Meeting Type: City Council Regular Meeting **Meeting Date:** 12/21/2023   **File ID:** TMP-3711

Department: ITS

Subject: **Type of Action:** Approval/Action

Resolution authorizing the Mayor to enter into an Agreement between the City of Huntsville and ThinkGard Total Data Security.

Resolution No.
Finance Information:
Account Number: 1000-17-17300-520200-00000000-

City Cost Amount: $25,440.00

Total Cost: $25,440.00

Special Circumstances:
Grant Funded: N/A

Grant Title - CFDA or granting Agency: N/A

Resolution #: N/A

Location: (list below)

Address: N/A
District: District 1 ☐   District 2 ☐   District 3 ☐   District 4 ☐   District 5 ☐

Additional Comments: ThinkGard to supply product and services for backup and disaster recovery.

<div align="center">**RESOLUTION NO. 23-_____**</div>

    BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby authorized to enter into an Agreement by and between the City of Huntsville and ThinkGard Total Data Security, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "City of Huntsville, AL – BDRaaS- 18TB", consisting of nine (9) pages and the date of December 21, 2023 appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the Clerk of the City of Huntsville, Alabama.

    ADOPTED this the 21st day of December 2023.

                                                _____

                                                President of the City Council
                                                of the City of Huntsville,
                                                Alabama

    APPROVED this the 21st day of December 2023.

                                                _____

                                                Mayor of the City of Huntsville,
                                                Alabama

ThinkGard
Total Data Security

City of Huntsville, AL - BDRaaS - 18TB

Quote created: November 20, 2023   Reference: 20231120-073648198

City of Huntsville, AL
815 Wheeler Avenue
Huntsville, Alabama 35801
United States

Tommy Battle

Comments

This proposal for the City of Huntsville, AL includes pricing for ThinkGard's co-managed backup and disaster recovery as a service solution.

Nolan Griffin - RVP, Sales VC3

Products & Services

President of the City Council of the
City of Huntsville, AL
Date: December 21, 2023

Item & Description	SKU	Quantity	Unit Price	Total
Enterprise 18 TB Appliance (S5-18 – 192 GB RAM) 18TB Appliance	S5-18_192	1	$10,422.00	$0.00 after $10,422.00 discount

· CPU: (2x) Intel Xeon Gold 5218R (20 Cores 40 Threads for each processor)
· RAM: 192GB ECC
· Array: (2x) 18TB SAS RAID 1 (Mirror)
· OS Drive: (2x) 240GB NVMe m.2 RAID-1 (Mirror) on BOSS Card
· Performance Cache: (SLOG) 480GB SATA SSD
· NICs: (2x) 10Gb Base-T, (2x) 1Gb Base-T
· Chassis: 1U

Item & Description	SKU	Quantity	Unit Price	Total
DataGard 18TB-TBR Monthly Services Services Included in Monthly Rate: • 1 Year Time-Based Retention in US-based datacenters (1TBR) • Bicoastal Data Center offsite replication locations • Ongoing daily monitoring and management of all backup appliances: -Customizable local backup schedules per server (from every 5 minutes to 24 hours) - Experienced Support team that checks on every appliance daily - Initial remediation of backup errors - Communication with client if assistance or intervention is needed for production servers - Monitor daily mini disaster recovery test via screenshot verifications - Telephone and email on-call service available 24/7/365 - Facilitate test restorations per request with IT staff - Annual Disaster Recovery testing, including cloud testing, with a DR Plan deliverable • Full ThinkGard Support team assistance for any restoration event: - 24/7 assistance during all disaster events - Work with client to determine the most efficient of eight (8) restoration types available to provide business continuity - Server loss incident management: in the event an incident occurs, ThinkGard staff will assist the organization through restoration and recovery. - Mounting of backup points for simple file/volume recoveries - Local and/or cloud virtualization in the event of server(s) loss - Assist in verification of 'clean' servers in the case of a ransomware attack along with identifying and confirming the possible attack window	DG-S5-18-1TBR	1	$31,800.00 / year	$25,440.00 / year after $6,360.00 discount for 3 years

Item & Description	SKU	Quantity	Unit Price	Total
• 30 days of offsite virtualization, after which a fee of $200.00 per 24 hours will incur.				
Implementation Services – Enterprise The one-time fee includes: • Preconfigure appliance(s) networking to match client environment and provide documentation for firewall configuration to communicate to the offsite Data Centers • Two video conferences with ThinkGard Support (more as necessary): – Onboarding meetings will go through process of adding server backup jobs to appliance(s) as well as provide plan to get all servers backing up to appliance(s). – Post-Onboarding meeting will audit the appliance(s) to make sure everything has been added to the backup solution, as well as a walkthrough of the Disaster Recovery testing process. We will provide a link to schedule your DR Test with our staff at this time. • Assistance in onboarding client servers to the backup appliance(s) • Setup of backup job alerting and reporting • Monitoring of onboarded servers to configure individual server's screenshot verification • RoundTrip option to offsite large servers to the cloud Data Center (optional) • Shipping cost of appliance(s) to client	DG-ENT-IMP-LG	1	$1,000.00	$0.00 after $1,000.00 discount

Annual subtotal after $6,360.00 discount	$25,440.00
One-time subtotal after $11,422.00 discount	$0.00
Total	$25,440.00

Signature

_____   12/21/2023
Signature   _____
                                            Date

Mayor Tommy Battle
_____
Printed name

Countersignature

_____   12-5-2023
Countersignature   _____
                                            Date

Kevin Fuller - President
_____
Printed name

This quote expires on February 18, 2024

Purchase terms

BACKUP AND DISASTER RECOVERY AGREEMENT TERMS

Term: This Agreement between Client and THINKGARD is effective upon the date signed by the Client, shall remain in force for a period of 3 years (36 Months) and be reviewed yearly to address any necessary adjustments or modifications. Should adjustments or modifications be required that affect the fees paid for the services rendered under this Agreement, said fee adjustment will be negotiated and agreed-to between the Client and THINKGARD in writing. Absent such a written adjustment, the Agreement automatically renews for a subsequent one-year term beginning on the day immediately following the end of the Initial Term unless either party gives the other thirty (30) day's prior written notice of its intent not to renew this Agreement. This Agreement cannot be automatically renewed more than five (5) times.

This Agreement may be terminated by the Client upon ninety (90) day's written notice if THINKGARD:

- Fails to substantially complete or satisfy its obligations under this Agreement and does not cure any identified failure within ninety (90) days of receipt of written notice of said failure from the Client;
- Breaches any material term or condition of this Agreement and fails to remedy such breach within ninety (90) days of receipt of written notice of such a breach from the Client; Terminates or suspends its business operations, unless it is succeeded by a permitted assignee under this Agreement.

If either party terminates this Agreement, THINKGARD will, if requested by the Client, assist Client in the orderly termination of services, including timely transfer of the services to another designated provider. Client agrees to pay THINKGARD the actual costs of rendering such assistance. Actual costs could include but are not limited to: Training, data transfer, license transfers or equipment de-installation. If Client terminates this Agreement without cause, Client agrees to pay THINKGARD a termination fee equal the actual hard costs that ThinkGard incurred as result of this early cancellation. Client agrees to allow THINKGARD to assign, delegate, subcontract services to third party competent contractors approved by THINKGARD and client.

Services Provided: An on-site Backup Appliance that acts as a local storage device for data backups and standby server in the event of server and/or workstation failure.

1. Incremental backups sent to the backup appliance once an hour by default.

2. Secure Remote (Off-site) Storage provided at two (2) secure data centers.

3. Day-to-day data restoration of files, file folders, emails or email stores, SQL databases, and SharePoint.

4. Full data recovery from secure data centers with the most recent information stored offsite - in the event of total catastrophe, where the on-site server and backup appliance are lost.

5. Full management, monitoring, and testing of the backup appliance and remote storage.

Security: All data is fully encrypted during transmits off-site and while stored off-site. All data is stored off-site, in encrypted form, on multiple servers in two (2) highly secure data center facilities. (a) Each file is encrypted using 256-bit AES and SSL key-based encryption technology. 256-bit AES encrypted data cannot be read without the corresponding keys – a feature designed to prohibit the misuse of the encrypted data. (b) The on-site backup appliance unit communicates with off-site remote servers using SSL (Secure Socket Layers) technology. As a result, the online backup of data is encrypted twice. It is encrypted at all times using the 256-bit AES encryption, and it is encrypted again while it's being sent over the Internet. (c) Data stored off-site remains encrypted at all times.

Data Deduplication and Compression: Data deduplication and compression occurs prior to data storage and transmit using state-of-the-art technology. This ensures that backups are completed in a shorter timeframe,

less storage space is used on the on-site backup appliance and at the off-site data centers, and needed bandwidth to transfer data off-site remains manageable.

Backup Frequency: Servers can be backed up as frequently as once an hour by default. Retention policies can be customized to create as many archived versions of data and full recovery points as needed. Off-site backup frequency is continuous by default, and may be customized to meet Internet bandwidth limitations. Off-site backup frequency is ultimately dependent upon total data size, data changes, and available Internet bandwidth.

Smart Data Transport: Data transmission can be configured to minimize Internet bandwidth consumption. The on-site backup appliance and propriety off-site data transfer system leverages advanced bandwidth throttling to schedule Internet bandwidth used depending on the time of day, customized for each day of the week. This allows bandwidth to be limited during business hours to maintain network functionality and maximize bandwidth during off-peak hours to efficiently transfer data off-site.

Remote Storage provided at two high availability Data Centers in Pennsylvania and Utah Highly redundant storage in multiple redundant cluster nodes at two (2) redundant bi-coastal data centers. (a) Connectivity provided by multiple providers with automatic failover capabilities. (b) Facilities power is supplemented with both battery backup and diesel generation capabilities. (c) Full physical security at each facility including global biometric authentic-cation access methodology to track all authenticated data center personnel and prohibit the entry of any unauthorized persons. (e) Fire suppression and environmental control provided.

Remote Storage and Base Remote Backup Image Creation (a) Your data is stored (in encrypted form) in two (2) secure off-site data centers, located in Pennsylvania and Utah. (b) The initial backup will be sent via a SATA II drive to the primary remote storage facility. There is an approximate two-week turnaround time to seed the initial backup off-site. Incremental backups will occur during the off-site seeding process and will collapse into the main backup once the off-site transfer is complete.

Recovery Time Objective (RTO): THINKGARD will log all retrieval activities from the Client. (a) THINKGARD will attempt to resolve access, backup, or retrieval problems over the phone on first call within 24-hours of the first request. THINKGARD will restore a file, file folder, email or an entire mailbox, as needed, upon Client's call to the THINKGARD helpdesk (b) In a disaster, where Client loses its entire office, THINKGARD will have a new backup appliance imaged, with the most current backup information (usually, the previous day's data). The new backup appliance will be shipped out via next-business day air transportation to a location of your choice. When the backup appliance arrives, it will be ready for use as a virtual server. (c) The backup appliance can also be used to perform a bare metal restore to dissimilar hardware, which means that when a new server arrives, the backup appliance can be used to restore the most current data to the new server(s) and/or workstation(s), regardless of hardware.

Off-Site Virtualization: In a disaster where Client loses its physical servers and backup appliance, servers and/or workstations may be virtualized off-site. (a) Servers can be virtualized in both off-site data centers. (b) Public IP and/or VPN access will be given to connect to remote virtual machines. Virtual machines can also be accessed using VNC and/or RDP.

Ownership of the Data: The backup data being stored on the backup appliance and at the Data Center remains the sole property of the Client. If the Client chooses to terminate services, THINKGARD will assist Client in the orderly termination of services. This could involve copying the backup image to an external drive, which can be synchronized with the data on the backup appliance. The Client agrees to pay THINKGARD the actual costs of rendering such assistance.

Catastrophe Service: In the event of a catastrophe, fees for the "Disaster Recovery Service" are covered in the Agreement

Interference: The Client shall not, during the term of this Agreement and for twelve (12) months following its termination, solicit to work for the Client any employee of THINKGARD

Warranty: THINKGARD warrants that THINKGARD's work will be performed in accordance with reasonable and customary practices prevailing at the time for its business. (a) As long as the service fees are current, the backup appliance unit shall be fully warranted and no additional charges will be incurred for hardware failure. Firmware and software updates are also included (please note, however, that the backup appliance cannot be modified in any way or the hardware warranty(ies) and THINKGARD's warranties under this Agreement, shall be voided. This includes adding software applications to the backup appliance itself, adding memory and/or hard drives, etc.) (c) Backup appliance replacement parts will be shipped next business day air transportation and prepaid by THINKGARD.

Confidentiality: Each party shall treat the information received from the other party that is designated as confidential ("Confidential Information") as a trade secret and strictly confidential. THINKGARD designates the backed up data and all information relating to the backed up data as confidential. Both parties shall: (i) restrict disclosure of Confidential Information to employees and agents solely on a "need to know" basis; (ii) advise employees and agents of their confidentiality obligations; (iii) use commercially reasonable means to comply with the confidentiality obligations of this Agreement; and (iv) notify the other of any unauthorized possession or use of that party's Confidential Information as soon as practicable after receiving notice of same. Notwithstanding the foregoing, neither party shall be obligated to preserve the confidentiality of any information which: (i) was previously known; (ii) is a matter of public knowledge; (iii) was or is independently developed; (iv) is released for disclosure with written consent; (v) is received from a third party to whom the information was disclosed without restriction.

Equipment and Facilities: Client agrees that THINKGARD may utilize certain items of their equipment and may gain access to certain parts of The Client's facilities. Facility access may be denied for any reason at any time, however if access to facilities is denied, the Client understands that THINKGARD may be unable to perform their duties adequately and if such a situation should exist, THINKGARD will be held harmless.

Passwords: THINKGARD acknowledges that it must have remote access to the backup appliance to perform their duties under this Agreement. Backup data will always be encrypted and not accessible to anyone who does not have the password. If the encryption password is lost, the backup data will be inaccessible.

No Third Party Beneficiary: Neither Party shall subcontract, assign, subrogate or transfer any interest, obligation or right under this Agreement without prior written consent from the other Party, and any such attempt shall be null and void. Except that a board of a governing authority cannot bind their successors in office to contracts beyond their term of office and extension beyond its term is voidable by the successor Board.

Dispute Resolution: This Agreement shall be governed by the state and Federal laws applicable to the State of Alabama, U.S.A.

Force Majeure & Malicious Acts: THINKGARD shall not be liable for any loss, damage or failure due to causes beyond its control, including strikes, riots, earthquakes, epidemics, wars, fires, floods, weather, power failure, telecommunications and/or internet interruptions, the failure or closure of a financial institution, computer malfunctions, acts of God or any other failure, interruption or error not directly caused, or reasonably anticipated, by THINKGARD.

Taxes: Client shall be solely responsible for any taxes or similar charges arising out of this Agreement, including all applicable Federal, State or local sales taxes, customs, duties, use taxes, value-added taxes, excise charges or brokerage fees. Client shall also be solely responsible for assessing and remitting payment for any such items to the appropriate authorities.

Warranty of Representative Capacity: Each Party warrants that its undersigned representative has the authority and capacity to bind that Party to the terms and conditions of this Agreement and understands that each Party has reasonably relied upon such warranty and promises as an inducement to enter into this Agreement.

Severability: If a court or quasi-judicial body subsequently determines that one or more of the provisions of this Agreement is unlawful, then the provisions deemed unlawful, and only those provisions, shall be rendered void and shall be considered severed from the other terms and conditions of this Agreement.

Remedy Upon Client's Payment Default: Client agrees that in the event it defaults on its payment obligations under this Agreement, THINKGARD shall: a) To the extent provided by law have the right to pursue any and all available legal remedies to collect said sums, including through the immediate filing of an action in a court of law in Alabama and/or the federal jurisdiction which includes said United States, Alabama.

Understanding: The undersigned have read and understood each and every provision of this Agreement and agree that, at a minimum, prior to executing this Agreement, they were each given sufficient time and the opportunity to present the Agreement to an attorney for clarification of the meaning and function of each and every provision.

Integrated Agreement: This Agreement embodies the entire understanding of the Parties and all of the terms and conditions with respect to the matters discussed in this Agreement and that the terms are contractual and are not mere recitals. The Parties agree this Agreement supersedes and annuls any and all other or former Agreements, contracts, promises or representations, whether written or oral, expressed or implied, and it may not be altered, superseded or otherwise modified except in a writing signed by the party to be charged.

Immigration: By signing this contract, the contracting parties affirm, for the duration of the Agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama.

Questions? Contact me

Nolan Griffin

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ThinkGard

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Hoover, AL 35244

United States