

**Contract**

**MA-280-20011326**

**for**

**Access/GANO Software Maintenance and Support**

**Between**

**County of Orange, John Wayne Airport**

**and**

**BridgeNet International, Inc.**

**dba BridgeNet International A Tetra Tech Company**



Table of Contents

Recitals..... 5

Articles..... 5

    A. Governing Law and Venue ..... 5

    B. Entire Contract..... 5

    C. Amendments ..... 5

    D. Taxes..... 5

    E. Delivery..... 6

    F. Acceptance/Payment ..... 6

    G. Warranty ..... 6

    H. Patent/Copyright Materials/Proprietary Infringement ..... 6

    I. Assignment..... 6

    J. Non-Discrimination ..... 6

    K. Termination..... 7

    L. Consent to Breach Not Waiver..... 7

    M. Independent Contractor..... 7

    N. Performance Warranty..... 7

    O. Insurance Requirements..... 7

    P. Changes ..... 9

    Q. Change of Ownership ..... 9

    S. Confidentiality..... 10

    T. Compliance with Laws..... 10

    U. Freight..... 10

    V. Severability ..... 10

    W. Attorney Fees..... 11

    X. Interpretation..... 11

    Y. Employee Eligibility Verification..... 11

    Z. Indemnification ..... 11

    AA. Audits/Inspections ..... 11

    BB. Contingency of Funds ..... 12

    CC. Expenditure Limit ..... 12

Additional Terms and Conditions..... 12

    1. Scope of Contract..... 12

    2. Term of Contract..... 12

    3. Renewable Annually with Concurrence..... 12

    This Contract is non-renewable..... 12

4. Contract Amount Not Exceed ..... 12

5. Adjustments – Scope of Work ..... 12

6. Americans with Disabilities Act (ADA) ..... 12

7. Bills and Liens ..... 12

8. Breach of Contract ..... 13

9. Civil Rights ..... 13

10. Conditions Affecting Work..... 13

11. Conflict of Interest – Contractor’s Personnel..... 13

12. Conflict of Interest – County Personnel..... 13

13. Contractor Personnel – Reference Checks ..... 13

14. Contractor’s Project Manager and Key Personnel ..... 14

15. Contractor’s Records ..... 14

16. Data – Title To ..... 14

17. Debarment..... 14

18. Disputes - Contract ..... 14

19. Equal Employment Opportunity ..... 15

20. Errors and Omissions ..... 15

21. Gratuities..... 16

22. Headings ..... 16

23. Inventions..... 16

24. News/Information Release ..... 16

25. Nondiscrimination – Statement of Compliance ..... 16

26. Notices ..... 16

27. Order Dates ..... 17

28. Ownership of Documents..... 17

29. Remedies Not Exclusive ..... 17

30. Reprocurement Costs ..... 17

31. Software - Documentation ..... 17

32. Software – Future Releases..... 18

33. Software – Inventions, Discoveries, Improvements ..... 18

34. Software License..... 18

35. Software License – Fees and Charges..... 19

36. State Funds - Audits..... 19

37. Subcontracting ..... 19

38. Termination - Orderly..... 19

39. Waivers - Contract ..... 19

Signature Page ..... 20

A. Compensation ..... 23

C. Payment Terms – Payment in Arrears ..... 23

D. Taxpayer ID Number ..... 23

E. Payment-Invoicing Instructions ..... 24

**Contract MA-280-20011326**  
**For**  
**Access/GANO Maintenance and Support**  
**Between**  
**County of Orange, John Wayne Airport**  
**And**  
**BridgeNet International, Inc.,**  
**dba Bridgenet International A Tetra Tech Company**

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 BridgeNet International, Inc. dba BridgeNet International A Tetra Tech Company, (“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 Access/GANO Maintenance and Support; 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**

**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 provisions of services under this Contract, Contractor agrees to purchase all required insurance at Contractor's expense and to deposit with County Certificates of Insurance, including all endorsements required herein, necessary to satisfy County that the insurance provisions of this Contract have been complied with and to keep such insurance coverage and the certificates therefore on deposit with 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 Contractor fails to maintain insurance acceptable to County for the full term of this Contract, 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:

<b>Coverage</b>	<b>Minimum Limits</b>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability for owned, non-owned and hired vehicles	\$1,000,000
Workers' Compensation/Employers Liability	Statutory/\$1,000,000 per occurrence
Technology Errors & Omissions	\$1,000,000 per claims made \$1,000,000 aggregate

**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, agents and employees** 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, agents and employees 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.

If Contractor's Technology Errors & Omissions Policy is a "Claims Made" policy, Contractor shall agree to maintain coverage for two (2) years following the completion of the 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**

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 Contract coordinator.

**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 Access/GANO Maintenance and Support 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 commence on July 1, 2020 through and including June 30, 2025, unless otherwise terminated by County.

**3. Renewable Annually with Concurrence**

This Contract is non-renewable.

**4. Contract Amount Not Exceed**

Contract amount not to exceed \$274,814.60

**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. 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:

- a. Terminate the Contract immediately, pursuant to Section K herein;
- b. 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;
- c. Discontinue payment to the Contractor for and during the period in which the Contractor is in breach; and
- d. Offset against any monies billed by the Contractor but yet unpaid by the County those monies disallowed pursuant to the above.

**9. 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.

**10. 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.

**11. 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.

**12. 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.

**13. 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 contract must meet character standards as

demonstrated by background investigation and reference checks, coordinated by the agency/department issuing this Contract.

**14. 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 Contract coordinator, 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 Contract coordinator 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 Contract coordinator 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 Contract coordinator. The County’s Contract coordinator 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.

**15. 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.

**16. 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.

**17. 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.

**18. 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 Contract coordinator, 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.

### **19. 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.

### **20. 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

**21. 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.

**22. 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.

**23. Inventions**

If any discovery or invention arises or is developed in the course of, or as a result of work performed under this Contract, the Contractor shall refer the discovery or invention to the County.

**24. 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 Contract coordinator.

**25. Nondiscrimination – Statement of Compliance**

The Contractor's signature affixed hereon and dated shall constitute a certification under penalty of perjury under the laws of the state of California that the Contractor has, unless exempted, complied with the nondiscrimination program requirements of Government Code Section 12900 (a-f) and Title 2, California Code of Regulations, Sections 11102 and 11103.

**26. 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/contract coordinators' 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.

- Contractor: BridgeNet International, Inc.



Project manager Mark Karmelich  
20201 SW Birch Street  
Newport Beach, CA 92660  
949-250-1222  
[markk@airportnetwork.com](mailto:markk@airportnetwork.com)

- County: John Wayne Airport, Airport Access/Noise  
Contract coordinator Nick Gaskins  
3160 Airway Ave  
Costa Mesa, CA 92626  
949-252-5188  
[ngaskins@ocair.com](mailto:ngaskins@ocair.com)

- Assigned DPA: John Wayne Airport, Procurement  
Maria Albelo  
3160 Airway Ave  
Costa Mesa, CA 92626  
949-252-5175  
[malbelo@ocair.com](mailto:malbelo@ocair.com)

**27. Order Dates**

Orders may be placed during the term of the Contract even if delivery may not be made until after the term of the Contract. The Contractor must clearly identify the order date on all invoices to County and the order date must precede the expiration date of the Contract.

**28. 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.

**29. 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.

**30. Reprocurement 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.

**31. Software - Documentation**

The Contractor agrees to provide to the County the County-designated number of all manuals and other associated printed materials and updated versions thereof, which are necessary or useful to the County in its use of the equipment or software provided hereunder. The County will designate the number of

copies for production use and the number of copies for disaster recovery purposes and will provide this information to the Contractor.

If additional copies of such documentation are required, the Contractor will provide such manuals at the request of the County. The requesting agency/department shall be billed for the manuals and any associated costs thereto by invoice. The Contractor agrees to provide such additional manuals at prices not in excess of charges made by the Contractor to its best customers for similar publications.

The Contractor further agrees that the County may reproduce such manuals for its own use in maintaining the equipment or software provided hereunder. The County agrees to include the Contractor's copyright notice on any such documentation reproduced in accordance with copyright instructions to be provided by the Contractor.

### **32. Software – Future Releases**

If improvement, upgraded, or enhancement versions of any software product under this Contract are developed by the Contractor and are made available to other licensees, they will be made available to the County at the County's option, provided such versions are operable on the same computer hardware configuration. The charge for such upgrading to the later version of the software will be the difference between the price established by the Contractor for the later version and the price specified herein or the then prevailing prices of the currently installed version.

### **33. Software – Inventions, Discoveries, Improvements**

All inventions or discoveries of or improvements to computer programs developed pursuant to this Contract shall be the property of the County. The County agrees to grant a nonexclusive royalty-free license for any such invention, discovery or improvement to the Contractor or to any other such person and further agrees that the contractor or any other such person may sublicense additional persons on the same royalty-free basis.

This Contract shall not preclude the Contractor from developing materials outside this Contract which are competitive, irrespective of their similarity to materials which might be delivered to the County pursuant to this Contract.

### **34. Software License**

The Contractor hereby grants to the County of Orange and the County accepts from the Contractor, subject to the terms and conditions of this agreement, a non-exclusive, non-transferable license to use the software products list in this agreement, hereinafter referred to as "software products." The license granted above authorizes the County to use the software products in machine-readable form on a single computer system, designed in writing by the County to the Contractor, provided that if the designated CPU is inoperative due to malfunction, license herein granted shall be temporarily extended to authorize the County to use the software products in machine-readable form on any other County CPU until the designated CPU is returned to operation. By prior written notice to the Contractor the County may redesignate the CPU in which the software products are to be used and must do so if the redesignation is permanent.

When encryption/CPU ID authorization codes are required to operate the software products, the Contractor will provide all codes to the County with shipment of the software. In the case of an inoperative CPU, as defined above, Contractor will provide a temporary encryption/CPU ID

authorization code to the County for use on a temporarily authorized CPU until the designated CPU is returned to operation. When changes in designated CPUs occur, the Contractor will issue to the County within 24 hours of notification a temporary encryption/ID authorization code for use on the newly designated CPU until such time a permanent code is assigned.

**35. Software License – Fees and Charges**

Upon completion of installation and acceptance of software products by the County, the County will pay the license fee or recurring charge for the software products as set forth in this Contract. Charges will commence on the installation date as specified in this Contract. The Contractor shall render invoices for recurring charges or a single charge for the month for which the charges were incurred. Fees for a partial month’s use will be prorated based on a thirty-day month. Invoices are to be submitted in arrears to the user agency/department to the ship-to address, unless otherwise directed in this Contract. 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.

**36. 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.

**37. 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.

**38. 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.

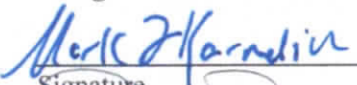

**39. Waivers - Contract**

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.

**Signature Page**

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

**BridgeNet International, Inc.\***

	Mark F. Kornolich	VP Inf. Tech	3/6/2020
Signature	Name	Title	Date
	Paul Dunkel	President	3/7/2020
Signature	Name	Title	Date

*\*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	Title
_____	_____
Name	Date

Approved by the Board of Supervisors on: \_\_\_\_\_

Approved as to Form:  
County Counsel

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

## Attachment A Scope of Work

### I. Scope Of Work

Contractor shall provide all labor and equipment for Access/GANO Software Maintenance and Support Services as specified herein.

The Access/GANO system has a fully automated design for data collection and processing. Data interface mechanisms, however, can break down due to unforeseen problems at the source or during transmission. Additionally, issues might arise on the server-side of database processing. And as the database expands and system updates are applied, the server-side system will need periodic maintenance.

Contractor will fully host the server-side use of Access/GANO. All requisite licenses for 3<sup>rd</sup> party software including a minimum of Microsoft SQL Server and Windows 2008 Server operating system are included. Contractor will maintain this computer with regular OS maintenance, antivirus software, and schedule data backup (see below). The Contractor is to provide the server a firewall, managed and controlled by Contractor to restrict unauthorized access.

The following provides the proposed system maintenance schedule and how emergency changes are applied. Because Contractor will be using the Java environment to deliver application content, changes can be made on the server and are then available to County immediately. This eliminates the need to distribute and/or install software on County computers locally for system updates.

The Access/GANO Software Maintenance will include the management and proper function of Standard Schedules Information Manual (SSIM) data upload and processing. Major releases of new SSIM formats may require additional software development, to be provided by Contractor on a time and material basis to County. When implemented, these updates will then be subject to standard maintenance agreement.

#### 1. System Maintenance

- i. A full, scheduled system backup will be performed weekly, automated to occur on the weekend. This will include the SQL Server database and all data files required to support the system. Once per month the backup files will be copied to a location outside the California collocation facility, providing a secondary backup in a different location.
- ii. Large, planned, software updates to the Java application suite will be made in coordination with JWA. These types of changes will typically include database schema changes and will require system downtime. Where applicable, these will be performed “off-hours” for JWA staff.
- iii. Emergency changes to the Java application will be placed into production in coordination with JWA. Due to the nature of the Java environment, these can be done while the application is currently in-use.

#### 2. Support

- i. Onsite support is available through Contractor’s Orange County offices during normal business hours, 8:00 am – 5:00 pm, Pacific Time. This will include troubleshooting problems with the Java application and generation of required reports.
- ii. Telephone support through Contractor’s Texas office is available from 7:00 am – 3:00 pm, Pacific Time on days of normal business.
- iii. Email support is provided with a response within 1 business day.

## **II. Additional Services**

At the request of County Project Coordinator or designee, Contractor shall provide a quote for any required Additional Services, such as Software Upgrade. Contractor must obtain County Project Coordinator written approval prior providing additional work.

**Attachment B**  
**Contractor’s Pricing**

This is a firm fixed price Contract between County and Contractor for services, 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 personnel 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.

**Contract not to exceed \$274,814.60**

**B. Fees and Charges:** County will pay the following fixed fees in accordance with the provisions of this Contract.

Services Description	Year 1 7/1/20- 6/30/21	Year 2 7/1/21- 6/30/22	Year 3 7/1/22- 6/30/23	Year 4 7/1/23- 6/30/24	Year 5 7/1/24- 6/30/25	Total
Access/GANO Software Maintenance and Support Services	\$43,200.00	\$44,064.00	\$44,945.28	\$45,844.20	\$46,761.12	\$224,814.60.00
Additional Services (Not to Exceed)						\$50,000.00
<b>Total:</b>						<b>\$274,814.60</b>

**C. Payment Terms – Payment in Arrears**

Invoices are to be submitted monthly in arrears to the user agency/department to the ship-to address, unless otherwise directed in this Contract. Contractor 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.

**D. 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.

**E. 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
6. Date of order
7. Product/service description, quantity, and prices
8. Sales tax, if applicable
9. Freight/delivery charges, if applicable
10. Total

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

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

Or

Email to:

[AccountsPayable@ocair.com](mailto:AccountsPayable@ocair.com)