

NOTICE INVITING BID
For
iland Disaster-Recovery-as-a-Service and Cloud Backup
S-2022-1337BD



ORANGE COUNTY SANITATION DISTRICT
10844 ELLIS AVENUE
FOUNTAIN VALLEY, CA 92708

KEY ACTION DATES

Issued:	July 21, 2022
Questions Cut-Off:	August 1, 2022 at 2:00 P.M. PT
Bid Submittal:	August 16, 2022 at 2:00 P.M. PT
Bid Type:	Bid
Sr. Buyer:	Donald Herera

ALL BIDDERS MUST BE REGISTERED ON OC SAN'S PLANETBIDS SYSTEM IN ORDER TO SUBMIT A BID.

July 21, 2022
Specification No. S-2022-1337BD

1 NOTICE INVITING BID (NIB)

**iland Disaster-Recovery-as-a-Service and Cloud Backup
Specification No. S-2022-1337BD**

Submittal Information

Orange County Sanitation District (OC San), of Orange County, California, will receive bids until **August 16, 2022, 2:00 p.m. PT.** Bids must be received via our PlanetBids system at www.ocsan.gov by the date and time herein above set forth, at which time it will be automatically tabulated. The buyer will then examine each bid for responsiveness.

Bids must be submitted in accordance with all provisions of the specifications.

Donald Herrera
Contracts, Purchasing & Materials Management

- Serving:
- Anaheim
 - Brea
 - Buena Park
 - Cypress
 - Fountain Valley
 - Fullerton
 - Garden Grove
 - Huntington Beach
 - Irvine
 - La Habra
 - La Palma
 - Los Alamitos
 - Newport Beach
 - Orange
 - Placentia
 - Santa Ana
 - Seal Beach
 - Stanton
 - Tustin
 - Villa Park
 - County of Orange
 - Costa Mesa Sanitary District
 - Midway City Sanitary District
 - Irvine Ranch Water District
 - Yorba Linda Water District

ATTENTION BIDDERS

In order to submit a bid (NIB), bidders are required to download the official documents from OC San's website (www.ocsan.gov).

General Provisions, page 3
Contract Provisions, page 5
Safety Requirements, page 8
Exhibit A: Technical Specifications
Exhibit B: ***Bid Price Form – Use Online Form**
Exhibit C: ***Determined Insurance Requirement Form**
Exhibit D: Filing of Protests and Protest Procedures
Exhibit E: Terms & Conditions for Purchase Order
Exhibit F: Terms & Conditions for NIB
Exhibit G: ***Non-Collusion Affidavit**
Exhibit H: Intentionally Left Blank
Exhibit I: Intentionally Left Blank
Exhibit J: Intentionally Left Blank
Exhibit K: Intentionally Left Blank
Exhibit L: Intentionally Left Blank
Exhibit M: ***Financial Resources**

****These pages must be uploaded/submitted at the time of Bid submission.***

2 **GENERAL PROVISIONS**

The following general bidding provisions, contract provisions, technical specifications, all exhibits, and Terms & Conditions provided herein shall apply to all bids.

- 2.1 **Bid Cost** – Bid cost shall be submitted OR uploaded as a separate file online via our PlanetBids system at www.ocsan.gov.
- 2.2 **Bid Pricing** – All pricing and evaluative material contained in submitted bids must be valid through the Contract term. At no time shall the bids be altered.
- 2.3 **Bid Validity** - Bids submitted hereunder shall be valid for a period of not less than **180 calendar days** from the date of the bid opening.
- 2.4 **Preparation Costs** – All costs incurred in the preparation, submission and/or presentation of any bid responding to this Bid package, including, but not limited to prospective bidder’s travel and personal expenses shall be the sole responsibility of the bidder and shall not be reimbursed by OC San.

OC San shall not pay for any costs incurred for bid preparation as a result of termination of this Notice Inviting Bid or termination of the contract resulting from this bid.

- 2.5 **Disqualification of Bids** – More than one bid from any person, firm, partnership, corporation, or association under the same or different names will not be accepted and any reasonable grounds for believing that any person, firm, partnership, corporation, or association has a legal interest in more than one bid will be cause for rejecting all bids in which person, firm, partnership, corporation, or association has an interest. Apparent collusion among the Bidders will likewise be sufficient cause for rejecting any or all bids, and the participants in such collusion may be barred or disqualified from submitting future bids to OC San.

Bids in which the prices obviously are inconsistent may be rejected. The wording of the bids shall not be changed. Any additions, conditions, limitations, or provisions inserted by the Bidder will render the bid irregular and may cause its rejection. OC San reserves the right to reject any and all Bids, extend deadlines, and enter into negotiations with any Bidder.

- 2.6 **Receipt of Bids** – All Bidders must submit/upload their bid and required forms by the date and time called for in the Notice Inviting Bid, which is 2:00 p.m. PT on **August 16, 2022**.
- 2.7 **Confidential Information** – Bids submitted to OC San may contain technical, financial, or other information that, if publicly disclosed, may cause substantial injury to the Bidder’s competitive position, or may be a trade secret. To protect such information from disclosure, the Bidder **may** upload a Public Copy of their bid that redacts any purported confidential information. The file uploaded should be clearly titled “**Public Copy**”.

Redaction consists of the Bidder making the sensitive information unreadable. This can be done by blacking out the text with a marking pen or covering the text with a

blank piece of paper. By redacting or covering the text rather than deleting the text, the pagination of the original bid will be preserved.

In the event a “Public Copy” is not provided at time of Bid submission, OC San shall assume that the bidder has declared and agreed that no Confidential Information exists in its bid and make the original bid available in its entirety to Public Information Records Requests.

OC San will use its best efforts to inform the Bidder of any request for any financial records or documents marked “Trade Secret”, “Confidential” or “Proprietary” provided by the Bidder to OC San. OC San will not advise as to the nature or content of documents entitled to protection from disclosure under the California Public Records Act.

OC San will not be held liable for any damage or injury which may result from any disclosure of information provided by Bidder. In submitting a Bid, the Bidder agrees to indemnify, defend, assume, and pay for all costs incurred by OC San including, but not limited to, attorneys’ fees awarded by the court, if the Bidder asserts that information provided by Bidder is confidential information, and in reliance upon Bidder’s affidavit, OC San does not disclose material provided to OC San by the Bidder.

- 2.8 Protests** – By submitting a Bid, each Bidder hereby agrees and understands that the Bidder must comply with Exhibit D, Filing of Protests and Protest Procedures.
- 2.9 Addenda** – Any OC San changes to the requirements will be made by an addendum to this Bid (NIB). Any addendum issued pertaining to this Bid (NIB) shall be incorporated into the terms and conditions of any resulting Contract. OC San will not be bound to any modifications to or deviations from the requirements set forth in this Bid (NIB) as the result of oral instructions.
- 2.10 Clarifications** - Should a Bidder require clarification of this Bid; the Bidder shall notify OC San in writing in accordance with Section **Inquiries** below. Should it be found that the point in question is not clearly and fully set forth, OC San will issue an addendum clarifying the matter which will be sent to all parties who have downloaded the official Bid documents.
- 2.11 Inquiries** – Prospective Bidders are required to put all questions, clarifications, or comments in writing and submit online via the Q&A process for this Bid at OC San’s PlanetBids System at www.ocsan.gov no later than 2:00 p.m. PT on **August 1, 2022**.
- 2.12 Price Confirmation** – Prior to the award of the Contract, the apparent low Bidder will need to confirm that each line item is at the correct pricing. In the event there is a discrepancy between the submitted bid price and the confirmed price, in comparison to other Bids received, OC San shall have the option to either reject the Bid in its entirety or remove that item from the bid cost.

3 CONTRACT PROVISIONS

3.1 Award Recommendation – An Award Recommendation may be made to the lowest responsive and responsible Bidder for the total lump sum cost of Service. OC San reserves the right to reject any or all Bids, waive any or all irregularities and accept or reject any portion of each individual Bid. Any missing bid requirements may deem the bid as non-responsive. OC San will be the sole authority in the evaluation of the bids, responsiveness, and responsibility. OC San shall not be liable for any costs incurred in connection with the preparation and submittal of the bid due to rejection or otherwise.

OC San reserves the right to award its total requirements to the lowest responsible, responsive bidder or to apportion those requirements among several as OC San may deem to be in its best interest.

3.2 No Commitment to Award – Issuance of this Notice of Inviting Bid (NIB) and receipt of Bids shall not commit OC San to award a contract. OC San expressly reserves the right to postpone Bid opening for its own convenience, to accept or reject any and/or all Bids received in response to this Notice Inviting Bid, or to cancel all or part of this Bid.

3.3 Contract – OC San will require the awarded Vendor to enter into a Purchase Order Contract which shall incorporate all the terms, conditions, and provisions of the NIB, including the Technical Specifications and associated documents.

3.4 Non-Exclusive Contract – This Contract is a non-exclusive contract. OC San reserves the right to enter into contracts with one or more companies in order to provide supplemental services.

3.5 Assignment of Contract – This Contract will not be assigned to another Vendor without prior written authorization of OC San.

3.6 Contract Term – The goods/services provided under this Purchase Order Contract shall be completed as outlined in the Technical Specifications attached hereto as Exhibit A.

3.7 Pricing – Bid price for Island Disaster-Recovery-as-a-Service and Cloud Backup shall remain firm during the contract period.

All prices shall be F.O.B. destination. The bid shall include all cartage and taxes per gallon except California State Sales Tax. The sales tax will be paid by OC San. The sales tax shall not apply to freight charges.

3.8 Renewal of Contract – OC San may exercise the option to renew the Purchase Order for up to two one-year periods based upon the criteria set forth in these specifications if mutually acceptable contract terms can be negotiated.

3.9 California Law – The Contract with the awarded Vendor shall be governed by the laws of the State of California.

3.10 Termination – OC San reserves the right to terminate the Contract, in whole or in part, without cause, at any time, by written notice to awarded Vendor. Such notice of termination shall terminate the Contract and release OC San from any further fee, cost or claim by awarded Vendor other than for work performed to the date of termination. Upon receipt of a termination notice, awarded Vendor shall immediately discontinue all work under the Contract (unless the notice directs otherwise). OC San

shall thereafter, within thirty (30) days, pay awarded Vendor for work performed (cost and fee) to the date of termination.

3.11 Payment & Invoicing:

Monthly: OC San shall pay monthly for services rendered.

OC San shall pay, Net 30 days, upon receipt of itemized invoices, submitted in duplicate, in a form acceptable to OC San to enable audit of the charges thereon. The awarded Vendor will mail the invoices to Orange County Sanitation District, 10844 Ellis Avenue, Fountain Valley, CA 92708, Attention Accounts Payable or via email to APStaff@ocsan.gov. All cash discounts shall be taken and computed from the date of completion of tasks or acceptance of equipment, material, installation, and training, or from the date of receipt of invoice, whichever occurs last.

In an effort to provide quicker payment, OC San may offer payment by Single-Use Account (SUA).

OC San is required to withhold 7% on all payments made to non-California resident service providers for professional services, rents, leases, or royalties paid. Any funds withheld shall be remitted to the California Franchise Tax Board on a quarterly basis. Vendors may be exempt from this requirement by their exemption status and submitting the California Form 590 to OC San's Financial Management Division via regular mail or email to APStaff@ocsan.gov.

- 3.12 Pre-Contractual Expenses** – OC San shall not under any circumstances be liable for Bidder's cost of engaging in any activity prior to the effective date of award, if any, of a contract resulting from this NIB.
- 3.13 Work Hours** - Unless otherwise noted in Exhibit A, Technical Specifications, the awarded Vendor will schedule work through OC San's Project Manager. Vendor will not come on site unannounced. All work shall be scheduled Monday through Friday, between 0630 and 1600 hours. **OC San will not pay travel time.**
- 3.14 Damage to OC San's Property** – Any OC San property damaged by the awarded Vendor, any subcontractor, or by the personnel of either will be subject to repair or replacement by the awarded Vendor at no cost to OC San.
- 3.15 South Coast Air Quality Management District's (SCAQMD) Requirements** – It is the Vendor's responsibility that all equipment furnished and installed be in accordance with the latest rules and regulations of the South Coast Air Quality Management District (SCAQMD). All contract work practices, which may have associated emissions such as sandblasting, open field spray painting, or demolition of asbestos containing components or structures, shall comply with the appropriate rules and regulations of the SCAQMD.
- 3.16 Insurance** - Vendor must meet all insurance requirements as outlined in the Determined Insurance Requirement Form and Certification of Ability to Provide Coverages Specified (Exhibit C) affidavit, which must be executed and submitted within 48 hours of your bid. Certificate of Insurance must only be completed by the awarded Vendor.
- 3.17 Right to Review Services, Facilities, and Records** - OC San reserves the right to review any portion of the services performed by the awarded Vendor under this

Contract, and the Vendor agrees to cooperate to the fullest extent possible. The Vendor shall furnish to OC San such reports, statistical data, and other information pertaining to the Vendor's services as shall be reasonably required by OC San to carry out its rights and responsibilities under its Contract with its bondholders or noteholders and any other Contract relating to the development of the project(s) and in connection with the issuance of its official statements and other prospectuses with respect to the offering, sale, and issuance of its bond and other obligations.

The right of OC San to review or approve drawings, specifications, procedures, instructions, reports, test results, calculations, schedules, or other data that are developed by the Vendor shall not relieve the Vendor of any obligation set forth herein.

- 3.18 Permits, Ordinances and Regulations** - Any and all fees required by Federal, State, County, City and/or local laws, codes and/or tariffs that pertain to work performed under the terms of this Contract will be paid by the awarded Vendor. Fees demanded for obtaining certificates, including associated inspection fees, and expenses of regulatory body inspectors shall be paid by the Vendor.
- 3.19 Independent Contractor** – It is further understood that the Vendor, and his employees, in performing this contract operates as an **independent contractor** and not as an employee or agent of OC San.
- 3.20 Warranty** – Manufacturer's standard warranty shall apply unless otherwise stated in this solicitation. All manufacturer warranties will begin at date of acceptance of the equipment/vehicle.
- 3.21 Equipment Warranty** – All manufacturer warranties will begin at date of acceptance of the equipment/goods. The Bidder shall warrant all equipment/goods and parts supplied under this Agreement for a period of one (1) year from the date of completion of site work and signed acceptance by OC San's Project Manager. Bidder shall be responsible for repairing or replacing the defective part at no cost to OC San, including installation and freight. This warranty does not cover parts damaged by decomposition from chemical reaction or wear caused by abrasive materials, nor does it cover damage resulting from misuse, accident, neglect, or from improper operation, maintenance, modification, and adjustment.
- 3.22 Delivery** - The equipment/goods shall be delivered F.O.B. destination to Orange County Sanitation District, Plant No. 1, 10844 Ellis Avenue, Fountain Valley, California and/or Plant No. 2, 22212 Brookhurst St, Huntington Beach, California, within the lead time as indicated in the Bid Documents.
- 3.23 New and Unused Equipment/Goods** - Shall be new and unused and of current production year.
- 3.24 Staff Assistance** – Contractor will be provided with the name and contact information of the Project Coordinator at the start of the contract. Upon award of contract, questions regarding the scope of work, scheduling, etc. for this project should be addressed to the Project Coordinator. Also, upon award of contract, please refer all contractual matters, aside from those of a technical nature, to the buyer as referenced in the Bid documents.
- 3.25 Special Requirements for Bidding** – Bidders must be an island Authorized Re-Seller

4. SAFETY REQUIREMENTS

4.1 OC San's Contractor Safety Standards and Human Resources (HR)

Requirements - OC San requires all contractors and service providers to follow and ensure their employees and all subcontractors follow all State and Federal regulations as well as OC San requirements while working at OC San locations. If during the course of a contract, it is discovered that OC San policies, safety manuals, or contracts do not comply with State or Federal regulations, then the Contractor is required to follow the most stringent regulatory requirement at no cost to OC San. Contractor and all their employees and subcontractors shall adhere to all applicable Contractor Safety Standards and Human Resources Policies found at www.ocsan.gov "Safety and Human Resources Policy" (hover over ABOUT US), select "Safety and Human Resources Policy". Click "HR Policies" to access OC San Human Resources Policies. Click "Safety Policies" to access the Contractor Safety Standards 2020-10-12 (Rev9) and Safety Standard Operating Procedures (SOPs). Disregard OCSD Safety Standards 2018-10-25 (Rev8).

EXHIBIT A
TECHNICAL SPECIFICATIONS
For
iland Disaster-Recovery-as-a-Service and Cloud Backup

EXHIBIT A
TECHNICAL SPECIFICATONS
iland DISTASTER-RECOVERY-AS-A-SERVICE AND CLOUD BACKUP
Specification No. S-2022-1337BD

Section 1 – Networking (NSX Firewall and Bandwidth Included)				
Description	Estimated Qty	UOM	Mfgr.	Item/Model#
Public IP Addresses - 1 Usable	20	EA	iland (No Sub.)	NTWK-IP-ADR-1
iland Network Support Services - Secure Console Edge Gateway - Deployment, Onboarding and Support Services (per device)	1	EA	iland (No Sub.)	PS-SUPT-EDGE

Section 2 – Reserved Compute and Storage (BYOZL)				
Description	Estimated Qty	UOM	Mfgr.	Item/Model#
iland Secure Cloud for Zerto DR Reserved + Burst Bundle	1	EA	iland (No Sub.)	DR-Z-SC-RB-BUN
iland Secure DRaaS for Zerto Reserved CPU (per GHz)	6	EA	iland (No Sub.)	DR-Z-SC-CPU-R
iland Secure DRaaS for Zerto Reserved RAM (per GB)	24	EA	iland (No Sub.)	DR-Z-SC-RAM-R
iland Secure DRaaS for Zerto Enterprise Cloud Customer - Reserved Encrypted Accelerated Storage (per GB)	75,000	EA	iland (No Sub.)	DR-Z-SC-ECCSTO-ACC-R

Section 3 – Autopilot Managed Recovery Services Monthly and Setup				
Description	Estimated Qty	UOM	Mfgr.	Item/Model#
Setup Fee for Autopilot (Non-Recurring Charge)	1	EA	iland (No Sub.)	PS-AP-SETUP
Fully-managed delivery & support for iland Secure DRaaS. Service option includes advanced documentation, reporting, managed failover, and dedicated technical account management services	1	EA	iland (No Sub.)	PS-AP-DR

**EXHIBIT A
 TECHNICAL SPECIFICATONS
 iland DISTASTER-RECOVERY-AS-A-SERVICE AND CLOUD BACKUP
 Specification No. S-2022-1337BD**

Section 4 – Secure Cloud Backup				
Description	Estimated Qty	UOM	Mfgr.	Item/Model#
iland Secure Cloud Backup Bundle with Veeam	1	EA	iland (No Sub.)	ECS-R-S-VCCWAN
iland Secure Cloud Backup with Veeam Cloud Connect (Per GB protected)	175,000	EA	iland (No Sub.)	ECS-R-S-VCC

Section 5 – Burst Compute and Storage				
iland Secure DRaaS for Zerto Burst CPU (per GHz/hr)	0	EA	iland (No Sub.)	DR-Z-SC-CPU-B
iland Secure DRaaS for Zerto Burst RAM (per GB/hr)	0	EA	iland (No Sub.)	DR-Z-SC-RAM-B
iland Secure DRaaS for Zerto Enterprise Cloud Customer - Burst Encrypted Accelerated Storage (perGB/hr)	0	EA	iland (No Sub.)	DR-Z-SC-ECC-STO-ACC-B

- **BIDDERS MUST BE AN iland AUTHORIZED RESELLER**
- **NO SUBSTITUTES**
- **BIDDERS MUST BID ON ALL LINE ITEMS**
- **OC SAN WILL CALCULATE AND INCLUDE SALES TAX, IF APPLICABLE**
- **The term of service for all items is 36 months. OC SAN will pay monthly for the 36-month term**

EXHIBIT B
BID PRICE FORM – USE ONLINE FORM
For
iland Disaster-Recovery-as-a-Service and Cloud Backup

****Bid Price Form is available online for submittal of your bid price.***

EXHIBIT B
TECHNICAL SPECIFICATONS
iland DISTASTER-RECOVERY-AS-A-SERVICE AND CLOUD BACKUP
Specification No. S-2022-1337BD

Section 1-Networking (NSX Firewall and Bandwidth Included)						
Description	Estimated Qty	UOM	Mfgr.	Item/Model#	Cost Per Unit	Monthly Cost
Public IP Addresses - 1 Usable	20	EA	iland (No Sub.)	NTWK-IP-ADR-1		
iland Network Support Services - Secure Console Edge Gateway - Deployment, Onboarding and Support Services (per device)	1	EA	iland (No Sub.)	PS-SUPT-EDGE		
SECTION 1 TOTAL						

Section 2 – Reserved Compute and Storage (BYOZL)						
Description	Estimated Qty	UOM	Mfgr.	Item/Model#	Cost Per Unit	Monthly Cost
iland Secure Cloud for Zerto DR Reserved + Burst Bundle	1	EA	iland (No Sub.)	DR-Z-SC-RB-BUN		
iland Secure DaaS for Zerto Reserved CPU (per GHz)	6	EA	iland (No Sub.)	DR-Z-SC-CPU-R		
iland Secure DaaS for Zerto Reserved RAM (per GB)	24	EA	iland (No Sub.)	DR-Z-SC-RAM-R		
iland Secure DaaS for Zerto Enterprise Cloud Customer – Reserved Encrypted Accelerated Storage (per GB)	75,000	EA	iland (No Sub.)	DR-Z-SC-ECCSTO-ACC-R		
SECTION 2 TOTAL						

Section 3 – Autopilot Managed Recovery Services Monthly and Setup						
Description	Estimated Qty	UOM	Mfgr.	Item/Model#	Cost Per Unit	Monthly Cost
Fully-managed delivery & support for iland Secure DRaaS. Service option includes advanced documentation, reporting, managed failover, and dedicated technical account management services	1	EA	iland (No Sub.)	PS-AP-DR		
SECTION 3 TOTAL						

EXHIBIT B
TECHNICAL SPECIFICATONS
iland DISTASTER-RECOVERY-AS-A-SERVICE AND CLOUD BACKUP
Specification No. S-2022-1337BD

Section 4 - Secure Cloud Backup						
Description	Estimated Qty	UOM	Mfgr.	Item/Model#	Cost Per Unit	Monthly Cost
iland Secure Cloud Backup Bundle with Veeam	1	EA	iland (No Sub.)	ECS-R-S-VCCWAN		
iland Secure Cloud Backup with Veeam Cloud Connect (Per GB protected)	175,000	EA	iland (No Sub.)	ECS-R-S-VCC		
SECTION 4 TOTAL						

Total Costs	
Description	Monthly Cost
Total Fixed Monthly Cost (Sections 1- 4) **	

****Note: this figure must be entered in PlanetBids Line Item Bid Form****

- **BIDDERS MUST BE AN iland AUTHORIZED RESELLER**
- **NO SUBSTITUTES**
- **OC SAN WILL PAY MONTHLY; 36 MONTH TERM**
- **BIDDERS MUST BID ON ALL LINE ITEMS**
- **OC SAN WILL CALCULATE AND INCLUDE SALES TAX, IF APPLICABLE**
- **The term of service for all items is 36 months. OC SAN will pay monthly for the 36-month term**

EXHIBIT C
DETERMINED INSURANCE REQUIREMENT FORM
For
iland Disaster-Recovery-as-a-Service and Cloud Backup

****All Bidders must upload the Determined Insurance Requirement Form at the time of Bid submission.***

EXHIBIT C
DETERMINED INSURANCE REQUIREMENT FORM (DIRF)
iland Disaster-Recovery-as-a-Service and Cloud Backup
SPECIFICATION NO. S-2022-1337BD

Required Coverages

1. General Liability (GL)

- Limit \$ **1** Million – Each Occurrence GL & Products/Completed Operations
- Limit \$ **2** Million – General Aggregate, including Products/Completed Operations, unless aggregate applies separately to this project (via use of ISO CG 25 03 or 25 04), then aggregate limit may be equivalent to the per occurrence limit

2. G/L Project Specific Insurance Required No Yes

3. Automobile Liability

- Limit \$ **0.5** Million – Combined Single Limit

4. Workers' Compensation

- Statutory Limits PLUS
- Limit \$ **1** Million – Employer's Liability

Additional Coverages

<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	Builders Risk (all/special risk)	Limit \$ X Million
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	Earthquake	Limit \$ X Million
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	Flood	Limit \$ X Million
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	Pollution Liability	Limit \$ X Million
<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	Professional Liability (E&O)	Limit \$ 2 Million
<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	Cyber Liability	Limit \$ 4 Million

Additional Wording or Conditions to be included in contract:

Standard wording for OC San being named as an Additional Insured, Separation of Insureds/Cross Liability, and SIR/Deductible, if not already included in contract. Coverage to be Primary and Non-Contributory. Waiver of Subrogation on WC & GL. Professional Liability (if applicable) to remain in force for minimum 5 years after project completion via either the current policy or through Tail coverage.

I, _____, the (_____) of _____, have read
(Print Name) (Authorized Representative) (Name of Company)

and understood that our firm, as a bidder/proposer on this project, is able to provide and maintain the coverage as specified above. If the awarded bidder fails to provide said coverage, this shall be sufficient cause for contract termination. Failure to maintain said coverage shall result in the termination of the awarded bidder's contract.

(Signature) Date: _____

INSURANCE REQUIREMENTS

A. General Liability

The Vendor shall maintain during the life of this Agreement, including the period of warranty, Commercial General Liability Insurance written on an occurrence basis providing the minimum limits of liability listed on the DIRF for the specified job. Said insurance shall include coverage for the following hazards: Premises-Operations, blanket contractual liability (for this Agreement), products liability/completed operations (including any product manufactured or assembled), broad form property damage, blanket contractual liability, independent contractors liability, personal and advertising injury, mobile equipment, owners and contractors protective liability, and cross liability and severability of interest clauses. A statement on an insurance certificate will not be accepted in lieu of the actual additional insured endorsement(s). If requested by SANITATION DISTRICT and applicable, XCU coverage (Explosion, Collapse and Underground) and Riggers/On Hook Liability must be included in the General Liability policy and coverage must be reflected on the submitted Certificate of Insurance.

B. Umbrella Excess Liability

The minimum limits of general liability and Automotive Liability Insurance required, as set forth herein, shall be provided for through either a single policy of primary insurance or a combination of policies of primary and umbrella excess coverage. Umbrella excess liability coverage shall be issued with limits of liability which, when combined with the primary insurance, will equal the minimum limits for general liability and automotive liability.

C. Automotive/Vehicle liability Insurance

The Vendor shall maintain a policy of Automotive Liability Insurance on a comprehensive form covering all owned, non-owned, and hired automobiles, trucks, and other vehicles providing the minimum limits of liability coverage listed on the DIRF for the specified job. A statement on an insurance certificate will not be accepted in lieu of the actual additional insured endorsement.

D. Drone Liability Insurance

If a drone will be used, drone liability insurance must be maintained by Vendor in the amount of one million dollars (\$1,000,000) in form acceptable to the SANITATION DISTRICT.

E. Worker's Compensation Insurance

The Vendor shall provide such Workers' Compensation Insurance as required by the Labor Code of the State of California in the amount of the statutory limit, including Employer's Liability Insurance with a minimum limit as that shown on the DIRF for the specified job. Such Worker's Compensation Insurance shall be endorsed to provide for a waiver of subrogation in favor of the SANITATION DISTRICT. A statement on an insurance certificate will not be accepted in lieu of the actual endorsements unless the insurance carrier is State of California Insurance Fund and the identifier "SCIF" and endorsement numbers 2570 and 2065 are referenced on the certificate of insurance. If an exposure to Jones Act liability may exist, the insurance required herein shall include coverage for Jones Act claims.

F. Errors and Omissions/Professional Liability

Vendor shall maintain in full force and effect, throughout the term of this Agreement, standard industry form professional negligence errors and omissions insurance coverage in the amount of not less than the amount listed on the DIRF for the specified job with limits in accordance with the provisions of this Paragraph. If the policy of insurance is written on a "claims made" basis, said policy shall be continued in full force and effect at all times during the term of this Agreement, and for a period of five (5) years from the date of the completion of the services hereunder.

In the event of termination of said policy during this period, Vendor shall obtain continuing insurance coverage for the prior acts or omissions of Vendor during the course of performing services under the term of this Agreement. Said

coverage shall be evidenced by either a new policy evidencing no gap in coverage or by separate extended “tail” coverage with the present or new carrier.

In the event the present policy of insurance is written on an “occurrence” basis, said policy shall be continued in full force and effect during the term of this Agreement or until completion of the services provided for in this Agreement, whichever is later. In the event of termination of said policy during this period, new coverage shall be obtained for the required period to insure for the prior acts of Vendor during the course of performing services under the term of this Agreement.

Vendor shall provide to the SANITATION DISTRICT a certificate of insurance in a form acceptable to the SANITATION DISTRICT indicating the deductible or self-retention amounts and the expiration date of said policy, and shall provide renewal certificates not less than ten (10) days prior to the expiration of each policy term.

G. Cyber Liability

If noted on the DIRF, Vendor shall maintain in full force and effect, throughout the term of this Agreement, Cyber Liability insurance coverage in the amount of not less than the amount listed on the DIRF, of a type that is appropriate for the product or service offered.

H. Proof of Coverage

The Vendor shall furnish the SANITATION DISTRICT with original certificates and amendatory endorsements effecting coverage. Said policies and endorsements shall conform to the requirements herein stated. All certificates and endorsements are to be received and approved by the SANITATION DISTRICT before work commences. The SANITATION DISTRICT reserves the right to require complete, certified copies of all required insurance policies, including endorsements, effecting the coverage required, at any time. The following are approved forms that must be submitted as proof of coverage:

- Certificate of Insurance ACORD Form 25 (5/2010) or equivalent.
- Additional Insurance (General Liability) (ISO Form) CG2010 11 85 or
The combination of (ISO Forms)
CG 2010 10 01 and CG 2037 10 01
- Additional Insured (Auto Liability) All other Additional Insured endorsements must be submitted for approval by the SANITATION DISTRICT, and the SANITATION DISTRICT may reject alternatives that provide different or less coverage to the SANITATION DISTRICT.
Submit endorsement provided by carrier for the SANITATION DISTRICT approval.
- Waiver of Subrogation State Compensation Insurance Fund Endorsement No. 2570 or equivalent.
- Cancellation Notice State Compensation Insurance Fund Endorsement No. 2065 or equivalent.

I. Cancellation Notice

Each insurance policy required herein shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days’ prior written notice. The Cancellation Section of ACORD Form 25 (5/2010) shall state the required thirty (30) days’ written notification. The policy shall not terminate, nor shall it be cancelled, nor the coverage reduced until thirty (30) days after written notice is given to the SANITATION DISTRICT except for nonpayment of premium, which shall require not less than ten (10) days written notice to the SANITATION DISTRICT. Should there be changes in coverage or an increase in deductible or SIR amounts, the Vendor and its insurance broker/agent shall send to the SANITATION DISTRICT a certified letter which includes a description of the changes in coverage and/or any increase in deductible or SIR amounts. The certified letter must be sent to the attention of Risk Management, and

shall be received by the SANITATION DISTRICT not less than thirty (30) days prior to the effective date of the change(s) if the change would reduce coverage or increase deductibles or SIR amounts or otherwise reduce or limit the scope of insurance coverage provided to the SANITATION DISTRICT.

J. Primary Insurance

All liability policies shall contain a Primary and Non-Contributory Clause. Any other insurance maintained by the SANITATION DISTRICT shall be excess and not contributing with the insurance provided by Vendor.

K. Separation of Insured

All liability policies shall contain a "Separation of Insureds" clause.

L. Non-Limiting (if applicable)

Nothing in this document shall be construed as limiting in any way, nor shall it limit the indemnification provision contained in this Agreement, or the extent to which Vendor may be held responsible for payment of damages to persons or property.

M. Deductibles and Self-Insured Retentions

Any deductible and/or self-insured retention must be declared to the SANITATION DISTRICT on the Certificate of Insurance. All deductibles and/or self-insured retentions require approval by the SANITATION DISTRICT. At the option of the SANITATION DISTRICT, either: the insurer shall reduce or eliminate such deductible or self-insured retention as respects the SANITATION DISTRICT; or the Vendor shall provide a financial guarantee satisfactory to the SANITATION DISTRICT guaranteeing payment of losses and related investigations, claim administration and defense expenses.

N. Defense Costs

Liability policies shall have a provision that defense costs for all insureds and additional insureds are paid in addition to and do not deplete any policy limits.

O. Subconsultants

The Vendor shall be responsible to establish insurance requirements for any Subconsultant hired by the Vendor. The insurance shall be in amounts and types reasonably sufficient to deal with the risk of loss involving the Subconsultant's operations and work.

P. Limits Are Minimums

If the Vendor maintains higher limits than any minimums shown above, then SANITATION DISTRICT requires and shall be entitled to coverage for the higher limits maintained by Vendor.

EXHIBIT D

FILING OF PROTESTS AND PROTEST PROCEDURES

For

iland Disaster-Recovery-as-a-Service and Cloud Backup

FILING OF PROTESTS AND PROTEST PROCEDURES

This Section sets forth the procedure and remedies concerning submittal and consideration of all protests received by OC San with respect to this Notice Inviting Bids (NIB). All communications to OC San relating to a Protest shall be in writing and submitted electronically to Purchasing@ocsan.gov. By submitting a Bid, each Bidder hereby agrees and understands that the Bidder must comply with these protest procedures and exhaust all administrative remedies set forth herein prior to the initiation of any type of related legal action. Upon the express written agreement of the parties, this protest procedure can also be used to resolve issues surrounding OC San's determination of a Bidder as not responsible. This procedure is not intended to address issues concerning Bid responsiveness. The following terms as used in this Section shall have the following meanings:

- **Protest** shall mean a written objection by an Interested Party to
 - (i) the requirements or specifications contained in the NIB (solicitation protest),
or
 - (ii) a proposed award recommendation (award protest).
- **Days** shall mean calendar days, unless otherwise specified.
- **Interested Party** shall mean (1) on solicitation, all Bidders or Prospective Bidders (2) on award, the unsuccessful Bidder with a direct economic interest in the outcome of their protest.
- **Solicitation Protest Statement** shall mean a written objection during the solicitation phase of the procurement, which shall be submitted prior to the bid due date as specified herein.
- **Award Protest Statement** shall mean a written objection to the award recommendation prior to final action to award the contract, which shall be submitted after receipt of Bids, but before award of a contract, as specified herein.
- **File or Submit** shall refer to the date of receipt by OC San.

Specific procedures and requirements are as follows:

A. Solicitation Phase Protest

The purpose of this NIB is to obtain competitive Bids from interested Bidders. Any Interested Party who has reason to believe that a free and open competition has not taken place or that a particular specification or requirement is impractical, unduly restrictive, or ambiguous may advise OC San of its concerns by submitting a detailed Solicitation Protest Statement in accordance with the requirements set forth below in this Section A.

1. Contents and Requirements

A Solicitation Protest Statement must be submitted via email to Purchasing@ocsan.gov and addressed to OC San's Buyer identified in the NIB by 4:00 p.m. (Pacific Time zone) no less than seven (7) days prior to the Bid due date, and must contain all of the following to be considered:

- a. The name, address, and telephone number of the protestor,
- b. The title, bid description, and number of the specification or NIB being protested,
- c. A detailed statement setting forth the grounds for protest, which shall include, in sufficient detail to establish the merits of the protest, all the factual and legal documentation in support of the protest, and
- d. The desired resolution to the protest.

If the submitted Solicitation Protest Statement does not comply with the requirements set forth herein, then it will not be considered for evaluation and will be returned to the protestor. The Solicitation Protest Statement shall not be amended after filing, and OC San will not consider any unsolicited information provided after filing. Any argument not raised in the Solicitation Protest Statement shall be deemed waived, including as a part of the award protest. Failure to file the Solicitation Protest Statement within the time specified herein shall constitute a waiver of the right to protest the specifications or requirements of the NIB.

Solicitation Protest Statements are public documents. OC San will provide copies of the Solicitation Protest Statements upon written request.

2. Evaluation and Determination

No hearing will be held on the protest. OC San's Contracts, Purchasing and Materials Management Division Manager (Purchasing Manager), or designee, will review all material submitted, conduct an investigation of the facts, and may, but need not, request other Bidders to submit statements or arguments regarding the protest. OC San's Purchasing Manager, or designee, may in his/her sole discretion, discuss the protest with the protestor.

OC San's Purchasing Manager, or designee, shall issue a final written decision regarding any solicitation protest to each Bidder prior to the Bid submittal. The written decision will cite any actions that will or will not be taken in response to the Solicitation Protest Statement. The decision of the Purchasing Manager concerning the Solicitation Protest Statement shall be final, and there shall be no further administrative recourse.

B. Award Protest

1. Award Recommendation

Following opening and evaluation of the Bids, OC San will issue an award recommendation to each Bidder through any one of the following methods:

- a. Delivery via overnight carrier, or
- b. Posting the Award Recommendation on OC San's online bidding system as identified within the NIB.

On the date OC San issues an award recommendation, OC San shall make copies of all submitted Bids available upon request. Requests shall be made to Purchasing@ocsan.gov and shall contain the following in the subject line of the e-mail: "[Identify: Project/NIB name and Specification No.] – Request for Copies."

2. Contents and Requirements

Any Interested Party, who has reason to believe that a free and open competition has not taken place in the Bid submittal, evaluation of the Bids, and award recommendation, is permitted to protest OC San's award recommendation by submitting an Award Protest Statement to OC San identified in the NIB, via electronic mail (e-mail) at Purchasing@ocsan.gov no later than 4:00 p.m. (Pacific Time zone) on the seventh (7th) day after OC San issues the Award Recommendation or some similar announcement. OC San will not accept an Award Protest Statement, or similar document, prior to the date OC San issues its Award Recommendation to the Bidders. Award Protest Statements, or similar document, received prior to the issuance of OC San's Award Recommendation will be considered premature and will be immediately returned to the party filing the Protest without consideration.

The Award Protest Statement must be submitted timely and contain all of the following to be considered:

- a. The name, address, and telephone number of the protestor,
- b. The title and number of the specification being protested,
- c. The OC San action or recommendation that is being protested,
- d. The name(s) of all affected parties,
- e. A detailed statement setting forth the grounds, legal authority, and facts in support of the protest, including all documents and evidence,
- f. Each and every ground on which the protestor bases the protest by specific references to parts of the NIB, which shall be attached as exhibits,
- g. Each and every reason that all other affected parties who may be in line for the purchase or contract award should not be awarded the purchase or contract,
- h. A clear statement of the relief requested and the statutory or case law basis for such relief, and
- i. Signed and sworn by a principal of the protestor.

If the submitted Award Protest Statement does not comply with the requirements set forth herein, then it will not be considered for evaluation, and will be returned to the protestor. The Award Protest Statement shall not be amended after filing, and OC San will not consider any unsolicited information provided after filing. Any argument not raised in the Award Protest Statement shall be deemed waived.

Award Protest Statements are public documents. OC San will notify the Interested Parties when a protest has been submitted and will provide copies of the Protest Statements to the Interested Parties as soon as is reasonably practical.

3. Evaluation and Determination

The Interested Parties may file responsive statements in support of or in opposition to the protest no later than 4:00 p.m. on the third business day after the receipt of the Award Protest Statement from OC San. The Purchasing Manager, or designee, shall review the facts and all submittals relative to the Award Protest Statement and shall issue a written decision setting forth the basis

for such decision. The written decision will be issued to the protestor and to all affected parties.

Unless otherwise required by law, no evidentiary hearing or oral argument shall be provided, except in the sole discretion of the Purchasing Manager, or designee.

In the event a hearing is conducted, the Purchasing Manager, or designee, shall issue written notice to the protestor and Interested Parties identifying the date and time for the hearing, along with rules concerning the hearing.

4. Appeal Process

In the event of an adverse decision by the Purchasing Manager, or designee, the protestor may submit a written appeal to the Director of Administrative Services and the Director of the Department requesting the Procurement, and immediately send copies to all Interested Parties. The appeal must be submitted via email to Purchasing@ocsan.gov no later than 4:00 p.m. (Pacific Time zone) within seven (7) days after the date the Purchasing Manager, or designee, rendered a decision. The protestor shall only submit: (1) information and documentation previously submitted to the Purchasing Manager, or designee; (2) a copy of the final decision of the Purchasing Manager, or designee; and (3) a brief statement setting forth all factual and legal bases for the appeal. The Director of Administrative Services, together with the Director of the Department requesting the Procurement shall evaluate each Award Protest Statement and determine whether to uphold or reject the Purchasing Manager's determination. For Contracts to be awarded by District Staff, the decision of the Director of Finance and the Director of the Department requesting the Procurement shall be final. For Contracts to be awarded by the Board of Directors, the Board may consider an Award Protest Statement in connection with its consideration of the Contract.

C. Delay in Award

Execution of any proposed contract shall be delayed pending the resolution of the protest unless one or more of the following conditions is present:

1. The items or services being procured are urgently required,
2. Delivery or performance will be unduly delayed by failure to make award promptly, or
3. Failure to make prompt award will otherwise cause undue harm to OC San.

D. No Limitation on Remedies

Nothing contained herein shall be construed to act as a limitation on OC San's choice of remedies or confer any right upon any Interested Party to a remedy.

E. Basis for Choice of Remedy

In determining the appropriate remedy, OC San shall consider all the circumstances surrounding the NIB and/or award, including, but not limited to:

1. Seriousness of any deficiency found to exist in the contracting process,
2. The effect of the action on the competitive process,
3. Any urgency surrounding the contract requirement, and

4. The effect that implementing the remedy will have on OC San.

F. Remedies

If OC San determines that the award or proposed award was not made in accordance with applicable statutes, regulations, policies and/or procedure, OC San, in its sole discretion, may grant any of the following remedies or any other remedy it deems appropriate:

1. Prior to award, OC San may issue a new solicitation, make a new selection/award recommendation, or award a contract consistent with applicable statutes, regulations, policies, and procedures,
2. In its sole discretion, take no further action, or
3. Take any other action that is permitted by law to promote compliance.

G. Legal Action

Any legal action to set aside the final determination of OC San must be filed no later than the 90th day following the date of the final determination consistent with Code of Civil Procedure section 1094.6. In the event a protestor files a legal action related to the protest, if OC San prevails, OC San reserves the right to seek reimbursement of its costs, including attorneys' fees, to the fullest extent permitted by law.

EXHIBIT E
TERMS & CONDITIONS FOR PURCHASE ORDER
For
iland Disaster-Recovery-as-a-Service and Cloud Backup

ORANGE COUNTY SANITATION DISTRICT (OC San) - PURCHASE ORDER TERMS AND CONDITIONS

1. CONTRACT TERMS.

1.1 Forms/Acceptance. Except as otherwise provided in subsection 1.2 below, the complete agreement the ("Agreement") between OC San and Contractor (collectively, the "Parties") consists of, in order of precedence: (2) OC San's solicitation/request for bids/proposals, together with plans and specifications (collectively, the "NIB/RFP"), if any, (3) the purchase order signed by OC San's Purchasing Manager (the "Purchase Order"), (4) these terms and conditions (the "Terms and Conditions"), and (5) Contractor's bid/proposal, if any, as though fully set forth herein. To the extent of any inconsistency between the provisions of any of the foregoing, the order of precedence shall dictate the result. Except for any section or subsection OC San has marked "WAIVED", each provision of the Terms and Conditions applies to the Agreement. Contractor's shipment of goods/performance of services shall constitute acceptance of these Terms and Conditions.

1.2 Additional Terms. Any other terms, conditions, or limitations suggested by Contractor or incorporated in Contractor's invoice, or other correspondence, shall not form a part of the Agreement unless expressly accepted in writing by OC San's Purchasing Manager.

2. PAYMENT TERMS.

2.1 Standard: Net 30 days unless otherwise stated on the Purchase Order.

2.2 Price. Contractor shall not charge for transportation, packing, containers, storage, or any similar charge unless pre-approved by OC San. OC San is exempt from the payment of federal excise tax, which shall be excluded from the purchase price. The total purchase price quoted in the Purchase Order includes applicable California, county and municipal sales and use taxes.

2.3 Invoices. Contractor shall submit invoices to APstaff@ocsd.com or in duplicate to the Orange County Sanitation District, Attn: Accounts Payable, 10844 Ellis Ave., Fountain Valley, CA 92708. Each invoice must show OC San's purchase order number, description of goods and services, unit price, quantities billed, extended totals, and shall cover only goods delivered/services performed. OC San shall pay for goods/services after receipt of a conforming invoice and confirmation by OC San of its accuracy. In connection with any cash discount specified in the Agreement: (a) time will be computed from the date OC San accepts the goods/services, or the date OC San receives a conforming invoice, whichever date is later, and (b) payment shall be deemed to have been made on the date of mailing of OC San's check.

2.4 Blanket Invoices. Contractor shall submit invoices for Blanket Orders as outlined in paragraph 2.3 as well as add the following information: (a) the Blanket Order Number; (b) the Last Name of the authorized OC San employee placing the order; (c) the Date the order is placed on; and (d) a unique request tracking number for each order placed.

3. DELIVERY/PERFORMANCE, INSPECTION, AND RISK OF LOSS.

3.1 Delivery/Performance. Contractor shall deliver the goods/perform the services according to the schedule in the Agreement, with numbers of days meaning calendar days, unless otherwise stated, and to the locations specified by OC San. All goods shall be delivered F.O.B. destination in one shipment and no partial deliveries shall be accepted. All pre-approved transportation and delivery charges must be prepaid in full to destination, and the prepaid freight bill must be submitted to OC San with the invoice. Goods shall not be accepted if shipped C.O.D. Subject to OC San's right of rejection, title to goods shall pass to OC San at the F.O.B. point per the Agreement, and title to materials shall pass to OC San when the materials are affixed to OC San property or paid for by OC San.

3.2 Inspection. OC San shall have the right to inspect the goods/services within a reasonable amount of time prior to acceptance and payment. If, on inspection, OC San determines that the goods or services do not meet the Agreement requirements, OC San may reject nonconforming goods and services. In addition, OC San shall have the right to keep, at no expense to OC San, a small sample of the goods tendered, for evidence of kind/quality. Contractor shall pay for the cost of inspection and charges for delivery to return nonconforming goods (at Contractor's risk and expense) which do not meet Agreement requirements. If services do not conform to the Agreement requirements, OC San shall have the right to withhold payment or enforce any other remedy provided for in the Agreement until the services conform to the Agreement requirements.

3.3 Risk of Loss. Risk of loss of the goods/materials passes to OC San only after acceptance.

4. PERFORMANCE OF SERVICES/CONTRACTOR COVENANTS.

4.1 Personnel/Compliance with Law. All services shall be performed: (a) by competent and qualified personnel, who shall be paid at least the prevailing rate of per diem wages, as determined by the Director of the Department of Industrial Relations, applicable to the work to be done for the locality in which the work is to be performed, unless exempted, and (b) in conformance with applicable federal, state and local laws Contractor certifies that it is registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 and shall obtain and maintain valid, permits, licenses, certificates, authorizations and other documents as required by federal, state or local laws or regulations. The persons performing services under this Agreement on behalf of Contractor, if any, shall at all times be under Contractor's exclusive direction and control. Neither OC San nor any of its officers, employees, or agents shall have control over the conduct of Contractor or any of its officers, employees, or agents, except as set forth in the Agreement.

4.2 Standard Provisions/Specifications. If so provided in the NIB/RFP, the services performed under the Agreement are subject to, and must conform with, the General Provisions herein, as adopted and amended by OC San from time to time.

4.3 Status of Contractor. The legal relationship between the parties hereto is that of an independent contractor, and nothing herein

ORANGE COUNTY SANITATION DISTRICT (OC San) - PURCHASE ORDER TERMS AND CONDITIONS

shall be deemed to make Contractor an OC San employee. During the performance of this Agreement, Contractor and its officers, employees, and agents shall act in an independent capacity and shall not act as OC San's officers, employees, or agents.

4.4 Taxes. Contractor shall pay and/or withhold all applicable sales, use, income, employment, or other taxes arising out of the performance of the Agreement. Contractor shall pay all wages, salaries, and other amounts due its employees, agents or independent contractors in connection with this Agreement and shall be responsible for all reports and obligations respecting them, including but not limited to unemployment compensation, workers' compensation, and other similar matters.

4.5 Records. Contractor shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under the Agreement and shall make such documents and records available to OC San for inspection at any reasonable time. Contractor shall maintain such records for a period of 3 years following completion of the work under the Agreement. All written product, data, findings, or information in any form prepared by, assembled by, or provided to Contractor under this Agreement are the property of OC San, including all copyrights or intellectual property rights inherent in them or their preparation. To the extent permitted by law, it is the intent of the Parties that written products to be produced, if any, by Contractor, under this Agreement are conclusively deemed "works made for hire" within the meaning of the United States Copyright Act, and that OC San will be the sole copyright owner of the deliverables, data, findings, or information, and of all aspects, elements and components of them in which copyright can subsist, and of all rights in connection with such copyright. All written products prepared in connection with this Agreement and any and all intellectual property rights arising from their creation, including, but not limited to, all copyrights and other proprietary rights, shall be and remain the property of OC San without restriction or limitation upon their use by OC San. OC San's ownership entitlement arises upon payment or any partial payment for work performed and includes ownership of any and all work product completed prior to that payment.

5. WARRANTIES.

5.1 Warranty of Title. Contractor warrants that it has title to the goods, and to the materials and equipment used in the performance of services under the Agreement, and that none of the foregoing is subject to any security interest, lien, or other encumbrance.

5.2 Warranties for Goods/Services. Contractor warrants that: (a) the goods, and any materials and equipment supplied, will: (i) be new unless otherwise specified, (ii) conform to (A) OC San's plans, specifications, and/or descriptions, and (B) Contractor's representations and/or samples, and (iii) be of first-class material and workmanship and free from defect; and (b) all services will be: (i) of good quality, free from defect, and in conformance with the Agreement, and (ii) performed to the standard of care customary in Contractor's trade or profession. Contractor shall transfer to OC San all of Contractor's rights to and interest in the manufacturer's warranty or guarantee for each item delivered or installed, if applicable. All manufacturers' warranties and guarantees shall be in addition to Contractor's warranty under the Agreement. In the event of a breach of warranty, Contractor shall repair or replace the goods, materials and equipment and remedy any defects in workmanship, without charge and within 5 business days after receipt of OC San's request. If Contractor does not do so within 5 business days, OC San shall be entitled to a refund of the purchase price. In addition, OC San shall have the right to remedy any defects itself and to collect the cost of the same from Contractor. OC San's inspection, acceptance, and/or payment shall not relieve Contractor of liability under this warranty, which shall be effective for 1 year after the date of OC San's final payment. The remedies in this subsection are in addition to those described in Section 6, below.

6. OC San'S REMEDIES. If Contractor defaults under the Agreement, OC San may pursue any and all remedies provided under the Agreement, the California Commercial Code, and/or any other applicable provision of law, including, but not limited to, any one or more of the following remedies: (a) in the event of untimely or nonconforming delivery/performance of goods/ services, OC San may purchase substitute goods/services from other sources and recover from Contractor the difference between the Agreement prices for such goods/services and the actual cost, to OC San, of the substitute goods/services; OC San may deduct such difference from any moneys due Contractor under the Agreement, or collect such difference (i) from any applicable surety, or (ii) in any other manner permitted by law; (b) OC San may terminate the Agreement for breach; and (c) OC San shall be entitled to recover all damages, including consequential and/or incidental damages.

7. CONTRACTOR'S REMEDIES. If OC San defaults under the Agreement, Contractor may file a claim with OC San, in accordance with applicable provisions of law.

8. TERMINATION FOR CONVENIENCE AND DEFAULT

8.1. Termination for Convenience. OC San, in its sole and absolute discretion, may terminate the Agreement, in whole or in part, at any time, without cause, at any time by written notice to Contractor. In such case, Contractor shall immediately discontinue all work (unless the notice directs otherwise). Contractor shall be entitled to payment only for those goods, materials and equipment delivered and services performed that OC San has accepted.

8.2. Termination for Default. OC San may terminate the Agreement based on the Contractor's default. If Contractor breaches any provision of this Agreement and if such breach is not cured within fifteen (15) days after receiving written notice from OC San specifying such breach in reasonable detail, OC San shall have the right to terminate the Agreement by giving written notice to Contractor at which time termination shall be effective immediately. Upon termination for default, OC San may exclude Contractor from all OC San sites; take possession of all materials, equipment, tools, and equipment and machinery owned by the Contractor and remaining on OC San sites; accept assignment of any subcontracts that OC San desires to keep and complete the work by whatever

ORANGE COUNTY SANITATION DISTRICT (OC San) - PURCHASE ORDER TERMS AND CONDITIONS

reasonable method it deems expedient. In the event the Agreement is terminated for default, OC San is entitled to recover excess re-procurement costs and delay damages, among other remedies.

9. INDEMNIFICATION/DUTY TO DEFEND. Contractor shall assume all responsibility for damages to property and/or injuries to persons, including accidental death, which may arise out of or be caused by Contractor's services under this Agreement, or by its subcontractor or by anyone directly or indirectly employed by Contractor, and whether such damage or injury shall accrue or be discovered before or after the termination of the Agreement. Except as to the sole active negligence or willful misconduct of OC San, Contractor shall indemnify, protect, defend and hold harmless OC San, its elected and appointed officials, officers, agents and employees, from and against any and all claims, liabilities, damages or expenses of any nature, including attorneys' fees: (a) for injury to or death of any person or damage to property or interference with the use of property, arising out of or in connection with Contractor's performance under the Agreement, and/or (b) on account of use of any copyrighted or uncopyrighted material, composition, or process, or any patented or unpatented invention, article or appliance, furnished or used under the Agreement, and/or (c) on account of any goods and services provided under this Agreement. This indemnification provision shall apply to any acts or omissions, willful misconduct, or negligent misconduct, whether active or passive, on the part of Contractor or anyone employed by or working under Contractor. To the maximum extent permitted by law, Contractor's duty to defend shall apply whether or not such claims, allegations, lawsuits, or proceedings have merit or are meritless, or which involve claims or allegations that any of the parties to be defended were actively, passively, or concurrently negligent, or which otherwise assert that the parties to be defended are responsible, in whole or in part, for any loss, damage, or injury. Contractor agrees to provide this defense immediately upon written notice from OC San, and with well qualified, adequately insured, and experienced legal counsel acceptable to OC San. This section shall survive the expiration or early termination of the Agreement.

10. GENERAL PROVISIONS.

10.1 Notice. Notice shall be given by certified mail, return receipt requested, facsimile or other electronic telecommunications transmission with a date and time receipt acknowledgment, or personal delivery. Notice shall be effective on receipt.

10.2 Nondiscrimination. Contractor shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, pregnancy, disability, or other prohibited basis. All nondiscrimination rules or regulations required by law to be included in the Agreement are incorporated by this reference.

10.3 Force Majeure. Neither party shall be liable for any delay or failure in the performance of the Agreement to the extent the delay or failure is caused by labor disputes, strikes, war, riots, insurrection, civil commotion, fire, flood, accident, storm or any Act of God.

10.4 Assignment. Contractor may neither assign a right under or an interest in the Agreement, nor delegate or subcontract an obligation under the Agreement, without the written consent of OC San's Purchasing Manager. Any attempted assignment, delegation or subcontract, without such written consent, shall be void.

10.5 No Waiver or Excuse. No provision of the Agreement shall be deemed waived and no breach shall be deemed excused, unless such waiver or excuse is in writing and signed by the party making the waiver or excusing the breach. No such waiver or excuse shall constitute a waiver of another provision, or an excuse of another breach.

10.6 Applicable Law/Venue/Attorneys' Fees. The Agreement shall be governed by, and construed in accordance with, the laws of the State of California. Any action or proceeding for dispute resolution arising out of the Agreement shall be brought and tried in the County of Orange, State of California, and the prevailing party shall be entitled to reasonable attorneys' fees, costs and expenses.

10.7 Construction and Severability. To the fullest extent allowed by law, the provisions of the Agreement shall be construed in a manner that avoids any violation of statute, ordinance, regulation, or law. If a court of competent jurisdiction holds any provision of the Agreement to be void, the remaining provisions shall continue in full force and effect.

11. INSURANCE AND BOND REQUIREMENTS. Before beginning work under the Agreement, Contractor shall provide OC San with:

11.1 Such bonds, insurance and certificates of insurance, as may be required by OC San in the NIB/RFP; and

11.2 If not described in 11.1, (1) Certificates of commercial general liability, automobile liability, and workers compensation insurance, all to the satisfaction of OC San, as well as pollution liability coverage and professional liability coverage, if requested by OC San to the satisfaction of OC San; (2) Proof of Products Liability Insurance, which shall be maintained during the life of the Agreement and thereafter as required by OC San, which insurance shall be in form and with limits to the satisfaction of OC San (3) Insurance policy endorsements showing additional insured coverage for OC San (for general and automobile liability), as well as waivers of subrogation in favor of OC San with regard to all policies described above; (4) Labor and materials bonds, satisfactory to OC San, for 100% of the Agreement price and any additions added per change order. All such insurance and bonds must remain in effect throughout the performance of the Agreement. In addition, all bonds must be issued by a qualified corporate surety licensed to do business in the State of California and all insurance carriers must have an A- (A minus), or better, policy holder's rating and a financial rating of Class VIII, or better, in accordance with the most current AM Best rating. All sureties and insurers must have agents for service of process in California.

ORANGE COUNTY SANITATION DISTRICT (OC San) - PURCHASE ORDER TERMS AND CONDITIONS

12. SAFETY AND HUMAN RESOURCES POLICIES: Contractors who perform work for OC San must comply with OC San Safety Standards. A digital version of OC San’s Safety Standards is available on the OC San website at www.ocsan.gov. A printed version of the Safety Standards will be made available only upon request.

EXHIBIT F

TERMS & CONDITIONS FOR NOTICE INVITING BID

For

iland Disaster-Recovery-as-a-Service and Cloud Backup

ORANGE COUNTY SANITATION DISTRICT (OC San)

10844 Ellis Avenue

Fountain Valley, CA 92708-7018

(714) 962-2411 FAX (714) 593-7784

TERMS AND CONDITIONS FOR BID/PROPOSAL

1. **Bidding/Proposing.** Bid cost must be submitted online via our PlanetBids system at www.ocsan.gov.
2. **Request for Interpretation.** A prospective bidder/proposer who is in doubt as to the meaning of any part of the plans, specifications or other contract documents, or finds errors in, or omissions from the plans or specifications, should request, in writing via our PlanetBids Q&A process at www.ocsan.gov, an interpretation or correction.
3. **Unit Price.** Unless otherwise specified in the NIB/RFP, the bidder/proposer shall state in figures the unit prices for which he proposes to supply and deliver the goods, materials, equipment and services described in the bid/proposal and shall segregate the components of his bid/proposal as shown on the bid/proposal online form.
4. **Discrepancies.** If a discrepancy occurs between the unit price and the total stated price for an item, the unit price shall prevail and the total price shall be corrected accordingly. If a discrepancy occurs between the stated grand total price for all items and the actual total for all items, the individual item prices shall prevail and the grand total price shall be corrected accordingly. If a discrepancy occurs between the terms of the bid/proposal and of the NIB/RFP (including plans and specifications), the terms of the NIB/RFP (including plans and specifications) shall prevail.
5. **Bid/Proposal Withdrawal.** If a bidder/proposer wishes to withdraw his bid/proposal he may do so without prejudice to himself at any time before the scheduled bid/proposal opening. The withdrawal of a bid/proposal does not prejudice the right of a bidder/proposer to file a new bid/proposal before the deadline for delivery of bids/proposals. All bids/proposals shall be irrevocable for **180** days after bid/proposal opening or such other date as specified in the NIB/RFP.
6. **Bid/Proposal Delivery.** E-bids/proposals will not be accepted after the e-bid submittal date and time.
7. **Bid/Proposal Rejection.** OC San reserves the right to reject any and all bids/proposals and to waive technical defects as the interests of OC San may require. In no event shall OC San be liable for any costs incurred in connection with the preparation and submittal of a bid/proposal.
8. **Sales and Use Taxes.** Unless otherwise specified in the NIB/RFP, and excepting works of construction or works involving labor and materials which are tax inclusive, the prices quoted in the bid/proposal shall not include sales and/or use taxes. However, applicable sales and/or use taxes shall be included in the Purchase Order, if awarded.
9. **Transportation Charges.** Unless otherwise specified in the NIB/RFP, prices quoted in the bid/proposal shall not include charges for transportation, packing, containers, or "in bound freight", etc.
10. **Purchase Order Terms and Conditions.** The successful bidder/proposer shall receive a Purchase Order, together with the Purchase Order Terms and Conditions attached thereto, which shall form a part of the agreement between the parties. In the event of conflict between the Purchase Order terms and terms of the Contract, the Contract shall prevail.
11. **Standard Provisions/Specifications.** If so provided in the NIB/RFP, the services performed under the agreement are subject to, and must conform with, the General Provisions, Standard Specifications and Standard Drawings, as adopted and amended by OC San from time to time. Refer to the NIB/RFP for determination.
12. **Inspection.** By submitting a bid/proposal, the bidder/proposer will be deemed to represent that he has examined: (a) the plans, specifications and contract documents, and (b) the site where the work is to be performed and any surveys or reports concerning the site.
13. **Bidder/Proposer Qualifications.** The bidder/proposer must meet all licensing and/or other qualifications described in the NIB/RFP. A statement of previous experience and/or financial condition may be required before contract award.
14. **Disqualification.** No bidder/proposer may present more than one bid/proposal for the same work or be interested in more than one bid/proposal. Apparent collusion among bidders/proposers is cause for rejection of their bids/proposals.

15. **Insurance Requirements.** Before beginning work under the agreement, the successful bidder/proposer shall provide OC San with:

- A. such insurance and certificates of insurance as **may** be required by OC San in the NIB/RFP and/or any fully executed contract between the parties; or
- B. certificates of commercial general liability, automobile liability, and worker's compensation insurance, satisfactory to OC San.

Such insurance shall remain in effect throughout the performance of the agreement.

16. **Bond Requirements.**

A. **Bid/Proposal Bond.** Each bid/proposal must be accompanied by a certified or cashier's check, payable to "Orange County Sanitation District," or a bid/proposal bond for the benefit of OC San, in a form satisfactory to OC San and issued by a qualified corporate surety licensed to do business in the State of California and having an agent for service of process in California. The person executing the bid/proposal bond must have on file with the County Clerk, County of Orange, a power of attorney and authorization to execute the bond on behalf of the corporate entity. The amount of the check or bond shall be at least 100% of the total amount bid/proposed.

B. **Other Bonds.** Before beginning work under the agreement, the successful bidder/proposer shall provide OC San with:

- (1) such insurance as may be required by OC San in the NIB/RFP and/or any fully executed contract between the parties; and/or
- (2) labor and material bonds, satisfactory to OC San, for 100% of the agreement price; and
- (3) a faithful performance bond, satisfactory to OC San, for 100% of the agreement price.

Such bonds shall remain in effect throughout the performance of the agreement.

C. **Carriers.** All bonds must be issued by a surety authorized by the State Insurance Commissioner to do business in California.

17. **Computer Date Suitability.** Vendor warrants that all functionality described in product's user manual has been tested to work for usage and data dates between January 1, 1900 and January 1, 2100. Should it be determined that the product would stop or otherwise fail for dates in this range, then Vendor shall provide at no additional cost to OC San a repair or upgrade in a timely fashion. If such repair or upgrade is not acceptable to OC San, then at the sole discretion of OC San, product may be returned to Vendor for a full refund.

WAIVED

EXHIBIT G
NON-COLLUSION AFFIDAVIT
For
iland Disaster-Recovery-as-a-Service and Cloud Backup

****All Bidders must upload the Non-Collusion Affidavit form at the time of Bid submission. Bidders will be required to submit the original Non-Collusion Affidavit form within 48 hours upon written request by OC San.***

This Affidavit To Be Fully Executed

Non-Collusion Affidavit

State Of _____)
County Of _____) Ss.

_____, Being First Duly Sworn,
Deposes And Says That He Or She Is _____ Of
_____ The Party Making The

Bid, That The Bid Is Not Made In The Interest Of, Or On Behalf Of, Any Undisclosed Person, Partnership, Company, Association, Organization, Or Corporation; That The Bid Is Genuine And Not Collusive Or Sham; That The Bidder Has Not Directly Or Indirectly Induced Or Solicited Any Other Bidder To Put In A False Or Sham Bidder, And Has Not Directly Or Indirectly Colluded, Conspired, Connived, Or Agreed With Any Bidder Or Anyone Else To Put In A Sham Bid, Or That Anyone Shall Refrain From Submitting A Bid; That The Bidder Has Not In Any Manner, Directly Or Indirectly, Sought By Agreement, Communication, Or Conference With Anyone To Fix The Bid Price Of The Bidder Or Any Other Bidder, Or To Fix Any Overhead, Profit, Or Cost Element Of The Bid Price, Or Of That Of Any Other Bid, Or To Secure Any Advantage Against The Public Body Awarding The Contract Of Anyone Interested In The Proposed Contract; That All Statements Contained In The Bid Are True; And, Further, That The Bidder Has Not, Directly Or Indirectly, Submitted His Or Her Bid Price Or Any Breakdown Thereof, Or The Contents Thereof, Or Divulged Information Or Data Relative Thereto, Or Paid, And Will Not Pay Any Fee To Any Corporation, Partnership, Company Association, Organization, Bid Depository, Or To Any Member Or Agent Thereof To Effectuate A Collusive Or Sham Bid.

I Declare Under Penalty Of Perjury Under The Laws Of The State Of California That The Foregoing Is True And Correct.

Signature Of: President,
Secretary, Manager,
Owner Or
Representative

Subscribed And Sworn To Before Me
This _____, Day Of _____ 20 ____.

Signature Of Notary Public In And For
The County Of _____,
State Of _____

All Signatures Must Be Witnessed By Notary

EXHIBIT H
REFERENCE SHEET

For

iland Disaster-Recovery-as-a-Service and Cloud Backup

****All Bidders must upload the Reference Sheet at the time of Bid submission.***

REFERENCE SHEET

The following are the names, addresses, and telephone numbers for five (5) municipal or industrial contacts which Bidder has provided similar service to within the past five (5) years.

1. Company: _____ Contact: _____ Address: _____ _____	Telephone: _____ Fax: _____ Email: _____ _____
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2. Company: _____ Contact: _____ Address: _____ _____	Telephone: _____ Fax: _____ Email: _____ _____
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3. Company: _____ Contact: _____ Address: _____ _____	Telephone: _____ Fax: _____ Email: _____ _____
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4. Company: _____ Contact: _____ Address: _____ _____	Telephone: _____ Fax: _____ Email: _____ _____
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5. Company: _____ Contact: _____ Address: _____ _____	Telephone: _____ Fax: _____ Email: _____ _____
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EXHIBIT I

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EXHIBIT J

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EXHIBIT K

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EXHIBIT L

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EXHIBIT M
FINANCIAL RESOURCES

For

iland Disaster-Recovery-as-a-Service and Cloud Backup

**** All Contractors must upload their Financial Resources at the time of Bid submission.***

Submitted By: _____
(Name of Firm)

Dun & Bradstreet No. _____

FINANCIAL RESOURCES

A. BUSINESS OPERATIONS

For the questions herein, the term "Firm" shall refer to the individual or the entity submitting the bid to perform the Work under the Contract, and if the Firm is a Joint Venture, it shall include all joint venture partners.

1. In the past five (5) years, has a public agency, governmental or private entity or individual terminated your Firm's contract (or performance under a contract) for default prior to completion of the contract?

Yes No

If yes, explain on Exhibit M-1 the circumstances surrounding each termination.

1. In the past five (5) years, has your Firm been assessed liquidated damages on a construction, repair, or maintenance contract with either a public or private owner?

Yes No

If yes, explain on Exhibit M-1 the circumstances surrounding each instance, and identify all such projects, the value of the contract on which liquidated damages were assessed, the amount assessed and paid, the name and address of the project owner, and the name and telephone number of a contact person with the project owner.

If any initial assessment of liquidated damages was determined by a court (jury decision or bench trial) or an arbitrator to be improperly assessed, then the liquidated damages will not be considered "assessed" for purposes of this question.

2. At any time during the past five (5) years, has any surety company made any payments or performed any work on your Firm's behalf as a result of a default to satisfy any claims made against a performance or payment bond issued on your firm's behalf in connection with a construction, repair or maintenance project, either public or private?

Yes No

If yes, explain on Exhibit M-1 the circumstances surrounding each issue, including the amount of each such payment or activity.

3. In the past five (5) years, has your Firm been prevented from bidding on any government agency or public works project because of debarment or for any other reason?

Yes No

If yes, explain on Exhibit M-1 the circumstances surrounding each instance, the terms of each such instance, whether an appeal was taken, and the status and/or result of each such appeal. The description should include the grounds on which the public entity debarred or otherwise prevented your Firm from bidding (e.g., applicable law, code, regulation, etc.), including but not limited to whether your Firm was debarred under Labor Code section 1770 et seq.

4. In the past five (5) years, has your Firm been convicted or found liable in a civil suit for making false claims or material misrepresentations to any governmental entity or public utility?

Yes No

If yes, explain on Exhibit M-1 the circumstances surrounding each instance.

5. In the past five (5) years, has your Firm or any of its owners or officers been convicted of a crime involving the bidding of a public contract, the awarding of a public contract, the performance of a public contract, or the crime of fraud, theft, embezzlement, perjury or bribery in any context? For this question, the term "owner" does not include those who own stock in a publicly traded corporation.

Yes No

If yes, explain on Exhibit M-1 the circumstances surrounding each instance.

FINANCIAL RESOURCES (Continued)

A. FINANCIAL INFORMATION

Insert the following information concerning your Firm’s financial information and indicate the fiscal year-end date applicable to the same. “Year 1” refers to the most recent fiscal year in time, etc. Reflect the financial situation of the Contractor and not a sister or parent company.

	Year 1 _____ to _____	Year 2 _____ to _____	Year 3 _____ to _____
1. Net Worth* (Total Assets – Total Liabilities)			
2. Working Capital* ¹ (Current Assets – Current Liabilities)			

*If required by OC San during the evaluation period, Contractor shall bring in for review by OC San requested documentation to substantiate information provided with its bid as noted below.

Upon request from OC San, Contractor provide for OC San’s inspection and review balance sheets, including all related notes, and income statements for the last three years, complying with the following conditions:

- All such documents reflect the financial situation of the Contractor, and not a sister or parent company.
- Provide a reviewed or audited financial statement for the past three years.
- Financial statements must be complete, including all notes to the financial statements.
- Financial statements must correspond to accounting periods already completed and/or audited (no statements for partial periods shall be requested or accepted).

If during or after the review of the requested documents, OC San determines that copies of some or all of the requested documents are needed to aid further evaluation by OC San of the Contractor’s Responsibility or ability to perform the Contract, OC San staff may, in its sole discretion, make copies of some or all of the documents and materials, or may request Contractor to supply copies of documents and materials.

¹ Includes any available lines of credit.

FINANCIAL RESOURCES (Continued)

B. FINANCIAL HISTORY

For the questions herein, the term "Firm" shall refer to the individual or the entity submitting the bid to perform the Work under the Contract, and if the Firm is a Joint Venture, it shall include all joint venture partners.

If the answer to any of the following questions is "Yes," explain on Exhibit M-2 the circumstances surrounding each instance.

1. Is your Firm now the debtor in a bankruptcy case?

Yes No

1. Is your Firm's working capital for the most recent completed fiscal year less than 5% of your Total Amount of Bid as set forth in the Schedule of Prices herein?

Yes No

2. Is your Firm's net worth for the most recent completed fiscal year less than 20% of your Total Amount of Bid as set forth in the Schedule of Prices herein?

Yes No

