

RESOLUTION NO. 24-201

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, APPROVING A RESOLUTION ESTABLISHING THE MINIMUM ANNUAL RENT RATES FOR LEASES OF REAL PROPERTY AT THE FORT LAUDERDALE EXECUTIVE AIRPORT AND ADOPTING A BROKERAGE COMMISSION POLICY FOR REAL PROPERTY AVAILABLE FOR LEASE AT THE FORT LAUDERDALE EXECUTIVE AIRPORT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 8.10 of the City of Fort Lauderdale Charter requires a public hearing at least every three years to determine the minimum rent rates for real property available for lease at the Fort Lauderdale Executive Airport and a determination of the amount of brokerage commission that may be paid along with the procedures and standards for the payment of brokerage commission; and

WHEREAS, City staff has recently conducted an analysis of the fair market annual rental rate for property available for lease at the Fort Lauderdale Executive Airport; and

WHEREAS, on November 15, 2021, the City Commission of the City of Fort Lauderdale, Florida, adopted Resolution No. 21-263 establishing the current minimum rent rates; and

WHEREAS, the City is required to charge fair market value for leases of property at the Fort Lauderdale Executive Airport designated for Non-Aeronautical Use(s) in accordance with the following: Airport Improvement Program Grant Assurances ("AIP"), 49 U.S.C. § 47107(a)(13), 49 U.S.C. § 47107(b), the Federal Aviation Administration's Revenue Use Policy, 49 U.S.C. § 47107(c), and the Federal Aviation Administration's Policies and Procedures Concerning the Use of Airport Revenue (64 FR 7696, 7721, February 16, 1999), 78 FR 55330; and

WHEREAS, the City is also required to maintain a fee structure for rent of real property at the Fort Lauderdale Executive Airport that makes the Airport as self-sustaining as possible in order to meet the requirements in 49 U.S.C. § 47107(a)(13); and

WHEREAS, real property at the Airport are designated based on uses identified as either "Aeronautical" or "Non-Aeronautical" on the City of Fort Lauderdale's Airport Layout Plan and the rent rate must coincide with the uses that are designated in the City's Airport Layout Plan in accordance with 49 U.S.C. § 47107(a)(16), AIP Grant Assurance 29, 14 CFR § 151.5, and FAA

Order 5190.6B; and

WHEREAS, "Aeronautical Use(s)" is defined as any activity that involves, makes possible, is required for the safety of, or is otherwise directly related to, the operation of aircraft. Aeronautical use includes services provided by air carriers related directly and substantially to the movement of passengers, baggage, mail and cargo on the Airport, in accordance with FAA Order 5190.6B, FAA's Policy Regarding Airport Rates and Charges, 78 Fed. Reg. 55330, and 78 Fed. Reg. 55331; and

WHEREAS, land designated for aeronautical use offers access to the local airfield taxiway and runway system in accordance with the Federal Aviation Administration's Policy on the Non-Aeronautical Use of Airport Hangars, 14 CFR Chapter I [Docket No. FAA 2014-0463] (June 15, 2016); and

WHEREAS, "Non-Aeronautical Use" is defined as all other uses that are not considered aeronautical including Aviation-related uses that do not need to be located on an airport, which includes but is not limited to: public parking, rental cars, ground transportation, terminal concessions such as food and beverage and news and gift shops, flight kitchens and airline reservation centers in accordance with Order 5190.6B, paragraph 18.4.c. and the FAA's Policy Regarding Airport Rates and Charges, 78 Fed. Reg. 55331; and

WHEREAS, any changes to the designation of the uses identified in the City's Airport Layout Plan must be approved by the FAA in accordance with Order 5190.6B, paragraph 7.18, FAA AIP Grant Assurance 29, and Advisory Circular 150/5070-6B, Airport Master Plans, Chapter 10; and

WHEREAS, at its meeting on June 27, 2024, the Airport Advisory Board supported staff's recommendation to adjust the lease rates; and

WHEREAS, a Public Hearing was held at the August 20, 2024 regular meeting, whereby the City Commission of the City of Fort Lauderdale, Florida ("City"), adopted Resolution No. 24-150 establishing the minimum annual rent rates for leases at the Fort Lauderdale Executive Airport ("FXE") and adopted a Brokerage Commission policy for real property available for lease at FXE; and

WHEREAS, after the adoption of Resolution No. 24-150, City staff determined that in order to comply with Section 8.10 of the City Charter, the City Commission needed to adopt a resolution calling for a public hearing prior to the adoption of a resolution establishing the minimum annual rent rates for leases of real property at the Fort Lauderdale Executive Airport

and adopting a brokerage commission policy for real property available for lease at the Fort Lauderdale Executive Airport; and

WHEREAS, on September 17, 2024, the City Commission called for a public hearing and rescinded Resolution No. 24-150, in order to comply with Section 8.10 of the City Charter; and

WHEREAS, the City Commission held a public hearing on October 1, 2024, in accordance with Section 8.10. of the City Charter.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby incorporated in this Resolution and specifically made a part of this Resolution.

SECTION 2. The City Commission hereby establishes the minimum annual rent rates for real property available for lease at the Fort Lauderdale Executive Airport as follows:

A. MINIMUM RENT RATES FOR LEASES OF REAL PROPERTY FOR AERONAUTICAL USE(S)

(1) NEW LEASES

The City Commission hereby establishes that the minimum rent rate for all new leases of real property for Aeronautical Use(s) at the Fort Lauderdale Executive Airport is \$0.65 per square foot. Every new Lease shall include annual Consumer Price Index Adjustments and periodic market adjustments. The term for every new lease shall not exceed thirty (30) years and include any other conditions required by the City, Federal, and State law.

(2) EXISTING LEASES

Leases for real property at the Fort Lauderdale Executive Airport for Aeronautical Use that are amended after the effective date of this Resolution to include the addition of real property to the Lease, shall have a minimum rent rate for the additional property of \$0.65 per square foot (the Lease Amendment may include other modifications to the Lease Agreement). The

proposed lease amendment will be subject to any changes in the law and the City's review and approval process for new leases.

B. RENT RATE(S) FOR LEASES FOR REAL PROPERTY FOR NON-AERONAUTICAL USE(S)

- (1) Any new lease, amendment, or renewal of a lease for Non-Aeronautical Use, shall adhere to the current applicable law including: Federal Statutes, Florida Statutes, City Code of Ordinances, City Unified Land Development Regulations, grant assurances, Federal Aviation Administration (FAA) rules, requirements, standards, orders, regulations, and guidelines.
- (2) Unless it is permitted by law, the appraisal(s) report which assists the Airport Director in establishing the rent rate for each Lease Agreement or Lease Amendment, shall be dated no later than six months before the effective date of the Lease Agreement or Lease Amendment (Lease Amendments are applicable when real property is added to the Lease Agreement), unless the FAA notifies City staff in writing that it approves or does not object to the use of an appraisal report(s) that is dated more than six months prior to the effective date of the Lease Agreement or Lease Amendment (the Lease Amendment is applicable when more real property is added to the Lease Agreement). The entire term of each lease may not exceed fifty (50) years. Annual rent rates for each lease must be 8% to 12% of the appraised fair market value which shall be determined by using an appraisal(s) that meets all the requirements of applicable law including city, state, and federal requirements.

C. LEASE PRICES

Lease prices and rates for Non-Aeronautical Use(s) as established above shall be for real property in "AS IS" condition and shall apply to all new leases or lease amendments that add real property to the lease, entered into after the effective date of this resolution.

D. COMPETITIVE BIDS

In the event the City offers any aeronautical or non-aeronautical real property for lease on a competitive bid basis, bids will be evaluated on the basis of the guaranteed net revenue to be derived by the City from the lease and the applicable

requirements in the following: Section 8.10. in the City of Fort Lauderdale Charter, the Procurement Code, the City's Code of Ordinances, Unified Land Development Regulations, City rules, regulations, policies and procedures, State and Federal law, and any other applicable law.

E. TERMS OF LEASE AGREEMENT

- (1) Every Lease Agreement for Aeronautical Use shall be for a maximum term of thirty (30) years, and shall include annual rent escalation based on an annual Consumers' Price Index standard, periodic fair market adjustments and shall include terms and conditions required by Federal and State law, and any other terms and conditions required by the City.
- (2) Each Non-Aeronautical Use (e.g., Industrial Airpark) Lease Agreement shall be for a maximum term of fifty (50) years with no options for extensions and shall include terms and conditions required by Federal and State law, and any other terms and conditions required by the City.
- (3) Each Lease Agreement must include terms that comply with Section 8.10. of the City of Fort Lauderdale Charter which requires the Lessee to construct suitable improvements on the leased premises that will be of such a nature that they will aid in the development of said Fort Lauderdale Executive Airport (Prospect Field), or that portion of it available for such development, as an industrial center.

- F. No Lease Agreement or Lease Amendment between the City and the Lessee shall be effective without approval from the City Commission at a public meeting by a resolution accepting the terms of the Lease Agreement or Lease Amendment. Additionally, no Lease Agreement shall be approved by the City Commission, unless the City Manager certifies to the City Commission and the City Commission by resolution declares that the leasing of the property is in the best interests of the City and the development of the said industrial center and is the most advantageous lease that the city can make at the time for the area involved.

SECTION 3. The brokerage commission policy for real property available for lease at the Fort Lauderdale Executive Airport shall be as follows:

- A. No brokerage commission shall be paid by the City for any leases, assignments, amendments, subleases, or any other transfers involving any leases for aeronautical use property at the Fort Lauderdale Executive Airport.
- B. No brokerage commission shall be paid by the City for any leases, assignments, amendments, subleases, or any other transfers involving any leases for non-aeronautical use property at the Fort Lauderdale Executive Airport.

SECTION 4. If any clause, section or other part or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or application of this Resolution.

SECTION 5. That all resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 6. That this Resolution shall be in full force and effect upon final adoption.

ADOPTED this 1st day of October, 2024.

Mayor
DEAN J. TRANTALIS

ATTEST:

City Clerk
DAVID R. SOLOMAN

Dean J. Trantalis Yea

John C. Herbst Yea

APPROVED AS TO FORM
AND CORRECTNESS:

Steven Glassman Yea

Pamela Beasley-Pittman Yea

City Attorney
THOMAS J. ANSBRO

Warren Sturman Yea