ii) to the trustees of successor trusts under the Barbara Robinson Living Trust, dated November 14, 2007 in the event that Mark Robinson or Cindy Robinson should not survive to their respective ages of distribution; and (iii) to Mark Robinson and Cindy Robinson when they reach their respective ages of distribution under the Barbara Robinson Living Trust, dated November 14, 2007. Landlord agrees that, as to any future transfer or assignment of the Lease from Cindy's Trust or Mark's Trust that occurs in accordance with the terms of the Barbara Robinson Living Trust, dated November 14, 2007 as described in (i), (ii), and (iii) above, such transfer or assignment shall be treated as one to a "related party" under Paragraph 21 of the Lease as to which no consent from Landlord is required; provided, however, Landlord's consent shall not constitute a waiver of the obligation of the "Lessee" under the Lease to obtain Landlord's consent to any other type of subsequent assignment, sublease or transfer of the Lease. Landlord acknowledges and agrees that:

4.1 Proper advance notice of this assignment and assumption of the Lease was provided by Assignor to Landlord, and Assignor has fulfilled all required conditions to an assignment of the Lease, including, without limitation, those set forth in Paragraph 21 of the Lease;

4.2 There presently exist no defaults under the Lease, or events, which, with the giving of proper notice or the passage of time, would constitute defaults under the Lease by either the Landlord or Assignor;

4.3 Other than rent owing through the Effective Date, Assignor has no accrued and/or unpaid monetary obligations to Landlord, including in connection with or arising from this Agreement and/or the assignment and assumption herein:

4.4 Assignor, its predecessors-in-interest, and/or its sublessee has completed to Landlord's satisfaction the construction of all improvements required pursuant to the Fourth Amendment; and

4.5 Landlord hereby releases Assignor from any liability for any matters pertaining to the Lease with respect to the period following the Effective Date, including, without limitation, any liabilities associated with payment of rent. With respect to the released matters, Landlord further acknowledges that it waives the provisions of Section 1542 of the California Civil Code, which Section provides as follows:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

5. Confirmation Regarding Expiration of Lease. To clarify any possible ambiguity in the Lease, the Parties hereto have agreed to the following statements regarding the expiration of the Lease term, which they agree reflect the intent of the Lease. In the event of any conflict between the statements set forth in Section 5 of this Agreement and the Lease, Section 5 of this Agreement shall prevail.

5.1 The term of the Lease, with respect to all of the Leased Premises, except as to that parcel of land located in the City of Torrance, County of Los Angeles, State of California, more particularly described as Parcel 31 of Official Map No. 2 as per map recorded in Book 5, Pages 44 through 51 inclusive of Official Maps, records of said county (being approximately 184,695 square feet) (“Parcel 31”), will expire on January 28, 2043, unless Assignee exercises the Extension Option (as defined below).

5.2 Assignee has one option to extend the term of the Lease, with respect to all of the Leased Premises except Parcel 31, for an additional ten (10) years, pursuant to Paragraph 2.1 of the Lease (the “Extension Option”). If Assignee exercises the Extension Option, the term of the Lease, with respect to all of the Leased Premises except Parcel 31, will expire on January 28, 2053.

5.3 The term of the Lease with respect to Parcel 31 will expire on June 30, 2032, unless Assignee exercises the Parcel 31 Extension Option (as defined below).

5.4 Assignee has one option to extend the term of the Lease as to Parcel 31 for an additional ten (10) years, pursuant to Paragraph 1.4 of the Lease (the “Parcel 31 Extension Option”). If Assignee exercises the Parcel 31 Extension Option, the term of the Lease with respect to Parcel 31 will expire on June 30, 2042.

6. Notices. Notices required or permitted under the Lease to be given to Landlord shall be addressed to Landlord as set forth in the Lease. Notices required or permitted under the Lease to be given to "Lessee", as of the Effective Date, shall be addressed to:

Mr. William Stirton
Trustee of the Mark Robinson Trust and the Cindy Robinson Trust
12829 Heritage Place
Cerritos, CA 90703

With a copy to:

Charles P. Stirton, Esq.
1325 N. Wilmot Road, Suite 310
Tucson, AZ 85712

7. General Provisions.

7.1 Governing Law. The terms and provisions of this Agreement shall be construed in accordance with and governed by the laws of the State of California.

7.2 Authority. Each Party hereto has the full right, power and authority to enter into this Agreement, and all requisite actions necessary by any Party to authorize such Party to enter into this Agreement and carry out such Party's obligations hereunder have been completed prior to the Effective Date.

7.3 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties, their heirs, successors and assigns.

7.4 Captions. The paragraph captions utilized herein are in no way intended to interpret or limit the terms and conditions hereof; rather, they are intended for purposes of convenience only.

7.5 Partial Invalidity. If any term, provision or condition contained in this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, provision or condition to persons or circumstances other than those with respect to which it is invalid or unenforceable, shall not be affected thereby, and each and every other term, provision and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

7.6 Attorneys' Fees. If any Party commences any action against the other(s) for the specific performance of this Agreement, for damages for the breach hereof or otherwise for enforcement of any remedy hereunder, the prevailing Party shall be entitled to recover from the other Party such reasonable attorneys' fees and costs as may be incurred in connection therewith.

7.7 Facsimile or PDF. Each Party hereto shall be authorized to rely upon the signatures of all of the Parties hereto on this Agreement which are delivered by facsimile or by electronic mail in ".pdf" format as constituting a duly authorized, irrevocable, actual delivery of this Agreement with original ink signatures of each Party; provided, however, each Party hereto

shall deliver an executed original of the same to the Party so receiving the previous facsimile or “.pdf” signatures within five (5) days after the delivery of such facsimile or “.pdf” signatures

7.8 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same document.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

ASSIGNOR.

William Stirton, as Trustee of the Barbara Robinson Living Trust, dated November 14, 2007

LANDLORD:

City of Torrance,
a municipal corporation

By: _____
Name: _____
Its: _____

CINDY'S TRUST:

William Stirton, as Trustee of the Cindy Robinson Trust, dated November 14, 2007

ATTEST:

By: _____
Name: _____
Its: City Clerk

MARK'S TRUST:

William Stirton, as Trustee of the Mark Robinson Trust, dated November 14, 2007

APPROVED AS TO FORM:
City Attorney

By: _____
Name: _____
Its: _____