



RESOLUTION NO. 27023

BE IT RESOLVED that, on recommendation of Management, the Board of Airport Commissioners approved the Second Amendment to Concession Agreement LAA-8862 with Boingo Wireless, Inc. to allow revision of payment terms due to decline in revenue resulting from COVID-19 travel restrictions, covering upgrade, management and operation of the Wi-Fi network at Los Angeles International Airport, as referenced in the Board-adopted staff report attached hereto and made part hereof; and

LAX

Van Nuys
City of Los Angeles

Eric Garcetti
Mayor

Board of Airport
Commissioners

Sean O. Burton
President

Valeria C. Velasco
Vice President

Gabriel L. Eshaghian
Beatrice C. Hsu
Nicholas P. Roxborough
Dr. Cynthia A. Telles
Karim Webb

Justin Erbacci
Interim Chief Executive Officer

BE IT FURTHER RESOLVED that the Board authorized the Interim Chief Executive Officer to implement a temporary policy to forbear on implementing default provisions related to payments for Boingo Wireless, Inc. as set forth in said attached staff report; and

BE IT FURTHER RESOLVED that the Board authorized the Interim Chief Executive Officer, or designee, to execute said Second Amendment, via a Letter Amendment, to Concession Agreement LAA-8862 with Boingo Wireless, Inc. after approval as to form by the City Attorney and approval by the Los Angeles City Council; and

BE IT FURTHER RESOLVED that this item, as a continuing administrative, maintenance and personnel-related activity, is administratively exempt from California Environmental Quality Act (CEQA) requirements pursuant to Article II, Section 2.f of the Los Angeles City CEQA Guidelines; and

BE IT FURTHER RESOLVED that actions taken on this item by the Board of Airport Commissioners will become final pursuant to the provisions of Los Angeles City Charter Section 606.

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I hereby certify that this Resolution No. 27023 is true and correct, as adopted by the Board of Airport Commissioners at its Special Meeting held on Thursday, May 21, 2020.

Grace Miguel – Secretary
BOARD OF AIRPORT COMMISSIONERS





Los Angeles World Airports

REPORT TO THE

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Number
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BOARD OF AIRPORT COMMISSIONERS

Aura Moore

Approved by: Aura Moore, Chief Information Officer

Michael Christensen

Reviewed by: Michael Christensen, Deputy Executive Director,
Operations & Maintenance

D. Timothy Dazé

City Attorney

Justin Erabacci

Justin Erabacci, Interim Chief Executive Officer

Meeting Date:

5/21/2020

CAO Review:

Completed
 Pending
 N/A

Reviewed for	Date	Approval Status	By
Finance	5/14/2020	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> NA	RW
CEQA	5/14/2020	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	VW
Procurement	4/6/2020	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> Cond	LK
Guest Experience	5/14/2020	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	BY
Strategic Planning	5/14/2020	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> NA	KV

SUBJECT: Second Amendment to Agreement LAA-8862 with Boingo Wireless, Inc. at Los Angeles International Airport due to decline in revenue resulting from COVID-19 Travel Restrictions.

Approve Second Amendment to Agreement LAA-8862 to allow revision of payment terms of Agreement LAA-8862 between Los Angeles World Airports and Boingo Wireless, Inc. due to the decline in revenue resulting from COVID-19 travel restrictions.

RECOMMENDATIONS:

Management RECOMMENDS that the Board of Airport Commissioners:

1. ADOPT the Staff Report.
2. DETERMINE that this action is administratively exempt from the California Environmental Quality Act (CEQA) pursuant to Article II, Section 2.f of the Los Angeles City CEQA Guidelines.
3. APPROVE Second Amendment to Agreement LAA-8862 with Boingo Wireless, Inc., revising payment terms for Agreement LAA-8862 to allow Boingo Wireless, Inc. to pay LAWA monthly payments of 50% of gross revenue received by Boingo for the months of April 2020, May 2020, and June 2020 instead of the Base Annual Fee.

4. AUTHORIZE the Interim Chief Executive Officer to revise Agreement LAA-8862 and implement a temporary policy to forbear on implementing default provisions related to payments for Boingo Wireless, Inc. as set forth in this report.
5. AUTHORIZE the Interim Chief Executive Officer or designee to execute a Letter Agreement revising payment terms in Agreement LAA-8862 with the terms and conditions set forth in this report, subject to City Attorney approval as to form and Los Angeles City Council approval.

DISCUSSION:

1. Purpose

Modify Agreement LAA-8862 payment terms to provide Boingo Wireless, Inc., temporary fee relief due to a decline in revenue resulting from COVID-19 travel restrictions.

2. Prior Related Actions

- **June 4, 2015 - Award of a Concession Agreement (LAA-8862) to Boingo Wireless, Inc.**
The Board of Airport Commissioners (BOAC) approved award of a 7-year agreement to Boingo Wireless, Inc.
- **April 20, 2017 - First Amendment to LAA-8862 with Boingo Wireless, Inc.**
The BOAC approved the First Amendment to Concession Agreement LAA-8862 with Boingo Wireless, Inc.
- **April 9, 2020 - Letter Amendment to LAX Terminal Media Operator Concession Agreement**
The BOAC approved the Letter Amendment to provide temporary fee relief due to the decline in passengers resulting from COVID-19 Travel Restrictions.

3. Current Action

On February 13, 2014, Los Angeles World Airports (LAWA) released a Request for Proposals (RFP) for a non-exclusive Wi-Fi concession. Boingo was the sole and successful proposer. The Board subsequently approved a 7-year Concession Agreement with Boingo (LAA-8862) on June 2015 to upgrade, manage, and operate the Wi-Fi network at Los Angeles International Airport (LAX). The Concession Agreement allowed Boingo to require guests to view a short advertisement to gain access to free Wi-Fi, or pay a fee to access faster speed Wi-Fi. In return, Boingo would pay to LAWA:

- BAF - \$800,000 escalated annually by the current Department of Labor Consumer Price Index (CPI) or 2% whichever is greater; and,
- Additional Annual Contingent Fee – 50% of the annual gross revenue from advertising or membership fees exceeding \$1.4 million each year

In addition, Boingo would manage all aspects of upgrading the Wi-Fi network, anticipating a capital investment of \$1.5 million over the term.

On April 20, 2017, the Agreement was amended to accommodate improvements to the Wi-Fi program including faster connectivity and introduction of the Mobile Passport program to reduce international arrival immigration queue times. In exchange for these improvements, Boingo payments to LAWA were adjusted as follows:

- New BAF – \$416,000 escalated annually by the current CPI or 2% whichever is greater
- Additional Annual Contingent Fee – No change (50% of gross revenue over \$1.4 million)
- Credit of \$65,000 to previous year's fee to pay for additional access points to support the Mobile Passport program

Impacts of COVID-19

The passenger declines due to the COVID-19 impact on travel have resulted in sales decline in direct relation to the approximately 94% decline in passenger traffic. As Boingo's revenue is largely driven by revenue sources that scale with passenger traffic, the current significant decline in passenger volume has resulted in substantial revenue decreases for Boingo. Specifically:

- Boingo revenue is largely dependent on advertising revenue. Justification for temporary fee relief due to decrease in passenger activity is similar to reasons provided for JCDecaux which was approved by Council on April 22, 2020.
- Boingo provides free Wi-Fi connectivity to terminal visitors and enables arriving international guests to avail of the benefits of the Mobile Passport application. This free service is sustained through advertising and membership revenues. Continued service is imperative to ensuring guest amenities may be depended on in an already challenging situation.

On April 9, 2020, Boingo requested LAWA grant them temporary fee relief under Agreement LAA-8862. LAWA has provided concessionaires who are impacted directly by the reduction of passengers a relief package. In the relief program for airport concessionaires approved by the Board of Airport Commissioners (BOAC) on April 9, 2020, Boingo inadvertently was not identified as one of these concessionaires whose revenue is directly related to the number of passengers in the terminals.

To provide temporary fee relief that is consistent to that provided to the other concessionaires in the BOAC's April 9, 2020 action, staff recommends to revise payment terms for Agreement LAA-8862 to allow Boingo Wireless, Inc. to pay LAWA monthly payments of 50% of gross revenue received by Boingo for the months of April 2020, May 2020, and June 2020 instead of the Base Annual Fee. These changes will result in a decline in revenue to LAWA of approximately \$116,684 for the period April 2020 – June 2020. This reduced revenue represents the difference between what LAWA would recover for the months of April, May, and June 2020 under the current agreement (including BAF payments) and what Boingo would pay to LAWA under the terms of this Amendment.

For Boingo to receive this proposed temporary fee relief, they will have to comply with the following:

- a) Comply with all applicable City Ordinances;
- b) Commit to re-employ laid off staff in direct proportion to increases in sales during the recovery period so that on a quarterly basis, employment numbers increase in proportion to sales increases, using December 2019 payroll levels and sales as the basis of full employment/sales;
- c) Have all accounts receivable status current;
- d) Have fully funded Faithful Performance Guarantees (FPG) and agree that LAWA can draw down on the FPG if concessionaire misses any payments; and,
- e) Demonstrate that Boingo is not entitled to any business interruption insurance benefits that are redundant to this program

How this action advances a specific strategic plan goal and objective

This action advances this strategic goal and objective: *Sustain a Strong Business: Diversify and grow revenue sources, and manage costs.* Authorizing and approving the modification of Boingo's payment terms for the three month period from April 1, 2020 to June 30, 2020 will assist Boingo to weather the current economic downturn due to the COVID-19 Pandemic.

Action Requested

LAWA staff request the BOAC to authorize the Interim Chief Executive Officer (CEO) or designee to approve this Second Amendment to Agreement LAA-8862 to modify Boingo's payment terms for the period from April 1, 2020 to June 30, 2020 to allow Boingo to pay LAWA monthly payments of 50% of gross revenue received by Boingo for the months of April 2020, May 2020, and June 2020 instead of the Base Annual Fee, and to authorize the Interim CEO or designee to grant this temporary fee relief request to Boingo via a written Letter Amendment.

Fiscal Impact

The Fiscal Impact of this action will be the loss of base revenue of \$116,684. This change in terms will reduce LAWA FY2020 unrestricted cash by \$116,684 due to the COVID-19 impacts.

4. Alternatives Considered

• ***Take No Action***

Taking no action would require Boingo to pay monthly payments at levels established during normal passenger activity and corresponding sales levels. The approximate 94% decline in passenger traffic makes these payments unsustainable for Boingo.

APPROPRIATIONS:

No appropriation of funds is required for this action.

STANDARD PROVISIONS:

1. This item, as a continuing administrative, maintenance and personnel-related activity, is administratively exempt from California Environmental Quality Act (CEQA) requirements pursuant to Article II, Section 2.f of the Los Angeles City CEQA Guidelines.
2. This proposed document(s) is/are subject to approval as to form by the City Attorney.
3. Actions taken on this item by the Board of Airport Commissioners will become final pursuant to the provisions of Los Angeles City Charter Section 606.
4. This action is not subject to the provisions of the Living Wage/Service Contractor Worker Retention Ordinances.
5. This action is not subject to the provisions of the Business Enterprise (BE) Programs.
6. This action is not subject to the provisions of the Affirmative Action Program.
7. This action does not require a Business Tax Registration Certificate number.
8. This action is not subject to the provisions of the Child Support Obligations Ordinance.
9. This action is not subject to the insurance requirements of the Los Angeles World Airports.
10. This action is not subject to the provisions of Charter Section 1022 (Use of Independent Contractors).
11. This action is not subject to the provisions of the Contractor Responsibility Program.
12. This action is not subject to the provisions of the Equal Benefits Ordinance.
13. This action is not subject to the provisions of the First Source Hiring Program.
14. This action is not subject to the provisions of Bidder Contributions CEC Form 55.