

RESOLUTION AUTHORIZING THE DIRECTOR OF AVIATION TO TAKE COVID-19 RELATED RELIEF ACTIONS

WHEREAS, the Greater Baton Rouge Airport District is a political subdivision of the State of Louisiana and department of the City of Baton Rouge and Parish of East Baton Rouge, which operates and manages the Baton Rouge Metropolitan Airport (hereinafter referred to as “Airport”)

WHEREAS, in response to the spread of the severe acute respiratory disease cause by a novel coronavirus (“COVID-19”) several government authorities, including the City of Baton Rouge, Parish of East Baton Rouge, and the State of Louisiana have issued and extended Proclamations of a State of Emergency (“Proclamations of Emergency”) that have restricted the movement of persons and business operations;

WHEREAS, the worldwide outbreak of COVID-19 has caused significant disruptions to domestic and international air travel, including both passenger and cargo operations;

WHEREAS, all commercial passenger air carriers operating at the Baton Rouge Metropolitan Airport, have experienced severe reductions in frequency and number of passengers departing and arriving in Baton Rouge;

WHEREAS, the restrictions in the movement of persons and business operations resulting from the COVID-19 event have negatively impacted the local economy, commercial air service, and the number of passengers traveling through the Airport’s terminal;

WHEREAS, the economic impact of the current COVID-19 event constitutes a material change in circumstances in business relationship between the Airport and its various tenants, airlines, concessionaires, and others with whom it conducts business;

WHEREAS, 49 United States Code (U.S.C.) § 47107(a)(13) requires airports to be as self-sustaining as possible under the circumstances at that airport (*See also* Grant Assurance 24, *Fee and Rental Structure*);

WHEREAS, the FAA’s *Policy and Procedures Concerning the Use of Airport Revenue*, 64 Fed. Reg. 7696, February 16, 1999, (“**Revenue Use Policy**”) requires airport sponsors, including the Airport, when entering into agreements regarding the establishment of airline rates, charges, and fees, to undertake reasonable efforts to be self-sustaining in accordance with 49 U.S.C. § 47107(a)(13);

WHEREAS, the FAA issued guidance entitled “Information for Airport Sponsors Considering COVID-19 Restrictions or Accommodations” (the “**FAA Guidance**”) and stated therein, consistent with the above that a core goal of airports should be “to keep the airport solvent to ensure that the airport can remain open”;

WHEREAS, the Airport received requests from various airlines, concessionaires, tenants, and others with whom it does business to make modifications to payment terms in their respective agreements so as to mitigate the impacts of the COVID-19 event; and

WHEREAS, each request for relief is unique and requires both independent consideration, and consideration in the context of the Airport's overall legal, financial, and operating abilities. Relief may be warranted in some, but not all instances. Where relief is warranted, action to provide such relief should be taken swiftly and without unnecessary delay.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The above Whereas clauses are incorporated by reference as though set forth fully herein;
2. After evaluating the operational and financial impacts of any requests by tenants, permit holders concessionaires, airlines, or others regularly doing business with the Airport to make financial or operating modifications to their agreements the Director of Aviation may, but is not required to, enter into letter agreements on behalf of the Airport without further action, that provides some or all of the following relief, if determined to be in the best interests of the Airport:
 - a. Signatory and Non-Signatory Airlines:
 - i. Deferral of up to one hundred percent (100%) of the Terminal Rental for Joint Use and Preferential Use Areas pursuant to the terms and condition of Resolution No. 48353 adopted on December 8, 2010 entitled Establishing Air Transportation Companies Rates and Charges and Operating at Baton Rouge Metropolitan Airport, as applicable, for activity in April through a period determined by the Director to be reasonable but no later than December 31, 2020; and
 - ii. Timely repayment of these deferred amounts by December 31, 2020 is without penalty or interest. Any payments in 2021 shall include an additional interest payment of up to 3% per month on any unpaid portions.
 - b. For concessionaires and permit holders ("Concessionaires") who pay a monthly fee or rent that is the greater of a (1) Minimum Annual Guarantee ("MAG") or (2) a percentage of Gross Revenue or Gross Receipts ("Percentage Fee"):
 - i. Deferral of the MAG payments due for operations in April through a period determined by the Director to be reasonable but no later than December 31, 2020. This MAG deferral, if granted by the Director, must also be applied and flow down to all sub concessionaires/subtenants;
 - ii. Concessionaire will continue to timely pay the Percentage Fee in accordance with its original agreement with the Airport;

- iii. Timely repayment of these deferred amounts by December 31, 2020 is without penalty or interest. Any payments in 2021 shall include an additional interest payment of up to 3% per month on any unpaid portions.
- iv. The Gross Receipts or Gross Revenue against which the Percentage Fee is calculated shall include:
 - 1. Any business interruption insurance proceeds associated with the COVID-19 event received for BTR locations by the company and any subtenants/sub concessionaires;
 - 2. Any third party funding or assistance to the company or any subtenant/sub concessionaire, including but not limited to, CARES act funds, grants, business loans, or other assistance (“assistance funding”), which are eligible for use as payment of rents, fees, and other amounts due under the concession agreement; and
 - 3. Concessionaire and subtenants/sub concessionaires shall use their best efforts to obtain such assistance funding and will upon request provide evidence to the Airport of such best efforts to obtain assistance funding. Failure to use best efforts or provide satisfactory evidence of such best efforts will result in loss of MAG relief granted by the Airport.

c. For Rental Car Companies:

- i. Deferral of the MAG payments under the concession agreement due for operations in April through a period determined by the Director to be reasonable but no later than December 31, 2020. The obligation to continue ground rents due under the lease agreements with rental car companies remains unchanged;
- ii. Rental car companies will continue to timely pay the Percentage Fee on Gross Revenues under the concession agreement. For rental car companies that have routed customers to their Airport location from closed service centers more than 5 statute miles from the Airport, revenue from said customers will not be included in the Gross Revenue calculation;
- iii. Timely repayment of these deferred amounts by December 31, 2020 is without penalty or interest. Any payments in 2021 shall include an additional interest payment of 3% per month on any unpaid portions.

- iv. Gross Revenues against which the Percentage Fee is calculated under concession agreements must include any business interruption insurance proceeds. The Gross Revenue calculation must also include any third party funding such as CARE act funds, business loans, or other assistance (“assistance funding”) which is eligible for use as payment of the rents, fees, and other amount due under the concession agreement. Rental car companies shall use their best efforts to obtain such assistance funding and will upon request provide evidence of such best efforts to obtain such assistance funding. Failure to do seek assistance funding will result in loss of waivers granted by Airport.

- d. Tenants with monthly rent who are neither airlines, concessionaires, rental car companies, nor others whose rent may be based on gross revenues:
 - i. Deferral of rents due for up to three months, starting with the amounts otherwise due for tenancy in April;
 - ii. Deferred rents shall be pro-rated equally over the remainder of 2020 such that all deferred rents are paid by December 31, 2020; and
 - iii. Timely repayment of these deferred amounts by December 31, 2020 is without penalty or interest. Any payments in 2021 shall include an additional interest payment of 3% per month on any unpaid portions.