

Jack Brooks Regional Airport **Real Estate Broker Compensation Policy**

PURPOSE AND SCOPE

The purpose of this Real Estate Compensation Policy (“Policy”) is to establish policies and procedures which encourage and outline the participation and compensation of real estate brokers involved in the leasing of real property at the Jack Brooks Regional Airport (the “Airport”).

This policy applies to leasing of real property, whether the property is developed or undeveloped, and whether used for aviation or non-aviation purposes; however does not apply to leasing of any Passenger Terminal areas.

This policy is not applicable to any leases existing, or for which the Airport is already engaged in lease discussions with a prospective tenant as of the date the Policy is adopted by Jefferson County Commissioners Court.

GENERAL POLICY

The Airport recognizes that timely development of Airport real property is essential to achieving Airport self sustainability, county economic development, and regional community enhancement goals. Commercial Real Estate Brokers and Agents possess unique and specialized skills that can positively influence that achievement. The Airport will encourage brokerage participation while retaining and reserving the right to solicit and acquire tenants using its own staff and consultants. If it is determined that a broker is not to be engaged to represent the Airport, the Airport will act as its own agent and will represent itself using good business practices. Any broker may represent a prospective tenant or buyer under a brokerage agreement between those parties.

The Airport may enter into exclusive brokerage listing agreements for any particular properties, or may allow non-exclusive broker participation, as set forth below.

The Airport will be under no obligation to negotiate a lease of any particular property, and, if it is interested in leasing any particular property, may, at its sole discretion, issue a Request for Letters of Interest, Request for Proposals, Request for Bids, or other competitive solicitation for that property. The Airport will retain the right to accept or reject any offers to lease, and no real estate commissions will be paid on a transaction which the Airport has rejected.

The Airport will not pay commissions on any sublease or on any assignment of a lease.

The broker has no authority to bind the Airport to particular terms or to execute any lease on the behalf of the Airport. All leases will be prepared and executed by the Airport and the Airport may furnish to any qualifying broker a sample form of lease the Airport intends to use.

Eligibility

All commercial real estate brokers and agents shall be eligible to earn commissions for facilitating new property lease agreements for any available buildings, facilities, and developable land at the Airport. In earning commissions, brokers and agents are expected to become familiar with Airport leasing opportunities, identify potential tenants, assist Airport staff in showing properties to prospective tenants and help facilitate successful conclusion of a property lease agreement between such tenants and Airport.

Broker Rights and Responsibilities:

A broker will be eligible for a commission as compensation for marketing and pursuing, to successful completion, a lease of property owned or controlled by the Airport which is within the scope of this Policy, and which is not the subject of an exclusive brokerage listing agreement, if and only if:

- A. the broker is licensed as a real estate broker, in good standing, in the State of Texas, has registered the prospect and accepted the terms and conditions of this Policy with the Airport during or in advance of any prospect's first visit to the Airport by completing a Prospective Tenant's Consent to Registration Form ("Registration Form"). Failure to complete said form will result in a breach of this policy and grounds for disqualification of a broker's or agent's eligibility to receive a commission hereunder. Similarly, commissions will only be paid, in accordance with this policy, if a property lease agreement with the prospect is concluded within the time period established by said form;
- B. the broker is not affiliated with the prospect it has registered;
 - a. A broker is considered affiliated with the prospect when: (1) either as an officer, director, general partner, member, managing member, joint venture, 10% or greater shareholder, or 10% or greater limited partner, of or with the other; or (2) the broker, directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the prospect.
- C. the broker initiated negotiations between the Airport and the prospect and maintained an active and continuing role in communications between the parties during the period of negotiations;
- D. a proposed lease of the property specified in the broker's Registration Form has been successfully negotiated with such prospect within one hundred and eighty (180) days of the date the Registration Form was received by the Airport.
 - a. A proposed lease is "successfully negotiated" only when and if it has been fully negotiated by both parties, reduced to writing, signed by the broker's registered prospect and submitted to the Airport for subsequent Commissioner's Court review.
- E. said proposed lease is approved and executed by the Commissioner's Court; and
- F. the prerequisites set forth for timing of the commission payment as set in this policy have occurred or been satisfied.

If a lease is successfully completed with a tenant which was a prospect registered by more than one broker having submitted a Prospective Tenant's Consent to Registration Form, such that more than one broker would otherwise qualify for a commission under this Policy, the Airport will pay only a single commission to the broker which first submitted a Prospective Tenant's Consent to Registration Form that remains in effect with respect to that prospect on the date the lease is executed.

If a lease is successfully completed with a tenant where both parties, Airport and tenant, are each represented by a broker, the broker which first submitted a Prospective Tenant's Consent to Registration Form will be responsible for the other broker's commission. This will be considered a transaction between two third-parties and it will be up to the brokers to decide how to share the single commission.

Commission Structure

The maximum period of lease term eligible for a commission payment shall be ten (10) years. No commission payments will be made for option terms, extensions, renewals, or holdovers.

All commission payments earned under the provisions of this policy shall be calculated and paid according to the Commission Payment Schedule (CPS). Commission payments will begin within thirty (30) days of the Rent Commencement Date. For purposes of this Policy, the “Rent Commencement Date” shall mean the date on which actual tenant rent payments begin.

The term “Gross Rental” means only the aggregate amount of non-contingent, pre-determined, minimum guaranteed (or “base”) rent payable by the tenant to the Airport, beginning on the Rent Commencement Date and ending no later than ten (10) years. Gross Rental does not include any amounts that are, as of the date the lease is signed, contingent, undetermined, or un-liquidated, in any way, such as, but not limited, to percentage rent, CPI or other index-based inflation adjustments, sales tax, maintenance charges, utility fees, real property taxes or assessments, or similar charges or pass-through(s) to be remitted by a tenant to the Airport or any third party in addition to the minimum guaranteed rent.

Month-to-Month Leases

Commission shall be a one-time payment equal to the greater of fifty percent (50%) of the first month’s rent, or \$500.00.

Leases with terms of Five (5) Years or Less

Commission shall equal five percent (5%) of the gross rent to be paid between the Rent Commencement Date and the remaining term of the lease. Said commission shall be calculated as follows:

- (a) Rental Rate in effect on the Rent Commencement Date [multiplied by]:
- (b) Total Months in the term [multiplied by]:
- (c) Commission Rate of five percent (5%)

(a) x (b) x (c) = Commission

Example commission computation:

Five (5) year lease at \$2,000 month rent:

$$\underline{\$2,000} \text{ month} \times \underline{60} \text{ months} \times \underline{0.05} = \underline{\$6,000} \text{ Commission}$$

$$(a) \quad x \quad (b) \quad x \quad (c) = \text{Commission}$$

Commission payments shall begin within thirty (30) days of the Rent Commencement Date and be paid in monthly installments equal to fifty percent (50%) of monthly rent until commission is paid, provided payments are received from Lessee.

Leases With Terms Greater Than Five (5) Years

Commission shall equal the amount defined in the preceding paragraph [(a) x (b) x (c)], and an additional amount equal to fifty percent (50%) of the aggregate amount of such rent payable over any part of the initial term which is after the first five (5) years but within the first ten (10) years. The result of which is equal to two and one-half percent (2.5%). Said commission shall be calculated as follows:

- (a) Commission on first five (5) year term [plus]:
- (b) Rental Rate in effect on the Rent Commencement Date [multiplied by]:
- (c) Total Months remaining in the term [multiplied by]:
- (d) Commission Rate of five percent (2.5%):

Commission = (a) + [(b) x (c) x (d)]

Example commission computation:

Ten (10) year lease at \$2,000 month rent:

(a) \$2,000 month x 60 months x 0.05 commission rate = \$6,000

$\frac{\$2,000 \text{ month} \times 60 \text{ months} \times 0.025 \text{ commission rate} = \$3,000}{(b) \quad x \quad (c) \quad x \quad (d)}$

1st Five (5) Years: \$2,000 month x 60 months x 0.050 - - - = \$6,000

2nd Five (5) Years: \$2,000 month x 60 months x 0.025 - - - = \$3,000

Total Commission - - - - - = \$9,000

Commission payments shall begin within thirty (30) days of the Rent Commencement Date and be paid in monthly installments equal to fifty percent (50%) of monthly rent until commission is paid, provided payments are received from Lessee.

PROSPECTIVE TENANT'S CONSENT TO REGISTRATION FORM

To the Attention of: Airport Director

Subject Airport Property: _____

Prospective Tenant: _____

Firm Name ("Broker"): _____

Consent: In accordance with the Jack Brooks Regional Airport Real Estate Broker Compensation Policy ("the Policy"), you are hereby notified that the above named broker is representing the above named tenant who is interested in negotiating a lease with Jack Brooks Regional Airport ("Airport") for the above named property for the term specified below. Such consent does not represent that Tenant has engaged Broker's services in negotiating the possible lease of such property on Tenant's behalf. Rather, such consent shall serve only as Tenant's certification that Broker was first to make Tenant aware of the availability of the property identified above. Such certification shall qualify Broker to receive a commission payment from Airport, should Tenant enter into lease negotiations with Airport during said period and conclude a Property Lease Agreement with Airport within a period of one hundred eighty (180) consecutive, calendar days thereafter.

Acknowledgements: The undersigned acknowledges they have received a copy of the Policy, thoroughly read, understand, and agree to its terms. The undersigned understands this is an open listing and the Airport reserves the right to lease the property using its own staff, its consultants or through any other Broker without payment to us of the commission set forth in the Policy. The undersigned further understands they are not authorized to bind the Airport in these negotiations and will be entitled to a commission only if and when all terms and conditions of the Policy have been satisfied.

Declarations: The undersigned declares to the Airport that: (1) we are licensed as a Broker, active and in good standing, under the laws of the State of Texas; (2) we are not affiliated with the Tenant within the meaning of the Policy; and (3) the signature of each Tenant that appears at the end of this Form is the genuine and authorized signature of each person authorized to bind the legal entity listed.

Printed Name of Prospective Tenant

Printed Name of Broker

Signature

Signature

Title

Title

Date

Date

Received By Airport: _____
Signature

Date

****Registration Expires 180 Days From Above Date***