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GOVERNOR



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IN REPLY REFER TO:
DEP-A

February 18, 2021

Dear State of Hawaii, Department of Transportation – Airports Division Partner:

The worldwide outbreak of COVID-19 and continued economic downturn has caused significant disruptions to domestic and international air travel. We appreciate that many of our partner airlines are experiencing economic hardships caused by lower passenger numbers and revenues. We are grateful for your partnership during this difficult time.

In order to assist our airline partners during this time, the State of Hawaii has adopted the attached Policy on Waiver of Landing Fees at Select Airport (“**Policy**”). In short, effective March 1, 2021, this Policy waives collection of all Landing Fees for scheduled commercial passenger service at Molokai Airport and Lanai Airport for a period of one (1) year. Please note that an airline can take advantage of this Policy only if the airline is otherwise current in all financial obligations to the Department of Transportation, Airports Division as of February 1, 2021.

If you choose to participate in this Policy, please sign and return a copy to dot.air.administrator@hawaii.gov.

Thank you again for your partnership and we hope that this Policy will alleviate some of the financial strains you are facing during this time.

Please let me know of any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jade T. Butay".

JADE T. BUTAY
Director of Transportation

Attachment

State of Hawaii, Department of Transportation – Airports Division

POLICY ON WAIVER OF LANDING FEES AT SELECT AIRPORTS

FINDINGS AND RECITALS

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 scheduled commercial passenger air carriers operating at the Molokai and/or Lanai Airports (the “***Airports***”) have experienced severe reductions in revenue which have resulted in near-term cashflow challenges;

WHEREAS, on March 27, 2020, the President of the United States signed the Coronavirus Aid, Relief, and Economic Security Act (the “***CARES Act***”) which provides, among other things, aid to U.S. airports consisting of grants to address near-term cashflow challenges and revenue shortfalls;

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, 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 dated May 29, 2020 entitled “Information for Airport Sponsors Considering COVID-19 Restrictions or Accommodations” (the “***FAA Guidance***”) and stated therein that a core goal of airports should be “to keep the airport solvent to ensure that the airport can remain open”;

WHEREAS, after careful analysis and consideration, the Department of Transportation – Airports Division (“***Department***”) has determined that this Policy on Waiver of Landing Fees at Select Airports (“***Policy***”) is the best way to achieve the goals of maintaining the Department’s financial self-sustainability and assisting airlines in maintaining service at the Airports, as well as to comply with its obligations under Section 47107(a)(13) of U.S.C. Chapter 49, the Revenue Use Policy, Grant Assurance 24 and the FAA Guidance, and to reasonably accommodate its airline partners’ need to address near-term cashflow challenges;

WHEREAS, Department has made this Policy available to all commercial passenger carriers providing scheduled service to the Airports and current on their payments to the Department as of the date of this Policy, and will offer this Policy to any airline desiring to provide such service until this expiration of this Policy.

THEREFORE, the Department sets forth the following Policy:

POLICY

1. Capitalized terms shall have the meanings assigned to them in the Findings and Recitals or as follows:
 - a. “**Airline**” shall mean a Signatory Airline or a Non-Signatory Commercial Air Carrier providing scheduled service to or from one or both Airports.
 - b. “**Landing Fee**” shall mean the per-operation landing fee set by the Department through the 2007 First Amended Lease Extension Agreement (for Signatory Airlines) or Department Procedure No. 4.13 (for Non-Signatory Commercial Air Carriers). Landing Fees shall include those charges for inter-island and overseas operations.
 - c. “**Non-Signatory Commercial Air Carrier**” means an entity that is not signatory to the 2007 First Amended Lease Extension Agreement and is providing air transportation of passengers or cargo (1) operating under Federal Aviation Regulations (FAR) Part 121 or Part 129, or (2) providing scheduled air transportation with a frequency of at least five round trips per week on at least one route between two or more points according to published flight schedules and operating under FAR Part 135.
 - d. “**Signatory Airline**” shall mean a carrier that has executed the 1962 Airport-Airline Lease through the 2007 First Amended Lease Extension Agreement.
2. This Policy shall be effective as of March 1, 2021 (“**Effective Date**”) and shall expire one year from the Effective Date (the “**Term**”).
3. For the duration of the Term, the Department shall waive its right to levy and collect Landing Fees that would otherwise have been billed for scheduled commercial passenger operations conducted by Airlines at the Airports.
4. As a condition precedent to an individual Airline’s eligibility for this Policy, Airline must be current on its payments to the Department for charges accruing as of the Effective Date.
5. This Policy does not affect any other rate, charge, or fee otherwise due and payable to the Department under the 2007 First Amended Lease Extension Agreement, any other agreement between an individual Airline and the Department, or otherwise under applicable law.
6. The Department reserves the right to revoke the waiver of Landing Fees as set forth in Paragraph 3 if Airline (a) does not remain current on other charges due and payable during the Term or (b) is not otherwise in compliance with the terms of this Policy or applicable agreement with the Department.

7. Nothing in this Policy shall modify or eliminate any other Airline obligation under the 2007 First Amended Lease Extension Agreement, any other agreement between an individual Airline and the Department, or applicable law. Airline shall continue to provide monthly traffic and passenger reports to the Department unless otherwise specified.
8. Anything to the contrary in this Policy or an individual Airline's agreement notwithstanding, the relief granted by this Policy is, and shall be construed to the full extent possible to be, temporary in nature and specifically limited as set forth herein. The relief granted shall be disregarded for all other purposes.
9. Nothing in this Policy shall be construed as an extension of credit to any Airline.

AGREED AND ACCEPTED

AIRLINE:

Airline:

By:_____

Printed Name

Title