



AGENDA STAFF REPORT

Agenda Item

3

ASR Control 20-000112

MEETING DATE: 05/19/20
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): 2
SUBMITTING AGENCY/DEPARTMENT: John Wayne Airport (Approved)
DEPARTMENT CONTACT PERSON(S): Barry A. Rondinella (949) 252-5183
 Kevin B. Flynn (949) 252-6038

SUBJECT: Approve Sole Source Contract for Building Automation Platform Upgrade

CEO CONCUR Concur	COUNTY COUNSEL REVIEW Approved Agreement to Form	CLERK OF THE BOARD Consent Calendar 3 Votes Board Majority
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Budgeted: Yes **Current Year Cost:** \$452,695 **Annual Cost:** N/A

Staffing Impact: No **# of Positions:** **Sole Source:** Yes

Current Fiscal Year Revenue: N/A

Funding Source: Airport Operating Fund 280:100% **County Audit in last 3 years:** No

Prior Board Action: N/A

RECOMMENDED ACTION(S):

1. Find that the project is categorically exempt from the CEQA, Class 1, (Existing Facilities) pursuant to CEQA Guidelines, Section 15301.
2. Authorize the County Procurement Officer, or authorized Deputy, to execute a sole source contract with Siemens Industry, Inc. for a Platform Upgrade to John Wayne Airport’s Building Automation System, effective June 22, 2020, through June 21, 2021, in an amount not to exceed \$452,695.

SUMMARY:

Approval of a sole source contract with Siemens Industry, Inc. to provide a Platform Upgrade to John Wayne Airport's Building Automation System will ensure efficient management of the internal environment of the Thomas F. Riley Terminal and outlying buildings.

BACKGROUND INFORMATION:

A Building Automation System (BAS) is a network of microprocessor-based, wired and wireless, controller-connected systems that centrally manages the equipment and environment of the facility. These systems can be monitored and adjusted from remote stations at John Wayne Airport (JWA). JWA’s existing BAS is a Siemens Industry, Inc. (Siemens) System using the Apogee Insight Platform. The BAS controls the Heating, Ventilation and Air Conditioning (HVAC) systems for the Terminal Complex, the

Central Utility Plant and airport facilities located at 3160 Airway, 3180 Airway, 366 Paularino Avenue, Fire Station 33 and the Airfield Lighting Vault.

The existing Siemens Apogee Insight BAS system was installed at JWA in 1990, as part of the construction of Terminals A and B. More facilities and HVAC specific equipment have been added to the BAS over the years. The systems controller inputs and outputs have grown in both number and complexity. The Apogee Insight Platform is being phased out and will not be supported beyond early 2022. At that time, Siemens will no longer provide technical support, software patches or software programming for JWA's existing Siemens Apogee Insight BAS.

The proposed contract includes the installation of the Siemens Desigo BAS software (Desigo), the provision and installation of both primary and redundant Desigo servers, the provision and installation of new Modular Building Controller panels, the removal of legacy equipment controller panels and all labor needed to perform the hardware and software upgrades. Desigo will replace the Apogee Insight Platform. Also included in the contract are necessary software licenses and training for the operation of the Siemens Desigo BAS. JWA anticipates that Siemens will provide technical and programming support for Desigo into the year 2040 as typical industry standards for support lifecycles average 20 years.

The current JWA Siemens Apogee Insight BAS works in concert with 61 field panels and 787 Terminal Equipment Controllers (TEC) and Field Level Network (FLN) Controllers. Nineteen of the field panels will be replaced as part of the proposed Project. The remaining 42 Siemens-compatible field panels and 787 TEC/FLN devices will communicate with either Siemens BAS Platform and will not require replacement as part of the BAS upgrade from Siemens Apogee Insight to Siemens Desigo. JWA estimates saving over \$1 million in Project costs by utilizing Siemens-compatible existing equipment. Therefore, JWA is recommending the Desigo platform as a sole source procurement to avoid the premature replacement of devices and equipment.

The proposed contract is a sole source contract and a completed Sole Source Request Form is attached to this Agenda Staff Report (Attachment B).

Siemens performance has been confirmed as at least satisfactory. The existing Siemens system has proven to be extremely reliable over the past 20 years and JWA expects to continue that reliability going forward with the Desigo upgrade. JWA has verified there are no concerns that must be addressed with respect to the Contractor's ownership/name, litigation status or conflicts with County interests.

The proposed contract does not currently include subcontractors or pass through to other providers. See Attachment C for the Contract Summary Form.

Compliance with CEQA: The proposed project is Categorical Exempt (Class 1) from the provisions of CEQA pursuant to Section 15301 because the project consists of repairing or maintaining existing facilities involving negligible or no expansion of the existing use.

FINANCIAL IMPACT:

Appropriations for the contract are included in the FY 2019-20 Budget for Airport Operating Fund 280.

The contract contains language allowing the County to immediately terminate the contract without penalty for cause for the initial 30 days or with 30 days' written notice without cause, unless otherwise specified after 30 days.

STAFFING IMPACT:

N/A

ATTACHMENT(S):

Attachment A - Contract with Siemens Industry, Inc. (MA-280-20011042)

Attachment B - Sole Source Request Form and Verification Letter from Siemens

Attachment C - Contract Summary Form

**Contract
MA-280-20011042**

for

Platform Upgrade for Building Automation System

Between

County of Orange, John Wayne Airport

and

Siemens Industry, Inc.



Contract MA-280-2001142
For
Platform Upgrade for Building Automation System
Between
County of Orange, John Wayne Airport
And
Siemens Industry, Inc.

This Agreement (“Contract”) is made between the County of Orange, a political subdivision of the State of California, through its department John Wayne Airport (“County” or “JWA”), and **Siemens Industry, Inc.** (“Contractor”), which are sometimes individually referred to as a “Party” or collectively referred to as the “Parties.”

Recitals

Whereas, County desires to enter into a Contract for **Platform Upgrade for Building Automation System**; and

Whereas, Contractor agrees to provide goods and services, as further set forth in the Scope of Work, attached hereto as Attachment A and incorporated herein; and

Whereas, County agrees to pay Contractor the fees as more specifically described in Contractor’s Pricing, attached hereto as Attachment B and incorporated herein;

Now Therefore, Parties mutually agree as follows:

Articles

General Terms and Conditions

A. Governing Law and Venue

This Contract has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the parties specifically agree to waive any and all rights to request that an action be transferred for adjudication to another county.

B. Entire Contract

This Contract contains the entire Contract between the parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any County employee or agent, including but not limited to installers of software, shall not be valid or binding on County unless accepted in writing by County’s Purchasing Agent or designee.

C. Amendments

No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.

D. Taxes

Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax. Out-of-state Contractors shall indicate California Board of Equalization permit number and sales permit number on invoices, if California sales tax is added and collectable. If no permit numbers are shown, sales

tax will be deducted from payment. The Auditor-Controller will then pay use tax directly to the State of California in lieu of payment of sales tax to the Contractor.

E. Delivery

Time of delivery of goods or services is of the essence in this Contract. County reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or descriptions or services that do not conform to the prescribed statement of work. Acceptance of any part of the order for goods shall not bind County to accept future shipments nor deprive it of the right to return goods already accepted at Contractor's expense. Over shipments and under shipments of goods shall be only as agreed to in writing by County. Delivery shall not be deemed to be complete until all goods or services have actually been received and accepted in writing by County.

F. Acceptance/Payment

Unless otherwise agreed to in writing by County, 1) acceptance shall not be deemed complete unless in writing and until all the goods/services have actually been received, inspected, and tested to the satisfaction of County, and 2) payment shall be made in arrears after satisfactory acceptance.

G. Warranty

Contractor expressly warrants that the goods covered by this Contract are 1) free of liens or encumbrances, 2) merchantable and good for the ordinary purposes for which they are used, and 3) fit for the particular purpose for which they are intended. Acceptance of this order shall constitute an agreement upon Contractor's part to indemnify, defend and hold County and its indemnitees as identified in paragraph "Z" below, and as more fully described in paragraph "Z," harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the goods/services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.

H. Patent/Copyright Materials/Proprietary Infringement

Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any software as modified through services provided hereunder will not infringe upon or violate any patent, proprietary right, or trade secret right of any third party. Contractor agrees that, in accordance with the more specific requirement contained in paragraph "Z" below, it shall indemnify, defend and hold County and County Indemnitees harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, costs and expenses but not including attorney's fees.

I. Assignment

The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned by Contractor without the express written consent of County. Any attempt by Contractor to assign the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.

J. Non-Discrimination

In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor

acknowledges that a violation of this provision shall subject Contractor to penalties pursuant to Section 1741 of the California Labor Code.

K. Termination

In addition to any other remedies or rights it may have by law, County has the right to immediately terminate this Contract without penalty for cause or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any material breach of contract, any misrepresentation or fraud on the part of the Contractor. Exercise by County of its right to terminate the Contract shall relieve County of all further obligation.

L. Consent to Breach Not Waiver

No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.

M. Independent Contractor

Contractor shall be considered an independent contractor and neither Contractor, its employees, nor anyone working under Contractor shall be considered an agent or an employee of County. Neither Contractor, its employees nor anyone working under Contractor shall qualify for workers' compensation or other fringe benefits of any kind through County.

N. Performance Warranty

Contractor shall warrant all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other goods/services furnished by the Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workmanlike manner; shall furnish all necessary labor, supervision, machinery, equipment, materials, and supplies, shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the work. If permitted to subcontract, Contractor shall be fully responsible for all work performed by subcontractors.

O. Insurance Requirements

Prior to the provision of services under this contract, the Contractor agrees to purchase all required insurance at Contractor's expense, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this contract have been complied with. Contractor agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with the County during the entire term of this contract. In addition, all subcontractors performing work on behalf of Contractor pursuant to this contract shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.

Contractor shall ensure that all subcontractors performing work on behalf of Contractor pursuant to this contract shall be covered under Contractor's insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for Contractor. Contractor shall not allow subcontractors to work if subcontractors have less than the level of coverage required by County from Contractor under this contract. It is the obligation of Contractor to provide notice of the insurance requirements to every subcontractor, and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by Contractor through the entirety of this contract for inspection by County representative(s) at any reasonable time.

All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the County’s Risk Manager, or designee, upon review of Contractor’s current audited financial report. If Contractor’s SIR is approved, Contractor, in addition to, and without limitation of, any other indemnity provision(s) in this Contract, agrees to all of the following:

- 1) In addition to the duty to indemnify and hold the County harmless against any and all liability, claim, demand or suit resulting from Contractor’s, its agents, employee’s or subcontractor’s performance of this Contract, Contractor shall defend the County at its sole cost and expense with counsel approved by Board of Supervisors against same; and
- 2) Contractor’s duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and
- 3) The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the Contractor’s SIR provision shall be interpreted as though the Contractor was an insurer and the County was the insured.

If the Contractor fails to maintain insurance acceptable to the County for the full term of this contract, the County may terminate this contract.

Qualified Insurer

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**). It is preferred, but not mandatory, that the insurer be licensed to do business in the State of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the Contractor shall provide the minimum limits and coverage as set forth below:

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1M occurrence/\$2M aggregate
Technology Errors & Omissions	\$1M occurrence
Automobile Liability including coverage for owned, hired, non-owned	\$1M single limit
Workers’ Comp/Employer’s Liability	Statutory/\$1M occurrence

Required Coverage Forms

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing liability coverage as broad.

Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

1. An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the **County of Orange, its elected and appointed officials, officers, employees and agents** as Additional Insureds, or provide blanket coverage, which will state **As Required by Written Contract**.
2. A primary non-contributing endorsement using ISO Form CG 20 01 04 13, or a form at least as broad evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the **County of Orange, its elected and appointed officials, officers, employees and agents**, or provide blanket coverage, which will state **As Required by Written Contract**.

All insurance policies required by this contract shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, employees and agents when acting within the scope of their appointment or employment.

Contractor shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the contract, upon which the County may suspend or terminate this contract.

The Commercial General Liability policy shall contain a severability of interests clause, also known as a "separation of insureds" clause (standard in the ISO CG 001 policy).

Insurance certificates should be forwarded to the agency/department address listed on the solicitation. If the Contractor fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

County expressly retains the right to require Contractor to increase or decrease insurance of any of the above insurance types throughout the term of this contract. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable Certificates of Insurance and endorsements with County incorporating such changes within thirty (30) days of receipt of such notice, this contract may be in breach without further notice to Contractor, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

P. Changes

Contractor shall make no changes in the work or perform any additional work without the County's specific written approval.

Q. Change of Ownership/Name, Litigation Status, Conflicts with County Interests

Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, and the County agrees to an assignment of the Contract, the new owners shall be required under the terms of sale or other instruments of transfer to assume Contractor's duties and obligations contained in this Contract and complete them to the satisfaction of the County.

County reserves the right to immediately terminate the Contract in the event the County determines that the assignee is not qualified or is otherwise unacceptable to the County for the provision of services under the Contract.

In addition, Contractor has the duty to notify the County in writing of any change in the Contractor's status with respect to name changes that do not require an assignment of the Contract. The Contractor is also obligated to notify the County in writing if the Contractor becomes a party to any litigation against the County, or a party to litigation that may reasonably affect the Contractor's performance under the Contract, as well as any potential conflicts of interest between Contractor and County that may arise prior to or during the period of Contract performance. While Contractor will be required to provide this information without prompting from the County any time there is a change in Contractor's name, conflict of interest or litigation status, Contractor must also provide an update to the County of its status in these areas whenever requested by the County.

The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with County interests. In addition to the Contractor, this obligation shall apply to the Contractor's employees, agents, and subcontractors associated with the provision of goods and services provided under this Contract. The Contractor's efforts shall include, but not be limited to establishing rules and procedures preventing its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers in the performance of their duties.

R. Force Majeure

Contractor shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to County within 36 hours of the start of the delay and Contractor avails himself of any available remedies.

S. Confidentiality

Contractor agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees.

T. Compliance with Laws

Contractor represents and warrants that services to be provided under this Contract shall fully comply, at Contractor's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. Contractor acknowledges that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of paragraph "Z" below, Contractor agrees that it shall defend, indemnify and hold County and County INDEMNITEES harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.

U. Freight

Prior to the County's express acceptance of delivery of products. Contractor assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.

V. Severability

If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

W. Attorney Fees

In any action or proceeding to enforce or interpret any provision of this Contract, each party shall bear their own attorney's fees, costs and expenses.

X. Interpretation

This Contract has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each party had been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to effect the purpose of the parties and this Contract.

Y. Employee Eligibility Verification

The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. The Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

Z. Indemnification

Contractor agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board ("County Indemnitees") harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by Contractor pursuant to this Contract. If judgment is entered against Contractor and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, Contractor and County agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

AA. Audits/Inspections

Contractor agrees to permit the County's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by the County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. The County will provide reasonable notice of such an audit or inspection.

The County reserves the right to audit and verify the Contractor's records before final payment is made.

Contractor agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right to the County to audit records and interview staff of any subcontractor related to performance of this Contract.

Should the Contractor cease to exist as a legal entity, the Contractor's records pertaining to this agreement shall be forwarded to the County's project manager.

BB. Contingency of Funds

Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County's Board of Supervisors for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.

CC. Expenditure Limit

The Contractor shall notify the County of Orange assigned Deputy Purchasing Agent in writing when the expenditures against the Contract reach 75 percent of the dollar limit on the Contract. The County will not be responsible for any expenditure overruns and will not pay for work exceeding the dollar limit on the Contract unless a change order to cover those costs has been issued.

Additional Terms and Conditions

1. Scope of Contract

This Contract specifies the contractual terms and conditions by which the County will procure goods/services from Contractor as further detailed in the Scope of Work, identified and incorporated herein by this reference as "Attachment A".

2. Term of Contract

This Contract shall be effective **June 22, 2020** through and including **June 21, 2021** upon execution of all necessary signatures unless otherwise terminated by County.

3. Renewable Annually with Concurrence

This Contract is non-renewable.

4. Contract Amount Not to Exceed

Contract Amount not to exceed \$452,695.00.

5. Adjustments – Scope of Work

No adjustments made to the Scope of Work will be authorized without the prior written approval of the County assigned Deputy Purchasing Agent.

6. Americans with Disabilities Act (ADA)

Section 504 of the Rehabilitation Act of 1973 as amended; Title VI and VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act, 42 USC 12101; California Code of Regulations, Title 2, Title 22: California Government Code, Sections 11135, et seq; and other federal and state laws and executive orders prohibit discrimination. All programs, activities, employment opportunities, and services must be made available to all persons, including persons with disabilities.

7. Bills and Liens

Contractor shall pay promptly all indebtedness for labor, materials and equipment used in performance of the work. Contractor shall not permit any lien or charge to attach to the work or the premises, but if any

does so attach, Contractor shall promptly procure its release and, in accordance with the requirements of paragraph "Z" above, indemnify, defend, and hold County harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.

8. Civil Rights

Contractor attests that services provided shall be in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975 as amended; Title II of the Americans with Disabilities Act of 1990, and other applicable State and federal laws and regulations prohibiting discrimination on the basis of race, color, national origin, ethnic group identification, age, religion, marital status, sex or disability.

9. Contractor's License Requirements

Contracts that include requirements for installation or state "furnish and install" require that the Contractors possess a valid California State Contractor's License at the time of contract award. If sub-contractors are used, they must also possess a valid California State Contractor's License. All businesses which construct or alter any building, highway, road, parking facility, railroad, excavation, or other structure in California must be licensed by the California State License Board (CSLB) if total cost, including labor and materials, of the project is \$300.00 or more. Failure to be licensed or to keep the license current and in good standing during the term of the contract with the County shall be grounds for contract revocation.

10. Breach of Contract

The failure of the Contractor to comply with any of the provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event the County may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:

Terminate the Contract immediately, pursuant to Section K herein;

Afford the Contractor written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Contract within which to cure the breach;

Discontinue payment to the Contractor for and during the period in which the Contractor is in breach; and

Offset against any monies billed by the Contractor but yet unpaid by the County those monies disallowed pursuant to the above.

11. Conditions Affecting Work

The Contractor shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the work to be performed under this Contract and to know the general conditions which can affect the work or the cost thereof. Any failure by the Contractor to do so will not relieve Contractor from responsibility for successfully performing the work without additional cost to the County. The County assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by the County are expressly stated in the Contract.

12. Conflict of Interest – Contractor's Personnel

The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to the Contractor; the Contractor's employees, agents, and subcontractors associated with accomplishing work and services hereunder. The Contractor's efforts shall include, but not be limited to establishing precautions to prevent its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers from acting in the best interests of the County.

13. Conflict of Interest – County Personnel

The County of Orange Board of Supervisors policy prohibits its employees from engaging in activities involving a conflict of interest. The Contractor shall not, during the period of this Contract, employ any County employee for any purpose.

14. Discounts – Prompt Payment

The County of Orange shall process payments with discounts offered for prompt payment and the checks for those payments. If disputes arise over the timeliness of the payment, the date of the postmark shall be the determining factor. The County shall not be held responsible for delays by the US Postal Service, and no additional payment shall be due the Contractor in the event of such delay.

15. Disputes - Contract

A. The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by the Contractor’s Project Manager and the County’s Project Manager, such matter shall be brought to the attention of the County Deputy Purchasing Agent by way of the following process:

1. The Contractor shall submit to the agency/department assigned Deputy Purchasing Agent a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to, or involving this Contract, unless the County, on its own initiative, has already rendered such a final decision.
2. The Contractor’s written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, the Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which the Contractor believes the County is liable.

B. Pending the final resolution of any dispute arising under, related to, or involving this Contract, the Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. The Contractor’s failure to diligently proceed shall be considered a material breach of this Contract.

Any final decision of the County shall be expressly identified as such, shall be in writing, and shall be signed by the County Deputy Purchasing Agent or his designee. If the County fails to render a decision within 90 days after receipt of the Contractor’s demand, it shall be deemed a final decision adverse to the Contractor’s contentions. Nothing in this section shall be construed as affecting the County’s right to terminate the Contract for cause or termination for convenience as stated in section K herein.

16. Debarment

Contractor shall certify that neither Contractor nor its principles are presently debarred, proposed for debarment, declared ineligible or voluntarily excluded from participation in the transaction by any Federal department or agency.

17. Contractor’s Expense

The Contractor will be responsible for all costs related to photo copying, telephone communications, fax communications, and parking while on County sites during the performance of work and services under this contract. The County will not provide free parking for any service.

18. Contractor Personnel – Reference Checks

The Contractor warrants that all persons employed to provide service under this Contract have satisfactory past work records indicating their ability to adequately perform the work under this Contract. Contractor’s

employees assigned to this project must meet character standards as demonstrated by background investigation and reference checks, coordinated by the agency/department issuing this Contract.

19. Contractor’s Project Manager and Key Personnel

Contractor shall appoint a Project Manager to direct the Contractor’s efforts in fulfilling Contractor’s obligations under this Contract. This Project Manager shall be subject to approval by the County and shall not be changed without the written consent of the County’s Project Manager, which consent shall not be unreasonably withheld.

The Contractor’s Project Manager shall be assigned to this project for the duration of the Contract and shall diligently pursue all work and services to meet the project time lines. The County’s Project Manager shall have the right to require the removal and replacement of the Contractor’s Project Manager from providing services to the County under this Contract. The County’s Project manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within three (3) business days after written notice by the County’s Project Manager. The County’s Project Manager shall review and approve the appointment of the replacement for the Contractor’s Project Manager. The County is not required to provide any additional information, reason or rationale in the event it The County is not required to provide any additional information, reason or rationale in the event it requires the removal of Contractor’s Project Manager from providing further services under the Contract.

20. Contractor’s Records

The Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by the Contractor in accordance with generally accepted accounting principles. These records shall be stored in Orange County for a period of three (3) years after final payment is received from the County. Storage of records in another county will require written approval from the County of Orange assigned Deputy Purchasing Agent.

21. Data – Title To

All materials, documents, data or information obtained from the County data files or any County medium furnished to the Contractor in the performance of this Contract will at all times remain the property of the County. Such data or information may not be used or copied for direct or indirect use by the Contractor after completion or termination of this Contract without the express written consent of the County. All materials, documents, data or information, including copies, must be returned to the County at the end of this Contract.

22. Equal Employment Opportunity

The Contractor shall comply with U.S. Executive Order 11246 entitled, “Equal Employment Opportunity” as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR, Part 60) and applicable state of California regulations as may now exist or be amended in the future. The Contractor shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, religion, sex, marital status, political affiliation or physical or mental condition.

Regarding handicapped persons, the Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to provide equal opportunity to handicapped persons in employment or in advancement in employment or otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicaps in all employment practices such as the following: employment, upgrading, promotions, transfers, recruitments, advertising, layoffs, terminations, rate of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to comply with the provisions of Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, pertaining to prohibition of discrimination against qualified handicapped persons in all programs and/or activities as detailed in regulations signed by the Secretary of

the Department of Health and Human Services effective June 3, 1977, and found in the Federal Register, Volume 42, No. 68 dated May 4, 1977, as may now exist or be amended in the future.

Regarding Americans with disabilities, Contractor agrees to comply with applicable provisions of Title 1 of the Americans with Disabilities Act enacted in 1990 as may now exist or be amended in the future.

23. Errors and Omissions

All reports, files and other documents prepared and submitted by Contractor shall be complete and shall be carefully checked by the professional(s) identified by Contractor as project manager and key personnel attached hereto, prior to submission to the County. Contractor agrees that County review is discretionary and Contractor shall not assume that the County will discover errors and/or omissions. If the County discovers any errors or omissions prior to approving Contractor's reports, files and other written documents, the reports, files or documents will be returned to Contractor for correction. Should the County or others discover errors or omissions in the reports, files or other written documents submitted by the Contractor after County approval thereof, County approval of Contractor's reports, files or documents shall not be used as a defense by Contractor in any action between the County and Contractor, and the reports, files or documents will be returned to Contractor for correction

24. Gratuities

The Contractor warrants that no gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the County with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the County shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the County in procuring on the open market any goods or services which the Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the County provided in the clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

25. Headings

The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.

26. Precedence

The Contract documents consist of this Contract and its exhibits and attachments. In the event of a conflict between or among the Contract documents, the order of precedence shall be the provisions of the main body of this Contract, i.e., those provisions set forth in the recitals and articles of this Contract, and then the exhibits and attachments.

27. Publication

No copies of sketches, schedules, written documents, computer based data, photographs, maps or graphs, including graphic art work, resulting from performance or prepared in connection with this Contract, are to be released by Contractor and/or anyone acting under the supervision of Contractor to any person, partnership, company, corporation, or agency, without prior written approval by the County, except as necessary for the performance of the services of this Contract. All press releases, including graphic display information to be published in newspapers, magazines, etc., are to be administered only by County unless otherwise agreed to by both Parties.

28. Prevailing Wage (Labor Code §1773)

Pursuant to the provisions of Section 1773 et seq. of the California Labor Code, the Contractor shall comply with the general prevailing rates of per diem wages and the general prevailing rates for holiday and overtime wages in this locality for each craft, classification, or type of worker needed to execute this Contract. The

rates are available from the Director of the Department of Industrial Relations at the following website: <http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>. The Contractor shall post a copy of such wage rates at the job site and shall pay the adopted prevailing wage rates. The Contractor shall comply with the provisions of Sections 1775 and 1813 of the Labor Code.

29. Price Increase/Decrease

No price increases will be permitted. The County requires documented proof of cost increases on Contracts prior to any price adjustment. A minimum of 30-days advance notice in writing is required to secure such adjustment. No retroactive price adjustments will be considered. All price decreases will automatically be extended to the County of Orange. The County may enforce, negotiate, or cancel escalating price Contracts or take any other action it deems appropriate, as it sees fit. The net dollar amount of profit will remain firm during the period of the Contract. Adjustments increasing the Contractor's profit will not be allowed.

30. Remedies Not Exclusive

The remedies for breach set forth in this Contract are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain remedies in this Contract does not preclude resort by either party to any other remedies provided by law.

31. State Funds - Audits

When and if state funds are used in whole or part to pay for the goods and/or services under this Contract, the Contractor agrees to allow the Contractor's financial records to be audited by auditors from the State of California, the County of Orange, or a private auditing firm hired by the State or the County. The State or County shall provide reasonable notice of such audit.

32. Stop Work

The County may, at any time, by written stop work order to the Contractor, require the Contractor to stop all or any part of the work called for by this Contract for a period of 90 days after the stop work order is delivered to the Contractor and for any further period to which the parties may agree. The stop work order shall be specifically identified as such and shall indicate it is issued under this clause. Upon receipt of the stop work order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the stop work order during the period of work stoppage. Within a period of 90 days after a stop work order is delivered to the Contractor or within any extension of that period to which the parties shall have agreed, the County shall either:

1. Cancel the stop work order; or
2. Terminate work covered by the stop work order as provided for in the "Default" or "Termination" clause of this Contract.

If a stop work order issued under this clause is canceled or the period of the stop work order or any extension thereof expires, the Contractor shall resume work. The County shall make an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall be modified in writing accordingly if:

1. The stop work order results in an increase in the time required or in the Contractor's cost properly allocable to the performance of any part of this Contract; and
2. The Contractor asserts its right to an equitable adjustment within 30 days after the end of the period of work stoppage, provided that if the County decides the facts justify the action, the County may receive and act upon a proposal submitted at any time before final payment under this Contract.

If a stop work order is not canceled and the work covered by the stop work order is terminated in accordance with the provision entitled, "Termination" the County shall allow reasonable costs resulting from the stop work order in arriving at the termination settlement.

If a stop work order is not canceled and the work covered by the stop work order is terminated for default, the County shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop work order.

An appropriate equitable adjustment may be made in any related Contract of the Contractor that provides for adjustment and is affected by any stop work order under this clause. The County shall not be liable to the Contractor for loss of profits because of a stop work order issued under this clause.

If any provisions of this agreement are invalid under any applicable statute or rule of law, they are, to that extent, omitted, but the remainder of this agreement shall continue to be binding upon the parties hereto.

33. Subcontracting

No performance of this Contract or any portion thereof may be subcontracted by the Contractor without the express written consent of the County. Any attempt by the Contractor to subcontract any performance of this Contract without the express written consent of the County shall be invalid and shall constitute a breach of this Contract.

In the event that the Contractor is authorized by the County to subcontract, this Contract shall take precedence over the terms of the Contract between Contractor and subcontractor, and shall incorporate by reference the terms of this Contract. The County shall look to the Contractor for performance and indemnification and not deal directly with any subcontractor. All work performed by a subcontractor must meet the approval of the County of Orange.

34. Termination - Orderly

After receipt of a termination notice from the County of Orange, the Contractor may submit to the County a termination claim, if applicable. Such claim shall be submitted promptly, but in no event later than 60 days from the effective date of the termination, unless one or more extensions in writing are granted by the County upon written request of the Contractor. Upon termination County agrees to pay the Contractor for all services performed prior to termination which meet the requirements of the Contract, provided, however, that such compensation combined with previously paid compensation shall not exceed the total compensation set forth in the Contract. Upon termination or other expiration of this Contract, each party shall promptly return to the other party all papers, materials, and other properties of the other held by each for purposes of performance of the Contract.

35. Waivers - Contract

The failure of the County in any one or more instances to insist upon strict performance of any of the terms of this Contract or to exercise any option contained herein shall not be construed as a waiver or relinquishment to any extent of the right to assert or rely upon any such terms or option on any future occasion.

36. Project Manager, County

The County shall appoint a project manager to act as liaison between the County and the Contractor during the term of this Contract. The County's project manager shall coordinate the activities of the County staff assigned to work with the Contractor.

The County's project manager shall have the right to require the removal and replacement of the Contractor's project manager and key personnel. The County's project manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within three (3) business days after written notice from the County's project manager. The County's project manager shall review and approve the appointment of the replacement for the Contractor's project manager and key personnel. Said approval shall not be unreasonably withheld. The County is not required to provide any additional information, reason or rationale in the event it requires the removal of Contractor's Project Manager from providing further services under the Contract.

37. Reprourement Costs

In case of Contract breach by Contractor, resulting in termination by the County, the County may procure the goods and/or services from other sources. If the cost for those goods and/or services is higher than under the terms of the existing Contract, Contractor will be responsible for paying the County the difference between the Contract cost and the price paid, and the County may deduct this cost from any unpaid balance due the Contractor. The price paid by the County shall be the prevailing market price at the time such purchase is made. This is in addition to any other remedies available under this Contract and under law.

38. Hazardous Conditions

Whenever the Contractor's operations create a condition hazardous to traffic or to the public, the Contractor shall provide flagmen and furnish, erect and maintain control devices as are necessary to prevent accidents or damage or injury to the public at Contractor's expense and without cost to the County. The Contractor shall comply with County directives regarding potential hazards.

Emergency lights and traffic cones must also be readily available at all times and must be used in any hazardous condition. Emergency traffic cones must be placed in front of and behind vehicles to warn oncoming traffic.

Signs, lights, flags, and other warning and safety devices shall conform to the requirements set forth in Chapter 6 of the current traffic manual, Traffic Control for Construction and Maintenance Work Zones, published by the state of California Department of Transportation.

39. News/Information Release

The Contractor agrees that it will not issue any news releases in connection with either the award of this Contract or any subsequent amendment of or effort under this Contract without first obtaining review and written approval of said news releases from the County through the County's Project Manager.

40. Ownership of Documents

The County has permanent ownership of all directly connected and derivative materials produced under this Contract by the Contractor. All documents, reports and other incidental or derivative work or materials furnished hereunder shall become and remain the sole property of the County and may be used by the County as it may require without additional cost to the County. None of the documents, reports and other incidental or derivative work or furnished materials shall be used by the Contractor without the express written consent of the County.

41. Substitutions

The Contractor is required to meet all specifications and requirements contained herein. No substitutions will be accepted without prior County written approval.

42. Lobbying

On the best information and belief, Contractor certifies no federal appropriated funds have been paid or will be paid by, or on behalf of, the Contractor to any person influencing or attempting to influence an officer or employee of Congress; or an employee of a member of Congress in connection with the awarding of any federal contract, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative contract.

43. Amendments - Changes/Extra Work

The Contractor shall make no changes to this Contract without the County's written consent. In the event that there are new or unforeseen requirements, the County with the Contractor's concurrence has the discretion to request official changes at any time without changing the intent of this Contract.

If County-initiated changes or changes in laws or government regulations affect price, the Contractor's ability to deliver services, or the project schedule, the Contractor shall give the County written notice no later than seven calendar days from the date the law or regulation went into effect or the date the change was proposed by the County and the Contractor was notified of the change. Such changes shall be agreed

to in writing and incorporated into a Contract amendment. Said amendment shall be issued by the County assigned Deputy Purchasing Agent, shall require the mutual consent of all parties, and may be subject to approval by the County Board of Supervisors. Nothing herein shall prohibit the Contractor from proceeding with the work as set forth in this Contract.

44. Computer Hardware and Software Standards

No substitutions of hardware or software will be accepted. The specifications provided herein are approved County of Orange standards.

45. Contractor Personnel – Uniforms/Badges/Identification

The Contractor warrants that all persons employed to provide service under this Contract have satisfactory past work records indicating their ability to adequately perform the work under this Contract.

All Contractor’s employees shall be required to wear uniforms, badges or other means of identification which are to be furnished by the contractor and must be worn at all times while working on County property. The assigned Deputy Purchasing Agent must be notified in writing, within seven days of notification of award of Contract, of the uniform and/or badges and/or other identification to be worn by employees prior to beginning work and notified in writing seven days prior to any changes in this procedure.

46. Contractor Security Agreement

Contractor must acknowledge, by signature, that it has read and accepts the responsibilities of the security agreement below and agrees to protect the confidentiality of all information while performing its duties. The County of Orange Contractor Security Agreement form with signature lines is attached for your convenience. This signed security form shall become part of the resultant contract.

1. Contractor acknowledges on behalf of itself and its employees and agents that the confidentiality of the user ID and password must be maintained at all times and that should they be compromised, Contractor shall immediately notify County’s Project Manager and request cancellation of the compromised user ID and password and issuance of a new user ID and password.
2. The user ID and password are to be used by Contractor and its authorized employees and agents only, and Contractor shall be solely responsible for their use.
3. The user ID and password are to be used by Contractor and its authorized employees and agents on behalf of County current contractual duties, functions, and responsibilities only.
4. The use of County information resources and data by Contractor is to be only in accordance with COUNTY business objectives; use of the resources for private or personal gain is prohibited and may be subject to administrative, civil and criminal penalties.
5. The information contained within County systems and document image and report databases (including but not limited to names, social security numbers, addresses, health records, assistance payments and applications) shall not be disclosed by Contractor or its employees or agents to any outside parties or other system users who are not directly authorized by County to view such reports or images or who are not authorized employees or agents of Contractor.
6. Contractor shall not permit others who are not directly authorized by County to access reports and images, payroll records, banking information, assistance records, or other confidential information or to view any such items.

By signing below, Contractor acknowledges it has read this agreement and accepts these responsibilities and agrees to protect the confidentiality of all information while performing its duties. Contractor further acknowledges that the disclosure of sensitive, confidential, or proprietary information to unauthorized

County of Orange, John Wayne Airport

Contract # MA-280-20011042
Platform Upgrade for Building Automation System

persons during or after termination of employment may make it liable for administrative, civil or criminal prosecution

Siemens Industry

Firm Name

Julie Slick, Sales Manager

DocuSigned by:
Julie Slick
Signature EFD2480...

02/26/2020

Print Name

Date

If Contractor is a corporation, two signatures are required.

Mark Sonntag, Director of Finance

DocuSigned by:
Mark Sonntag
Signature 88F8497...

02/25/2020

Print Name

Date

47. Contractor's License Requirements

Contracts that include requirements for installation or state "furnish and install" require that the Contractors possess a valid California State Contractor's License at the time of contract award. If sub-contractors are used, they must also possess a valid California State Contractor's License. All businesses which construct or alter any building, highway, road, parking facility, railroad, excavation, or other structure in California must be licensed by the California State License Board (CSLB) if total cost, including labor and materials, of the project is \$300.00 or more. Failure to be licensed or to keep the license current and in good standing during the term of the contract with the County shall be grounds for contract revocation.

48. Equipment - Connection Points

If requested by the County, the Contractor agrees to identify on all items of equipment supplied under this contract all appropriate test points for connecting one of the commercially available hardware monitors designed to measure system activity.

49. Equipment - Engineering Changes

Engineering changes determined applicable by the Contractor will be controlled and installed by the Contractor on equipment covered by this contract. The County may elect to have only mandatory changes, as determined by the Contractor, installed on machines so designated. A written notice of this election must be provided to the Contractor for written confirmation. There shall be no charge for engineering changes made. Any Contractor-initiated change shall be installed at a time mutually agreeable to the County and the Contractor. The Contractor reserves the right to charge, at its then current time and material rates, for additional service time and materials required due to non-installation of applicable engineering changes after the Contractor has made a reasonable effort to secure time to install such changes.

50. Equipment - Maintenance

If the Contractor is unable to perform maintenance or the County desires to perform its own maintenance on equipment purchased under this contract, then, upon written notice by the County, the Contractor will provide, at Contractor's then current rates and fees, adequate and reasonable assistance, including relevant documentation, to allow the County to maintain the equipment based on the Contractor's methodology. The Contractor agrees that the County may reproduce such documentation for its own use in maintaining the equipment. If the Contractor is unable to perform maintenance, the Contractor agrees to license any other Contractor that the County may have hired to maintain the equipment to use the above-noted documentation.

The County agrees to include the Contractor's copyright notice on any such documentation reproduced, in accordance with copyright instruction to be provided by the Contractor.

51. Project Schedule

The services performed under this contract shall be done in accordance with the approved project schedule incorporated herein, which may be revised at the option of the County with the Contractor's concurrence. The Contractor shall be responsible for schedule adherence as outlined herein.

52. Reports/Meetings

The Contractor shall develop reports and any other relevant documents necessary to complete the services and requirements as set forth in this contract. The County's project manager and the Contractor's project manager will meet on reasonable notice to discuss the Contractor's performance and progress under this contract. If requested, the Contractor's project manager and other project personnel shall attend all meetings. The Contractor shall provide such information that is requested by the County for the purpose of monitoring progress under this contract.

53. Safety Data Sheets (SDS)

The Contractor is required to provide a completed Safety Data Sheet (SDS) for each hazardous substance provided to the County under the Contractor's Contract with the County. This includes hazardous substances that are not directly included in the Contract, but are included in the goods or services provided by the Contractor to the County. The provision of the SDSs must be in accordance with the requirements of California Labor Code Sections 6380 through 6399, General Industry Safety Order Section 5194, and Title 8, California Code of Regulations. The SDSs for each substance must be sent to the place of shipment or provision of goods/service.

Contractor is to provide live event services including but not limited to labor, tools, and equipment required for recorded audio, video and sound reinforcement for John Wayne Airport for various scheduled and non-scheduled meetings and events.

54. Protection and Restoration of Existing Areas

Contractor shall be responsible for protection of public and private property adjacent to the work. Contractor shall repair or replace all existing improvements that are damaged or removed as a result of their operation. Repairs and replacements shall be at least equal to existing improvements and shall match them in finish and dimension. All repairs shall be completed within two (2) working days from date of damage notification unless otherwise approved by County Project Manager.

55. Notices

Any and all notices, requests demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing with a copy provided to the assigned Deputy Purchasing Agent (DPA), except through the course of the parties' project managers' routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four (4) calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate party at the address stated herein or such other address as the parties hereto may designate by written notice from time to time in the manner aforesaid.

County: JWA/Maintenance
Project Manager, Marty Merck
18601 Airport Way
Santa Ana, CA 92707
Phone: (949) 252-5041
Email: MMerck@ocair.com

cc: JWA/Procurement
Attention: Monica Rodriguez, DPA
3160 Airway Avenue
Costa Mesa, CA 92626
Phone: (949) 252-5240
Email: MMRodriguez@ocair.com

Contractor: Siemens Industry, Inc.
Attention: Joe Wurzelbacher
6141 Katella Avenue
Cypress, CA 90630
Phone: (714) 227-1662
Email: joe.wurzelbacher@siemens.com

County of Orange, John Wayne Airport

Contract # MA-280-20011042
Platform Upgrade for Building Automation System

Signature Page

In Witness Whereof, Parties hereto have executed this Contract on the dates shown below their respective signatures below.

Siemens Industry, Inc.*:

DocuSigned by: 	Julie Slick, Sales Manager	02/26/2020
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Signature	Name	Title	Date
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DocuSigned by: 	Mark Sonntag, Director of Finance	02/25/2020
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Signature	Name	Title	Date
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Digitally signed by Mark Sonntag
Date: 2020.02.27 08:54:57 -0800

***If Contractor is a corporation, signatures of two specific corporate officers are required as further set forth:**
The first signature must be one of the following: a) Chairman of the Board; b) President; or c) any Vice President.
The second signature must be one of the following: a) Secretary; b) Chief Financial Officer; c) any Assistant Secretary; or d) any Assistant Treasurer.


In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the company.

County Authorized Signature:

		Deputy Purchasing Agent	
Signature	Name	Title	Date

Approved by the Board of Supervisors on: _____

Approved as to Form:
County Counsel

By:  _____
Deputy

Attachment A Scope of Work

A. Project Description

John Wayne Airport’s (JWA) Building Automation System is used to control the Airport’s Central Utility Plant, lighting and all HVAC equipment for the entire airport including the terminal. Contractor shall provide all labor, materials, tools and equipment required to provide Platform Upgrade for the Building Automation as further detailed below.

B. Contractor Requirements

Desigo CC Upgrade for Terminal and Cogen Plant/Backup Servers

Contractor shall:

1. Upgrade front end system from Insight 3.15 to Desigo CC (Terminal and Cogen Plant)
 - Install Desigo CC System on the new servers
 - Migrate Apogee Insight database to Desigo CC (6400 data points for Terminal and 6400 data points for Cogen Plant)
 - Provide Unlimited Client Licenses for the Terminal and five (5) Client Licenses for the Cogen Plant
 - Connect field panel networks and controllers to Desigo CC
 - Add data point licenses to Desigo CC
 - Add user accounts to Desigo CC
2. Ensure existing setup is maintained with the upgrade to Desigo CC including:
 - Existing trend views (Essential trends will be determined by counter and coordination with JWA)
 - Remote Notification (RENO) data points
 - Customer reports (Essential reports will be determined by counter and coordination with JWA)
 - Test for proper operation
 - Provide all items necessary for required CRSP connections
 - Upgrade Insight graphics to scalable vector graphics (Essential graphics will be determined by counter and coordination with JWA)
3. Provide and install a new Desigo CC server for the Terminal front end and add to the domain (Primary, Backup, & Virtual)
 - Siemens will provide servers that meet or exceed the following specifications:

Desigo CC Level D Server Specifications

CPU	Memory	Hard Disk / Storage	Network Card	Graphic Card
Core i7 or Xeon	32 GB	Size: 2x 1 TB Professional / Enterprise SSD with SATA or SAS	Dual/Quad Gigabit Nic	Memory: 2GB Resolution: 2.560x1 600
Example: Intel Core i7 8700K Intel Xeon E5-2136 Intel Xeon E5-2186		Example: Samsung 860 EVO 1TB 2.5 Inch		Example: Onboard Intel Graphics GeForce GT 1030 AMD Radeon R7 250

4. Provide and install a new Desigo CC server for the Central Utility Plant (CUP) front end and add to the domain (Primary, Backup, & Virtual)
 - Siemens will provide servers that meet or exceed the following specifications:

Desigo CC Level D Server Specifications

CPU	Memory	Hard Disk / Storage	Network Card	Graphic Card
Core i7 or Xeon	32 GB	Size: 2x 1 TB Professional / Enterprise SSD with SATA or SAS	Dual/Quad Gigabit Nic	Memory: 2GB Resolution: 2.560x1 600
Example: Intel Core i7 8700K Intel Xeon E5-21 36 Intel Xeon E5-21 86		Example: Samsung 860 EVO 1TB 2.5 Inch		Example: Onboard Intel Graphics GeForce GT 1030 AMD Radeon R7 250

5. Remote desktop server access application to be set up via Desigo CC Thick Client.
6. Provide Desigo CC documentation for JWA reference.
7. Provide Desigo CC training for eight (8) JWA personnel to be held at Siemens training facility in Cypress, CA (a 3-day course).
8. Project Management, programming, start up, and commissioning as required by JWA.
9. Note: Existing insight server to remain online, JWA will run both systems in parallel to ease customer transition to Desigo CC. Existing Levitron lighting control panels and Red Lion Control Panel (for Terminal C Generator) that are currently integrated to Insight will be migrated over to Desigo.
10. Primary and Backup Server at each location shall have continuously synced databases.
11. Common licensing for the Desigo CC Software to be hosted on a virtual machine created by Siemens personnel on JWA’s server.
12. Provide additional sixteen (16) hours of Siemens Specialist support for additional troubleshooting and testing of backup servers.
13. Provide warranty of one (1) year on all new parts and workmanship provided.

Upgrade of Existing MBC, MEC and DPU Control Panels

Contractor shall:

1. Provide and install necessary Hardware to migrate the thirteen (13) existing MBC panels’ hardware to the new PXC-M to pick up the existing points and enable future expansion. The new hardware consists of the following for each MBC panel:
 - One (1) PXC module with input/output capability
 - All necessary – 6 DO (digital output) relay with local override capability
 - All necessary – 8 or 16 DI (digital input) relays
 - All necessary – 8 universal input/output relay, 4-20 mA with local override capability
 - One (1) – PXC-MBC backplane kit
 - One (1) – PXX FLN Gateway module
 - Trane communications driver for MBC 67
2. Provide and install necessary hardware to migrate the four (4) existing MEC panels’ hardware to the new PXC-M to pick up the existing points and enable future expansion. The new hardware consists of the following for each MEC panel:
 - One (1) – PXC Module with input/output capability
 - All necessary – 6 DO (digital output) relay with local override capability
 - All necessary – 8 or 16 DI (digital input) relays
 - All necessary – 8 universal input/output relay, 4-20 mA with local override capability
 - One (1) – PXC-MEC backplane kit
 - One 91) PXX FLN Gateway module
3. Provide and install necessary hardware to migrate the existing DPU Panel hardware to the new BIM (Bus Interface Module) to pick up the existing points and enable future expansion. The new hardware consists of the following:

- One (1) – BIM module with input/output capability
 - All necessary – 8 or 16 DI (digital input) relays
 - One (1) – PXC-DPU backplane kit
4. Provide new hardware to be installed in the existing cabinets.
 5. Provide labor to program new hardware to the existing sequence of operation

C. Project Schedule

1. Complete all work 180 days from Notice to Proceed from County Project Manager or designee.
2. Complete all work during normal business hours Monday through Friday, 7:00 am to 4:00 pm

D. County of Orange Responsibilities

- Provide Network IP Assignment, if required, for AEM installation
- Provide new IP drip for AEM installation, as required.
- Provide existing graphics for upgrades, graphics upgrade will be based on the existing data points in system.
- Provide list of names and email addresses to which the alarms will be sent before the start of the project.
- Provide access to required locations where existing Insight server resides, JWA will have one (1) employee escort for Siemens specialist at all times.
- Provide Ethernet network, Ethernet booster, cabling, switches, routers, etc. if necessary. All panels to have Ethernet connections provided by JWA.
- Provide JWA subject matter experts to coordinate project.

E. General Requirements:

Contractor shall:

- Ensure all precautions for safety are taken.
- Ensure all Contractor vehicles parked on site shall be secure at all times.
- Ensure all tools and materials shall remain in Contractor's possession at all times.
- Ensure all materials that could inflict injury shall be continuously cleaned up as work progresses.
- Furnish all vehicles required to transport equipment and materials to job site.
- Ensure all inspections shall be conducted by County's Project Manager or designee.

F. Performance

Contractor shall:

- Furnish, install and maintain all warning devices, i.e., barricades, cones, etc., required to adequately protect the public, County staff and other during the performance of the work.
- Furnish all materials required for completion of the work. All materials shall be new, first quality and specifically suited for the specific use.
- At all sites, evaluate the specific materials and labor required to complete the repair or alteration, meet County Project Manager, or other designated representative, to evaluate a specific project and recommend a potential solution or solutions.
- Complete all work in accordance with estimate or contact County Project Manager for additional authorization prior to proceeding with the work when the work is estimated to exceed the original estimate by more than 10%.
- Complete all work within regular working hours. No overtime work shall be performed without the express authorization of County Project Manager. Any overtime work performed without that express authorization shall only be paid at regular hourly rates.

- Perform all work in accordance with generally accepted industry practice for safe and efficient operation.
- Identify and advise County of any additional repair or maintenance work that may be required.

G. General Conditions

- Cooperation - Contractor personnel shall be well-disposed to the public and County staff utilizing the facilities but shall be responsive only to the requests of County Contract coordinator unless otherwise directed and shall direct all inquiries or requests to County Contract coordinator. Exception: the specific request involves public safety or security of the specific facility.
- Inspection - All work shall be subject to the inspection and approval of County Contract coordinator, or designee, prior to acceptance and approval for payment.
- Damages - Contractor shall repair, replace, or have the cost or repair or replacement deducted from its payments, at the discretion of County Contract coordinator, all damage sustained to County equipment or facilities as a result of Contractor's operations.
- Licenses/Permits - Contractor shall furnish all pertinent licenses, and permits, and/or pay fees necessary to perform the work under this contract.

H. Security Requirements:

Contractor shall:

- Comply with the written schedule provided by County which shall clearly show the specific start and end times for each work day.
- Report to County Contract coordinator upon arrival at job site. County Project Manager shall ensure that the work area is clear and ready for work to begin.
- Follow any special security requirements issued by County Project Manager or designee.
- Report immediately all accidents, spills, damage, unusual conditions and/or unusual activities to County Airport Control Desk at (949)852-4004.
- Securely close and check all gates and doors to ensure that they are tightly closed and locked.
- Restrict all activities to the immediate work site and adjacent assigned areas.
- Ensure Contractor personnel shall not smoke or use profanity or other inappropriate language while on site.
- Ensure Contractor personnel shall not enter the facility while under the influence of alcohol, drugs or other intoxicants and do not have such materials in their possession.

I. Airport Security

Contractor, Contractor's employees and Contractor's subcontractors must complete a background clearance SIDA class in order to obtain an I.D. badge.

Badge Acquisition: Prior to issuance of a security badge(s), designated Contractor personnel who shall be working on-site at JWA terminal, and engaged in the performance of work under this Contract must pass JWA's screening requirements, which include an F.B.I. background investigation (fingerprinting) and Security Threat Assessment (STA) (estimated fee is \$29.00 for fingerprinting and \$11.00 for STA per person.). It may take up to two weeks to obtain clearance. Contractor's designated personnel shall need to take a 2-hour SIDA training class at JWA and pass the written test (estimated fee is \$10.00 per person). Contractor shall be responsible for all costs associated with the background checks, and abide by all of the security requirements set forth by the Transportation Security Agency (TSA) and JWA. Contractor's designated personnel must successfully complete the badge acquisition within 14 days of Contract execution, unless other arrangements have been coordinated by County Project Coordinator or designee in writing.

Driving Endorsement: In addition to obtaining a JWA access control badge, Contractor's service staff must also take an Airport provided training course and pass a test to acquire an airfield driving endorsement.

Badge Holder Requirements and Responsibilities: TSA approved security program for JWA requires that each person issued a JWA security badge is made aware of his/her responsibilities regarding the privilege of access to restricted areas of JWA.

All persons within the restricted air operation areas of JWA are required to display, on their person, a JWA security badge; unless they are specifically exempted for safety reasons or they are under escort by a properly badge individual. Each JWA employee, JWA Contractor, subcontractor or tenant employee who has been issued a JWA security badge is responsible for challenging any individual who is not properly displaying a JWA issued or approved and valid identification badge. Any person who is not properly displaying or who cannot produce a valid JWA security badge must immediately be referred to the Sheriff's Department - Airport Police Services Office for proper handling.

JWA security badge is the property of County and must be returned upon termination of Contractor personnel employment and/or termination, expiration or completion of Contract. The loss of a badge shall be reported within 24 hours to the Sheriff's Department - Airport Police Services by calling (949) 252-5000. Individuals that lose their badge shall be required to pay a fee before receiving a replacement badge. The charge for lost badge replacement shall be at the current posted rate located in the JWA Administration Office. A report shall be made before a replacement badge shall be issued.

JWA security badge is nontransferable.

In the event that a contractor's badge is not returned to JWA upon termination of Contractor personnel employment and/or termination or expiration of Contract, a fine of \$250.00 per badge shall be charged to Contractor. Contractor's final payment may be held by County or a deduction from contractor's payment(s) may be made to ensure that funding is available to cover the fine in the event that badges are not returned.

Contractor shall submit the names, addresses, and driver's license numbers for all Contractor personnel who shall be engaged in work under this Contract to County Project Coordinator within seven days after award of the Contract or within seven days after the start of any new Contractor personnel and/or prior to the start of any work.

No worker shall be used in performance of this work that has not passed the background check.

**Attachment B
 Contractor’s Pricing**

This is a fixed price Contract between County and Contractor, for Platform Upgrade for Building Automation System, as set forth in Attachment A “Scope of Work”.

A. Compensation

The Contractor agrees to accept the specified compensation as set forth in this Contract as full payment for performing all services and furnishing all staffing and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by the Contractor of all its duties and obligations hereunder. The Contractor shall only be compensated as set forth herein for work performed in accordance with the Scope of Work. **The County shall have no obligation to pay any sum in excess of the fixed rates specified herein unless authorized by amendment in accordance with Articles C. of the County Contract Terms and Conditions.**

Contract not to exceed \$452,695.00

B. Fees and Charges

County will pay the following fees in accordance with the provisions of this Contract. Payment shall be as follows:

Description	Unit	Amount
Materials	Lump Sum	\$212,511.68
Software/Licenses	Lump Sum	\$125,050.38
Labor	Lump Sum	\$91,051.78
Training	Lump Sum	\$19,215.37
Tax 7.75% or current tax rate (if applicable)	Lump Sum	\$4,865.79
Total Contract Not to Exceed Amount		\$452,695.00

C. Final Payment

Final payment shall be issued based on the completion of the work as described in this Contract and County Project Manager accepts the all work and JWA issued badges are returned to Badging Office.

D. Payment Terms – Payment in Arrears (Labor/Training)

Invoices are to be submitted in arrears to the user agency/department to the ship-to address, unless otherwise directed in this Contract. Vendor shall reference Contract number on invoice. Payment will be net 30 days after receipt of an invoice in a format acceptable to the County of Orange and verified and approved by the agency/department and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the Contractor.

Billing shall cover services and/or goods not previously invoiced. The Contractor shall reimburse the County of Orange for any monies paid to the Contractor for goods or services not provided or when goods or services do not meet the Contract requirements.

Payments made by the County shall not preclude the right of the County from thereafter disputing any items or services involved or billed under this Contract and shall not be construed as acceptance of any part of the goods or services.

E. Payment Terms – Payment in Advance (Materials/Software/Licenses/Tax)

Invoices are payable 30 days in advance, unless otherwise directed in this Contract. Invoices are to be submitted to the user agency/department to the ship-to address, unless otherwise directed in this

Contract. Vendor shall reference Contract number on invoice. Payment will be net 30 days after receipt of an invoice in a format acceptable to the County of Orange and verified and approved by the agency/department and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the Contractor.

Billing shall cover services and/or goods not previously invoiced. The Contractor shall reimburse the County of Orange for any monies paid to the Contractor for goods or services not provided or when goods or services do not meet the Contract requirements.

Payments made by the County shall not preclude the right of the County from thereafter disputing any items or services involved or billed under this Contract and shall not be construed as acceptance of any part of the goods or services.

F. Taxpayer ID Number

The Contractor shall include its taxpayer ID number on all invoices submitted to the County for payment to ensure compliance with IRS requirements and to expedite payment processing.

G. Payment-Invoicing Instructions

The Contractor will provide an invoice on the Contractor's letterhead for goods delivered and/or services rendered. In the case of goods, the Contractor will leave an invoice with each delivery. Each invoice will have a number and will include the following information:

1. Contractor's name and address
2. Contractor's remittance address, if different from 1 above
3. Name of County Agency/Department
4. Delivery/service address
5. Master Agreement (MA) or Purchase Order (PO) number (Contract number)
6. Date of order and/or service dates
7. Product/service description, quantity, and prices
8. Sales tax, if applicable
9. Freight/delivery charges, if applicable
10. Total
11. Contractor's Federal Taxpayer Identification Number
12. Contractor's Invoice Number

Invoices and support documentation are to be forwarded to **(not both)**:

Mailed to John Wayne Airport
Attention: Accounts Payable
3160 Airway Avenue
Costa Mesa, CA 92626

Or

Emailed to AccountsPayable@ocair.com

OC Procurement

Sole Source Request Form

Sole Source BidSync # 280-C023146-MR-SS

SECTION II – DEPARTMENT INFORMATION (Complete in its entirety)

Department: John Wayne Airport		Date: January 27, 2020	
Vendor Name: Siemens Industry, Inc.		Sole Source BidSync Number: 280-C023146-MR-SS	
Is the above named vendor a retired employee of the County of Orange? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "Yes", review and Approval is required from CEO Human Resource Services prior to contract execution.			
Contract Term (Dates): 5/14/2020 - 5/15/2021 06/22/2020 - 06/21/2021		Is Agreement Grant Funded? <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No Percent Funded: 100% Funding Source: 280	
Contract Amount? \$452,695.00		Proprietary? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Contract Amount? \$452,695.00		Is this renewable? If yes, how many years? No	
Type of Request: <input checked="" type="checkbox"/> New <input type="checkbox"/> Multi-Year <input type="checkbox"/> Renewal <input type="checkbox"/> Amendment <input type="checkbox"/> Increase			
Renewal Year: None		Did vendor provide a sole source affidavit? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, please attach	
Board Date: 4/14/2020 05/19/2020	ASR Number: 20-000112	If not scheduled to go to the Board explain why?	
Does Contract include Non-Standard Language? If yes, explain in detail. No			
Was Contract Approved by Risk Mgmt.? No		Was Contract Approved by County Counsel? Yes	
Were any exceptions taken? If yes, explain in detail. No			
<input checked="" type="checkbox"/> DPA certifies that they have read and verified that the information is true and satisfies the sole source requirements listed in the County Contract Policy Manual.			
<input type="checkbox"/> Solicitation Exemption (For purchases with special circumstances, and/or when it is determined to be in the best interest of the County.)			



OC Procurement

Sole Source Request Form

Sole Source BidSync # 280-C023146-MR-SS

SECTION III – SOLE SOURCE JUSTIFICATION

- 1. Provide a description of the type of contract to be established.** *(For example: is the contract a commodity, service, human service, public works, or other – please explain.) Attach additional sheet if necessary.*

This is a hybrid contract for commodities and services. Contract is for the upgrade of software platform for our building automation system, which includes installation of new servers, back up servers, licensing, training, database backup, graphics, paneling, and technical support.

- 2. Provide a detailed description of services/commodities and how they will be used within the department. If this is an existing sole source, please provide some history of its origination, Board approvals, etc.** *(This information may be obtained from the scope of work prepared by the County and the vendor's proposal that provides a detailed description of the services/supplies.) Attach additional sheet if necessary.*

The upgrade will provide new system servers, software, graphics, up to date licensing of all system components and software, Factory Certified Training, complete system database backup in the event of catastrophic failure, and technical services as well as emergency services when/if required. This Desigo platform will be setup to allow the old legacy Insight platform to run side by side allowing users time to familiarize themselves with the Desigo while still being able to use the Insight software creating a very smooth transition. CEO Information Technology Investment Review Committee (IRC) approved. Current system has not been updated or upgraded in over 20 years and some of the hardware is end of life. The existing Siemens Insight platform is legacy and slated to no longer be supported by the end of 2020. Current system is maintained in-house, there is a contract for firmware upgrades, licensing and replacement parts.

- 3. Explain why the recommended vendor is the only one capable of providing the required services and/or commodities.** **How did you determine this to be a sole source and what specific steps did you take? Please list all sources that have been contacted and explain in detail why they cannot fulfill the County's requirements. Include vendor affidavit and/or other documentation which supports your sole source.** *(Responses will include strong programmatic and technological information that supports the claim that there is only one vendor that can provide the services and/or commodities. Your response will include information pertaining to any research that was conducted to establish that the vendor is a sole source, include information pertaining to discussions with other potential suppliers and why they were no longer being considered by the County.)*

Attach additional sheet if necessary.

Siemens Industry, Inc. is the manufacturer of the system that controls the air conditioning in Terminals A, B, & C, JWA Central Utility Plant, Parking Structure C, Eddie Martin Building, 366 Paularino, Fire Station 33 and the Airfield Lighting Vault. The software is proprietary and not offered elsewhere.



OC Procurement

Sole Source Request Form

Sole Source BidSync # 280-C023146-MR-SS

4. How does recommended vendor's prices or fees compare to the general market?**Attach quotes for comparable services or supplies.** Attach additional sheet if necessary.

There is no comparison to the general market, since only the manufacturer provide these products and services.

5. If the recommended vendor was not available, how would the County accomplish this particular task?

Attach additional sheet if necessary.

The County would have to remove the Siemens Building Management System in the above-mentioned facilities and install another manufacturer's product, which would require removal of all hardware currently installed. This would mean systems like the HVAC and Central Utility Plant would not function properly. The existing Siemens Insight platform is legacy and slated to no longer be supported by the end of 2020, but works in conjunction with the new Desigo Platform.

6. Please provide vendor history – name change, litigation, judgments, aka, etc. for the last 7 years.

No known name changes or litigations in the last 7 years.

7. If vendor is a retired, former employee, has the vendor previously been rehired as a contractor within the last three years? Yes No

If yes, provide explanation/support for hiring the retired, former employee as a vendor and provide contract dates, scope of work, and total amounts paid under each contract.

8. Explain (in detail) why a request for Solicitation Exemption is needed. (Only applicable for Solicitation Exemption)

Attach additional sheet if necessary.



Sole Source Request Form

Sole Source BidSync #

SECTION IV – AUTHOR/REQUESTOR

Signature: 	Print Name: Marty Merck	Date: 1-28-2020
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SECTION V – CEO Human Resource Services APPROVAL

(Review and approval is required when vendor is a Retired, Former Employee.)

Signature:	Print Name:	Date:
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SECTION VI – DIVISION HEAD APPROVAL (Deputy Airport Director)

Signature: 	Print Name: Kevin Flynn	Date: 2/3/2020
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SECTION VII – DEPUTY PURCHASING AGENT CONCURRENCE

Signature: 	Print Name: Monica Rodriguez	Date: 2/5/2020
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SECTION VIII – DEPARTMENT HEAD APPROVAL

Signature: 	Print Name: Richard Francis	Date: 3/9/2020
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SECTION IX – COUNTY PROCUREMENT OFFICE

Prior to execution of a contract, the County Procurement Officer or designee shall approve All Sole Source requests for Commodities that exceed \$250,000, Capitol Assets and services exceeding \$75,000, and All other Sole Source requests that require Board approval despite the amount. Approvals are obtained electronically through the County's online bidding system.

SOLICITATION EXEMPTION – CEO USE ONLY:

Board of Supervisor Notification Date:			
Comments:			
CPO: <input type="checkbox"/> Approved <input type="checkbox"/> Denied	CFO: <input type="checkbox"/> Approved <input type="checkbox"/> Denied		
CPO Authorized Signature:	Date:	CFO Authorized Signature:	Date:



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Release Bid Workflow

Name: Monica M Rodriguez
 Phone: 949-252-5240
 Email: mmrodriguez@ocair.com
 Status: Submitter Mar 17, 2020 1:35:44 PM PDT



Bid Information

Bid Number:

280-C023145-MR-SS

Bid Title:

PLATFORM UPGRADE FOR BUILDING AUTOMATION SYSTEM

Status

Status:
Approved

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January 29, 2020

Monica Rodriguez | Procurement Contract Specialist
John Wayne Airport, Orange County
3160 Airway Avenue Costa Mesa, CA 92626

Subject: APOGEE System Distribution Channels

Dear Valued Customer,

Siemens Industry, Inc. provides building automation systems that meet today's state-of-the-art technology requirements with our full commitment to customer satisfaction. The Siemens BACnet automation system is delivered to the US market thru a dual channel/dual brand strategy that includes both Siemens direct offices and independent value-added partners. Talon branded products sourcing; service and support are only available only thru Independent Siemens Authorized Talon Partners. **APOGEE** branded products sourcing; service and support are only available thru Siemens building technologies regional sales offices or APOGEE solutions partners. The APOGEE system is distributed thru an exclusive territory model, thus there is only one source for APOGEE products in any geographical area. APOGEE products sold thru third parties in any given region are not factory authorized and do not carry a factory warranty. Desigo CC software is available thru both automation channels, but plug-ins providing compatibility with each channels automation system (APOGEE/Talon) are only available to be sourced from the appropriate channel and are not cross compatible.

Non APOGEE, Siemens branded products such as field devices, sensors, room units, terminal controls or variable speed drives are distributed thru multiple channels Siemens sales offices, Value Added Partners, resellers, wholesalers and OEMs.

Best Regards,

Todd Lash
Sr. Director and Segment Head Americas
Siemens SI Building Products Division

Siemens Industry, Inc.

1000 Deerfield Parkway
Buffalo Grove, IL 60089
USA

Tel.: +1-847-215-1000
www.usa.siemens.com

Contract Summary Form

Siemens Industry, Inc.

SUMMARY OF SIGNIFICANT CHANGES

N/A

SUBCONTRACTORS

This contract does not currently include subcontractors or pass through to other providers.

This contract allows for subcontracting with John Wayne Airport's consent pursuant to Attachment B, Section B, Fees and Charges within the contract amount for the term specified. Should the addition of a subcontractor impact the scope of work and/or contract amount, the department will bring the item back to the Board of Supervisors for approval.

CONTRACT OPERATING EXPENSES

Contract not to exceed \$452,695

Fees and Charges

The County will pay the following fees in accordance with the provisions of the contract.

Payments shall be as follows:

Description	Unit	Amount
Materials	Lump Sum	\$212,511.68
Software/Licenses	Lump Sum	\$125,050.38
Labor	Lump Sum	\$91,051.78
Training	Lump Sum	\$19,215.37
Tax 7.75% or current tax rate (if applicable)	Lump Sum	\$4,865.79
Total Contract Not to Exceed Amount		\$452,695.00

Appropriations for the contract are included in the FY 2019-20 Budget for Airport Operating Fund 280.