



CITY COUNCIL STAFF REPORT

DATE: March 2, 2011 CONSENT CALENDAR
SUBJECT: Amendment No. 3 to Agreement 3192 Robert J. Pond Living Trust
FROM: David H. Ready, City Manager
BY: Palm Springs International Airport

SUMMARY

This action is related to the Robert J. Pond Living Trust and will allow for the transfer from Northern Trust, NA to Bremer Trust, NA as the Corporate Trustee.

RECOMMENDATION:

1. Approve Amendment 3 to Agreement 3192 to replace the Corporate Trustee Northern Trust, NA with Bremer Trust, NA effective December 23, 2010.
2. Authorize the City Manager to execute all necessary documents.

STAFF ANALYSIS:

Several years ago the Robert J. Pond Living Trust assumed existing hangar leasehold and Northern Trust, NA was the designated Trustee. At the notification of Northern Trust, a transfer was made to Bremer Trust, NA effective December 23, 2010. This hangar lease with the City expires September 14, 2011.

FISCAL IMPACT:

This transfer action will not have any change in the rent paid to the Airport.

Thomas Nolan, A.A.E., Executive Director, Airport

David H. Ready, City Manager

Attachment: Amendment 3 to Agreement 3192

Item No. **2.E.**

AMENDMENT NO. 3 TO LEASE WITH ROBERT J. POND

This AMENDMENT NO. 3 to LEASE NO. 3192 WITH ROBERT J. POND LIVING TRUST ("Amendment No. 3) is made and entered into this _____ day of _____, 2011, by and between the CITY OF PALM SPRINGS, a California municipal corporation ("City") and the ROBERT J. POND LIVING TRUST ("Lessee").

RECITALS

WHEREAS, the Lease was entered into on February 18, 1993 by and between the City and Robert J. Pond for the lease of certain real property located in the County of Riverside and specifically detailed in Exhibit "A" to the Lease; and

WHEREAS, Amendment No. 1 to the Lease was executed on October 11, 2006 to allow for a five (5) year extension to the term of the Lease; and

WHEREAS, Robert J. Pond died on December 14, 2007 and Amendment No. 2 was executed on June 18, 2008 in order to assign all rights and interests in the Lease from Robert J. Pond to the Robert J. Pond Living Trust.

WHEREAS, Northern Trust, NA was appointed by operation of the Will of Robert J. Pond as executor of the estate of Robert J. Pond and Corporate Trustee of the Robert J. Pond Trust; and

WHEREAS, Northern Trust, NA has been removed as Corporate Trustee of the Robert J. Pond Trust and replaced with Bremer Trust NA; and

WHEREAS, Bremer Trust NA has agreed to assume all obligations, liabilities and duties of the Corporate Trustee as they pertain to the Lease; and

WHEREAS, the City has agreed to authorize said replacement of the Corporate Trustee from Northern Trust NA to Bremer Trust NA as it pertains to the Lease..

AGREEMENT

NOW THEREFORE, in consideration of the promises of the parties hereto and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Bremer Trust NA having duly replaced Northern Trust NA as Corporate Trustee for the Robert J. Pond Living Trust, as detailed in Exhibit "A" to this Amendment No. 3., is, pursuant to Section 12.5 of the Lease, a successor in interest to Northern Trust NA.

2. Bremer Trust NA agrees to assume all rights, privileges, obligations, liabilities and duties under the Lease of the Corporate Trustee for the Robert J. Pond Living Trust.

3. The person(s) executing this Amendment No. 3 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 3 on behalf of said party, (iii) by so executing this Amendment No. 3, such party is formally bound to the provisions of this Amendment No. 3, and (iv) the entering into this Amendment No. 3 does not violate any provision of any other agreement to which said party is bound.

4. The parties further agree that, except as specifically provided in this Amendment No. 3, the terms of the Lease shall remain unchanged and in full force and effect.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have executed and entered into this Agreement as of the date first written above.

ATTEST:

CITY OF PALM SPRING
a municipal corporation

By: _____
City Clerk

By: _____
City Manager *JPN*

APPROVED AS TO FORM:

By: *[Signature]*
City Attorney

CONTRACTOR: Check one: ___ Individual ___ Partnership ___ Corporation ___ Trust

Robert J. Pond – Bremer Trust, NA two Representatives as Corporate Trustee of the trust

By: _____
Signature (notarized)

By: _____
Signature (notarized)

Name: _____

Name: _____

Title: _____

Title: _____

State of _____

State of _____

County of _____

County of _____

On _____ before me, _____

On _____ before me, _____

personally appeared _____
who proved to me on the basis of satisfactory
evidence to be the person(s) whose name(s)
is/are subscribed to the within instrument
acknowledged to me that he/she/they
executed the same in his/her/their authorized
capacity(ies), and that by his/her/their
signature(s) on the instrument the person(s),
or the entity upon behalf of which the person(s)
acted, executed the instrument.

personally appeared _____
who proved to me on basis of satisfactory
evidence to be the person(s) whose name(s)
is/are subscribed to the within instrument
and acknowledged to me that he/she/they
executed the same in his/her/their authorized
capacity(ies), and that by his/her/their
signatures(s) on the instrument the person(s)
or the entity upon behalf of which the person(s)
acted, executed the instrument.

I certify under PENALTY OF PERJURY
under the laws of the State of California that
the foregoing paragraph is true and correct.

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under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

WITNESS my hand and official seal.

Notary Signature: _____

Notary Signature: _____

Notary Seal:

Notary Seal:

AMENDMENT 3 - EXHIBIT "A"

(see attached)

SLOVAK BARON & EMPEY LLP

650 TOWN CENTER DRIVE, STE. 1400
COSTA MESA, CA 92626
TEL (714) 435-9591
FAX (714) 850-9011
Wells@sbelnwyers.com

PALM SPRINGS OFFICE
1880 E. TAHQUITZ CANYON WAY
PALM SPRINGS, CALIFORNIA 92262
PHONE (760) 322-2275 FAX (760) 322-2107

November 15, 2010

Northern Trust, NA
Attention: Salpi H. Alkeine, Esq.
VIA EMAIL

Re: Robert J. Pond Trust

Gentlemen:

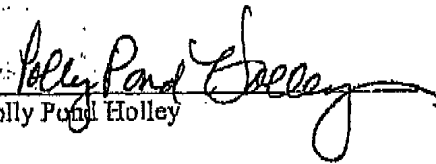
Pursuant to Paragraph 14.1 of the Trust, you are hereby notified that you are removed as Corporate Trustee, and that Bremer Trust NA ("Bremer") is appointed replacement Corporate Trustee.

As more particularly appears from the acceptance hereof, Bremer satisfies the requirements of Paragraph 14.4.

Within thirty (30) days after receipt of this notice, you are required to transfer and convey your entire interest in the Trust Estate to Bremer.

Dated: November 22, 2010

Jo Rose Pond


Polly Pond Holley

ACCEPTANCE

Bremer Trust NA ("Bremer") hereby accepts the foregoing appointment as replacement Corporate Trustee.

Bremer hereby represents that it has either (a) a combined capital and surplus (including the capital and surplus of its affiliated entities) of at least Fifty Million Dollars (\$50,000,000) or (b) assets under its management (including assets under management by its affiliated entities) of at least One Billion Dollars (\$1,000,000,000).

Bremer declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration is executed on November ____, 2010.

Bremer Trust NA

By _____
Print Name _____

Tax

SLOVAK BARON & EMPEY LLP

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COSTA MESA, CA 92626
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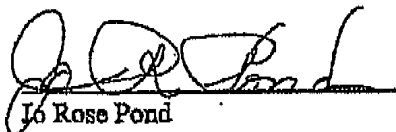
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By _____
Print Name _____

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Bremer Trust NA

By 

Print Name Randall A. Propp, SVP