

CITY OF LAGO VISTA, TEXAS

RESOLUTION 24-2056

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS DESIGNATING COUNCILPERSON ROB DURBIN NEGOTIATOR IN PURSUIT OF RAAPOA MAINTENANCE FUNDING RESOLUTION AND THE FAA SEC 185 EXEMPTION ACCORDING TO THE 2018 AMENDMENT TO U.S.C. 49 U.S.C. 47107(s)

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS:

THAT, the City Council of the City of Lago Vista, Texas would like to continue the good relationship it has had with the Rusty Allen Airport Property Owners Association (RAAPOA) regarding the RAAPOA's contributions to assist in the support of the maintenance and cost of Rusty Allen Airport; and

THAT, the City Council of the City of Lago Vista, Texas believes that a misunderstanding has led to the denial of an exemption created under 2018 Reauthorization Act §1985 Section 185 amendment to U.S.C. 49 U.S.C. 47107(s); and

THAT, the City of Lago Vista has never owned, nor had the ability to control or grant, alter or waive property rights of RAAPOA deeded properties, specifically the permanent airport access easements granted by the developer of the airport to the RAAPOA members; and

THAT, the City of Lago Vista is not the declarant, as that term is defined in the conditions, covenants and restrictions filed of record in the Travis County Real Property Records dated May 8, 1990 (hereinafter the "CC&R's") and cannot change, order, or modify the airport access easements granted to the RAAPOA member properties within the CC&R's; and

THAT, those CCR's clearly state that access to the runway and taxiways are granted to any property subject to the RAAPOA at the time of their filing May 8, 1990; and

THAT, those CC&R's pre-date FAA's Section 136 of the Airport Modernization and Reform Act of 2012; and

THAT, those CC&R's, specifically grant access to the publicly owned runways and taxiways and have not been modified since their inception on May 8, 1990, prior to the City's acquisition of the airport; and

THAT, those CC&R's are perpetual in nature; and

THAT, the City understands that its current or previous funding agreements with the RAAPOA are not access agreements and make no mention of the POA's legal and perpetual rights of access to the airport or change the access granted under the CC&R's; and

THAT, the RAAPOA properties are subject to terms set forth in the granting access to the runways and taxiways in the CCR's associated with that deed that are perpetual in nature; and

THAT, there is no reasonable expectation that existing deeded property owners with access to the runway and taxiways will modify their existing rights concerning their RTTF access at the RYW airport.

THAT, Lago Vista meets the statutory requirements of the exemption provided in Section 185,

THAT, the City recognizes that any changes to current airport access of adjacent properties within the RAAPOA would require extensive and overwhelmingly costly legal proceedings for the City to become compliant with the FAA's 2012 Section 136 criteria; and

THAT, the City through the previous maintenance agreements with the RAAPOA had already achieved the goal of Section 136 of the Airport Modernization and Reform Act of 2012 in that the residences bordering the airport (the RAAPOA properties) who have through the fence access have been paying their fair share of the airport maintenance expenses since the airport was acquired by the City from them; and

THAT, in recognition of the property rights of the RAAPOA property owners subject to the 1990 grant of access, to restart funding to this invaluable public airport and to avoid the overwhelming legal expenses, the City recognizes the need for, and the clear value of the FAA's 2018 Section 185 Exemption which conditions have met; and

THAT, the three agreements which the FAA refers to as "modifying the access agreement" do not in fact modify access to the runway or taxiways, nor do they modify the access of the RAAPOA owners thereto, and

THAT, the City was not a party to the CCR's nor was it involved in participating in negotiations thereto.

THAT, In Texas only the declarant or the members of a POA can initiate changes to the CCR's which has never happened.

THAT, the City attempted to satisfy the FAA by entering into an agreement which had in its recitals that it was attempting to comply with the FAA Modernization and Reform Act of 2012, however they could not meet all those requirements for the reasons stated above and they were unaware of the 2018 act acknowledging the exemption to which they were entitled, and

THAT, the City Council directs City Councilperson Rob Durbin to oversee interaction between the City and the FAA Office of Airport Compliance and Management Analysis for the purpose of pursuing the airport's Section 185 Exemption; and

THAT, the City Council directs City Councilperson Rob Durbin to oversee interaction between the City and the RAAPOA for the purpose of drafting to a new resolution for RAAPOA maintenance funding support subject to City Council approval; and

THAT, the City directs its Airport Advisory Board, with guidance from Council Liaison Rob Durbin to draft documentation to the FAA on behalf of the City which, following approval by City Council, would request acknowledgment from FAA Compliance Management that the Section 185 Exemption does apply and should be granted to the City's Rusty Allen Airport for properties within the POA that contain said deed restrictions.

AND IT IS SO RESOLVED.

PASSED AND APPROVED this 4th day of April 2024.

On a motion by Councilor Durbin, seconded by Councilor Roberts, the above and foregoing resolution was passed and approved by a vote of 5-1 with one member absent from the vote.

Kevin Sullivan, Mayor



Chelaine Marion, Mayor Pro Tem (Council Place 4)



Shane Saum, Council Place 1

Stephanie Smith, Council Place 2



Rob Durbin, Council Place 3



Paul Roberts, Council Place 5



Paul Prince, Council Place 6

ATTEST:



Lucy Aldrich, City Secretary

