

TO: James L. App, City Manager
FROM: Joseph M. Deakin, Public Works Director
SUBJECT: Airport Lease Assignment – Blythe (Second Wind)
DATE: April 1, 2003

NEEDS: For the City Council to consider authorizing assignment of a long-term property lease of Parcel 38 and a portion of Parcel 39 in the Airport Industrial Park.

- FACTS:**
1. On May 5, 1995, the City entered into a long-term lease agreement with Harry E. and Helen S. Blythe, Trustees of the Harry E. Blythe and Helen S. Blythe 1994 Revocable Trust dated February 28, 1994 for Parcel 38 and a portion of Parcel 39 at the Municipal Airport.
 2. The lease allows, and the City has been requested to approve, the lease assignment to John R. and Koene R. Graves, Trustees for the Living Trust of John R. Graves and Koene R. Graves.
 3. The Lessees and Assignees agree that uses on the leased premises shall be limited to those specified in the lease, and all other terms and conditions of the lease will remain unchanged.
 4. The lease remains in full compliance with the terms and conditions contained therein.

**ANALYSIS
AND**

CONCLUSION: The requested lease assignment is consistent with the provisions of the approved lease agreement. The intended use and occupancy of the premises are allowed in the existing agreement. The new lessees have demonstrated suitable financial and business ability to maintain the lease. Additional modifications to the site and/or allowed uses will comply with current City Development procedures.

POLICY

REFERENCE: Airport Lease Policy; Airport Minimum Standards

FISCAL

IMPACT: None. The established rental rates in the lease agreement remain unchanged

- OPTIONS:**
- a. Approve the attached Resolution No. 03-xx, approving the subject lease assignment, and authorizing the required execution thereof.
 - b. Amend, modify, or reject the above option.

Attachments (3)

- 1) Resolution
- 2) Lease Assignment
- 3) Memorandum of Lease Assignment

RESOLUTION NO. 03-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
AUTHORIZING ASSIGNMENT OF A LONG-TERM PROPERTY LEASE OF PARCEL 38 AND A
PORTION OF PARCEL 39 IN THE AIRPORT INDUSTRIAL PARK FROM HARRY E. AND
HELEN S. BLYTHE, TRUSTEES OF THE HARRY E. BLYTHE AND HELEN S. BLYTHE
1994 REVOCABLE TRUST TO JOHN R. AND KOENE R. GRAVES, TRUSTEES OF THE LIVING
TRUST OF JOHN R. GRAVES AND KOENE R. GRAVES

WHEREAS, the City of El Paso de Robles (herein City) has entered into a long-term lease agreement with Harry E. and Helen S. Blythe, Trustees of the Harry E. Blythe and Helen S. Blythe 1994 Revocable Trust, dated February 28, 1994 for premises on the Municipal Airport; and

WHEREAS, said tenants have requested an assignment of the lease agreement to John R. and Koene R. graves, Trustees of the Living Trust of John R. Graves and Koene R. Graves; and

WHEREAS, provisions within the lease agreement allow for City approval of the requested assignment; and

WHEREAS, the lease agreement is currently found to be in full force and compliance; and

WHEREAS, the proposed Assignee is determined to be a responsible and qualified Lessee under the provisions of the subject lease agreement.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. That the City Council of the City of El Paso de Robles does hereby approve the Assignment of Lease of Parcel 38 and a portion of Parcel 39 of Parcel Map PRAL 95-001, and the terms and conditions therein stated.

SECTION 2. The City releases the current lessees, Harry E. and Helen S. Blythe, Trustees of the Harry E. Blythe and Helen S. Blythe 1994 Revocable Trust, from any and all responsibility and obligation under the terms of the lease agreement.

SECTION 3. The City recognizes John R. and Koene R. Graves, trustees of the Living Trust of John R. Graves and Koene R. Graves as the Assignees and Tenants under the Lease agreement.

SECTION 4. The execution and the recordation of the documentation of this agreement as required is hereby authorized.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 1st day of April 2003 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Frank R. Mecham, Mayor

ATTEST:

Sharilyn M. Ryan, Deputy City Clerk

Section 4. Assignor's Covenants.

- a. Assignor covenants that the copy of the Lease attached as Exhibit "A" is a true and accurate copy of the Lease as currently in effect and that there exists no other agreement affecting Assignor's tenancy under the Lease.
- b. Assignor covenants that the Lease is in full effect and no default exists under the Lease, nor any acts or events which, with the passage of time or the giving of notice or both, could become defaults.

Section 5. Litigation Costs.

If any litigation between Assignor and Assignee arises out of this Assignment or concerning the meaning of interpretation of this Assignment, the losing party shall pay the prevailing party's costs and expenses of this litigation, including, without limitation, reasonable attorney fees.

Section 6. Indemnification.

Assignor indemnifies Assignee from and against any loss, cost, or expense, including attorney fees and court costs relating to the failure of Assignor to fulfill Assignor's obligations under the Lease, and accruing with respect to the period on or prior to the date of this Assignment. Assignee indemnifies Assignor from and against any loss, cost, or expense, including attorney fees and court costs relating to the failure of Assignee to fulfill obligations under the Lease, and accruing with respect to the period subsequent to the date of this Assignment.

Section 7. Successors and Assigns.

This Assignment shall be binding on and inure to the benefit of the parties to it, their heirs, executors, administrators, successors in interest, and assigns.

Section 8. Governing Law.

This Assignment shall be governed by and construed in accordance with California law.

The parties have executed this Assignment as of the date first above written.

ASSIGNOR:

ASSIGNEE:

Harry E. Blythe

John R. Graves

Helen S. Blythe

Koene R. Graves

Consent of Landlord

The undersigned Lessor, as Landlord under the Lease, hereby approves and gives consent to this Assignment of the Lease of Parcel 38 and a portion of Parcel 39 of Parcel Map PRAL 95-001 to Assignees, Living Trust of John R. Graves and Koene R. Graves, as indicated, and hereby releases Assignor, Harry E. Blythe and Helen S. Blythe, as Tenants, from any and all responsibilities and obligations under the terms of the subject agreement.

By this Consent, Landlord hereby accepts Assignee as Tenant under the terms of the subject lease agreement and agrees to his assumption of all rights, responsibilities and obligations of the Tenant, as specified under the terms and conditions contained therein.

Further, Lessor agrees to the amendments referenced in Section 3 of the Assignment.

Executed this 18th day of March 2003, in Paso Robles, California, on behalf of the City of El Paso de Robles.

By: _____
James L. App
City Manager

ATTEST:

Sharilyn M. Ryan, Deputy City Clerk

Recording Requested by and
When Recorded Return to:

**City of Paso Robles
Department of Public Works
1000 Spring Street
Paso Robles, CA 93446**

**MEMORANDUM OF ASSIGNMENT OF LEASE
PARCEL 38 AND A PORTION OF PARCEL 39 OF PRAL 95-001**

Harry E. and Helen S. Blythe, Trustees of the Harry E. Blythe and Helen S. Blythe 1994 Revocable Trust, u/d/t dated February 28, 1994, the John R. and Koene R. Graves, Trustees of the Living Trust of John R. Graves and Koene R. Graves and the City of El Paso De Robles enter into this Memorandum of Assignment of Lease of Parcel 38 and a portion of Parcel 39 of PRAL 95-001, commonly known as 4301 Second Wind Way, Paso Robles, California (herein the Property) with reference to the following:

1. Landlord/Tenant

On or about May 5, 1995, the City of El Paso de Robles entered into a Non-subordinated Airport Ground Lease (hereinafter, lease) for property within the Airport Industrial Park with Harry E. and Helen S. Blythe, Trustees of the Harry E. Blythe and Helen S. Blythe 1994 Revocable Trust, u/d/t dated February 28, 1994 as Tenants of the Property and the City of El Paso de Robles as Landlord.

2. Term of Lease

Section 2.1 of the Lease states in relevant part:

"The term of this Lease shall commence on May 5, 1995, ("Commencement Date"), and shall terminate, unless earlier terminated in accordance with the provisions of this Lease, on a date fifty (50) years from the Commencement Date ("Termination Date")."

3. Assignment

Section 11 of the Lease states in relevant part:

"...Tenant shall not encumber, assign, or otherwise transfer this lease, or any right or interest hereunder, or in or to any of the improvements constructed or installed on the Leased Premises, in whole or in part, without the prior written consent of the Landlord, which consent will not be unreasonably withheld..."

4. Assignment to the Living Trust of John R. Graves and Koene R. Graves

Pursuant to Paragraph 11 of the Lease, Harry E. and Helen S. Blythe, Tenants, requested the City's consent to the Assignment of the Lease to the Living Trust of John R. Graves and Koene R. Graves.

5. Landlord's Consent

On March 18, 2003, the City of El Paso de Robles adopted Resolution 03-____ approving the Assignment, with findings. A true and correct copy of said Resolution is attached hereto as Exhibit A.

6. Incorporation of the Lease

The terms and conditions of the Lease are incorporated herein by reference.

7. Successors and Assigns

This Memorandum of Assignment of Lease shall bind and inure to the benefit of the parties and their respective heirs, successors, and assigns, subject, however, to the provisions of the Lease on assignment.

8. Governing Law

This Memorandum and the Lease are governed by California law.

Executed as of the ____ day of _____, 2003, at the City of El Paso de Robles, County of San Luis Obispo, State of California.

ASSIGNOR:

ASSIGNEE:

Harry E. Blythe
(signature to be notarized)

John R. Graves
(signature to be notarized)

Helen S. Blythe

Koene R. Graves