

# LOS ANGELES WORLD AIRPORTS

8090 Westchester Parkway, Los Angeles, CA 90045

## CHANGE ORDER NO. TBD

PROJECT: APM ADDRESS: 5901 W. Century Blvd  
CONTRACT NO.: DA-5277 Suite 200  
DEVELOPER: LAX Integrated Express Solutions, LLC Los Angeles, CA 90045  
ORIGINAL CONTRACTED AMOUNT OF LAWA PAYMENTS DURING D&C PERIOD: \$1,031,269,916.02  
Original contracted amount of LAWA payments during D&C Period plus all previous Change Orders and Task Orders, excluding any O&M costs. \$1,208,244,915.14

TITLE: **Settlement of All Delay Claims Through December 8, 2022, Relief Events Associated with 3GW2 Claim, and Global Underground Utilities Claim**

Reference is made to that certain Design-Build-Finance-Operate-Maintain Agreement, dated as of April 11, 2018 (the "DBFOM Agreement"), between The City of Los Angeles, through the City's Department of Airports known as Los Angeles World Airports ("LAWA") and LAX Integrated Express Solutions, LLC ("Developer"). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the DBFOM Agreement.

\$101,671,746.00

This Change Order memorializes the settlement reached between LAWA and the Developer in January 2023 to resolve (i) all Claims for Delay occurring prior to and including December 8, 2022 and the associated Delay Costs and Delayed Payment Compensation, regardless of the cause of the claimed Delay, subject to the exclusions in Paragraph 20; (ii) Developer's claimed Relief Event Delays and related Compensation Amounts associated with 3GW2 Relief Events No. 38, 61, 107, 112 and 139, but excluding Relief Event 79 and only the Maintenance of Traffic costs component of Relief Event 38; and (iii) Developer's claimed costs for Extra Work associated with Underground Utilities included in Developer's Certified Claim dated August 12, 2021 for Underground Utilities, as described in more detail below. LAWA and the Developer have further agreed to endeavor to resolve (iv) Developer's Delay-related escalation costs and (v) Developer's total direct costs associated with the Global Roadway Claim, submitted to LAWA on November 18, 2022, i.e., both incurred costs (Incremental Costs) and estimated future costs (forecasted Incremental Costs), as described in more detail below.

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For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, LAWA and Developer (the "Parties") agree as follows:

1. LAWA hereby grants Developer a time extension of 292 Days beyond the revised Planned Early PSA Date of September 12, 2023, resulting in a revised Planned Early PSA Date of June 30, 2024. Of these 292 days, the Parties agree that LAWA will pay Developer for 200 days of compensable Delay. Developer's deadline for completing Aviation Boulevard Work is July 30, 2024.

2. LAWA will pay Delay Costs to the Developer in the provisional amount of \$81,671,745.70, which represents 100% of Developer's claimed daily rates of \$386,172.57 for 96 days of the compensable Delay and \$428,838.26 for the remaining 104 days of the compensable Delay. LAWA will pay these amounts in a single lump sum payment within 30 days after submission by Developer to LAWA of an invoice in a form reasonably acceptable to LAWA. Subject to the requirements of Paragraph 13 below, the executed Change Order and acceptable invoice are the only necessary supporting documentation required for payment of the amounts provided for in this Paragraph 2. Payment of the amount provided for in this Paragraph 2 is deemed to include any acceleration or delay mitigation costs associated with the matters described in Paragraph 8, except as set forth in Paragraph 20. The provisional amount paid by LAWA for Delay Costs is subject to reconciliation in accordance with Paragraph 3 below.

3. Developer's Delay Costs included in the daily rates set out in Paragraph 2 are subject to audit by LAWA in accordance with Section 21.2 of the DBFOM Agreement. LAWA has retained a forensic accounting firm (Ankura) experienced in construction accounting to perform the referenced audit. Developer shall cooperate in good faith with the audit firm retained to conduct the audit.

Following the audit, after notice from LAWA informing Developer of the results, LAWA and Developer shall endeavor to reconcile the contractually allowable daily rates due Developer considering the provisional payment made pursuant to Paragraph 2 above. If the Parties are unable to reconcile the daily rates within 30 days of the completed audit, after engaging in good faith negotiations, either Party may initiate the Dispute Resolution Procedures, set out in Article 18 of the DBFOM Agreement (i.e., if either Party determines that continuation of such negotiations is not likely to resolve the matters in dispute).

Any reconciliation of amounts owed by either party will be memorialized by a Change Order.

4. LAWA will pay Milestone Payment 6 on or before September 15, 2024. Developer will in turn pay the Equity Contribution to avoid refinancing of the Design-Build Loan Facility as defined in the Credit Agreement.

5. LAWA will pay, on a monthly basis, Delayed Payment Compensation of \$190,238.59 per day to compensate Developer for missed Availability Payments. LAWA will make such payments from September 13, 2023 and continue through the earlier of (i) June 30, 2024; (ii) the date on which Passenger Service commences on the APM System; or (iii) the Passenger Service Availability Date. LAWA will pay full Availability Payments when Passenger Service commences on the APM System or on the Passenger Service Availability Date, whichever occurs first. LAWA's payment of Delayed Payment Compensation will be subject to the "no better and no worse" process set out in Section 4.7.3 and 14.1.5 (e), (f) and (g) of the DBFOM Agreement.

6. Subject to any requirements for reasonable cooperation and assistance of LAWA under the DBFOM Agreement, Developer will endeavor to deliver a "Fully Operational" APM System on or before April 1, 2024, after which the Independent Engineer and LAWA will conduct the inspections provided for in the DBFOM Agreement with the aim of having Passenger Service of the APM System commence on or before April 28, 2024. "Fully Operational" means that Developer has satisfied all Conditions to Passenger Service Availability as set out in the DBFOM Agreement, including but not limited to, Section 7.10.2.4, but excluding the Aviation Boulevard roadway Work.

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7. The Parties will endeavor to obtain permission from the applicable AHJ(s) to allow Passenger Service of the APM System while Aviation Boulevard remains under construction. If the applicable AHJ(s) will allow Passenger Service of the APM system without completion of Aviation Boulevard and Developer does not commence Passenger Service of the APM System by April 28, 2024, Developer will pay LAWA liquidated damages of \$48,000.00 per day, capped at a maximum of \$3,000,000, covering the period between April 29 and June 30, 2024. LAWA may deduct any liquidated damages payable pursuant to this Paragraph 7 from amounts otherwise payable by LAWA to Developer. Notwithstanding the foregoing, the Parties agree that any such deduction shall be subject to the Dispute Resolution Procedures set out in Article 18 of the DBFOM Agreement.

8. Subject to Paragraph 20 below, LAWA will pay Developer Incremental Costs in the amount of \$20,000,000 to resolve all Claims for Extra Work associated with: (i) Underground Utilities included in Developer's Certified Claim dated August 12, 2021 for Underground Utilities (including site investigation costs for all Underground Utilities through December 8, 2022), excepting the previously settled Underground Utilities as set forth in Change Order No. 61; and (ii) 3GW2 Relief Events No. 38, 61, 107, 112, and 139, but excluding Relief Event 79 and only the Maintenance of Traffic costs component of Relief Event 38. Subject to the requirements of Paragraph 13, below, LAWA will pay this amount in a single lump sum payment within 30 days after submission by Developer to LAWA of an invoice in a form reasonably acceptable to LAWA.

9. The Parties will endeavor to resolve the total direct costs associated with the Global Roadway Claim submitted to LAWA on November 18, 2022, i.e., both incurred costs (Incremental Costs) and estimated future costs (forecasted Incremental Costs), within 60 days of the execution date of this Change Order.

10. The Parties will endeavor to resolve all Delay-related escalation costs by agreeing to a formulaic approach that will be applied to (i) all claimed Delay-related escalation costs incurred from the Effective Date of the DBFOM Agreement through March 30, 2024; (ii) for any Work required to meet the Fully Operational date of April 28, 2024; and (iii) any Aviation Boulevard roadway Work required to meet the agreed June 30, 2024 Planned Early PSA Date. The Parties will endeavor to agree on the formulaic approach to calculate escalation costs within 30 days of the execution date of this Change Order.

11. The Parties acknowledge and agree that there is no change in O&M scope required for any of the work covered by this Change Order, except to the extent of the shortened duration of the O&M Period. Notwithstanding the foregoing, Developer's entitlement to rehabilitation or other costs, if any, related to a shortened duration of the O&M Period will be considered when applying the "no better no worse" true-up under the DBFOM Agreement.

12. This Change Order supersedes any and all prior commitments, negotiations, correspondence, conversations, agreements or understandings applicable to the issues addressed in this Change Order.

13. Developer has deposited all documentary information used by Developer in connection with pricing this Change Order into the Cost and Pricing Data escrow and delivered to LAWA written certifications related to this deposit, all as required by DBFOM Agreement Sections 4.8.2 and 4.8.4.

14. This Change Order shall be binding upon and inure to the benefit of LAWA and Developer.

15. This Change Order shall not alter or change in any way the force and effect of the DBFOM Agreement, including any previous amendments to the DBFOM Agreement, except insofar as the DBFOM Agreement is altered and amended by this Change Order.

16. This Change Order shall not be construed in favor of either Party, regardless of who was more responsible for its preparation.

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17. No additional bond or other security is required for the Work described in this Change Order, and any additional bond premium costs are included in the amount of the Change Order.

18. This Change Order may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

19. This Change Order shall be governed by and construed in accordance with the laws of the State of California, any applicable federal law, the City of Los Angeles Charter, and the ordinances, regulations, codes, and Executive Orders enacted and/or promulgated pursuant thereto. The venue for any litigation arising from a Dispute with respect to this Change Order and all Change Orders prior hereto shall be the Torrance Branch of the Los Angeles County Superior Court.

20. Except as otherwise specified in this Change Order, by signing this Change Order, Developer acknowledges and agrees that the relief, if any, granted by this Change Order constitutes full and complete settlement of all claims, matters, issues and disputes of whatever nature which arise from or relate to Delays or Extra Work associated with the matters described in this Change Order, excluding all Relief Events for Developer's total direct costs associated with the Global Roadway Claim submitted to LAWA on November 18, 2022, i.e., both incurred costs (Incremental Costs) and estimated future costs (forecasted Incremental Costs), and any Relief Events which may arise during the performance of the Extra Work itself. Accordingly, Developer waives all right, without exception or reservation of any kind whatsoever, to file any further Claim for: (i) Delay occurring prior to and including December 8, 2022 and the associated Delay Costs and Delayed Payment Compensation, regardless of the cause of the claimed Delay, subject to the exclusions herein below; and (ii) Incremental Costs relating directly to the matters set forth in Paragraph 8 of this Change Order. This release excludes the following for which Developer and LAWA reserves all rights:

- Developer's claimed costs related to Management and Third Party QA/QC, for which Developer has submitted Relief Event Claim No. 130, provided that Developer waives the right to assert entitlement to any amount greater than \$3,854,271.26 for all such claimed costs related to the matters set out in Paragraph 8 of this Change Order.

- Developer's claimed costs related to inefficiencies and escalation, for inefficiency and escalation costs attributable to the overall impact that Relief Events had and continue to have on Developer's performance of the unchanged Work (as of the Effective Date of the DBFOM Agreement), for which Developer has submitted Relief Event Claim No. 132.

21. Subject to timely resolution and agreed term sheets for the following:

- (a) Developer's Global Roadway Claim as described in Paragraph 9 above, and (b) Developer's Delay-related escalation costs as referenced in Paragraph 10 above, all on or before September 1, 2023, and

- (c) Developer's claimed costs related to Management and Third Party QA/QC as described in Relief Event Claim No. 130, and (d) Developer's claimed costs related to Maintenance of Traffic as described in Relief Event Claim No. 131, all on or before December 31, 2023,

Developer agrees not to advance its claimed costs related to inefficiencies, including, but, not limited to, Developer's Relief Event Claim No. 132, to the formal Dispute Submittal Process on or before June 30, 2024; provided, however, this agreement is contingent upon the timely resolution and agreed term sheets for the items described in (a) through (d) as set forth above, and the Parties agreement to engage in good faith negotiations in an effort to amicably resolve Developer's claimed costs related to inefficiencies beginning on May 1, 2024, through the contractually agreed Informal Dispute Resolution process. Notwithstanding the requirements of Article 18.4.1.2 of the DBFOM Agreement related to the deadline for LINXS to submit its Dispute Submittal, and subject to the Parties adherence to the agreed timelines herein, LINXS' formal Dispute Submittal will be due on July 31, 2024.

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### Payment Terms:

LAWA will remit payment for this Change Order within 30 days after receipt of a proper invoice from Developer, provided that the work has been completed to LAWA's satisfaction.

Revised Project Completion Date (including this Change Order):

Revision Subtotal: \$101,671,746.00

Net Addition due to the Change Order:

\$101,671,746.00

Revised contracted amount of LAWA payments during D&C Period:

\$1,309,871,910.14

Revised Early Planned PSA Date (including this Change Order): June 30, 2024

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Approval Signatures: LAX Integrated Express Solutions, LLC

By: \_\_\_\_\_

Title: \_\_\_\_\_  
(Authorized Representative)

Date: \_\_\_\_\_

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### LAWA

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Mark Hawley  
Project Manager

By: \_\_\_\_\_  
Jake Adams  
Deputy Executive Director

Date: \_\_\_\_\_

\*By: \_\_\_\_\_  
Justin Erbacci  
Chief Executive Office (CEO)

\* Signature required if the revision amount is above the Board authorized amount.