County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

FEB 2 3 2016

Carahsoft Technology Corporation
1860 Michael Faraday Drive
Suite 100
Reston, VA 20190

Attention: Craig Abod, President & CEO

Reference: RFP 2000001701, Technology Products, Services, Solutions & Related Products and Services

Dear Mr. Abod:

Acceptance Agreement

Contract Number: 4400006642

This acceptance agreement signifies a contract award for Section 3.1.13; Google Products, Services, and Solutions and Related Products and Services. The period of the contract shall be from May 1, 2016 through April 30, 2019, with four one-year renewal options or any combination of time equally not more than four years.

The contract award shall be in accordance with:

1) This Acceptance Agreement;

2) The Attached Memorandum of Negotiations.

Please note that this is not an order to proceed. A Purchase Order constituting your notice to proceed will be issued to your firm. Please provide your Insurance Certificate according to Section 17 of the Fairfax County Contract, within 10 days after receipt of this letter. All questions in regards to this contract shall be directed to the Contract Specialist, Lonnette Robinson, at 703-324-3281 or via e-mail at Lonnette.Robinson@fairfaxcounty.gov.

Sincerely,

Cathy A. Muse, CPPO
Director/County Purchasing Agent

Department of Purchasing & Supply Management
12000 Government Center Parkway, Suite 427
Fairfax, VA 22035-0013
Website: www.fairfaxcounty.gov/dpsm
Phone 703-324-3201, **TTY:** 1-800-828-1140, **Fax:** 703-324-3228

MEMORANDUM OF NEGOTIATIONS
RFP2000001701

The County of Fairfax (hereinafter called the County) and Carahsoft Technology Corporation (hereinafter called the "Contractor") agree to the following negotiated issues. The issues listed below shall be part of any subsequent contract.

a. The County's Request for Proposal RFP2000001701 and all Addenda;
b. The Contractor's Technical Proposal dated October 8, 2015;
c. The Contractor's Best and Final Cost Proposal dated December 23, 2015;
d. This Memorandum of Negotiation;
e. County purchase order;
f. Any amendments subsequently issued.

In addition, the County and the Contractor agree to the following:

1. Carahsoft is awarded a contract for section 3.1.13 of the RFP, Google products, services, and solutions and related products and services. Google must be the core product/service offered to Participating Public Agencies. Carahsoft may also sell related products and services that support Google products and solutions to make Google more effective for Participating Public Agencies provided those related products and services are sold in conjunction with Google as the core product/service.

2. The Google discount is 2.25%.

3. Any discounts are minimum discounts and any rates are not-to-exceed rates.

4. The Contractor agrees that prior to utilizing any distributor outside of Carahsoft to sell products or services under this contract, the distributor must be pre-approved by Fairfax County via a contract amendment and must agree to the terms and conditions of the awarded contract.

5. Any End User License Agreements referenced in Contractor's proposal is not incorporated as a part of the contract.

6. The Lead Public Agency acknowledges for itself and on behalf of each Participating Public Agency electing to procure under the Master Agreement that it may be required to execute one or more applicable Contractor standard contract documents if and when it orders one or more technology product, service/solution. At the time that an order for a technology product, service/solution is placed by a Public Agency, the Public Agency will review the applicable standard contract document(s) and, if acceptable to each particular Public Agency, complete and sign such document(s). Contractor agrees and acknowledges that if and when an order for one or more technology product, service/solution is placed by Lead Public Agency, Contractor may be required to execute a Contract Addendum substantially in the form attached hereto as License Agreement Addendum.

7. In the event that additional third-party products are procured under the Contract, the Contractor agrees to provide a copy of any and all applicable third-party agreements for review by the County. The County reserves the right to negotiate the terms and conditions of the third-party agreements associated with the use of the third-party products prior to issuing the purchase order for additional products.

8. The parties agree that any Statement/Scope of Work (SOW) and/or Service Level Agreement will be subject to negotiations and will be binding upon the parties and set forth in a written amendment to the Contract signed by the County Purchasing Agent and the Contractor.

ACCEPTED BY:

Craig Abod, President & CEO
Carahsoft Technology Corporation

2/9/2016
Date

Cathy A. Muse, CPPO, Director
Department of Purchasing and Supply Management

2/22/16
Date

LICENSE AGREEMENT ADDENDUM

Fairfax County (hereinafter referred to as "the County") and Carahsoft Technology Corp. ("Supplier"), a business incorporated in Maryland, F.E.I.N.52-2189693, having its principal place of business at 1860 Michael Faraday Drive, Suite 100, Reston VA 20190, are this day entering into a contract and, for their mutual convenience, the parties are using the standard form contracts provided by Supplier. This addendum, duly executed by the parties, is attached to and hereby made a part of Supplier's standard form contracts and together shall govern the use of any and all Google products, services, and solutions and related products and services licensed by the County whether or not specifically referenced in the order document.

As used herein, the term "contract" shall mean Supplier's standard form contract(s) and any and all exhibits and attachments thereto, and any additional terms and conditions incorporated or referenced therein. The term(s) "Customer," "You," and/or "you," as used in the contract(s), shall mean, as applicable, Fairfax County, or any of its officers, directors, agents or employees.

Supplier's standard form contracts are, with the exceptions noted herein, acceptable to the County. Nonetheless, because certain standard clauses that may appear in, or be incorporated by reference into, Supplier's standard form contract(s) cannot be accepted the County, and in consideration of the convenience of using those forms, and this form, without the necessity of specifically negotiating a separate contract document, the parties hereto specifically agree that, notwithstanding any provisions appearing in the attached Supplier's standard form contract(s), none of the following shall have any effect or be enforceable against the County or any of its officers, directors, employees or agents:

1. Requiring the application of the law of any state other than the Commonwealth of Virginia in interpreting or enforcing the contract or requiring or permitting that any dispute under the contract be resolved in any court other than a circuit court of the Commonwealth of Virginia;

2. Requiring any total or partial compensation or payment for lost profit or liquidated damages by the County, or its officers, directors, employees or agents if the contract is terminated before its ordinary period;

3. Imposing any interest charge(s) contrary to that specified by § 2.2-4352 of the Code of Virginia;

4. Requiring the County to maintain any type of insurance either for the benefit of the County or for Supplier's benefit;

5. Granting Supplier a security interest in property of the County or the Commonwealth or any of their officers, directors, employees or agents;

6. Requiring the County or any of its officers, directors, employees or agents to indemnify or to hold harmless Supplier for any act or omission;

7. Limiting or adding to the time period within which claims can be made or actions can be brought (Reference *Code of Virginia* §8.01 et seq.);

8. Limiting selection and approval of counsel and approval of any settlement in any claim arising under the contract and in which the County or any of its officers, directors, employees or agents is a named party;

9. Binding the County or any of its officers, directors, employees or agents to any arbitration or to the decision of any arbitration board, commission, panel or other entity;

10. Obligating the County, or any of its officers, directors, employees or agents, to pay costs of collection or attorney's fees;

11. Requiring any dispute resolution procedure(s) other than those in accordance with the Fairfax County Purchasing Resolution and the Code of Virginia;

12. Permitting Supplier to access any County records or data, except pursuant to court order, or as required by law;

13. Permitting Supplier to use any information provided by the County except for Supplier's own internal administrative purposes, or as required by law;

14. Requiring the County to limit its rights or waive its remedies at law or in equity, including the right to a trial by jury; and

15. Bestowing any right or incurring any obligation that is beyond the duly granted authority of the undersigned representative of the County to bestow or incur on behalf of the County.

16. Establishing a presumption of severe or irreparable harm to Supplier by the actions or inactions of the County;

17. Limiting the liability of Supplier for property damage or personal injury;

18. Permitting Supplier to assign, subcontract, delegate or otherwise convey the contract, or any of its rights and obligations thereunder, to any entity without the prior written consent the County except as follows: Supplier may assign all or any of its rights and obligations to a third party as a result of a merger or acquisition or sale of all or substantially all of its assets to such third party provided assignee agrees in writing to be bound by the terms and conditions set forth in the contract and provided such third party is a U.S.-based entity or maintains a registered agent and a certification of authority to do business in Virginia, or to an affiliate of Supplier, provided Supplier remains liable for affiliate's compliance with the terms and conditions set forth in this Contract;

19. Not complying with contractual provisions 1, 8, 10, 11, 12, and 13 at the following URL, which are mandatory provisions, required by law or by the Fairfax County Purchasing Resolution, which are hereby incorporated by reference: http://www.fairfaxcounty.gov/purchasing/po/termsandcondition.htm.

    The terms and conditions in documents posted to the aforereferenced URL are subject to change pursuant to action by the legislature of the Commonwealth of Virginia or a change in the Fairfax County Purchasing Resolution as adopted by the Fairfax County Board of Supervisors. Software Publisher is advised to check the URL periodically;

20. Not complying with the contractual claims provision of the Fairfax County Purchasing Resolution which is also incorporated by reference;

21. Enforcing the United Nations Convention on Contracts for the International Sale of Goods and all other laws and international treaties or conventions relating to the sale of goods. They are expressly disclaimed. UCITA shall apply to this contract only to the extent required by § 59.1-501.15 of the Code of Virginia;

22. Not complying with all applicable federal, state, and local laws, regulations, and ordinances;

23. Requiring that the County waive any immunity to which it is entitled by law;

24. Requiring that the County, which is tax exempt, be responsible for payment of any taxes, duties, or penalties;

25. Requiring or construing that any provision in this contract conveys any rights or interest in County data to Supplier;

26. Obligating the County beyond approved and appropriated funding. All payment obligations under this contract are subject appropriations by the Fairfax County Board of Supervisors for this purpose. In the event of non-appropriation of funds for the items under this contract, the County may terminate, in whole or in part, this contract or any order, for those goods or services for which funds have not been appropriated. This may extend to the renewal of maintenance services for only some of the licenses granted by Supplier. Written notice will be provided to the Supplier as soon as possible after legislative action is completed. There shall be no time limit for termination due to termination for lack of appropriations;

27. Permitting unilateral modification of the contract by Supplier;

28. Permitting unilateral termination by Supplier of the contract or the licenses granted thereunder, or permitting suspension of services by Supplier, except pursuant to an order from a court of competent jurisdiction, or as required by law;

29. Requiring or stating that the terms of the Supplier's standard form contract shall prevail over the terms of this addendum in the event of conflict;

30. Renewing or extending the contract beyond the initial term or automatically continuing the contract period from term to term;

31. Requiring that the contract be "accepted" or endorsed by the home office or by any other officer subsequent to execution by an official of the County before the contract is considered in effect;

32. Delaying the acceptance of the contract or its effective date beyond the date of execution;

33. Defining "perpetual" license rights to have any meaning other than license rights that exist in perpetuity unless otherwise terminated in accordance with the applicable provisions of the contract;

34. Permitting modification or replacement of the contract pursuant to any new release, update or upgrade of Software or subsequent renewal of maintenance. If Supplier provides an update or upgrade subject to additional payment, the County shall have the right to reject such update or upgrade;

35. Requiring purchase of a new release, update, or upgrade of Software or subsequent renewal of maintenance in order for the County to receive or maintain the benefits of Supplier's indemnification of the County against any claims of infringement on any third-party intellectual property rights;

36. Prohibiting the County from transferring or assigning to any entity the contract or any license pursuant to the contract;

37. Granting Supplier or an agent of Software Publisher the right to audit or examine the books, records, or accounts of the County other than as may be required by law;

The parties further agree as follows:

38. Supplier warrants that it is the owner of the Software or otherwise has the right to grant to the County the license to use the Software granted hereunder without violating or infringing any law, rule, regulation, copyright, patent, trade secret or other proprietary right of any third party.

39. Supplier agrees to indemnify, defend and hold harmless the County or its officers, directors, agents and employees ("County's Indemnified Parties") from and against any and all third party claims, demands, proceedings, suits and actions, including any related liabilities, obligations, losses, damages, fines, judgments, settlements, expenses (including attorneys' and accountants' fees and disbursements) and costs (each, a "Claim" and collectively, "Claims"), incurred by, borne by or asserted against the County's Indemnified Parties to the extent such Claims in any way relate to, arise out of or result from: (i) any intentional or willful conduct or negligence of any employee or subcontractor of Supplier, (ii) any act or omission of any employee or subcontractor of Supplier, (iii) breach of any representation, warranty or covenant of Supplier contained herein, (iv) any defect in the Software, or (v) any actual or alleged infringement or misappropriation of any third party's intellectual property rights by any of the Software. Selection and approval of counsel and approval of any settlement shall be accomplished in accordance with all applicable laws, rules and regulations. In all cases the selection and approval of counsel and approval of any settlement shall be satisfactory to the County against whom the claim has been asserted. This indemnification provision shall supersede any infringement indemnification provision set forth Supplier's standard form contract(s). No limitation of liability provision included in the contract shall apply to Supplier's indemnification obligations under this paragraph.

40. The County shall not be required to maintain as confidential any information, data, or records that have not been properly designated as trade secret or proprietary information pursuant to Va. Code Ann. § 2.2-4342(F) and are not otherwise exempted from the provisions of the Virginia Freedom of Information Act, Va. Code Ann. § 2.2-3700, *et seq*.

41. All information provided by the County pursuant to the contract shall be treated as confidential information and shall not be disclosed by Supplier, its employees, agents or subcontractors, except as specifically set forth in the contract documents. The County's confidential information shall include, but shall not be limited to: (a) Protected Health Information, as defined in HIPAA, which shall be subject to the County Business Associate Agreement, if applicable; and (b) any personally identifiable information included in information provided by the County.

    Supplier shall indemnify and hold the County harmless including, its officers, trustees, employees, and agents, from any and all claims, penalties, fines, costs, liabilities or damages, including but not limited to reasonable attorney fees, incurred by the County as a direct result of the acts or omissions of Supplier, its employees, officials, agents, or subcontractors that cause a failure to maintain confidentiality of information as required under the contract and applicable law, including but not limited to breach of HIPAA requirements and unauthorized access to, or failure to maintain confidentiality of, personally identifiable information. Supplier will promptly provide notice to the County of any breach of security or confidentiality of information provided by the County and shall be responsible for actions required to cure such breach resulting from Supplier's action or inaction. This indemnity obligation is supplemental to any other indemnification obligation set forth in this Addendum. No limitation of liability provision included in the contract shall apply to Supplier's indemnification obligations under this paragraph.

This contract, consisting of this Fairfax County License Agreement Addendum and the Supplier's standard form contract and any and all exhibits and attachments thereto, and any additional terms and conditions incorporated or referenced therein, constitute the entire agreement between the parties and may not be waived or modified except by written agreement between the parties.

IN WITNESS WHEREOF, the parties have caused this contract to be duly executed as of the last date set forth below by the undersigned authorized representatives of the parties, intending thereby to be legally bound.

Carahsoft Technology Corporation

By: _____
(Signature)

Name: _Craig P. Abod_____
(Print)

Title: ___President_____

Date: ___February 9, 2016___ _____

Fairfax County

By: Cathy A Muse
(Signature)

Name: Cathy A. Muse
(Print)

Title: Director/County Purchasing Agent

Date: 2/22/16