

CITY OF SAN ANTONIO
FINANCE DEPARTMENT – PROCUREMENT DIVISION
CONTRACT OVERLAY DOCUMENT FOR THE INTERLOCAL PURCHASING SYSTEM (TIPS) CONTRACT 220105

1. Incorporation of Attachments

Each of the attachments listed below is an essential part of this contract, which governs the rights and duties of the parties, incorporated herein by reference, and shall be interpreted in the order of priority as appears below, with this document taking priority over all attachments:

- Attachment A – TIPS 220105 Contract Carahsoft Technology Corp
- Attachment B – TIPS 220105 RFP Document
- Attachment C1 – Carahsoft Paymentworks Quote
- Attachment C2 – SOW Document
- Attachment D – Paymentworks Standard Terms and Conditions for Carahsoft Technology Corp

2. Term of Contract

Original Contract Term. This Contract and associated license period shall begin on the effective date of the ordinance awarding this contract and shall remain in full force and effect for a one (1) year period.

Renewals. At City's option, this Contract may be renewed under the same terms and conditions for four (4) additional one-year period(s) throughout and past the duration of TIPS CONTRACT 220105, without further action by the San Antonio City Council, subject to and contingent upon appropriation of funding therefor.

3. Venue

Venue of any court action brought directly or indirectly by reason of this contract shall be in Bexar County, Texas. This contract is made and is to be performed in Bexar County, Texas, and is governed by the laws of the State of Texas.

4. Amendments

Except where the terms of this contract expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Carahsoft Technology Corp. The Director of the Finance Department, or Director's designee, (Director) shall have authority to execute amendments on behalf of City without further action by the San Antonio City Council, subject to and contingent upon appropriation of funds for any increase in expenditures by City.

5. Termination

Termination-Breach. Should Carahsoft Technology Corp fail to fulfill in a timely and proper manner, as determined solely by the Director, its material obligations under this contract, or violate any of the material terms of this contract, City shall have the right to immediately terminate the contract in whole or in part. Notice of termination shall be provided in writing to Carahsoft Technology Corp, effective upon the date set forth in the notice. City may, in City's sole discretion, provide an opportunity for Carahsoft Technology Corp to cure the default. If City elects to offer an opportunity to cure, City shall provide notice to Carahsoft Technology Corp specifying the matters in default and the cure period. If Carahsoft Technology Corp fails to cure the default within the cure period, City shall have the right, without further notice, to terminate the contract in whole or in part. Such termination shall not relieve Carahsoft Technology Corp of any liability to the City for damages sustained by virtue of any breach by Carahsoft Technology Corp.

Termination-Notice. City may terminate this contract, in whole or in part, without cause. City shall be required to give Carahsoft Technology Corp notice ten days prior to the date of termination of the contract without cause.

Termination-Funding. City retains the right to terminate this contract at the expiration of each of City's budget periods. This contract is conditioned on a best efforts attempt by City to obtain and appropriate funds for payment of any debt due by City herein.

Termination by City may be effected by Director, without further action by the San Antonio City Council.

Regardless of how this Contract is terminated, City shall receive a refund of all prepaid annual license fees on a prorated basis (annual license fees divided by 12) for any full month(s) for which Customer does not receive services as of the date such termination is effective.

6. Assignment

Except as otherwise stated herein, Carahsoft Technology Corp may not sell, assign, pledge, transfer or convey any interest in this contract, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of Director. As a condition of such consent, if such consent is granted, Carahsoft Technology Corp shall remain liable for completion of the services and provision of goods outlined in this contract in the event of default by the successor vendor, assignee, transferee or sub. Any attempt to transfer, pledge or otherwise assign this Contract without said written approval, shall be void ab initio and shall confer no rights upon any third person.

7. State Prohibition on Contracts

A. This section only applies to a contract that:

- (1) is between a governmental entity and a company with 10 or more full-time employees; and
- (2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

"Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit. This term does not include a sole proprietorship.

Prohibition on Contracts with Companies Boycotting Israel.

Texas Government Code §2271.002 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.

"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

By submitting executing this Contract with the City of San Antonio, Company hereby verifies that it does not boycott Israel, and will not boycott Israel during the term of the contract. City hereby relies on Company's verification. If found to be false, City may terminate the contract for material breach.

Prohibition on Contracts with Companies Boycotting Certain Energy Companies.

Texas Government Code §2274 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract.

"Boycott energy company" means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described in (A).

By executing this Contract with the City of San Antonio, Company hereby verifies that it does not boycott energy companies and will not boycott energy companies during the term of the contract. City hereby relies on Company's verification. If found to be false, City may terminate the contract for material breach.

Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries.

Texas Government Code §2274 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association.

"Discriminate against a firearm entity or firearm trade association": (A) means, with respect to the entity or association, to: (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association.

By executing contract documents with the City of San Antonio, Company hereby verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and will not discriminate during the term of the contract against a firearm entity or firearm trade association. City hereby relies on Company's verification. If found to be false, City may terminate the contract for material breach.

B. Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization Prohibited. Texas Government Code §2252.152 provides that a governmental entity may not enter into a governmental contract with a company that is identified on a list prepared and maintained under Texas Government Code §§2270.0201 or 2252.153. Carahsoft Technology Corp hereby certifies that it is not identified on such a list and that it will notify City should it be placed on such a list while under contract with City. City hereby relies on Carahsoft Technology Corp's certification. If found to be false, or if Carahsoft Technology Corp is identified on such list during the course of its contract with City, City may terminate the Contract for material breach.

C. Disclosure Requirements for Certain Government Contracts. For contracts (1) with a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by the City, or (2) that result in the expenditure of at least \$1 million in public funds for the purchase of goods or services by the City in a given fiscal year, Carahsoft Technology Corp acknowledges that the requirements of the Texas Public Information Act, Government Code, Chapter 552, Subchapter J, pertaining to the preservation and disclosure of Contracting Information maintained by the City or sent between the City and a vendor, contractor, potential vendor, or potential contractor, may apply to this contract. Carahsoft Technology Corp agrees that the contract can be terminated if Carahsoft Technology Corp knowingly or intentionally fails to comply with a requirement of that subchapter.

By signing this Contract, Carahsoft Technology Corp warrants and certifies, and a contract awarded pursuant to this contract is made in reliance thereon, that it, has not knowingly or intentionally failed to comply with this subchapter in a previous offer or contract. City hereby relies on Carahsoft Technology Corp's certification, and if found to be false, City may terminate the Contract for material breach.

8. Insurance

Prior to the commencement of any work and/or service under this contract, CARAHSOFT TECHNOLOGY CORP must provide a completed Certificate(s) of Insurance to CITY'S Information Technology Services Department. The certificate must be:

- clearly labeled with the legal name of the event in the Description of Operations block;
- completed by an agent and signed by a person authorized by the insurer to bind coverage on its behalf (CITY will not accept Memorandum of Insurance or Binders as proof of insurance); and
- properly endorsed and have the agent's signature, and phone number.

Certificates may be mailed or sent via email, directly from the insurer's authorized representative. CITY shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by CITY'S Information Technology Services Department. No officer or employee, other than CITY'S Risk Manager, shall have authority to waive this requirement.

If the City does not receive copies of insurance endorsement, then by executing this Agreement, CARAHSOFT TECHNOLOGY CORP certifies and represents that its endorsements do not materially alter or diminish the insurance coverage for this contract.

The City's Risk Manager reserves the right to modify the insurance coverages, their limits, and deductibles prior to the scheduled event or during the effective period of this Agreement based on changes in statutory law, court decisions, and changes in the insurance market which presents an increased risk exposure.

CARASOFT TECHNOLOGY CORP shall obtain and maintain in full force and effect for the duration of this Agreement, at CARASOFT TECHNOLOGY CORP'S sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below. If the CARASOFT TECHNOLOGY CORP claims to be self-insured, they must provide a copy of their declaration page so the CITY can review their deductibles:

INSURANCE TYPE	LIMITS
1. Workers' Compensation 2. Employers' Liability	Statutory \$1,000,000/\$1,000,000/\$1,000,000
3. Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Products/Completed Operations c. Personal/Advertising Injury d. Contractual Liability e. Independent Contractors*	For Bodily Injury and Property Damage \$1,000,000 per occurrence; \$2,000,000 general aggregate, or its equivalent in Umbrella or Excess Liability Coverage.
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence.
5. Professional Liability	\$1,000,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service.
6. Cyber Liability	\$1,000,000 per claim \$1,000,000 general aggregate, or its equivalent in Umbrella or Excess Liability Coverage.
*If Applicable	

CARASOFT TECHNOLOGY CORP must require, by written contract, that all subcontractors providing goods or services under this Agreement obtain the same insurance coverages required of CARASOFT TECHNOLOGY CORP and provide a certificate of insurance and endorsement that names CARASOFT TECHNOLOGY CORP and CITY as additional insureds. Respondent shall provide CITY with subcontractor certificates and endorsements before the subcontractor starts work.

If a loss results in litigation, then the CITY is entitled, upon request and without expense to the City, to receive copies of the policies, declaration page and all endorsements. CARASOFT TECHNOLOGY CORP must comply with such requests within 10 days by submitting the requested insurance documents to the CITY at the following address:

City of San Antonio
Attn: Information Technology Services Department
P.O. Box 839966
San Antonio, Texas 78283-3966

CARASOFT TECHNOLOGY CORP's insurance policies must contain or be endorsed to contain the following provisions:

- Name CITY and its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the

named insured performed under contract with CITY. The endorsement requirement is not applicable for workers' compensation and professional liability policies.

- Endorsement that the "other insurance" clause shall not apply to CITY where CITY is an additional insured shown on the policy. CITY's insurance is not applicable in the event of a claim.
- Carahsoft Technology Corp shall submit a waiver of subrogation to include, workers' compensation, employers' liability, general liability and auto liability policies in favor of CITY; and
- Provide 30 days advance written notice directly to CITY of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.

Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, CARAHSOFT TECHNOLOGY CORP shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend CARAHSOFT TECHNOLOGY CORP'S performance should there be a lapse in coverage at any time during this Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

In addition to any other remedies CITY may have upon CARAHSOFT TECHNOLOGY CORP'S failure to provide and maintain any insurance or policy endorsements to the extent and within the time required, CITY may order CARAHSOFT TECHNOLOGY CORP to stop work and/or withhold any payment(s) which become due to CARAHSOFT TECHNOLOGY CORP under this Agreement until CARAHSOFT TECHNOLOGY CORP demonstrates compliance with requirements.

Nothing contained in this Agreement shall be construed as limiting the extent to which CARAHSOFT TECHNOLOGY CORP may be held responsible for payments of damages to persons or property resulting from CARAHSOFT TECHNOLOGY CORP'S or its subcontractors' performance of the work covered under this Agreement.

CARAHSOFT TECHNOLOGY CORP'S insurance shall be deemed primary and non-contributory with respect to any insurance or self - insurance carried by City for liability arising out of operations under this Agreement.

The insurance required is in addition to and separate from any other obligation contained in this Agreement and no claim or action by or on behalf of City shall be limited to insurance coverage provided.

CARAHSOFT TECHNOLOGY CORP and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.

8. Click Through Terms

Regardless of any other provision or other license terms which may be issued by Provider after the effective date of this Contract, and irrespective of whether any such provisions have been proposed prior to or after the issuance of a Purchase Order for products licensed under this contract, or the fact that such other agreement may be affixed to or accompany software upon delivery (shrink-wrap/click-through), the terms and conditions set forth herein shall supersede and govern the license terms between City and Provider.

In the event that conflicting or additional terms in Software License Agreements, Shrink/Click Wrap License Agreements, Service Agreements or linked or supplemental documents amend or diminish the rights of City, such conflicting or additional terms shall not take precedence over these terms.

Signature Page

Carahsoft Technology Corp represents that:

(s)he is authorized to bind Carahsoft Technology Corp to fully comply with the terms and conditions of this contract for the prices stated;

(s)he has read the entire document and agreed to the terms;

Carahsoft Technology Corp is in good standing with the Texas State Comptroller's Office; and to the best of his/her knowledge, all information is true and correct.

Complete the following and sign on the signature line below.

Offeror Information
Please Print or Type

Carahsoft Technology Corp ID No. 1029773

Signer's Name Daniel Lockbaum

Name of Business Carahsoft Technology Corporation

Street Address 11493 Sunset Hills Rd

City, State, Zip Code Reston, VA 20190

Email Address sales@carahsoft.com

Telephone No. 703-871-8500

Fax No. 703-871-8505

City's Solicitation No. TIPS RFP 220105 Technology Solutions, Products and Services

Daniel Lockbaum

Signature of Person Authorized to Sign