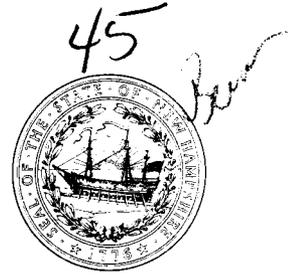




The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

December 9, 2015

SECRET

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, NH 03301

REQUESTED ACTION

Authorize the Department of Environmental Services (DES) to enter into a **SOLE SOURCE** contract with Riverside Technology, Inc., (RTi) (VC #173005-B001) of Fort Collins, Colorado, in the amount of \$100,000 for the purpose of upgrading the Rivertrak[®] watershed modeling and flood forecasting system, effective upon Governor and Council approval through December 31, 2016. Funding is 100% Capital (General) Funds.

Funds are available in the account as follows:

	<u>FY2016</u>
03-44-44-442030-5042-034-500155	\$80,000
Dept of Environmental Services, 15, 220:1:VI-F Forecasting	Permitting, Environmental Monitoring and Flood
03-44-44-442030-1298-034-500161	\$20,000
Dept of Environmental Services, 13, 195:1:VI-D	Flood Warning & Operations Improvements

EXPLANATION

This contract is requested as a **SOLE SOURCE** contract due to the proprietary nature of the Rivertrak[®] modeling software, which has been customized by RTi to meet the flood forecasting and modeling needs of DES. This customization included the setup and calibration of hydrologic models for nine major watersheds in New Hampshire, as well as the automated importation of hydrologic gauging data and meteorological forecasting products for real-time modeling and flood forecasting for those watersheds. While an alternate vendor may potentially provide a similar flood-forecasting product and service, it would necessitate a complete rebuild of existing watershed models and data imports and would far exceed the costs for the budgeted improvements being requested. No other vendor can provide improvements to the proprietary Rivertrak[®] model already used by DES.

The DES 2016-2017 capital budget appropriation made funding available to DES for enhancements that will improve DES dam operation, flood forecasting, and dissemination of real-time data. It is intended that the entirety of these funds be put towards a contract with RTi, the original software and support vendor for the Rivertrak[®] watershed modeling and flood forecasting software utilized by DES. Under this contract, RTi will work to upgrade and improve the existing system as follows:

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council

Page 2 of 2

- Create flood forecasting models for Lake Sunapee on the Sugar River, Highland Lake and Island Pond on the North Branch of the Contoocook River, and the Souhegan River Basin upstream of the Milford gage.
- Modify the computer models to ingest and utilize forecasted temperature (from NWS-NDFD) to model snowmelt and more accurately forecast streamflow, lake levels and potential flood conditions.
- Build a new webpage interface for public access to historical hydro-meteorological data maintained by DES.
- Make the existing Rivertrak[®] system more robust by eliminating or minimizing the “zeroing” of SAC-SMA soil moisture state values, which can occur in the event the application crashes.

The contract has been approved by the Office of the Attorney General as to form, execution, and content.

We respectfully request your approval.



Thomas S. Burack, Commissioner



STATE OF NEW HAMPSHIRE
DEPARTMENT OF INFORMATION TECHNOLOGY
27 Hazen Dr., Concord, NH 03301
Fax: 603-271-1516 TDD Access: 1-800-735-2964
www.nh.gov/doit

Denis Goulet
Commissioner

December 8, 2015

Thomas S. Burack, Commissioner
State of New Hampshire
Department of Environmental Services
29 Hazen Drive
Concord, NH 03301

Dear Commissioner Burack:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your agency's request to enter into a **SOLE SOURCE** contract with Riverside Technology, Fort Collins, CO, as described below and referenced as DoIT No. 2016-042.

The purpose of this contract is for NH DES Dam Bureau to upgrade the Rivertrak® system to improve dam operation. The enhancement to the Rivertrak® system will assist DES in publishing real-time historical hydro-metrological data through a webpage query interface. The funding amount is not to exceed \$100,000.00, and the contract shall become effective upon Governor and Council approval through December 31, 2016.

A copy of this letter should accompany the Department of Environmental Services' submission to the Governor and Executive Council for approval.

Sincerely,

A handwritten signature in black ink, appearing to read "Denis Goulet", written over a white background.

Denis Goulet

DG/mh
DoIT 2016-042

cc: Leslie Mason, IT Manager, DoIT
Chris Simmers, IT Manager, DoIT

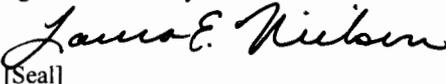
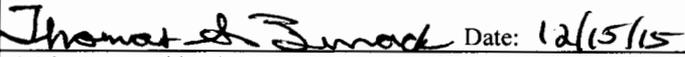
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name New Hampshire Department of Environmental Services		1.2 State Agency Address 29 Hazen Drive Concord, NH 03301	
1.3 Contractor Name Riverside Technology, Inc.		1.4 Contractor Address 2950 E Harmony Road, Suite 390 Fort Collins, CO 80528	
1.5 Contractor Phone Number (970) 484-7573	1.6 Account Number 030-044-5042-034-500155 030-044-1298-034-500161	1.7 Completion Date 12/31/2016	1.8 Price Limitation \$100,000
1.9 Contracting Officer for State Agency Thomas Burack, Commissioner		1.10 State Agency Telephone Number (603) 271-4974	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Larry E. Brazil, President/CEO	
1.13 Acknowledgement: State of Colorado, County of Larimer On 19 November 2015, before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace  [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace Laura E. Nielsen, Contracts Manager			
1.14 State Agency Signature  Date: 12/15/15		1.15 Name and Title of State Agency Signatory Thomas S. Burack, Commissioner	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: 12/21/15			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			

2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.18, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.14 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. This may include the requirement to utilize auxiliary aids and services to ensure that persons with communication disabilities, including vision, hearing and speech, can communicate with, receive information from, and convey information to the Contractor. In addition, the Contractor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this

Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

10. TERMINATION. In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice and consent of the State. None of the Services shall be subcontracted by the Contractor without the prior written notice and consent of the State.

13. INDEMNIFICATION. The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate ; and

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than thirty (30) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than thirty (30) days prior written notice of cancellation or modification of the policy.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A (*"Workers' Compensation"*).

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. WAIVER OF BREACH. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

17. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no

such approval is required under the circumstances pursuant to State law, rule or policy.

19. CONSTRUCTION OF AGREEMENT AND TERMS.

This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

20. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

21. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

22. SPECIAL PROVISIONS. Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

23. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

24. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF INFORMATION TECHNOLOGY
FLOOD FORECASTING SYSTEM IMPROVEMENT
CONTRACT NUMBER 2016-042
MAINTENANCE/LICENSE CONTRACT EXHIBIT A
STATEMENT OF WORK**

1. INTRODUCTION

The State of New Hampshire (“State”) desires to contract with Riverside Technology, inc., (Riverside) a Colorado corporation, to work on improvements to the Flood Forecasting Systems utilized by NHDES.

The Contract price is \$100,000.

TERMS AND DEFINITIONS

Capitalized terms used in the Contract will have the meanings given below.

Bureau of Purchase and Property	The State of New Hampshire, Department of Administrative Services, Purchasing Division
Change Order	A document issued by the State of New Hampshire to alter a product request
Contract	A binding agreement between the State of New Hampshire and Riverside.
Contract Administrator	The State employee responsible for Contract execution
Contract Documents	Documents that comprise this Contract (See Statement of Work Section 2.)
Cure Period	The time allowed whereby Riverside may fix the cause of a default.
Deliverables	Any written, software, or non-software deliverable (letter, report, manual, book, other), provided by Riverside to the State under the terms of the Contract.
DoIT	Department of Information Technology, an agency of the State of New Hampshire
Governor and Executive Council	The Governor for the State of New Hampshire and the Governor’s Council. This body has the authority and responsibility over the administration of the affairs of the State as defined in the New Hampshire Constitution and the New Hampshire statutes.
Notice of Default	A formal notice declaring that a failure to comply with the Contract has occurred.
Ordered Product(s)	Software licenses and media, software license renewals, and software maintenance and technical support for personal computer and network software which Riverside obtained for delivery to the State of New Hampshire.
Order(s)	The items listed in Exhibit B, <i>Payment Schedule-Fixed Price, Table 1: IT Services Deliverables and Payment Schedule.</i>
Product(s)	Commercial software licenses and media, software license renewals, and software maintenance and technical support for

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF INFORMATION TECHNOLOGY
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	personal computers and network software.
Purchasing Agency End User	Any State of New Hampshire agency that orders Products through the Department of Information Technology
Return Authorizations	Upon notifying Riverside that the State no longer desires Ordered Products that have either not been used and/not received, then the State is NOT liable to pay for such products.
Services	The work to be performed by Riverside and Subcontractors as described in the Contract.
State	State of New Hampshire, Department of Information Technology (DoIT) and Purchasing Agency End User as applicable
Subcontractor	A person, partnership, or company contracted by Riverside to perform under the Contract.
Term	The contract period of time.

2. CONTRACT DOCUMENTS

This Contract consists of the following documents (“Contract Documents”) in order of precedence:

- a. *State of New Hampshire Terms and Conditions, General Provisions Form P-37*
- b. Exhibit A Statement of Work
- c. Exhibit B Payment Schedule –Fixed Price
- d. Exhibit C Special Provisions

3. SCOPE OF SERVICES

Riverside shall provide the State the Services and Deliverables required under this Contract, as set forth Exhibit B, *Payment Schedule-Fixed Price*.

4. TERM

4.1 Period of Performance

The Contract shall take effect after full execution by the parties, and the receipt of required governmental approvals, including, but not limited to, Governor and Executive Council approval.

The Contract will begin on the Effective Date and extend through 12/31/16 The Term may be extended for additional periods of 1 year, (“Extended Term”) at the sole option of the State, subject to the parties prior written agreement on applicable fees for each extended term.

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4.2 Termination for Convenience

Notwithstanding the foregoing, the State may terminate this Contract, at its sole discretion, for any reason upon thirty (30) days written notice to Riverside. Upon termination for convenience, Riverside shall refund any unused portion of the Contract to the State.

5. CONTRACT ADMINISTRATION

5.1 Riverside CONTRACT MANAGER

Riverside shall designate a Contract Manager who shall be responsible for all contractual authorization and administration under the Contract. This person is:

Laura Nielsen
Riverside Technology, inc.
2950 East Harmony Road, Suite 390
Fort Collins, CO 80528
Tel: +1 (970) 484-7573 x 1801
Fax: +1 (970) 484-7593
Email: laura.nielsen@riverside.com

5.2 STATE CONTRACT MANAGER

The State shall designate a Contract Manager who shall function as the State's representative with regard to Contract administration. This person is:

Jake Ruiter
NHDES Dam Bureau
29 Hazen Dr. RM306C
Concord, NH 03301
Tel: 603-271-3617
Fax: 603-271-6910
Email: jacob.ruiter@des.nh.gov

6. STATEMENT OF WORK/DELIVERABLES/WORK PLAN

Riverside shall perform the Services and provide the Deliverables described in this Contract, *including but not limited to*, the Riverside quote 11/09/2015.

1. Develop flood forecasting models for:
 - a. Lake Sunapee on the Sugar River
 - b. Highland Lake and Island Pond on the North Branch of the Contoocook River
 - c. The Souhegan River Basin upstream of the Milford gage
2. Modify the computer models to use forecast temperatures to model snowmelt and more accurately forecast streamflow

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF INFORMATION TECHNOLOGY
FLOOD FORECASTING SYSTEM IMPROVEMENT
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MAINTENANCE/LICENSE CONTRACT EXHIBIT A
STATEMENT OF WORK**

3. Build public access to the historical hydro-meteorological data through a webpage query interface
4. Minimize the 'blanking out' of SAC-SMA soil moisture states after system crashes

6.1 Title

Title, right and interest in the Riverside proprietary software shall remain with Riverside.

7. ADDITIONAL TERMS AND CONDITIONS

7.1 INTELLECTUAL PROPERTY RIGHTS, AND CONFIDENTIALITY

7.1.1 Riverside agrees to maintain the confidentiality of, and to protect from unauthorized use, disclosure, publication, and reproduction, all confidential information of the State that becomes available to Riverside in connection with its performance under the Contract. Riverside shall not use any information obtained from the State during the performance of the Contract, except as is directly connected to and necessary for Riverside's performance under the Contract.

7.1.2 Any disclosure of the State's confidential information shall require prior written approval of the State. Information shall include, but not be limited to all data, record telecommunications content, studies, reports, written and software data files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, notes, letters, memoranda, papers, and documents, all whether finished or unfinished. The State's confidential information includes but is not limited to information of the State that is not predetermined to be subject to public disclosure under the laws of the State of New Hampshire.

7.1.3 Riverside shall immediately notify the State if a subpoena or other legal process is served upon Riverside regarding the State's confidential information, and Riverside shall cooperate with the State in any effort it undertakes to contest the subpoena or other legal process. In the event of unauthorized use or disclosure of the State's confidential information, Riverside shall immediately notify the State, and the State shall immediately be entitled to pursue any remedy at law or in equity, including, but not limited to injunctive relief.

7.1.4 Riverside shall not disclose any information obtained from the State during the performance of the Contract, except as is directly connected to and necessary for Riverside's performance under the Contract.

7.1.5 Insofar as Riverside seeks to maintain the confidentiality of its confidential or

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF INFORMATION TECHNOLOGY
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STATEMENT OF WORK**

proprietary information, Riverside must clearly identify in writing the information it claims to be confidential or proprietary. Riverside acknowledges that the State is subject to the Right to Know Law, RSA Chapter 91-A. The State shall maintain the confidentiality of the identified confidential or proprietary information insofar as it is consistent with applicable state and federal law, including but not limited to, RSA Chapter 91-A. In the event the State receives a request for the information identified by Riverside as confidential or proprietary, the State shall notify Riverside and specify the date the State will be releasing the requested information. Any effort to prohibit or enjoin the release of the information shall be Riverside's responsibility and at Riverside's sole expense. If Riverside fails to obtain a court order enjoining the disclosure, the State shall release the information on the date specified in the State's notice to Riverside, without liability to Riverside.

7.1.6 This section 7.1 shall survive the termination of the Contract.

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DEPARTMENT OF INFORMATION TECHNOLOGY
FLOOD FORECASTING SYSTEM IMPROVEMENT
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STATEMENT OF WORK**

8. FORCE MAJEURE

Neither Riverside nor the State shall be responsible for delays or failures in performance resulting from events beyond the control of such party and without fault or negligence of such party. Such events shall include, but not be limited to, acts of God, strikes, block outs, riots, acts of War, epidemics, acts of Government, fire, power failures, nuclear accidents, earthquakes, and unusually severe weather.

Except in the event of the foregoing, Force Majeure events shall not include Riverside's inability to hire or provide personnel needed for Riverside's performance under the Contract.

9. Riverside PARTICIPATION

Riverside has read and agrees to all procedures as contained Contract Attachment 1 *Required Work Procedures*.

10. INTERNAL ESCALATION PROCEDURE FOR DISPUTES

Prior to the filing of any formal proceedings with respect to a dispute (other than an action seeking injunctive relief with respect to intellectual property rights), the party believing itself aggrieved (the "Invoking Party") shall call for progressive management involvement in the dispute negotiation by written notice to the other party. Such notice shall be without prejudice to the Invoking Party's right to any other remedy permitted by this Agreement.

The parties shall use all reasonable efforts to arrange personal meetings and/or telephone conferences as needed, at mutually convenient times and places, between negotiators for the parties at the following successive management levels, each of which shall have a period of allotted time as specified below in which to attempt to resolve the dispute:

Dispute Resolution Responsibility and Schedule Table

Level	Riverside	The State	Cumulative Alloted Time
First	Michael Thiemann, Senior Engineer and <i>Group Leader</i>	Daniel Mattaini, Chief Operations & Maintenance Engineer	5 Business days
Second	Jay Day, Vice President and Chief Engineer	James Gallagher, Chief Engineer	10 Business days
Third	Larry Brazil, President and Chief Executive Officer	Thomas Burack, Commissioner	25 Business days

**STATE OF NEW HAMPSHIRE
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MAINTENANCE/LICENSE CONTRACT EXHIBIT A
STATEMENT OF WORK**

The allotted time for the first level negotiations shall begin on the date the Invoking Party's notice is received by the other party. Subsequent allotted time is days from the date that the original Invoking Party's notice is received by the other party.

11. ASSIGNMENT, DELEGATION and SUBCONTRACTS

- 11.1** Riverside shall not assign, delegate or otherwise transfer any of its interest, rights, or duties under the Contract without the prior written consent of the other party. Such consent will not be unreasonably withheld. Any attempted transfer, assignment, delegation, or other transfer made without the State's prior written consent shall be null and void.
- 11.2** Riverside shall remain wholly responsible for performance of the entire Contract regardless of whether assignees, delegates, Subcontractors or other transferees ("Successor") are used, unless otherwise agreed to in writing by the State and the Successor fully assumes in writing any and all obligations and liabilities under the Contract. In the absence of a written assumption of full obligations and liabilities of the Contract, any permitted assignment, delegation, subcontract or other transfer shall not relieve Riverside of any of its obligations under the Contract; not affect any remedies available to the State against Riverside that may arise from any event of default of the provisions of the Contract; and the State will consider Riverside to be the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from the Contract.

12. THE CONTRACTOR'S RELATION TO THE STATE

In the performance of the Contract, Riverside is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither Riverside, nor any of its officers, employees, agents, or members shall have authority to bind the State or receive any benefits, worker's compensation or other emoluments provided by the State to its employees.

13. WARRANTY

Riverside warrants that the Services and Deliverables furnished under this Contract do not infringe any patent, copyright, trade secret or other intellectual property rights. Riverside agrees to defend and indemnify and hold harmless the State in the event of any such infringement claim against the State.

Riverside warrants that it shall maintain the software Deliverables, including without limitation, the Rivertrak® System, to perform in accordance with its specifications. Riverside further warrants that the software Deliverables shall operate in accordance with its specifications. If the State finds any software Deliverable defective, in any way, for any reason, Riverside shall repair or replace within forty eight (48) hours of receiving notice from the State, excluding Saturdays, Sundays and Holidays, at no additional expense to the State, the software Deliverable or any portion thereof that the State has identified as defective.

**STATE OF NEW HAMPSHIRE
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14. TERMINATION

Either party may terminate this Contract at any time if the other party is in default of its obligations under this Contract and such default remains unremedied for a period of 30 days from the date of receipt of notice of default by the non-defaulting party. Such right of termination shall be in addition to all other rights and remedies to which the parties are entitled. Events of default shall include, without limitation: Riverside's breach of or failure to perform any warranty or other obligation contained in the Contract; or Riverside ceasing to conduct Maintenance and Support Services.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF INFORMATION TECHNOLOGY
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CONTRACT NUMBER 2016-042
MAINTENANCE/LICENSE CONTRACT EXHIBIT B
PAYMENT SCHEDULE- FIXED PRICE**

1. DELIVERABLE PAYMENT SCHEDULE.

All charges by Riverside Technology, inc., (Riverside), under this Contract shall be at a fixed price in accordance with the schedules set forth in Table 1 below.

2. FIXED PRICE PAYMENT SCHEDULE

Table 1: Payment Schedule:

Deliverables	Percentage	Date	Payment Amount
Flood Forecasting Model for Sunapee (Sugar River basin)	13%	75 days from Effective Date as defined in section 3.1 of the contract	\$12,700
Flood Forecasting Model for Highland Lake/Island Pond (North Branch Contoocook River basin)	13%	90 days from Effective Date as defined in section 3.1 of the contract	\$12,700
Flood Forecasting Model for Souhegan River basin.	13%	105 days Effective Date as defined in section 3.1 of the contract	\$12,800
Modify the computer models to use forecast temperatures to model snowmelt and more accurately forecast streamflow	19%	60 days from Effective Date as defined in section 3.1 of the contract	\$18,900
Build public access to the historical hydro-meteorological data	24%	90 days from Effective Date as defined in section 3.1 of the contract	\$24,400
Minimize the 'blinking out' of SAC-SMA soil moisture states after system crashes	19%	60 days from Effective Date as defined in section 3.1 of the contract	\$18,500
	100%	Total	\$100,000

Notwithstanding any other provision of this Contract, in no event shall the total payment made by the State exceed \$100,000.

3. PAYMENTS

The State shall pay Riverside within thirty (30) calendar days of the State's receipt of a correct and undisputed invoice.

**STATE OF NEW HAMPSHIRE
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MAINTENANCE/LICENSE CONTRACT EXHIBIT C
SPECIAL PROVISIONS**

There are no special provisions.

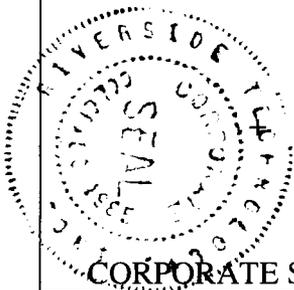
“CERTIFICATE OF AUTHORITY”

I, Douglas B. Greer hereby certify that I am duly elected Secretary of Riverside Technology, inc. (Corporation).

I hereby certify the following is a true copy of a vote adopted by unanimous consent of the Board of Directors of the Corporation, on 19 November 2015.

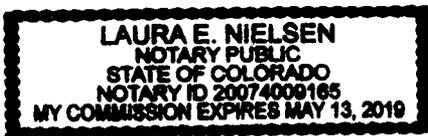
VOTED: That Larry E. Brazil is duly authorized to enter into a specific contract namely “Flood Forecasting System Improvement Contract #2016-042” with the State of New Hampshire Department of Environmental Services and further authorized to execute any documents which may in his judgment be desirable or necessary to effect the purpose of this vote.

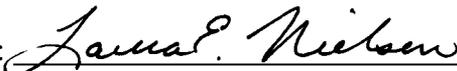
I hereby certify that said vote has not been amended or repealed and remains in full force and effect as of 19 November 2015 and that Larry E. Brazil is duly elected President/CEO of this Corporation.



ATTEST: 
(Corporate Secretary)

DATE: 19 November 2015



ATTEST: 
(Notary Public)

COMMISSION EXPIRES: 13 May 2019

DATE: 19 November 2015

NOTARY SEAL

(NOTE: IF COMPANY IS NOT INCORPORATED, PLEASE CHECK THE BOX .)

State of New Hampshire Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that RIVERSIDE TECHNOLOGY, INC. a(n) Colorado corporation, is authorized to transact business in New Hampshire and qualified on March 30, 2001. I further certify that all fees and annual reports required by the Secretary of State's office have been received.

In TESTIMONY WHEREOF, I hereto
set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 11th day of August, A.D. 2015



A handwritten signature in black ink, appearing to read "William M. Gardner".

William M. Gardner
Secretary of State

