

THE SCHOOL DISTRICT OF MONROE COUNTY, FLORIDA

CONTRACT SUMMARY ROUTING SHEET

SECTION ONE:

Contract with: Hayes e-Government Resource, Inc.
Contract value: \$24,480 Effective Date: 10/1/18
Budget Coding: _____ Expiration Date: 09/30/18

Contract Purpose/Description: _____
Cloud and Local Storage Protection Services Procured by IT

Contract Originator: Joy Nulisch
(Name) (Ext) (Department/School)

Executive Officer of Originating Dept.: _____
 Patrick Lefere
2018.10.18 11:38:33 -04'00'

For Board meeting on: _____ Agenda Deadline: _____

SECTION TWO:

	<u>Date In</u>	<u>Reviewer Signature</u>	<u>Date Out</u>
1. <u>HR:</u> <i>Comments:</i>	_____	Dr. Ramon M. Dawkins <small>Digitally signed by Dr. Ramon M. Dawkins DN: cn=Dr. Ramon M. Dawkins, o=Monroe County Schools, ou=Finance, email=ramon.dawkins@monroecountyfl.us, c=US Date: 2018.10.18 15:16:32 -04'00'</small>	_____
2. <u>Risk:</u> <i>Comments:</i>	_____	_____	_____
3. <u>Finance:</u> <i>Comments:</i>	_____	Jim Drake <small>Digitally signed by Jim Drake DN: cn=Jim Drake, o=Monroe County Schools, ou=Finance, email=jim.drake@monroecountyfl.us, c=US Date: 2018.10.18 15:16:32 -04'00'</small>	_____
4. <u>Purchasing:</u> <i>Comments:</i>	<u>10/18/18</u>	_____	_____
	<u>No dollar amount on the routing sheet and I dont see a total amount in the contract. Exhibit A shows fees but not for each item. Complete.</u>		
5. <u>Legal:</u> <i>Comments:</i>	_____	Gaelan Jones <small>Digitally signed by Gaelan Jones DN: cn=Gaelan Jones, o=Monroe County School District, ou=Finance, email=gjones@monroecountyfl.us, c=US Date: 2018.10.18 11:01:20 -04'00'</small>	_____

Hayes ProtectCloud Local & Remote Vault
For State of Florida Government & Educational Institutions
ProtectCloud Capacity-on-Demand Agreement

This Agreement is made on this, the 1st day of October, 2018, between Hayes e-Government Resource, Inc., an State of Florida Company, with its offices at 2551 Welaunee Blvd. Tallahassee, Florida 32308 (hereinafter referred to as "Hayes") and the School Board of Monroe County, Florida, with its offices at 241 Trumbo Road, Key West, FL, 33040, Florida (hereinafter "Participant").

Hayes has developed a capacity-on-demand procurement model to enable Participants to enter into an agreement with Hayes to deliver and support the ProtectCloud Enterprise Local Vault and Remote Vault (hereinafter referred to as LV & RV respectively), a combination of local and remote disk based appliance(s) and/or virtual appliance(s) and/or software (hereinafter referred to as appliance(s)) for the purposes of backing up Participant data locally at the Participants location and replicating the data to the RV located at a Hayes facility.

SECTION A – GENERAL PROVISIONS

1. Term of Agreement/Renewal

This Agreement shall commence on the date above published and shall continue in effect until terminated in accordance with its terms.

- a. This Agreement may be amended only by the written agreement of the Parties.
- b. Participant subscribes for 12 months of ProtectCloud Enterprise LV and RV Service (the "Initial Term"). Unless written notice is provided to Hayes no less than sixty (60) days prior to the expiration of the Initial Term, the Contract shall renew for an additional 12 month term at the rates agreed upon in Attachment A. At the end of each 12 month term thereafter (up to a maximum of 36 months), the Contract shall renew automatically at the rates agreed upon in Attachment A, unless written notice is provided to Hayes no less than sixty (60) days prior to the expiration of the then current term.
- c. The Initial Term for your LV and RV service commences on the date of completed implementation as agreed upon in a Statement of Work.
- d. Upon mutual agreement, the Parties may renew the Contract any number of times. Each renewal must be in writing and signed by both parties.
- e. If a mutually agreed upon renewal has not been executed at the conclusion of the initial term, this contract will renew for six (6) months at the rates agreed upon during the Initial term in Attachment A. The contract will continue to renew for six (6) month periods until a renewal contract is agreed upon or notification of termination of the service is received in accordance with Section C and Section E of this agreement.
- f. During any automatic six (6) month renewal period, Hayes is under no obligation to add additional hardware equipment or provide additional software licenses for the Participants consumption or at the Participants location. In addition, maintaining manufacture support of the hardware and software currently being consumed by the Participate or located at the Participant's location is at the discretion of Hayes.

2. Limitations of Liability

- a. With respect to any data as it resides in the Participant's databases and systems and until and after it is provided to the LV and/or RV by the Participant, the parties agree that Participant, and not Hayes, is responsible for any inaccuracies in the same and any resulting consequences there from to any person or entity, except as otherwise limited by this Agreement.

- b. Hayes and/or Participant is not responsible for events beyond its reasonable control or for inaccuracies of data stored on or retrieved from the LV and/or RV.
 - c. This Limitations of Liability section shall survive termination of this Agreement.
- Notwithstanding the foregoing, Hayes and Participant agree that by entering into this Agreement Participant does not waive any rights of sovereign immunity granted to Participant under the Constitution or the laws of the State of Florida.

3. Payment and Financial Administration

- a. To participate in the ProtectCloud Enterprise Local & Remote Vault agreement, the Participant shall be charged a monthly fee based on the subscribed services as selected from Attachment A, Price Schedule.
- b. The Participant shall indicate which services from Attachment A are desired by initialing and dating each service line item desired.
- c. To add additional services from Attachment A during the contract period, the Participant shall indicate the additional services desired by initialing and dating the additional desired line items and submitting it to Hayes.
- d. Services in Section 1 of Attachment A will be billed at a per GB, per month rate and be calculated by the maximum amount of usable capacity consumed in the LV and/or RV during the given billing cycle.
- e. Services in Section 2 of Attachment A will be billed at a per TB, per month rate and be calculated by the maximum amount of Source Data being protected during the given billing cycle.
- f. Monthly consumption is calculated using the daily email reports that are generated by the LV and RV appliance(s). Both the Participant and Hayes have access to the daily email reports.
- g. In the event that Hayes is no longer receiving email reports from the LV and/or RV appliance(s) and the Participant fails to correct the issue within two billing cycles from official notification from Hayes, Hayes will bill at the contracted rate for the maximum capacity available in the LV appliance(s).
- h. All Services in Section 1 will be billed by the total capacity consumed in the LV and RV appliance(s), NOT the amount of data the individual service may apply to.
- i. Payment by Participant to Hayes shall be made within 30 days of the invoice date for the prior ending months billing period. A billing period is defined as a calendar month and the number of days in a billing period will vary.

4. The Minimum Monthly Capacity Commitment (MMCC)

- a. Participant agrees to pay a minimum monthly capacity commitment each month as shown in Attachment A.
- b. Actual data Stored on the LV appliance(s) may decline below the MMCC.
- c. Hayes shall always make available capacity in the appliance(s) equal to or greater than the MMCC.
- d. The MMCC will never exceed 75% of the maximum billable capacity consumed within the contract period.

5. System Functions

The LV and RV, as developed and implemented pursuant to this Agreement, shall be designed to provide the following functions:

- a. Each appliance delivered to the Participant as part of the LV and/or RV, shall include the appropriate licensing required to conduct replication to the Hayes facility or other appliance(s) from the same manufacture.
- b. Certain appliance functionality and options as advertised by the manufacture may not be available through the LV and/or RV service.

- c. Each appliance delivered to the Participant as part of the LV and/or RV, shall have the ability to conduct standard backup, recovery and replication operations. Hayes makes no promises as to any expected deduplication ratios or overall compression a Participant might realize.
- d. Additional billable functionality and features and the associated pricing schedule offered by Hayes and accepted by the Participant by mutual written agreement may be added to the existing monthly billing schedule and shall become part of the existing agreement and shall adopt the term of the existing agreement.

6. System Security

- a. System security and user access to the LV and shall be the sole responsibility of the Participant. Hayes may not be held responsible for any inappropriate access or loss of data that resides on the LV and/or RV appliance(s) due to factors beyond reasonable responsibility of Hayes.
- b. Hayes shall make available to the Participant the latest code and/or firmware as released by the appliance manufacture. Hayes shall not assume any liability for any data loss, corruption or inappropriate access due to bugs or vulnerabilities in the appliance(s) or code.
- c. It shall be the responsibility of the Participant to maintain the latest version of the manufacture code on the appliance(s) as made available by Hayes. Hayes shall not assume liability for any data loss, corruption or inappropriate access as a result of the failure to install or inappropriate installation of the most recent version of the manufacture supported code.

7. Custodian of Records

- a. This agreement shall not abridge in anyway the Participant's authority as custodian, pursuant to the Florida Statutes. Pursuant to Florida Statute 119.0701, Hayes agrees to:

- (a) Keep and maintain public records that ordinarily and necessarily would be required by the School Board in order to perform the service.
- (b) Upon request from the School Board's custodian of public records, provide the School Board with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if Hayes does not transfer the records to the School Board.
- (d) Upon completion of the contract, transfer, at no cost, to the School Board all public records in possession of Hayes or keep and maintain public records required by the School Board to perform the service. If Hayes transfers all public records to the School Board upon completion of the contract, Hayes shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Hayes keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the School Board, upon request from the School Board's custodian of public records, in a format that is compatible with the information technology systems of the School Board.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: (Records@KeysSchools.com OR MAIL TO: MONROE COUNTY SCHOOL DISTRICT, ATTN: CUSTODIAN OF PUBLIC RECORDS, 241 TRUMBO ROAD, KEY WEST, FL 33040 OR CALL (305)293-1400.

b. It is the prerogative of the Participant to control all data within the requirements of the LV and/or RV.

SECTION B - RESPONSIBILITIES

1. Hayes Responsibilities

- a. Hayes shall be responsible for the design, development, and standard implementation of the LV and/or RV.
- b. Hayes shall be responsible for the initial load, and hardware maintenance of the LV and/or RV. Hayes will make available resources to assist with LV and/or RV software updates, however it will be the Participant's responsibility to schedule, test and manage such updates.
- c. Hayes shall make available to the Participant 24/7/365 access to the Hayes Help Desk.
- d. Hayes shall provide Next Business Day Parts Delivery for LV and/or RV hardware failures.
- e. Hayes shall be responsible for providing all necessary, rack space, power, cooling, network connectivity and any other environmental and infrastructure requirements appropriate to the RV appliance(s).

2. Participant Responsibilities

- a. Participant shall be responsible for providing secured networking capability between the LV any replication target including the RV located in a Hayes facility. Participant is responsible for any costs associated with installation, upgrading, or modifying existing network infrastructure to provide adequate bandwidth to accommodate data flow between the LV and any replication target including the RV located in a Hayes facility.
- b. Participant shall be responsible for providing all necessary hardware, rack space, power, cooling, network connectivity and any other environmental and infrastructure requirements appropriate to the LV appliance(s).
- c. Participant shall make every effort to work with Hayes technical staff in coordinating technical requirements of this agreement.
- d. Participant shall appoint a local Backup Administrator, who shall be responsible for the security of all administrative and user passwords issued to users within the Participant's jurisdiction and shall be the primary point of contact for communications between Hayes and the Participant.
- e. Participant shall make available the appropriate connectivity for the LV and /or RV appliance(s) to send daily email reports to Hayes.

SECTION C - NOTICES

All notices shall be in writing and shall be considered effective three (3) days after mailing or upon proof of receipt of such notice and shall be directed to the parties to this Agreement as shown below:

Hayes

Jeff Chaffin
Director of Cloud & Sales
Operations
Hayes
2551 Welaunee Blvd.
Tallahassee, FL 32308
850.297.0551 x164
Jchaffin@hcs.net

PARTICIPANT

Mark Porter
Superintendent
Monroe County School Board
241 Trumbo Rd.
Key West, FL, 33040

SECTION E - TERMINATION PROVISIONS

a. At the option of either party, this Agreement may be terminated upon the other party's material breach of any term, provision or condition of this Agreement, which breach is not cured following sixty (60) days written notice to party specifying the breach or if party has not, in good faith, instituted a cure within said sixty (60) day period of receipt of such written notice and continued diligently to effectuate a cure provided such cure can be reasonably accomplished within ninety (90) days of receipt of such notice.

b. Any notice in connection with termination by either party shall be in accordance with Section C of this Agreement titled "Notices".

SECTION F - ASSIGNMENT

No party hereto may assign this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld, and any such assignment of this Agreement without the permission of the other party shall be null and void.

SECTION G- AGREEMENT CONSTRUCTION

This Agreement shall be construed in accordance with the laws of the State of Florida, with venue in Monroe County. In the event of any inconsistency between the terms of this Agreement and the terms set out in any Attachment hereto, the terms of this Agreement shall govern unless the Attachment specifically references the particular provision of this Agreement to be modified in the Attachment and expressly provides that it shall govern.

SECTION H - ILLEGAL PROVISIONS

If any provision of this Agreement shall be declared to be illegal, void, or unenforceable by a court of competent jurisdiction, the other provisions shall not be affected but shall remain in full force and effect.

SECTION I - ENTIRE AGREEMENT/GENERAL

No amendment, waiver, or alteration of this Agreement shall be effective unless signed by an authorized officer of each of the parties to this Agreement. Any oral agreement or representation shall not bind any party to this Agreement.

SECTION J - CONTRACT VENUE

The formation, interpretation, and performance of this Contract shall be governed by the laws of the State of Florida; exclusive venue for all litigation relative to the formation, interpretation, and performance of this Contract shall be Leon County, Florida.

IN WITNESS TO THEIR AGREEMENT TO ALL OF THE ABOVE AND FOREGOING, the parties hereto have herein below executed this Agreement effective the day and year first above written:

Hayes e-Government Resources, Inc.

Monroe County School Board



Karen Hayes-Shiver
President/CEO

Mark Porter
Superintendent – Monroe County Schools

ATTACHMENT A

SECTION 1 SERVICES BILLED PER GB PER MONTH

The Following Services shall be billed at a per GB, per month rate and be calculated by the maximum amount of usable capacity consumed in the LV and/or RV.

Hayes ProtectCloud Local Vault Pricing Schedule

Pursuant to the above Agreement, Participant shall reimburse Hayes for requirements of Agreement as follows:

<u>X</u>		10/22/18	ProtectCloud LV Vaulting services	\$.24
(Selected)	(Initials)	(Date)	Initial Minimum Billable Capacity of <u>4000</u> GBs	
			ProtectCloud Enterprise LV Vaulting services	\$.01
			Initial Minimum Billable Capacity of _____ GBs	
<u>X</u>			ProtectCloud Enterprise Encryption Service	\$.01
(Selected)	(Initials)	(Date)		

Notes and Special Considerations:

Hayes ProtectCloud Remote Vault Pricing Schedule

Pursuant to the above Agreement, Participant shall reimburse Hayes for requirements of Agreement as follows:

<u>X</u>		10/22/18	Standard ProtectCloud RV Vaulting services	\$.27
(Selected)	(Initials)	(Date)	Initial Minimum Billable Capacity of <u>4000</u> GBs	
			ProtectCloud Enterprise RV Vaulting services	\$.01
			Initial Minimum Billable Capacity of <u>TBD</u> GBs	
<u>X</u>		10/22/18	ProtectCloud Enterprise Encryption Service	\$.01
(Selected)	(Initials)	(Date)		

Notes and Special Considerations:

SECTION 2 SERVICES BILLED PER TB PER MONTH

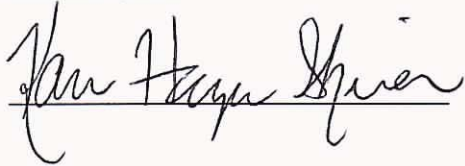
The Following Services shall be billed at a per TB, per month rate and be calculated by the maximum amount of Source Data to be Protected by the Software Suite.

Not Applicable

Total price not to exceed \$24,480.00 under this agreement.

IN WITNESS TO THEIR AGREEMENT TO ALL OF THE ABOVE AND FOREGOING, the parties hereto have herein below executed this Agreement effective the day and year first above written:

Hayes e-Government Resources, Inc.
Karen Hayes-Shiver
President/CEO



«FirstName» «LastName»
«Title»
