

Resolution No.: 15-04 | Commercial Real Estate Brokers and Agents

Responsible Department: Business Development

Effective Date: January 20, 2015

Supersedes: July 1, 2009 (Res. 09-28)

Personnel Covered: Business Development, Marketing, Finance & Accounting

POLICY STATEMENT

The Phoenix-Mesa Gateway Airport Authority (PMGAA) recognizes that leasing property and development of Airport real property is essential to achieving PMGAA's profitability and revenue goals. Commercial real estate brokers and agents possess unique and specialized skills that can positively influence leasing objectives for the Airport. Therefore, the use of commercial real estate brokers and their agents in marketing Airport property is encouraged.

PURPOSE

The purpose of this policy is to define eligibility for commission payments, the specific commission structure and pertinent commission payment procedures, and assign responsibilities concerning the use of commercial real estate brokers and agents during PMGAA's property marketing and leasing efforts.

POLICY GUIDANCE & PROCEDURES

I. Eligibility

Commercial real estate brokers and commercial real estate agents shall be eligible to earn commissions for facilitating new property lease agreements affecting PMGAA buildings, facilities and developable land at the Phoenix-Mesa Gateway Airport. Brokers and agents shall be expected to comply with all real estate laws and Code of Ethics, become familiar with Airport properties and leasing opportunities, present financially qualified, ready, willing, and able tenants and developers to the Airport, using Airport-supplied marketing materials (available at <http://www.phxmesagateway.org/AvailableProperties.aspx>), assist PMGAA staff in showing properties to prospective tenants or developers, submit only bona fide offers to PMGAA from financially qualified, ready, willing and able parties, and help facilitate successful conclusion of property lease agreements between such tenant(s), developers, and PMGAA.

In addition, all brokers and/or agents shall be required to register their leasing prospects with Business & Properties in writing, or supply PMGAA with a written agency agreement signed by the Tenant or Developer, prior to submitting any offer to the

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PMGAA. Failure to complete such form shall be considered a breach of this policy and grounds for disqualification of a broker's or agent's eligibility to receive a commission hereunder.

II. Commission Structure

The maximum period of lease term that shall be eligible for a commission payment shall be 10 years on a lease for an airport building, and 20 years on an airport ground lease. 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 after all contingencies have been waived by the Tenant or Developer to the transaction, within 30 days of the Rent Commencement Date (or such other date mutually acceptable to the parties) in accordance with the payment schedule below. For purposes of this policy, the "Rent Commencement Date:" shall mean the date on which actual tenant rent payments begin (net of any free rent)

- A. Month-to-month leases: Commission shall be a one-time payment equal to the greater of 50% of the first month's rent, or \$1,000.00.
- B. Leases with terms of 12 to 60 months: Commission shall equal 6% of the total NNN 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) the total months remaining in the term by (c) the rate of 6%, not including any free rent periods. Commission shall be adjusted to 5% on a gross lease during this period.
- C. Leases with terms greater than 60 months: Commission shall equal the amount defined in the preceding subparagraph ((a) x (b) x (c)), AND an additional amount equal to 4% of total NNN rent to be paid from the 61st month through the remaining term of the lease (an "Additional Commission"). Said Additional Commission shall be calculated as follows: (d) rental rate in effect on the 61st month of the lease term, multiplied by (e) the number of months remaining in the term (not to exceed the limits set forth in paragraph 2. above), multiplied by (f) the rate of 4%, not including any free rent period. Commission shall be adjusted to 3% on a gross lease during this period.

In the event a month-to-month tenant that was originally facilitated by a broker or agent subsequently executes a new lease with PMGAA for a term of one (1) year or

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more, either directly with PMGAA or through the same broker/agent, and does so within 12 months from said tenant's original Rent Commencement Date, then, such broker/agent shall be eligible to receive an additional commission on the new lease in accordance with the payment provisions defined herein above, less any commission(s) already received.

III. Payment Prohibitions and Refunds

Property lease agreements, including extensions thereto, involving existing PMGAA tenants shall not be eligible for commission payments. Similarly, if a prospective tenant's initial contact with PMGAA was not the direct result of the efforts of a commercial real estate broker or commercial real agent licensed in the State of Arizona, or who submits a bona fide offer to lease, or fails to produce a written agency agreement executed by the Tenant/Prospect, or said broker or agent failed to register his or her prospect as specified under all eligibility provisions herein, any resulting property lease agreement shall not be eligible for commission payments, even if such broker or agent subsequently became involved. PMGAA will not pay the broker of a broker in any transaction.

All brokers and/or agents shall be required to sign the attached Commercial Real Estate Broker and Agent Commission Agreement prior to receiving any commission payment, and such brokers and/or agents, upon written notice from PMGAA, may be required to refund any unearned commission proceeds because of a default of a tenant within the first six (6) months of the Agreement, due to PMGAA within 15 days of receipt thereof.

Unless specifically authorized in writing by the Airport, no Broker or Agent shall be entitled to represent the Airport, as the Landlord in any transaction. In the event PMGAA has an exclusive agent, eligibility for a Tenant commission shall only be for one-half of the commission structure set forth in Section 2 above.

IV. Responsibilities:

Business Development Office ("BDO"): Serves as the staff proponent for this policy, and updates and/or revises policy information, as required. BDO provides information to the area real estate brokerage companies to insure that they are kept abreast of properties available for lease at and on the Airport.

Finance Manager: Ensures payment of commissions to commercial real estate brokers and agents validated by BDO, and as required and specified by this policy.

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Attachments

- Prospective Tenant's Consent to Registration
- Commercial Real Estate Broker and Agent Commission Agreement