



Item Number
12

Report to the BOARD OF AIRPORT COMMISSIONERS

Approver: <u><i>Aura Moore</i></u> Aura Moore, Deputy Executive Director and Chief Information Officer	Meeting Date			
	12/7/2023			
Reviewer: <u><i>Brian C. Ostler</i></u> Brian C. Ostler, City Attorney	Needs Council Approval: <input checked="" type="checkbox"/> Y			
	Reviewed for/by	Date	Approval Status	By
Finance	11/27/2023	<input checked="" type="checkbox"/> Y <input type="checkbox"/> NA	JS	
CEQA	11/16/2023	<input checked="" type="checkbox"/> Y	MO	
Procurement	11/16/2023	<input type="checkbox"/> Y <input checked="" type="checkbox"/> Cond	BG	
Guest Experience	11/15/2023	<input checked="" type="checkbox"/> Y	TB	
Strategic Planning	11/21/2023	<input checked="" type="checkbox"/> Y	BNZ	
<u><i>Beatrice Hsu</i></u> Beatrice Hsu, Interim Chief Executive Officer				

SUBJECT

Request to approve the Fifth Amendment to Concession Agreement LAA-8862 with Boingo Wireless, Inc. at Los Angeles International Airport and extend the term for an additional 18 months through June 30, 2025, while Los Angeles World Airports transitions to the new Wireless Solutions provider.

RECOMMENDATIONS

Management RECOMMENDS that the Board of Airport Commissioners:

1. ADOPT the Staff Report.
2. DETERMINE that this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Article II, Section 2.f of the Los Angeles City CEQA Guidelines.
3. FIND that the work can be performed more economically or feasibly by an independent contractor than by City employees.
4. FURTHER FIND that, pursuant to Los Angeles Administrative Code Section 10.15(a)(10) and Los Angeles Charter Section 371(e)(10), the services to be provided under this contract involve the performance of professional, expert, technical, and other special services such that the use of competitive bidding would be impractical and undesirable.
5. APPROVE the Fifth Amendment to Concession Agreement LAA-8862 with Boingo Wireless, Inc. to extend the term for an additional 18 months for the management and operation of the wireless network in all terminals at Los Angeles International Airport.

6. AUTHORIZE the Interim Chief Executive Officer, or designee, to execute the Fifth Amendment after approval by the Los Angeles City Council and approval as to form by the City Attorney.

DISCUSSION

1. Purpose

The purpose of this request is to seek approval of a Fifth Amendment to Concession Agreement LAA-8862 with Boingo Wireless, Inc. (Boingo) to extend the term for an additional 18 months until June 2025. A Request for Proposal (RFP) for the new Wireless Solutions and Managed Services Contract was released in November 2023, and a transition period is required to ensure Wireless Services (Wi-Fi) are not interrupted at Los Angeles International Airport (LAX).

2. Prior Related Actions/History of Board Actions

- **June 4, 2015 – Resolution No. 25722**
The Board of Airport Commissioners (Board) approved the award of a seven-year, Non-Exclusive Concession Agreement to Boingo Wireless, Inc. to upgrade, manage, and operate the Wi-Fi network at LAX for estimated revenue of \$5,900,000 over the term.
- **April 20, 2017 – Resolution No. 26215 (LAA-8862A)**
The Board approved the First Amendment to Concession Agreement LAA-8862 with Boingo Wireless, Inc. to reduce the base annual fee by \$400,000 per year and credit Boingo \$65,000 for constructing additional wireless access points to support Mobile Passport in the Tom Bradley International Terminal at LAX.
- **May 21, 2020 – Resolution No. 27023 (LAA-8862B)**
The Board approved the Second Amendment to Concession Agreement LAA-8862 with Boingo Wireless, Inc. to allow revision of payment terms to allow Boingo to pay Los Angeles World Airports (LAWA) monthly payments of 50 percent of gross revenue for April 2020, May 2020, and June 2020 instead of the Base Annual Fee due to a decline in revenue resulting from COVID-19 travel restrictions.
- **March 4, 2021 – Resolution No. 27216 (LAA-8862C)**
The Board approved the Third Amendment to Concession Agreement LAA-8862 with Boingo Wireless, Inc. to allow for revision of payment terms to allow Boingo to pay the lower of 40 percent of gross revenues or 1/12th of the Base Annual Fee for the rent relief period ending June 30, 2021, due to a decline in revenue resulting from COVID-19 travel restrictions.
- **June 2, 2022 – Resolution No. 27505 (LAA-8862D)**
The Board approved the Fourth Amendment to Concession Agreement LAA-8862 with Boingo Wireless, Inc. to extend the agreement by 18 months to allow LAWA to prepare and complete the RFP procurement process and ensure uninterrupted Wi-Fi service until a new agreement is awarded and executed and a new system implemented. This agreement expires on December 30, 2023.

3. Background

This Concession Agreement with Boingo was originally a seven-year agreement, first awarded in 2015. The Boingo Agreement was amended twice during the COVID-19 pandemic to adjust revenue targets for the decrease in passenger traffic. This rent relief period ended June 30, 2021. For Fiscal Year (FY) 2023, which runs from July 1, 2022, to June 30, 2023, the Boingo Concession Agreement revenue to LAWA was the following:

- A Base Annual Fee of \$524,248.
- Revenue share of 50 percent of gross revenues over \$1,400,000, which equaled \$993,534.

The total revenue collected for both elements above was \$1,476,429 for FY 2023.

Los Angeles World Airports' vision is to have ubiquitous Wi-Fi coverage across the entire airport campus, from the Consolidated Rent-A-Car Facility to the farthest terminal gate, that will benefit travelers at LAX and provide the foundational connectivity for guest engagement and a digital marketplace.

The current concession contract with Boingo is limited in connectivity and does not provide access to the entire LAX campus. Despite a nearly \$3,000,000 total investment in the wireless network at LAX by Boingo to support LAX's transformation and LAWA's vision of excellence, independent studies have rated LAX as average to below average for connectivity across large- and medium-sized airports.

To achieve the vision of a seamless guest experience for Wi-Fi coverage, LAWA released a Request for Proposals (RFP) for the design, deployment, optimization, monitoring, maintenance, and administration of a new LAWA-owned Wi-Fi system that will eventually cover all the airport facilities. The new single wireless system will unify existing Wi-Fi networks and add innovative and complimentary wireless technologies (i.e., private wireless, etc.).

In June of 2022, LAWA extended the Boingo contract to December 2023 to allow time for staff to prepare and complete this new RFP for the Wireless Solutions and Managed Services Contract (Wireless Solutions). The development of the new Wireless Solutions RFP progressed at a more tempered pace than anticipated due to adjustments in the scope of work that required wholesale changes. The approach of the procurement changed from being a prescriptive design/bid approach to being an outcome-based RFP with the objective for LAWA to provide seamless wireless connectivity for guest digital services and to support innovative technology that promotes operational efficiency for LAWA and its stakeholders.

These changes included adding in the capability for a new and important wireless system known as Citizen's Broadband Radio Service, which is anticipated to greatly enhance connectivity and efficiency for all stakeholders across the LAX campus, due to the greater coverage and reliability of this spectrum band. Adding such capabilities is a very important factor as traffic grows, as LAWA prepares for major events such as the 2028 Summer Olympics, and as LAWA becomes a smart airport that requires high-speed wireless network to support autonomous vehicles and innovations of the future.

4. Current Action/Rationale

Staff request approval of a Fifth Amendment to the Boingo contract to extend the term until June 30, 2025. Approval of this amendment will allow LAWA to complete the RFP evaluation and selection process and avoid interrupting Wi-Fi service until the new system is implemented. The current Boingo contract will be extended from December 30, 2023, for 18 months until June 30, 2025, or may terminate earlier, depending on the transition time needed for the new Wireless Solutions program to become operational.

The RFP process is anticipated to result in an award of a new Wireless Solutions contract by September 2024. Boingo will provide Wi-Fi Services to LAX's public terminal areas until the transition is complete.

The revenue projection to LAWA for Fiscal Year (FY) 2024, which runs from July 1, 2023, to June 30, 2024, is \$1,346,254. This non-aeronautical revenue forecast is conservative and is based on advertising and Passpoint service that allows AT&T and Verizon to maintain cellular service connections when passengers come to the airport. Boingo has confidence in this forecast due to the return in passenger traffic continuing to reach and exceed pre-Covid levels. If this contract goes through FY 2025, revenues are expected to be equal to or greater than FY2024.

Boingo provides Wi-Fi operations support, 24/7 network monitoring, call center support for passengers, network maintenance to restore service when needed, and wireless connectivity to stakeholders at no cost to LAWA.

Although there are no Airport Concession Disadvantaged Business Enterprise (ACDBE) goals on this contract, Boingo partners with local DBEs to provide onsite dispatched field technicians for maintenance. In addition, Boingo continues to expand its' small business partnerships that align with LAWA diversity and inclusion goals.

5. Fiscal Impact

Approval of the Fifth Amendment to Concession Agreement No. LAA-8862D will provide additional annual revenue to LAWA of approximately \$2,054,410. This includes the Base Annual Fee over the 18-month term extension and the potential revenue share of 50 percent of gross revenues over \$1,400,000.

6. Alternatives Considered

- **Take No Action**

If no action is taken, there may be an extended period where LAX does not have any working Wi-Fi in the public areas, thereby impacting travelers, tenants, and employees. This would incur significant logistical and operational challenges and would also negatively impact the guest experience for hundreds of thousands of travelers and employees; therefore, taking no action is not recommended.

7. How This Action Advances a Specific Strategic Plan Goal and Objective

This action advances this strategic goal and objective: Provide Exceptional Guest Experiences: Use digital technologies to enhance guests' journey experience. Extending the

current concession agreement ensures continuous access to free Wi-Fi service for the traveling public at LAX, an essential part of the guest experience.

APPROPRIATIONS

No appropriation of funds is required for this action.

STANDARD PROVISIONS

1. This action, as a continuing administrative activity, is exempt from California Environmental Quality Act (CEQA) requirements pursuant to Article II, Section 2.f of the Los Angeles City CEQA Guidelines.
2. The 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. Boingo will comply with the provisions of the Living Wage Ordinance.
5. Procurement Services has reviewed this action (File No. 6820). No Airport Concession Disadvantaged Business Enterprise (ACDBE) goal was set for this project as no subcontracting opportunities were identified.
6. Boingo will comply with the provisions of the Affirmative Action Program.
7. Boingo has been assigned Business Tax Registration Certificate 0002274391-0001-4.
8. Boingo will comply with the provisions of the Child Support Obligations Ordinance.
9. Boingo must have approved insurance documents, in the terms and amounts required, on file with Los Angeles World Airports prior to execution of the Amendment.
10. As this is a concession agreement, the City Administrative Officer has determined that this action is exempt from the provisions of Charter Section 1022 (Use of Independent Contractor).
11. Boingo has submitted the Contractor Responsibility Program Questionnaire and Pledge of Compliance and will comply with the provisions of the Contractor Responsibility Program.
12. Boingo must be determined by Public Works, Office of Contract Compliance, to be in full compliance with the provisions of the Equal Benefits Ordinance prior to execution of the Amendment.
13. Boingo will be required to comply with the provisions of the First Source Hiring Program for all non-trade LAX Airport jobs.
14. Boingo has submitted the Bidder Contributions CEC Form 55 and will comply with its provisions.

**FIFTH AMENDMENT
TO THE NON-EXCLUSIVE CONCESSION AGREEMENT (LAA-8862)
BETWEEN THE CITY OF LOS ANGELES DEPARTMENT OF AIRPORTS
AND BOINGO WIRELESS INC.
FOR WIRELESS FIDELITY (WI-FI) INTERNET ACCESS SERVICE AT LAX**

THIS FIFTH AMENDMENT TO THE NON-EXCLUSIVE CONCESSION AGREEMENT (this "Fifth Amendment") is made and entered into this _____ day of _____, 2023 (the "Effective Date") between the City of Los Angeles, acting by and through its Board of Airport Commissioners ("Board") of its Department of Airports (Los Angeles World Airports or "LAWA"), and BOINGO WIRELESS INC. "Concessionaire").

R E C I T A L S

WHEREAS, on June 4, 2015, the Board approved the award of a seven-year, Non-Exclusive Concession Agreement to Concessionaire to upgrade, manage, and operate the Wi-Fi network at Los Angeles International Airport ("LAX") for estimated revenue of \$5,900,000 over the term (Contract LAA-8862).

WHEREAS, on April 20, 2017, the Board approved the First Amendment to Concession Agreement LAA-8862 with Boingo Wireless, Inc. to reduce the base annual fee by \$400,000 per year and credit Boingo \$65,000 for constructing additional wireless access points to support Mobile Passport in the Tom Bradley International Terminal at LAX (LAA-8862A).

WHEREAS, on May 21, 2020, due to a decline in revenue resulting from COVID-19 travel restrictions, the Board approved the Second Amendment to Concession Agreement LAA-8862 with Boingo Wireless, Inc. including revised payment terms allowing Boingo to pay Los Angeles World Airports (LAWA) monthly payments of fifty percent (50%) of gross revenue for April, May, and June 2020 instead of the Base Annual Fee. (LAA-8862B)

WHEREAS, on March 4, 2021, due to a decline in revenue resulting from COVID-19 travel restrictions, the Board approved the Third Amendment to Concession Agreement LAA-8862 with Boingo Wireless, Inc. including revised payment terms allowing Boingo to pay the lower of 40 percent of gross revenues or 1/12th of the Base Annual Fee for the rent relief period ending June 30, 2021. (LAA-8862C)

WHEREAS, on June 2, 2022, the Board approved the Fourth Amendment to Concession Agreement LAA-8862 with Boingo Wireless, Inc. to extend the term until December 31, 2023, to allow LAWA to complete the RFP procurement process and ensure uninterrupted Wi-Fi service until a new agreement could be awarded and executed, and a new system implemented. (LAA-8862D)

WHEREAS, LAWA requires additional time to complete the RFP procurement process and ensure uninterrupted Wi-Fi service until a new agreement can be awarded and executed and a

new system implemented.

NOW, THEREFORE, for and in consideration of the covenants and conditions hereinafter contained to be kept and performed by the respective parties hereto, **IT IS MUTUALLY AGREED** as follows.

AMENDMENTS

Section 1. Section 2.2 Termination Date is hereby deleted in its entirety and replaced with the following:

2.2 Termination Date. The Termination Date of the Agreement is June 30, 2025, subject however, to earlier termination as provided elsewhere in this Agreement, including but not limited to, LAWA's right to unilaterally cancel the Agreement after year five subject to a buy-out of undepreciated Qualified Investments as set forth below.

Section 2. Except as amended or modified by this Fifth Amendment, the Agreement is hereby ratified and confirmed and all other terms of the Agreement shall remain in full force and effect, unaltered and unchanged by this Fifth Amendment. If there is any conflict between the provisions of this Fifth Amendment and the provisions of the Agreement, the provisions of this Fifth Amendment shall prevail. Whether or not specifically amended by this Fifth Amendment, all terms and provisions of the Agreement are amended to the extent necessary to give effect to the purpose and intent of this Fifth Amendment.

Section 3. **No Third-Party Beneficiaries.** No provisions of the Agreement or this Fifth Amendment may be amended or added to except by a written agreement signed by the Parties or their respective successors-in-interest. This Fifth Amendment is not intended to confer upon any person other than the Parties, any rights or remedies hereunder.

Section 4. **Governing Law; Interpretation.** This Fifth Amendment shall be governed by, and construed in accordance with, the laws of the State of California. The Agreement and this Fifth Amendment are subject to the provisions of the Los Angeles Administrative Code. Each Party represents and warrants that this Fifth Amendment has been negotiated and drafted at arms-length by equally sophisticated parties, and any ambiguity cannot be attributed to either Party hereto. If any provision of this Fifth Amendment, or the application thereof to any persons or circumstances, shall be invalid or unenforceable, the remainder of this Fifth Amendment shall not be affected thereby, and each provision of this Fifth Amendment shall be valid and shall be enforceable to the fullest extent permitted by law.

Section 5. **Counterparts.** This Fifth Amendment and any other document necessary for the consummation of the transaction contemplated by this Fifth Amendment may be executed in counterparts, including counterparts that are manually executed and counterparts that are in the form of electronic records and are electronically executed. An electronic signature means a signature that is executed by symbol attached to or logically associated with a record and adopted by a party with the intent to sign such record, including facsimile or e-mail signatures. All executed counterparts shall constitute one agreement, and each counterpart shall be deemed an original. The parties hereby

acknowledge and agree that electronic records and electronic signatures, as well as facsimile signatures, may be used in connection with the execution of this Fifth Amendment and electronic signatures, facsimile signatures or signatures transmitted by electronic mail in so-called PDF format shall be legal and binding and shall have the same full force and effect as if a paper original of this Fifth Amendment had been delivered that had been signed using a handwritten signature. All parties to this Fifth Amendment (i) agree that an electronic signature, whether digital or encrypted, of a party to this Fifth Amendment is intended to authenticate this writing and to have the same force and effect as a manual signature; (ii) intended to be bound by the signatures (whether original, faxed, or electronic) on any document sent or delivered by facsimile or electronic mail or other electronic means; (iii) are aware that the other party(ies) will rely on such signatures; and, (iv) hereby waive any defenses to the enforcement of the terms of this Fifth Amendment based on the foregoing forms of signature. If this Fifth Amendment has been executed by electronic signature, all parties executing this document are expressly consenting, under the United States Federal Electronic Signatures in Global and National Commerce Act of 2000 ("E-SIGN") and the California Uniform Electronic Transactions Act ("UETA") (California Civil Code §1633.1 et seq.), that a signature by fax, e-mail, or other electronic means shall constitute an Electronic Signature to an Electronic Record under both E-SIGN and UETA with respect to this specific transaction.

IN WITNESS WHEREOF, City has caused this Fifth Amendment to be executed on its behalf by the Chief Executive Officer and Consultant has caused the same to be executed by its duly authorized officers, all as of the day and year First herein above written.

APPROVED AS TO FORM:
Haydee Feldstein Soto, City Attorney

CITY OF LOS ANGELES

Date: _____

By _____

By: _____

Chief Executive Officer

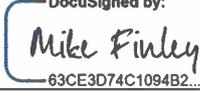
Deputy/Assistant City Attorney

Department of Airports

ATTEST:

BOINGO WIRELESS, INC.

By  _____
Secretary (Signature)

By  _____
Signature

Peter Hovenier

Mike Finley

Print Name

Print Name

[SEAL]