

February 19, 2017

Writer's Direct Contact
+1 (858) 720.7932
WConnor@mofo.com

Via E-mail

Kevin Willis, Director Airport Compliance and Management
FAA Office of Airport Compliance and Management Analysis
800 Independence Ave SW
Washington, D.C. 20591
kevin.willis@faa.gov

Brian Armstrong, Western-Pacific Region
Federal Aviation Administration
Western-Pacific Region Airports Division
15000 Aviation Boulevard
Hawthorne, CA 90250
Brian.Armstrong@faa.gov

Re: Update Concerning Complaint against the County of Orange, John Wayne Airport

Dear Mr. Willis,

This letter is to provide an update regarding the informal complaint filed by Signature Flight Support Corporation ("Signature") against the County of Orange concerning John Wayne Airport ("SNA") on February 10, 2017.

On February 14, 2017, the Orange County Board of Supervisors ("Board") held a regularly scheduled meeting.¹ During the public comment portion of the meeting, Signature provided the Board with copies of Signature's Part 13 Complaint, as well as a request for investigation that Signature submitted to the Department of Transportation's Office of the Inspector General ("OIG") on February 13, 2017.² Multiple people spoke on Signature's behalf during public comment portion of the meeting. Commenters explained to the Board the grant assurance violations and the unfairness of the Board's process. Other commenters, including multiple Signature employees, explained Signature's safety culture and how the Board's

¹ Exhibit A is a copy of the Agenda for the February 14, 2017 meeting.

² Exhibit B is a copy of the Request for Investigation that Signature submitted to the OIG.

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decision would impact their lives as Signature employees. One commenter addressed how Signature's fuel pricing proposal would result in lower fuel costs to airport users than ACI's fuel proposal.

When public comment closed, the Board moved on to its other agenda items, including item S44A. Item S44A was an action to rescind the Board's prior award of the Interim FBO lease to ACI and Atlantic (seeing as it was plagued by procedural deficiencies under state law) and then to adopt new resolutions approving those same leases, in an improper attempt to remedy the prior procedural violations³:

S44A. **John Wayne Airport** - Rescind January 24, 2017 Board action, Item 28 awarding Interim Fixed Based Operation Leases to Newport FBO Two, dba Atlantic Aviation and ACI Jet, Inc.; adopt resolutions approving Interim Fixed Base Operation Leases with Newport FBO Two, dba Atlantic Aviation for Southeast Fixed Base Operation; and with ACI Jet, Inc. for Eastside Fixed Base Operation and Westside Hangars; and authorize Director to execute leases; and make California Environmental Quality Act and other findings - District 2 (4/5 vote of the Board)

The Board voted to rescind the two lease awards, but did not vote on the other actions listed in Item S44A. The Board delayed its decision on whether to "adopt resolutions approving Interim Fixed Based Operation Leases" to ACI and Atlantic to its next meeting, which will take place on February 28, 2017.

The Agenda for the February 28, 2017 meeting is available and attached as Exhibit C. Item S44A is included on the February 28, 2017 Agenda as Item 13, with a note that it was continued from 2.14.17

Then, without notice and at the very close of business on Friday, February 17, 2017, the Board of Supervisors issued an "Agenda Revision and Supplementals" noting a "Special Meeting" will take place on February 21, 2017. A copy of the Special Meeting Agenda is attached as Exhibit D.

The only item on the Special Meeting Agenda is a "CONFERENCE WITH A REAL PROPERTY NEGOTIATOR." The "property location" is listed as John Wayne Airport and the "negotiating parties" are listed as Atlantic Aviation, Signature Flight Support, and ACI Jet. The "County Negotiator" is Scott D. Mayer, the County's Chief Real Estate Officer, and under negotiation are the "Terms and Value of Future Lease."

³ Notably, this action by the Board does not remedy the violations of state procurement law.

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S u p p l e m e n t a l I t e m (s)

SCS1. County Executive Office - CONFERENCE WITH REAL PROPERTY NEGOTIATOR - Pursuant to Government Code Section 54956.8:
Property Location: John Wayne Airport
County Negotiator: Scott D. Mayer, Chief Real Estate Officer
Negotiating Parties: Atlantic Aviation
Signature Flight Support
ACI Jet
Under Negotiation: Terms and Value of Future Lease

This Agenda item is problematic in several ways. First, Signature was not asked by the County to participate at the meeting with the County Negotiator. Listing Signature as a “Negotiating Party” gives an entirely false impression about the nature of the Special Meeting. This action alone warrants further investigation.

Second, in correspondence dated February 16, 2017, the FAA told the County that the “more prudent course of action” for the County would be to “postpone[]” the lease awards to ACI Jet and Atlantic “while the protest and informal complaint are adjudicated.” The County’s actions are likely to directly contravene this FAA directive, without “explain[ing] the reasons for the selection of ACI Jet rather than Signature,” as the FAA requested the Board to do. Ignoring the FAA’s warning is in derogation of the Board’s duties to its citizens, to the FAA, and to the public at large, which expects SNA to operate in a safe and secure manner. It is also a plain violation of Grant Assurance 22, economic non-discrimination. Through its discriminatory actions against Signature, the Board is putting the flying public at risk, at a time when the safety of SNA is already being called into question.

Even if the Board does not proceed to award the leases to Atlantic and ACI on February 21, Signature has good reason to expect that it will do so on February 28, 2017. Item 13 on the Agenda for the February 28 meeting states that the Board will “adopt resolutions approving Interim Fixed Base Operation Leases with Newport FBO Two, dba Atlantic Aviation ...and with ACI Jet, Inc.” And at the February 14, 2017 Board meeting, Supervisor Shawn Nelson commented that the vote to award the leases to Atlantic and ACI should not be delayed beyond February 28, 2017 (“let’s get focused and make sure that February 28th isn’t yet another opportunity for an excuse to do this at yet a different date.”)

Given these comments, the safety and security of SNA depends on quick action by the FAA to prevent an entirely unqualified FBO that did not meet the County’s FBO RFQ minimum

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standards from commencing operations at SNA in violation of the County's grant assurance obligations.

Additionally, to the extent that the County wants to increase competition at SNA and attract an independent FBO to the airport, SNA has the ability to accommodate such an FBO (like ACI) without displacing Signature. Thus, the County does not have a sufficient justification for disregarding its own minimum standards to award a lease to ACI over Signature, which was ranked first in the RFQ process. To make such an award when adequate space exists at SNA is discrimination in violation of Grant Assurance 22. FAA Order 5190.6b, Section 9.7.

This letter also serves as notice that if at the Special Meeting on February 21 the County acts in apparent disregard to the FAA's attempts to facilitate a resolution of Signature's informal complaint, Signature will be forced to file a formal complaint pursuant to 14 C.F.R. Part 16 in order to seek appropriate relief, including interim orders to maintain the status quo pending the outcome of Signature's Part 16 complaint.

We appreciate your assistance with this important matter. Please let me know if you have any questions.

Sincerely,



William V. O'Connor

Exhibit A

ORANGE COUNTY BOARD OF SUPERVISORS

A g e n d a R e v i s i o n s a n d S u p p l e m e n t a l s

Note: *This supplemental agenda is updated daily showing items that have been added, continued, deleted or modified.*

No new supplemental items will be added to the agenda following close of business on Friday.

February 14, 2017

NOTICE IS HEREBY GIVEN that the Orange County Board of Supervisors will conduct its Regular February 14, 2017, 9:30 a.m. Meeting as a teleconference with one of its members:

The teleconference location and member teleconferencing is:

Member(s): Supervisor Nelson
Location: Potomac Partners D.C.
210 D. Street SE
Washington, D.C. 20003
Time: 9:30 A.M.
Pacific Time

CONSENT

6. **Deleted**

Revised Title to read:

Sheriff-Coroner - Approve agreement with Ocean View School District for supplemental law enforcement services, ~~2/14/17 - 6/30/17~~ 2/21/17 - 6/30/17 (\$3,582); and authorize Sheriff-Coroner or designee to execute future amendments under certain conditions - District 2

13. Revised Title to read:

OC Public Works - Approve prequalified contractors to bid; approve plans and specifications and set bid opening for 3/15/17, 2:00 p.m., for Prima pre-engineered storage facility No. ~~C006329~~ C014301 at Prima Deshecha Landfill - District 5

DISCUSSION

24. Revised Title to read:

John Wayne Airport - Approve agreement with LAZ Parking California, LLC for parking facilities and valet parking operation and management, ~~2/1/17 - 1/31/20~~ 3/1/17 - 2/29/20 (\$16,493,028); with option to extend for two additional one-year periods - District 2

ORANGE COUNTY BOARD OF SUPERVISORS

A g e n d a R e v i s i o n s a n d S u p p l e m e n t a l s

Note: *This supplemental agenda is updated daily showing items that have been added, continued, deleted or modified.*

No new supplemental items will be added to the agenda following close of business on Friday.

38. Revised Title to read:
County Executive Office - Approve grant applications/awards submitted by *Health Care Agency, Sheriff-Coroner and OC Community Resources* and ratify retroactive grant applications/awards submitted by *Sheriff-Coroner and OC Community Resources* in 2/14/17 grant report and other actions as recommended; *adopt resolution authorizing HCA Director or designee to and execute applications, related documents and amendments to State Department of Resources Recycling and Recovery (CalRecycle) for Used Oil Payment Program and Local Enforcement Agency grant; and adopt resolution authorizing Director of OC Community Resources or designee to apply and submit to State Department of Housing and Community Development the Housing-Related Parks Program application package and execute agreement, related documents and amendments and make related findings* - All Districts

THE FOLLOWING AGENDA ITEMS HAVE HAD CHANGES TO THEIR RECOMMENDED ACTIONS SINCE RELEASE OF THE AGENDA TO THE PUBLIC:

Items: 6, 13, 24 and 38

S u p p l e m e n t a l I t e m (s)

- S44A. **John Wayne Airport** - Rescind January 24, 2017 Board action, Item 28 awarding Interim Fixed Based Operation Leases to Newport FBO Two, dba Atlantic Aviation and ACI Jet, Inc.; adopt resolutions approving Interim Fixed Base Operation Leases with Newport FBO Two, dba Atlantic Aviation for Southeast Fixed Base Operation; and with ACI Jet, Inc. for Eastside Fixed Base Operation and Westside Hangars; and authorize Director to execute leases; and make California Environmental Quality Act and other findings - District 2 *(4/5 vote of the Board)*
- SCS4. **County Counsel** - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - Pursuant to Government Code Section 54956.9(d)(1):
Name of Case: Alexa Curtin v. County of Orange; Deputy Caropino, United States District Court Case No. 8:16-CV-591
- SCS5. **Human Resource Services** - PUBLIC EMPLOYEE APPOINTMENT - Pursuant to Government Code Section 54957(b):
Title: Executive Director of the Office of Campaign and Finance and Ethics Commission
- SCS6. **County Counsel** - CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION - Pursuant to Government Code Section 54956.9(d)(2):
Number of Cases: One Case

Exhibit B

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Writer's Direct Contact
+1 (858) 720.7932
WOConnor@mofo.com

Via E-mail and Overnight Delivery

Calvin L. Scovel III
Inspector General
U.S. Department of Transportation
1200 New Jersey Avenue, SE
7th Floor
Washington, DC 20590
Calvin.Scovel@oig.dot.gov
hotline@oig.dot.gov
202.366.1959

Department of Transportation Office of
Inspector General
ATTN: Fannie Robinson
17785 Center Ct. Dr. Ste. 350
Cerritos, CA 90703

Re: Complaint against the County of Orange related to Improper Contracting Practices at John Wayne Airport

Dear Inspector General Scovel:

This firm represents Signature Flight Support Corporation ("Signature"). We are writing on behalf of Signature concerning a matter that merits immediate investigation. We request that the DOT's Office of Inspector General ("OIG") investigate a recent contracting decision made by Orange County concerning FBO leaseholds at John Wayne Airport (SNA).

Specifically, the County granted a Fixed Based Operator ("FBO") lease to ACI Jet, which is unqualified to operate an FBO at SNA. In taking this action, the County deviated from its established contracting procedures, which were developed to ensure good faith and fair dealing in contracting between SNA and entities operating at the airport. Indeed, the County fully disregarded the outcome of its usual RFQ process, which considered, among other things, an applicant's qualifications, finances, and experience and which was designed to ensure SNA operates in a safe, secure and efficient manner. In repudiating these established procedures, the County also ignored the recommendations of experts and the evidentiary record before it to achieve its preferred outcome. The County's conduct, if allowed to stand, will leave SNA demonstrably less safe and less secure and diminish the quality of services provided to the general aviation community.

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As a recipient of federal grant funds, the County has certified that it will comply with applicable Federal laws, regulations, executive orders, policies, guidelines and requirements. Federal Regulations require the County to use its own “documented procurement procedures,” including “written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts.” 2 C.F.R. §200.318 (c)(1). Additionally, the County “must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.” 2 C.F.R. §200.318(h). And the County “must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.” 2 C.F.R. §200.318(i). Finally, the County “alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims.” 2 C.F.R. §200.318(k). The County is bound by similar requirements under State law. *See California Gov. Code § 54950 et seq.* These state law requirements are discussed at length in a bid protest submitted by Signature related to the County’s decision. A copy of the bid protest is attached as Ex. A.

Despite the clear requirements of federal and state contracting law, the County ignored its legal and ethical obligations, acting in an aberrant manner that favored one particular bidder over others. Consequently, the County’s decision was arbitrary and capricious, and in violation of state and local law requiring the fair and objective procurement and award of government contracts. Although Signature continues to gather information regarding the County’s unexplained conduct in this matter, we believe that the information available at this time suggests – at a minimum – a clear conflict of interest that merits investigation by your office.

I. BACKGROUND

The County developed minimum FBO leasehold standards and issued a Request for Qualifications for firms seeking the FBO leasehold at SNA. The selection process addressed whether to renew the FBO leases for an interim two-year period while Orange County finalized its General Aviation Improvement Plan (“GAIP”) review of the airport in anticipation of awarding long-term FBO leases based upon the new plan.

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On September 22, 2016, the County issued a Request for Qualifications (RFQ) related to provision of FBO services at SNA. The RFQ specifically states that “the selection of two firms will be determined *on a qualifications basis*. It is the expressed intent of the County of Orange, and John Wayne Airport to select the most highly qualified FBOs for award of the two Interim Leases.” (Ex. C, RFQ Attachment A at 2 (emphasis added); *see also* Ex. B, December 13, 2016 Staff Report.)

The Interim Leases were being offered in connection with the General Aviation Improvement Program (“GAIP”), which has five primary goals:

1. Provide safe and secure operations;
2. Utilize limited land area efficiently;
3. Preserve compatibility between general and commercial aviation operations;
4. Embrace flexibility to allow for technological advances and market trends;
and
5. Maximize economical, self-sustaining, revenue producing facilities.

See General Aviation Improvement Program,
<http://www.ocair.com/generalaviation/gaimprovement> (last accessed February 9, 2017).

To ensure these goals were met, an “evaluation panel was appointed to review responses to the RFQ, which included a member of the general public who is knowledgeable about commercial and general aviation operations in the Southern California region, a representative from the County Executive Office/Real Estate Division, and three senior JWA employees representing the Business Development, Finance & Administration and Operations Divisions.” (*Id.* at 3.) The Panel was tasked with evaluating the written RFQ responses and interviewing each of the responding firms. (*Id.*)

The RFQ contained “General Requirements” that set forth minimum standards aimed at meeting the GAIP’s goals. These minimum standards were required to be met in order for a firm to be deemed qualified for the FBO leasehold. These included:

1. At a minimum, provide for aircraft fueling, aircraft storage (hangars and tie-downs), aircraft charters and aircraft maintenance and repair. Other allowed services may be provided as described in the Scope of Services in Attachment C.”

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2. Offer all existing subtenants a right of first refusal to continue as sublessees, in their existing locations, during the Interim Lease term.
3. Agree to the terms of the attached Interim Lease (Attachments D or E).
4. Comply with all applicable Federal, State and local laws and regulations including but not limited to the Airport's Rules and Regulations and the County's General Aviation Noise Ordinance (GANO).
5. Provide a notarized statement from a bank or financial institution licensed to do business in the State of California, or from such other source that may be acceptable to the Airport and readily verified through normal banking or financial channels, of evidence of the Respondent Firm's financial responsibility.
6. Clearly demonstrate the financial capability to initiate operations, maintain all improvements and appurtenances that are required commensurate with the operation(s) and service(s) to be provided, and shall also demonstrate its ability to provide adequate working capital to successfully continue the contemplated operation(s) once initiated through the full term of the lease, permit, or agreement.

(Ex. C, RFQ Attachment A at 2-3.)

Specific minimum standards were further set forth in Attachment B, including that each responding firm "shall submit audited financial statements for the past three (3) years, including balance sheets and income statements" and "Provide a minimum of two airport references (name, title, e-mail address and telephone number) for full-service FBOs where Respondent Firm currently operates that meet the Minimum Qualifications outlined in Attachment A." (Ex. C, RFQ Attachment B at 3.)

The RFQ set forth the process by which the FBO leases would be awarded: "A selection committee will review each submitted SOQ [statement of qualifications]. Information included within the SOQ packet materials will be evaluated and, at its discretion, JWA will

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invite the highest ranked FBOs to interview with the selection committee before final evaluations are complete.” (*Id.* at 4.)

The RFQ also provided the criteria for evaluation of the written SOQ submissions as set forth in Figure A, below.

Figure A: Evaluation Criteria

Evaluation of Written SOQs

An evaluation panel comprised of five members will review all SOQs submitted. Scoring will be based on responsiveness to instructions, demonstrated competence/experience, and the professional qualifications necessary for the satisfactory performance of services.

The evaluation criteria topics and their weighted values for the written SOQs are:

- 1) Description of Respondent Firm’s Qualifications and Experience (45%)
(Minimum of five (5) years’ experience required.)
 - Operation of full service FBO
 - Sale and provision of aviation fuel (AvGas and 100LL), engine oil and lubricants to general aviation users
 - Line support of general aviation aircraft fueling activities, including hazardous materials management and prevention and management of fuel spills
 - Provision of aircraft repair and maintenance services
 - Provision of aircraft charter services
 - Management of aircraft storage, including hangars and tie-downs
 - Experience providing any additional authorized services listed in Attachment C, Scope of Services
- 2) Key Personnel and Technical Expertise (45%)
 - Qualifications of management
 - Organization chart
 - References, licenses and certifications
- 3) Organization and Completeness of Written SOQ Submittal (10%)
 - Ability to follow RFQ directions and meet SOQ requirements
 - Overall quality of written submittal

And, the RFQ also provided that the “*two highest ranked Respondent Firms will be recommended by the evaluation panel to the Board for Supervisors for selection and award*” of the available leases. (*Id.* at 6.)

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Eight firms submitted responses to the RFQ. Two of the firms were immediately disqualified, leaving six firms, including Signature, who were considered by the Panel through the RFQ vetting process. The final ranking of the firms was based on the combined scores of the Panel for both the written RFQ responses and the firms' interviews.

Signature was the highest-ranked Firm, receiving a near-perfect score from the Panel. The Chart below, Figure B, is excerpted from the December 13, 2016 Staff Report of the County concerning the RFQ rankings and its recommendation to award Signature a FBO lease.

Figure B. RFQ Rankings

The following table sets forth the scores and ranking of each firm that met the minimum qualifications as defined in the RFQ:

Respondent Firm	Overall Score	Ranking
Signature Flight Support	2469.00	1
Atlantic Aviation	2461.50	2
Jet Aviation	1915.50	3
Clay Lacy Aviation, Inc.	1709.50	4
ACI Jet	1643.00	5
Advanced Air, LLC	1348.50	6

JWA is recommending that the two highest ranked respondent firms, Signature Flight Support and Atlantic Aviation, be selected by the Board for award of the Interim Leases.

Following the recommendation of the Panel, the Orange County Airport Commission, an independent body whose members are appointed by the Board of Supervisors and whose sole function is to make recommendations regarding SNA to the Board of Supervisors, also recommended an award to Signature.

Despite these rankings, and despite the recommendations of the Panel and the Orange County Airport Commission, Signature was not awarded the lease at SNA. Instead, on January 24, 2017, the Board voted to award leases to Atlantic Aviation and ACI Jet. Although Atlantic was ranked second behind Signature, ACI was ranked fifth out of six Firms—receiving over 800 points less than Signature in the impartial ranking process undertaken by the Panel based on the minimum standards set by the County.

ACI's SOQ failed to meet the minimum standards set by the County in the RFQ process.

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First, ACI did not provide the required audited financials demonstrating “the financial capability to initiate operations, maintain all improvements and appurtenances that are required commensurate with the operation(s) and service(s) to be provided, and shall also demonstrate its ability to provide adequate working capital to successfully continue the contemplated operation(s) once initiated through the full term of the lease, permit, or agreement.” In fact, the evaluation team acknowledged this omission. Instead, it relied on vague statements that Olivier Leclereq, an ACI principal “is a highly successful and local businessman...who brings significant financial resources to bear and unequivocally demonstrates ACI Jet’s Financial Qualifications to respond to the RFP.” (Ex. D, ACI SOQ, Oct. 19 Letter to Barbara Swift.)

Second, ACI did not provide two airport references for full-service FBOs. (Ex. D, ACI SOQ, References.) ACI does not even operate two full service FBOs. ACI only operates three FBOs in total (San Luis Obispo, Paso Robles, and Oceana). It only operates one full service FBO (SBP). These operations are not comparable to the operation at SNA.

Third, ACI failed to demonstrate that is prepared to actually assume and successfully operate an FBO at SNA. This is highlighted by the fact that ACI is now attempting to backfill its lack of qualifications, experience, key personnel, and technical expertise by attempting to recruit Signature’s employees.

One of the members of the Orange Court Board of Supervisors called the decision to award ACI the FBO lease “unprecedented.” This award was in violation of the RFQ’s minimum standards, which created an objective, competitive evaluation process and ensured a level playing field governed by rational rules. As set forth further below, this outcome violates SNA’s federal obligations and leaves SNA demonstrably less safe.

II. OIG SHOULD INVESTIGATE IRREGULARITIES IN THE RFQ PROCESS BY THE COUNTY THAT HAVE THE EFFECT OF LEAVING SNA LESS SAFE

The County’s leasing decision was plagued by irregularities and resulted in the award of a contract to ACI, which has not demonstrated an ability to “perform successfully under the terms and conditions of a proposed procurement.” 2 C.F.R. §200.318(h).

With regard to process irregularities, the Board improperly and illegally ignored its own bidding procedures. Once the County committed to an RFQ process, it was required by law to adhere to that process. The failure to do so is a violation of the County’s ministerial duties and/or an abuse of discretion. *See Pozar v. Department of Transportation* (1983) 145 Cal.App.3d 269 (holding that published procedure adopted by a public entity which provides

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that the public entity will do a certain thing is enforceable as a ministerial duty or chargeable as an abuse of discretion); *Schram Const., Inc. v. Regents of the University of California* (2010) 187 Cal.App.4th 1040 (rejecting a contract award where a public entity failed to comply with published bidding requirements).

Second, the County deviated from established processes that previously afforded disappointed bidders an opportunity to challenge County decisions. Under Federal Regulations, the County “alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, *protests*, disputes, and claims.” 2 C.F.R. §200.318(k).

Prior to the selection of ACI, the County disqualified two bidders and those bidders had the opportunity to protest the County’s decision. See Agenda Staff Report, Agenda Item 3, dated December 13, 2016 (“Staff Report”) at 3. However, no bidder was given the opportunity to protest ACI’s selection. The County’s departure from its prior process is inexplicable. It is arbitrary and capricious to allow some bidders to protest prior to contract award, but not extend the same right to others, especially when the final selection decisions are at issue.

Third, not only did the County deviate from its established processes, the RFQ failed to advise bidders of the process by which the ultimate selection would be made. Having failed to advise bidders of the intent to depart from the evaluation criteria in the ultimate selection, the County deprived Signature, as the top ranked bidder under the published criteria of a meaningful opportunity to protest the actual, undisclosed process and the ultimate award. The County provided no notice of the County’s intent to deviate from the RFQ’s evaluative criteria.

Fourth, by establishing an objective ranking system and criteria against which bidders would be judged, the County was bound to adhere to the rules that it established to create a level playing field. There was no indication in the RFQ that the County would even consider a fifth ranked proposer like ACI when it was clear that there were *multiple* superior bidders based upon the objective criteria the County established to control the award. By failing to follow those criteria in the ultimate selection process, the County deprived the top-ranked finalist of a meaningful opportunity to protest the actual process or the ultimate selection of a fifth-ranked bidder. There is no meaningful protest right if the published rules are not the actual rules followed by the County. The County’s failure, as required by California law to follow the competitive bidders rules it itself established rendered Signature’s protest rights illusory.

Fifth, the County “must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement.

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Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.” 2 C.F.R. §200.318(h). ACI has extremely limited FBO experience, all of which has taken place at airports that are much smaller than SNA with less significant air carrier operations. ACI lacks the experience to operate at an airport like SNA and could not meet the minimum standards set forth through the RFQ process. Allowing ACI to commence FBO operations at SNA will make the airport less safe.

SNA is a vibrant and busy airport that has approximately **260,000** aircraft operations annually. The National Plan of Integrated Airport Systems for 2011–2015 categorized SNA as a **primary commercial service airport**. According to FAA records, SNA had 4,584,147 enplanements in calendar year 2014 alone.¹ SNA is the sole commercial airport in Orange County. General aviation operations outnumber commercial operations and several facilities at the airport, including Signature, serve the general aviation and corporate aviation community. SNA covers 504 acres. It has multiple general aviation facilities, an airline concourse building split into three terminal areas, and two paved runways, including one that exceeds 5,700 feet and is used by commercial aircraft and general aviation serving most incoming and departing traffic to the west of the airport. This runway is ILS equipped.

On the other hand, the largest airport at which ACI provides FBO services is San Luis Obispo. SBP’s total aircraft operations are approximately one-fourth the amount of SNA’s, averaging only 67,000 annually. Paso Robles (PRB) conducts even less operations, only 34,000 annually. And Oceano, which is so small that hasn’t been assigned a three-letter IATA airport code, is merely a 2,325 foot landing strip without a control tower. Combined these three airports do not approach even half of SNA’s operations.

The airports at which ACI operates are not comparable operations to SNA. Permitting an unqualified and inexperienced FBO like ACI to replace Signature’s FBO services at SNA is a mistake with significant safety implications for the airport. Indeed, Signature has an exemplary safety and security record operating at SNA. ACI, on the other hand, has never provided FBO services at an airport like SNA, much less demonstrated the ability to do so safely and securely.

Sixth, the County “must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the

¹ Enplanements for CY 2014 Passenger Boardings at Commercial Service Airports. Federal Aviation Administration. September 22, 2015, available at https://www.faa.gov/airports/planning_capacity/passenger_allcargo_stats/passenger/media/cy14-commercial-service-enplanements.pdf.

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method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.” 2 C.F.R. §200.318(i). No such records exist here. The process was infected by key decision making that was done behind closed doors.

Finally, the County ignored its established contracting policy. According to the County Contract Policy Manual, bidders proposing in connection with a “Statement of Qualification process” may protest an award “after [a] notice of the proposed contract award” is provided by the County. *See* Manual at §1.3-104; *see also* Manual at § 1.3-105 (Requests for Proposals).² However, the County never provided Signature (or any other bidder) notice of a “proposed contract” to ACI. No remaining proposer, Signature included, had a meaningful opportunity to defend its proposal or protest the selection of ACI. This deprivation of a right to protest before an award is made violates proper procedure. It also prevented a fair and honest vetting of ACI—something the bid protest procedures are intended to provide. This failure to properly vet an aviation service provider calls into question transportation safety at SNA.

This letter is preliminary and the facts surrounding the situation at SNA are still developing. On behalf of Signature, we request that the OIG investigate the improprieties in this contracting matter, and we would welcome the opportunity to meet with the OIG to provide additional context and information concerning the County’s leasing decision.

Sincerely,



William V. O’Connor

² Rules governing SOQs appear to apply here as confirmed by officials at JWA. On December 13, 2016, JWA Executive Director Barry Rondinella stated: “We were in a request for qualification process not a request for proposals process First there was a statement of qualifications in response to our request for qualifications A panel reviewed those statements and weighted them based on the requirements listed in the RFQ” *See* Afternoon Procd. at 4:12-4:15).

Exhibit C

A G E N D A



REGULAR MEETING OF THE BOARD OF SUPERVISORS
ORANGE COUNTY, CALIFORNIA

Tuesday, February 28, 2017
9:30 A.M.

BOARD HEARING ROOM, FIRST FLOOR
333 W. Santa Ana Blvd., 10 Civic Center Plaza
Santa Ana, California

MICHELLE STEEL
CHAIRWOMAN
Second District

ANDREW DO
VICE CHAIR
First District

TODD SPITZER
SUPERVISOR
Third District

SHAWN NELSON
SUPERVISOR
Fourth District

LISA A. BARTLETT
SUPERVISOR
Fifth District

COUNTY EXECUTIVE OFFICER
Frank Kim

COUNTY COUNSEL
Leon J. Page

CLERK OF THE BOARD
Robin Stieler

This agenda contains a brief description of each item to be considered. Except as provided by law, no action shall be taken on any item not appearing in the agenda. To speak on an item, complete a Speaker Request Form(s) and deposit the completed form in the box to the left of the podium. Prior to the Consent and Discussion Calendars, and during the Public Comments portion of the meeting, a member of the public may address the Board on any (or multiple) items on the agenda (excluding public hearings) or on any issue that is within the subject matter jurisdiction of the Board. This is the only opportunity for public input except for scheduled public hearing items. Speaker request forms must be deposited prior to the end of the public comments portion of the meeting, or, in the event of a public hearing, prior to the start of the public hearing. When addressing the Board, it is requested that you state your name and city of residence for the record. Members of the public desiring to speak should address the Board as a whole through the Chair. Comments to individual Supervisors or staff are not permitted. Speakers are allotted to speak no more than three (3) minutes during public comments and three (3) minutes during a public hearing with twenty (20) minutes cumulative for all speakers, unless extended by the Chair. Power Point and video presentations must be requested in advance of the meeting through the Clerk.

Supporting documentation is available for review in the Clerk of the Board of Supervisors office in the Hall of Administration, 333 W. Santa Ana Blvd., Room 465, Santa Ana, 92701 8:00 am - 5:00 pm, Monday-Friday.

The Agenda is available online at: <http://ocgov.com/gov/bos/agenda>

Meetings are broadcast live at <http://bos.ocgov.com/video/video.html>

In compliance with the Americans with Disabilities Act, those requiring accommodations for this meeting should notify the Clerk of the Board's Office 72 hours prior to the meeting at (714) 834-2206

INVOCATION: Supervisor Spitzer, Third District

PLEDGE OF ALLEGIANCE: Supervisor Nelson, Fourth District

I. PRESENTATIONS/INTRODUCTIONS

II. PUBLIC COMMENTS

At this time, members of the public may address the Board of Supervisors on any (or multiple) items on the agenda (excluding public hearings) or on any issue that is within the subject matter jurisdiction of the Board. Comments shall be limited to three minutes per person and twenty minutes for all comments, unless different time limits are set by the Chairman subject to the approval of the Board.

III. CONSENT CALENDAR (Items 1-9)

All matters are approved by one motion unless pulled by a Board Member for discussion or separate action.

ELECTED DEPARTMENT HEADS

1. **Clerk-Recorder** - Approve agreement CT-059-17010707 with DocuLynx for scanning, indexing and imaging services, 3/1/17 - 8/31/17 (\$180,080.68); and authorize Purchasing Agent or authorized Deputy to execute agreement - All Districts

Sheriff-Coroner:

2. Approve amendment 1 to agreement MA-060-16012109 with InSite Telecom, Inc. for one time removal and installation of coax cables, antennas and weatherproofing on radio towers, term ending 6/30/17 (\$145,928; new total \$240,928); authorize Purchasing Agent or authorized Deputy to execute amendment; and make California Environmental Quality Act and other findings - All Districts
3. Approve agreement with City of Orange for enhanced fingerprint examiner and related services, 2/28/17 - 6/30/19; approve FY 2016-17 charges to City of Orange for services (\$42,179); and authorize Sheriff-Coroner or designee to execute future amendments under certain conditions - District 3

HEALTH CARE AGENCY

4. Approve agreement with Orange County Association for Mental Health dba Mental Health Association of Orange County for children and transitional age youth mentoring services, 7/1/17 - 6/30/18 (\$500,000); and authorize Director or designee to execute agreement and exercise contingency cost increase not to exceed 10% under certain conditions - All Districts

OC COMMUNITY RESOURCES

5. Approve concession lease assignment, assumption and consent agreement PR09B-16 from Canyon Recreational Vehicle Park to Canyon RV Park, Inc.; and make California Environmental Quality Act and other findings - District 3

OC PUBLIC WORKS

6. Approve plans and specifications and set bid opening for 3/29/17, 2:00 p.m., for Asphalt Overlay Resurfacing of Foothill Boulevard and Hewes Street Arterial Pavement Management Grant Project; and make California Environmental Quality Act and other findings - District 3
7. Approve plans and specifications and set bid opening for 3/29/17, 2:00 p.m., for Slurry Seal of Crown Valley Parkway and Oso Parkway Arterial Pavement Management Grant Project - District 5

GENERAL ADMINISTRATION

Clerk of the Board:

8. Approve proposed amendments to the Conflict of Interest Code Designated Filer Exhibits for Board of Supervisors, 2nd District - All Districts
9. Approve proposed amendments to the Conflict of Interest Code Designated Filer Exhibits for Registrar of Voters - All Districts

END OF CONSENT CALENDAR

IV. DISCUSSION ITEMS (Items 10-25)

ELECTED DEPARTMENT HEADS

10. **District Attorney** - Approve issuance and ratification of amendment 2 to agreement MA-026-16011777 with Community Service Programs, Inc. to add County Victim Services Program, two year term (\$507,700), Sexual Assault Kits Initiative Program, three year term (\$203,693) and increase Victim Compensation Program budget, two year term (\$21,000; cumulative total \$27,702,263); authorize Purchasing Agent or authorized Deputy to execute amendment; adopt resolution approving amended grant agreement with State Victim Compensation Board for Victim Compensation Program, 7/1/15 - 6/30/18 (\$21,000; cumulative total \$1,595,049) and adopt resolution approving agreement with Bureau of Justice Assistance for Sexual Assault Kit Initiative Program, 10/1/16 - 9/30/19 (\$1,864,651); authorize District Attorney or designee to execute agreement, amended agreement and future amendments under certain conditions; and make California Environmental Quality Act and other findings - All Districts
11. **Sheriff-Coroner** - Consider continuation of local emergency related to 2017 winter storm events; and set review to determine need for continuing local emergency for 3/28/17, 9:30 a.m. and every 30 days thereafter - All Districts (Continued from Special Meeting 2/9/17, Item 1)
12. **Treasurer-Tax Collector** - Receive and file oral and written Treasury Oversight Committee 2016 Annual Report - All Districts
13. **John Wayne Airport** - Rescind January 24, 2017 Board action, Item 28 awarding Interim Fixed Based Operation Leases to Newport FBO Two, dba Atlantic Aviation and ACI Jet, Inc.; adopt resolutions approving Interim Fixed Base Operation Leases with Newport FBO Two, dba Atlantic Aviation for Southeast Fixed Base Operation; and with ACI Jet, Inc. for Eastside Fixed Base Operation and Westside Hangars; and authorize Director to execute leases; and make California Environmental Quality Act and other findings - District 2 (4/5 vote of the Board) (Continued from 2/14/17, Item S44A)

HEALTH CARE AGENCY

14. Approve amendment 1 to agreements with Orange County Association for Mental Health dba Mental Health Association of Orange County for mental health peer support and wellness center services, South Region (\$50,128; new total \$1,588,316) and West Region (\$120,778; new total \$1,483,916), 3/1/17 - 6/30/17; approve agreements with College Community Services for mental health peer support and wellness center services, Central Region (\$4,198,713) and with Orange County Association for Mental Health dba Mental Health Association of Orange County for mental health peer support and wellness center services, South Region (\$2,457,666) and West Region (\$3,071,874), 7/1/17 - 6/30/20; and authorize Director or designee to exercise cost contingency increase not to exceed 10% under certain conditions and to execute amendments and agreements - Districts 1, 3 and 5
15. Approve agreement with Behavioral Health Services, Inc. for inpatient substance use detoxification services, 7/1/17 - 6/30/19 (\$732,000); and authorize Director or designee to exercise cost contingency increase not to exceed 10% under certain conditions and execute agreement - All Districts
16. Approve master agreement MA-042-17011154 with Westbound Communications Inc. for multilingual drowning prevention campaign services, 4/1/17 - 3/31/18 (\$275,000); renewable for four additional one-year terms; and authorize Purchasing Agent or authorized Deputy to execute agreement - All Districts

JOHN WAYNE AIRPORT

17. Approve agreement with LAZ Parking California, LLC for parking facilities and valet parking operation and management, 3/1/17 - 2/29/20 (\$16,493,028); with option to extend for two additional one-year periods - District 2 (Continued from 1/24/17, Item 31; 2/14/17, Item 24)

OC PUBLIC WORKS

18. Approve agreement MA-080-17010535 with California Department of Transportation for Laguna Canyon Road Segment 4, Phases 2 to 4 Project (\$7,322,500); and authorize Director or designee to execute agreement and future amendments under certain conditions - District 5

PUBLIC PROTECTION

Probation:

19. Ratify amendment 2 to agreement MA-057-14011897 with Orange County Department of Education for drug, alcohol and mental health services, effective 7/1/16; authorize payment of invoices retroactive to 4/1/16 - 6/30/16 (\$126,151.82); and authorize Chief Probation Officer or designee to execute amendment - Districts 3 and 5
20. Approve addendum 1 to agreement with Orange County Fire Authority for participation in juvenile firesetting intervention program and new data collection system tool; and authorize Probation Officer or designee to execute addendum - All Districts

GENERAL ADMINISTRATION

County Executive Office:

21. Approve recommended positions on introduced or amended legislation and consider other legislative subject matters - All Districts
22. Approve grant applications/awards submitted in 2/28/17 grant report and other actions as recommended - All Districts
23. Approve Fourth Amended and Restated County of Orange Board of Supervisors Policies and Procedures for Consideration and Approval of Proposed Public Financings and amended Debt Management Policy - All Districts
24. Approve Order Form to renew agreement with CA, Inc. for software maintenance and support services, 3/24/17 - 3/23/19 (\$202,452; cumulative total \$1,201,379.54); and authorize Purchasing Agent or authorized Deputy to execute Order Form - All Districts
25. **Human Resource Services** - Approve revisions to classification specification and set pay grades for Deputy Juvenile Correctional Officer series, effective 3/3/17 - All Districts

V. PUBLIC HEARINGS (Items 26-27)

OC PUBLIC WORKS

26. Public Hearing to consider adopting Americans with Disabilities Act Complementary Paratransit Plan for options to individuals with disabilities to use fixed-route transportation services in southeast area of the County - District 5

GENERAL ADMINISTRATION

27. **Supervisor Bartlett** - Public Hearing to consider adopting resolution establishing an Urban Agricultural Incentive Zone within city limits, San Juan Capistrano; and make California Environmental Quality Act and other findings

VI. CLOSED SESSION (Items CS-1-CS-4)

The Board will break for lunch at approximately 12:00 PM and may consider closed session matters during that break. The Board will then resume to handle any remaining business if necessary.

GENERAL ADMINISTRATION

- CS-1. **County Counsel** - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - Pursuant to Government Code Section 54956.9(d)(1):
Name of Case: W.A. Rasic Construction Co., Inc. v. Orange County Flood Control District and the County of Orange, Orange County Superior Court Case No. 30-2015-00767173

Human Resource Services:

- CS-2. PUBLIC EMPLOYEE PERFORMANCE EVALUATION - Pursuant to Government Code Section 54957(b)(1):
Title: County Counsel
(Continued from 1/24/17, Item CS-4)
- CS-3. PUBLIC EMPLOYEE PERFORMANCE EVALUATION - Pursuant to Government Code Section 54957(b)(1):
Title: Clerk of the Board of Supervisors
(Continued from 1/24/17, Item CS-5)
- CS-4. CONFERENCE WITH LABOR NEGOTIATOR - Pursuant to Government Code Section 54957.6:
Agency Negotiator: Brenda Diederichs
Employee Organizations: Association of County Law Enforcement Management (ACLEM), American Federation of State, County and Municipal Employees (AFSCME), Association of Orange County Deputy Sheriffs (AOCDS), International Brotherhood of Teamsters, Local 952, International Union of Operating Engineers (IUOE), Orange County Attorneys Association (OCAA), Orange County Employees Association (OCEA), Orange County Managers Association (OCMA) and other non-represented employees
RE: Terms and Conditions of Employment

VII. CEO, BOARD COMMENTS & ADJOURNMENT

COUNTY EXECUTIVE OFFICER COMMENTS:

BOARD COMMENTS:

At this time, members of the Board of Supervisors may comment on agenda or non-agenda matters and ask questions of or give directions to staff; provided that NO action may be taken on off-agenda items unless authorized by law.

ADJOURNED:

NEXT MEETINGS:

March 7, 2017

March 14, 2017

March 21, 2017

No Scheduled Meeting

Regular Meeting

No Scheduled Meeting

Exhibit D

ORANGE COUNTY BOARD OF SUPERVISORS

A g e n d a R e v i s i o n s a n d S u p p l e m e n t a l s

Note: *This supplemental agenda is updated daily showing items that have been added, continued, deleted or modified.*

Special Meeting
February 21, 2017

THE FOLLOWING AGENDA ITEMS HAVE HAD CHANGES TO THEIR RECOMMENDED ACTIONS SINCE RELEASE OF THE AGENDA TO THE PUBLIC:

Item: None

S u p p l e m e n t a l I t e m (s)

- SCS1. **County Executive Office** - CONFERENCE WITH REAL PROPERTY NEGOTIATOR - Pursuant to Government Code Section 54956.8:
Property Location: John Wayne Airport
County Negotiator: Scott D. Mayer, Chief Real Estate Officer
Negotiating Parties: Atlantic Aviation
Signature Flight Support
ACI Jet
Under Negotiation: Terms and Value of Future Lease



County Executive Office

Memorandum

RECEIVED
CLERK OF THE BOARD

February 17, 2017

FEB 17 2017

To: Robin Stieler, Clerk of the Board

From: Frank Kim, County Executive Officer

Subject: Request for Closed Session on February 21, 2017

SCS1

Accordingly, please prepare the Agenda item to read:

CONFERENCE WITH REAL PROPERTY NEGOTIATOR – County Executive Office requests a Closed Session pursuant to Government Code Section 54956.8, to confer with its real property negotiator.

Property Location: John Wayne Airport

County Negotiator: Scott D. Mayer, Chief Real Estate Officer

Negotiating Parties: Atlantic Aviation
Signature Flight Support
ACI Jet

Under Negotiation: Terms and Value of Future Lease

Recommended Action: Conduct Closed Session

cc: Members, Board of Supervisors
Chief Executives
Leon Page, County Counsel