

Fort Wayne-Allen County Airport Authority Real Estate Broker Compensation Policy

- I. **Purpose:** to establish policies and procedures regarding the engagement of real estate brokers to represent the Fort Wayne-Allen County Airport Authority (the “Authority”) in real estate transactions.
- II. This policy is not applicable to any existing tenants and prospective tenants already engaged in lease and/or sales conversations with the Authority.
- III. A broker may be engaged to market and to pursue, to successful completion, a Lease or Sale of specified Authority owned property as outlined in the different scenarios below:

Bare land (**Ground Lease**) where the land is either stand-alone or is part of a designated development area where the prospective tenant(s) either:

- a. Lease only the land and the tenant constructs a facility for their or another party’s use; or
 - b. Leases the combined land and structures constructed by the Authority (**Ground & Structure Construction/Lease = Combined Lease**) ;
 - c. Leases an existing Facility (**Building Lease**); or
 - d. Purchases surplus Authority owned land (with or without structures) (**Sale**).
- IV. If it is determined that a broker is not to be engaged to represent the Authority, the Authority will act as its own agent in all real estate transactions and will represent itself using good business practices. Any broker may represent a prospective tenant or buyer under a brokerage agreement between those parties.
 - V. Procedures for the Authority to engage a broker:
 - a. The Fort Wayne-Allen County Airport Authority Board (the “Board”) and/or its Real Estate & Physical Plant Committee will make the determination that a Ground Lease, Combined Lease, Building Lease or a Sale of a designated property is in the best interest of the Authority and that a broker will be retained.
 - b. Following the committee’s direction, through a competitive recruitment process including but not limited to the type of transaction desired, the broker’s relevant experience/qualifications and knowledge of the community, the proposed commission, verification that the broker’s Indiana State Real Estate License is valid and the broker is in good standing, and other demonstrated competences, the Authority staff will recommend to the Board a specific broker to perform the desired real estate activities on the Authority’s behalf and under the Authority’s direction.

- c. After Board approval of the Broker Agreement (the “Agreement”), the broker will be engaged pursuant to the terms of that Agreement.

VI. Broker Agreement with the Authority:

A Broker Agreement will set forth the maximum commission to be paid upon the successful Lease or Sale of the specified property. The amount of a commission will be based upon various factors including, but not limited to the following:

- a. The amount of work to be performed by Authority staff and/or its consultants and contractors;
- b. How quickly the Authority desires the transaction to be completed;
- c. The aggregate revenues over the term of the lease (if a Lease) or the net proceeds (if a Sale) exclusive of concessions or incentives;
- d. How much actual work is performed and expenses incurred by the broker to procure the tenant/buyer, to negotiate the Lease or Sale, and to successfully complete the transaction;
- e. The length of time the property is listed with the broker before a Lease or Sale is concluded; and

VII. Broker Compensation Calculations:

- a. Lease (**Ground, Combined, Building**): In the event a broker procures a tenant for Authority land or an Authority building at a lease rate acceptable to the Authority and a lease is entered into in due course, a leasing commission will be paid to the broker based on the term of the Lease, the value of the lease revenue, and the degree of risk associated with a cancellation of the Lease.
 - 1) As a general rule of thumb, the following would apply for commissions for successful Leases:
 - a) Commission percentage will be two percent (2%) greater than the current ordinary and customary commission percentage for similar transactions within the Fort Wayne area; or
 - b) If two or more brokers share in the procurement of the tenant, the commission percentage will be three percent (3%) greater than the current ordinary and customary commission percentage for similar transactions within the Fort Wayne area.

- 2) The Board may authorize greater percentages for difficult property to Lease, if the property is vacant for an extended period of time, or for other reasons as determined solely by the Board.
 - 3) One-half of a commission for a lease would be paid upon full execution of the lease, the payment of deposits, and the delivery of acceptable insurance by the tenant. The other one-half would be paid after the first month of rent has been paid.
 - 4) Lease renewal options will not be included in the commission calculation.
 - 5) Commissions will not be paid on unsuccessful leases or lease offers not accepted by the Authority.
- b. Sale: In the event a broker covered by a Broker Agreement with the Authority procures a buyer acceptable to the Authority and the sale is made and completed in due course, the commission provided in said Agreement will be paid to the broker by the escrow agent from the sales proceeds.
 - c. In the event more than one broker is involved in the successful completion of a Lease or Sale, the Authority will only pay a single commission as set forth above to the primary broker who procured the tenant or buyer for the Lease or Sale. Any commission division among brokers will not be the obligation or the liability of the Authority.

VII. Broker Commission without a broker agreement with the Authority

- a. Absent a Broker Agreement with the Authority, a partial commission will be paid upon the successful conclusion of a Lease or Sale to the “procuring agent” (a broker that brings to the Authority a party that is ready, willing and able to enter into the anticipated lease or sale agreement). However, no commission will be paid to brokers for subleases or for extensions to or renewals of existing Authority leases.
- b. While the Authority will allow broker participation in the Lease or Sale of designated properties that are not covered by a Broker Agreement with the Authority, it is the right of the Authority to solicit and obtain Leases or Sales through its in-house capabilities.
- c. There will be no discount in lease rental rates or in land sale values due to the absence of a Broker Agreement with the Authority.

- d. The Authority will pay a real estate brokerage fee to a broker that has provided qualified representation to a selected tenant or purchaser of Authority property. Such payment will be made upon the successful completion of the transaction. The brokerage fee will be calculated as follows: current ordinary and customary brokerage fee charged for similar transactions within the Fort Wayne area plus two percent divided by two.
- e. When the amount of rent or the purchase price offered are criteria for selecting a tenant or purchaser in competitive situations, the selection of the tenant or purchaser will be based upon the highest rent or purchase price, without including any brokerage fees involved in the competition.
- f. For any Lease or Sale involving a broker not under contract with the Authority, the Authority will require the following:
 - 1) The tenant or buyer will certify that the broker is his/her agent in the transaction, has performed a service, and has procured the Lease or Sale.