



"We're working to keep New Hampshire working"

GEORGE N. COPADIS, COMMISSIONER

RICHARD J. LAVERS, DEPUTY COMMISSIONER

LEGAL SECTION PM 3:02 RO
45 SOUTH FRUIT STREET
CONCORD, NH 03301-4857



April 2, 2021

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, NH 03301

REQUESTED ACTION

To authorize New Hampshire Employment Security (NHES) to enter into a **Retroactive Sole Source** contract amendment with Fairfax Data Systems, Inc., New Milford, CT, in the amount not to exceed \$36,000.00, an increase of \$18,000.00, and extend the term of the contract from March 31, 2021 to March 31, 2022, to provide NHES with remote support services related to the *FileNet* and *DataCap* environments, two custom pieces of software specific to NHES and its electronic Unemployment Insurance System (NHUIS), effective upon the date of Governor and Council approval through March 31, 2022. Funding source: 100% Federal funds.

This agreement was originally approved by Governor and Council on April 8, 2020 (Item #30).

02-27-27-270010-8040	DEPT OF EMPLOYMENT SECURITY	<u>SFY 2021</u>
10-02700-80400000-024-500231	Computer Maintenance, Non Desktop	\$18,000.00

EXPLANATION

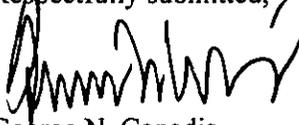
NHES is requesting approval of the attached **Retroactive Sole Source** amendment for all phases of enhancements and upgrades of the *FileNet* and *DataCap* software suite. *FileNet* and *DataCap* solutions are custom pieces of software specific to NHES and are part of NHES's most critical systems, NHUIS. Fairfax has performed all custom work, upgrades, and support of these two critical applications since 2016. Because of this, Fairfax is familiar with these applications—more so than any other vendor or internal Department of Information Technology (DoIT) staff—and is able to provide continuity of service and support NHES in a timely manner at a lower cost. This is particularly important given the exponential increase in documents being processed as a result of the increase in unemployment claims during the COVID-19 pandemic.

In this case, a sole source agreement is unavoidable, as it would take six to eight months for a different vendor to attain the same knowledge level as Fairfax on these custom applications. Because this is only a one-year extension, using at least half of that time on a vendor with limited knowledge to become familiar with the systems would be less effective, an inefficient use of resources, and would slow down the process for the required support and upgrades needed. A different vendor could also potentially cost more based on the extra effort the vendor would have to utilize to become familiar with the software systems. NHES needs enhancements and upgrades to be made on these systems as soon as possible and if these are not

made timely, NHES could potentially lose its *FileNet* and *DataCap* functionality and one of its most critical systems, NHUIS, would not be able to support the claimants and employers of New Hampshire. The increased contract total of \$18,000.00 is for the period from Governor and Council approval through March 31, 2022.

This amendment is retroactive due to the Department's workload in response to the COVID-19 pandemic.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "George N. Copadis", written over the typed name below.

George N. Copadis
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

April 05, 2021

George N. Copadis, Commissioner
New Hampshire Employment Security
State of New Hampshire
45 South Fruit Street
Concord, NH 03301

Dear Commissioner Copadis:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your agency's request to amend a contract with Fairfax Data Systems Inc., New Milford, CT as described below and referenced as DoIT No. 2020-068A.

This request is to enter into a contract amendment to provide support services related to the NHES custom FileNet and DataCap environments. These two custom pieces of software are specific to the NHES applications.

The current contract amount will increase by \$18,000 increasing the contract amount from \$18,000, to a new total of \$36,000, effective on the date of Governor and Council approval through March 31, 2022.

A copy of this letter should accompany the Department of Employment Security's submission to the Governor and Executive Council for approval.

Sincerely,

Denis Goulet

DG/kaf
DoIT No. 2020-068A
cc: Bill Laycock, DoIT

CONTRACT AMENDMENT #1

Between

NEW HAMPSHIRE EMPLOYMENT SECURITY

And

FAIRFAX DATA SYSTEMS, INC.

WHEREAS, New Hampshire Employment Security ("NHES") and Fairfax Data Systems, Inc. ("Fairfax") (collectively, the "Parties") are parties to a contract approved by Governor and Council (4/8/2020, Item #30) to provide remote support services related to the FileNet and DataCap environment at New Hampshire Employment Security for a term ending March 31, 2021.

WHEREAS, the terms of the contract provide that the contract may only be amended by an instrument in writing, signed by the Parties (P-37 – General Provisions, Section 17).

WHEREAS, the terms of the contract provide for a one-year extension (Exhibit B – Scope of Work, Section 4).

WHEREAS, NHES wishes to engage Fairfax to provide continued remote support services for the FileNet and DataCap systems for an additional year.

Jg 3/24/2021
[Signature]

NOW, THEREFORE, the Parties agree as follows:

1. Section 1.7 Completion Date, and all references thereto, is amended to read:
March 31, 2022
2. Section 1.8 Price Limitation, and all references thereto, is amended to read:
\$36,000
3. Section 6 of Exhibit B = Scope of Work is amended as follows:

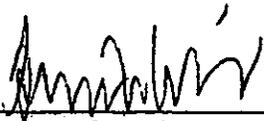
Add:

- Discuss the future path of ECM, upgrade review meeting

Vendor Initials: *Jg*
Date: *3/24/2021*

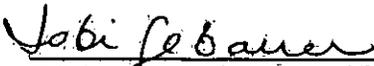
SIGNATURE PAGE TO FOLLOW

Signed:



George N. Copadis, Commissioner
New Hampshire Employment Security

Date: 4/1/2021



Tobi Gebauer, Operations Manager
Fairfax Data Systems, Inc.

Date: 3/24/2021

/s/ Stacie M. Moeser
New Hampshire Department of Justice

Date: April 6, 2021

Approved by the Governor and Executive Council

Date: _____

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 FAIRFAX DATA SYSTEMS, INC. is a Virginia Profit Corporation registered to transact business in New Hampshire on November 02, 2015. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 734131

Certificate Number: 0004848572



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 19th day of March A.D. 2020.

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

William M. Gardner
Secretary of State



March 29, 2021

State of New Hampshire
New Hampshire Employment Services,
Department of Information Technology (NHES)
45 South Fruit St.
Concord, NH 03301

To Whom It May Concern,

Please see the attached Meeting Minutes which Tobl Gebauer has been given the authority to sign for Fairfax Data Systems. As of March 24, 2021 which date this contract was signed by Fairfax Data Systems, the authority given to Tobl Gebauer has not been rescinded or revoked.

If you have any questions, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "David Suess", written over a horizontal line.

David Suess
President, CEO
Fairfax Data Systems, Inc.
30 Bridge St, Suite 300
New Milford, CT 06776
(860) 354-4472 ext 130

Sincerely,

A handwritten signature in black ink, appearing to read "Tobl Gebauer", written over a horizontal line.

Tobl Gebauer
Operations Manager
Fairfax Data Systems, Inc.
30 Bridge St., Suite 300
New Milford, CT 06776
(860) 354-4472 ext 112

MINUTES OF SPECIAL MEETING OF THE BOARD OF DIRECTORS
OF
FAIRFAX DATA SYSTEMS, INC.

Purpose: To approve and adopt signature authority and Titles.

A special meeting of the Board of Directors of the above-named Corporation was held at:

Date: 17 November 2014

Time: 6:00 p.m.

Place: 431 Candlewood Lake Rd. North, New Milford, Connecticut 06776

The following Directors were present, constituting a quorum:

David L. Suess

Jennifer K. Suess

David L. Suess and Jennifer K. Suess being all of the Board of Directors of the Corporation, consent to the following action:

RESOLVED, that David Suess and Jennifer Suess, as owners and board of directors delegate authority to Fairfax's Operations Manager, Tobi Gebauer on the following terms and conditions:

The Operations Manager is an officer of the company and has signature authority and may review and execute/bind on the company's behalf all contracts, agreements and financial securities. Including and not limited to the following: sign contracts, sign modifications, negotiate changes, administer orders, make payments, contract administration and sign offer letters.

RESOLVED, that Kimberly Doro authority to sign Non Disclosure agreements have been revoked and all and any titles given to her at Fairfax Data Systems and to revoke all of her signature and other authority explicit or implied. This revocation is effective on the day of her release from Fairfax Data Systems.

RESOLVED, that David Suess will be the new President, Chief Executive Officer and Chief Financial Officer and has the signature and authority given to execute the office of President, CFO and CEO.

RESOLVED, that the Chief Executive Officer and such other officers as may be authorized by the Board of Directors, from time to time, empowered and directed to take any and all necessary steps to carry out the provisions of the above Plan.

RESOLVED, that Timothy McGiness have the authority to sign Non Disclosure agreements.

With no further business to come before the meeting, upon a motion duly made, seconded and unananimously carried, the meeting was adjourned.

David J. Lee

Secretary

Approved:

David J. Lee

Chairman



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
11/4/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER MVR Agency 477 Ashford Ave Ardsley NY 10502	CONTACT NAME: Jennifer Rosenberry	
	PHONE (A/C, No, Ext): 914-693-3500	FAX (A/C, No): 914-693-3980
E-MAIL ADDRESS: Jrosenberry@mvragency.com		
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A: Hartford Casualty Ins. Co.		29424
INSURER B: Hartford Fire Insurance Co.		19682
INSURER C: Hartford Accident & Indemnity		914
INSURER D:		
INSURER E:		
INSURER F:		

INSURED Fairfax Data Systems, Inc 30 Bridge Street Suite 300 New Milford CT 06776	FAIRDAT-01	CERTIFICATE NUMBER: 1008550725	REVISION NUMBER:
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THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GENL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			16SBAAB9258	12/12/2020	12/12/2021	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COM/POP AGG \$ 4,000,000 \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			16SBAAB9258	12/12/2020	12/12/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			16SBAAB9258	12/12/2020	12/12/2021	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	16WECAE7G97	12/12/2020	12/12/2021	PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	Professional Liability			16TE0344046-19	12/12/2020	12/12/2021	Occ/Agg Aggregate Retention 3,000,000 3,000,000 10,000
B	Cyber Liability			16TE0344046-19	12/12/2020	12/12/2021	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER New Hampshire Employment Security 45 South Fruit Street Concord NH 03104	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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"We're working to keep New Hampshire working."

ADMINISTRATIVE OFFICE

45 SOUTH FRUIT STREET
CONCORD, NH 03301-4857



GEORGE N. COPADIS, COMMISSIONER

RICHARD J. LAVERS, DEPUTY COMMISSIONER

March 24, 2020

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

To authorize New Hampshire Employment Security (NHES) to enter into a Sole Source agreement with Fairfax Data Systems, Inc., New Milford, Connecticut, in the amount not to exceed \$18,000.00 to provide NHES with remote support services related to the *FileNet* and *DataCap* environments, two custom pieces of software specific to NHES and its electronic Unemployment Insurance System (NHUIS), effective upon the date of Governor and Council approval through March 31, 2021. Funding source: 100% Federal funds.

Federal funds are available in the following account for State Fiscal Year 2020, with the authority to adjust encumbrances between SFYs through the Budget Office, if needed and justified.

02-27-27-270010-8040	DEPT OF EMPLOYMENT SECURITY	<u>SFY 2020</u>
10-02700-80400000-024-500231	Computer Maintenance, Non Desktop	\$18,000.00

EXPLANATION

NHES is requesting approval of the attached Sole Source agreement for all phases of enhancements and upgrades of the *FileNet* and *DataCap* software suite. *FileNet* and *DataCap* solutions are custom pieces of software specific to NHES and are part of NHES's most critical system, the New Hampshire Unemployment Insurance System (NHUIS). Fairfax has performed all custom work, upgrades, and support of these two critical applications since 2016. Because of this, Fairfax has a level of knowledge and expertise with these applications unlike any other vendor and is able to support NHES in a timely manner at a reasonable cost.

In this case, a sole source agreement is the best course of action, as any other vendor would require significant time to become familiar with the applications and systems. This would most certainly cost NHES more based on the extra effort the vendor would have to utilize. Further, NHES needs enhancements and upgrades to be made on these systems as soon as possible and cannot afford to wait for another vendor to get up to speed on these systems. The Department feels this sole source agreement is in the best interests of the State of New Hampshire as it allows a trusted, experienced vendor to continue to be responsible for a system that is critical to the unemployment compensation system. The contract total of \$18,000.00 is for the period from Governor and Council approval through March 31, 2021.

Respectfully submitted,

George N. Copadis
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/doiit

Denis Goulet
Commissioner

March 25, 2020

George N. Copadis, Commissioner
New Hampshire Employment Security
State of New Hampshire
45 South Fruit Street, Suite 14
Concord, NH 03301

Dear Commissioner Copadis:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your agency's request to enter into a contract with FairFax Data Systems, Inc., of New Milford, CT, as described below and referenced as DoIT No. 2020-068.

This request is to enter into a contract with FairFax Data Systems, Inc. for support services related to the NHES custom FileNet and DataCap environments. These two custom pieces of software are specific to the NHES applications.

The amount of the contract is \$18,000, effective upon the date of Governor and Executive Council approval through March 31, 2021.

A copy of this letter should accompany the Department of Employment Security's submission to the Governor and Executive Council for approval.

Sincerely,

A handwritten signature in black ink that reads "Denis Goulet".

Denis Goulet

DG/ik
DoIT No. 2020-068
cc: Bill Laycock, DoIT

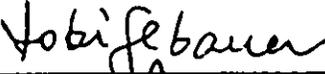
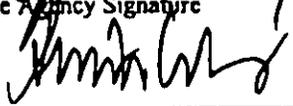
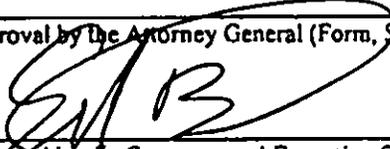
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

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 Employment Security		1.2 State Agency Address 45 South Fruit Street Concord, NH 03104	
1.3 Contractor Name Fairfax Data Systems, Inc.		1.4 Contractor Address 30 Bridge Street, Suite 300 New Milford, CT 06776	
1.5 Contractor Phone Number 860-354-4472	1.6 Account Number 10-02700-80400000-024-500231	1.7 Completion Date March 31, 2021	1.8 Price Limitation \$18,000
1.9 Contracting Officer for State Agency George N. Copadis, Commissioner		1.10 State Agency Telephone Number 603-228-4000	
1.11 Contractor Signature  Date: 3/17/2020		1.12 Name and Title of Contractor Signatory Tobi Gebauer, Operations Manager	
1.13 State Agency Signature  Date: 3/19/20		1.14 Name and Title of State Agency Signatory George N. Copadis, Commissioner	
1.15 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: 3/25/2020			
1.17 Approval by the Governor and Executive Council (if applicable) G&C Item number: _____ G&C Meeting Date: _____			

Contractor Initials 
Date 3/17/2020

2. 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 B 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 1.17, 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 1.13 ("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 affected by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part. 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 reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source 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 C 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 applicable 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 employment opportunity laws. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property 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 The Contractor 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.

Contractor Initials *JK*
Date *3/17/2020*

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 cured, 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 give the Contractor a written notice specifying the Event of Default and 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 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

8.3. 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.

9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, 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 B. In addition, at the State's discretion, the Contractor shall, within 15 days of notice of early termination, develop and

submit to the State a Transition Plan for services under the Agreement.

10. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

10.1 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.

10.2 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.

10.3 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.

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.

12.1 The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice, which shall be provided to the State at least fifteen (15) days prior to the assignment, and a written consent of the State. For purposes of this paragraph, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.2 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State. The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. **INDEMNIFICATION.** Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, its officers and employees, from and against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement, or other claims asserted against the State, its officers or employees, which arise out of (or which may be claimed to arise out of) the acts or omission of the

Contractor, or subcontractors, including but not limited to the negligence, reckless or intentional conduct. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. 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 continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial 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 or excess; and

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 10.2 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 ten (10) days prior to the expiration date of each insurance policy. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

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. The 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. 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.

17. 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.

18. CHOICE OF LAW AND FORUM. This Agreement shall be governed, interpreted and 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. Any actions arising out of this Agreement shall be brought and maintained in New Hampshire Superior Court which shall have exclusive jurisdiction thereof.

19. CONFLICTING TERMS. In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and/or attachments and amendment thereof, the terms of the P-37 (as modified in EXHIBIT A) shall control.

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 or modifying provisions set forth in the attached EXHIBIT A 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 with respect to the subject matter hereof.

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CONTRACT 2020-068 REMOTE DATA CAP SUPPORT
EXHIBIT A
SPECIAL PROVISIONS

Debarment and Suspension

Contractor certifies that the primary participant, and its principals, to the best of its knowledge and belief, are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or State agency. Contractor will inform NH Employment Security of any changes in the status regarding this statement.

Sub-contracting

Contractor will not assign, subcontract or otherwise transfer any duty obligation, or written performance required by this agreement without the prior written consent of NH Employment Security. All subcontractors must be listed on the bid page of this document for pre-approval.

Rights to Inventions Made Under a Contract or Agreement (if applicable)

Contractor agrees to comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Clean Air Act and the Federal Water Pollution Control Act (if applicable)

For contracts in excess of \$150,000, the Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Byrd Anti-Lobbying Amendment (if applicable)

For contracts in excess of \$100,000, the Contractor certifies it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Contractor must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award/contract.

Davis-Bacon Act (if applicable)

Davis-Bacon Act and Related Acts, apply to contractors and subcontractors performing on federally funded/assisted contracts in excess of \$2,000 for construction, alteration, or repair (including painting and decorating) of public buildings or public works. Under these Acts, contractors and subcontractors must pay laborers and mechanics prevailing wages and fringe benefits for corresponding work on similar projects in the area as determined by the Department of Labor. When there is no Davis-Bacon assignment, applicable

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SPECIAL PROVISIONS

Wage Determination is realized by using the lowest skilled craft above laborer, excluding power equipment rate.

Contract Work Hours and Safety Standards Act (if applicable)

For contracts in excess of \$100,000 that involve the employment of mechanics or laborers, the Contractor agrees to comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Parts 5). Under 40 U.S.C. 3702 of the Act, the Contractor is required to compute the wages of every mechanic and laborer on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the workweek. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions that are unsanitary, hazardous or dangerous.

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EXHIBIT B
SCOPE OF WORK

1. INTRODUCTION

This Contract is by and between the State of New Hampshire, acting through New Hampshire Employment Security ("State" or "NHES"), and Fairfax Data Systems, Inc. ("Fairfax" or "Contractor"), having its principal place of business at 30 Bridge Street, Suite 300, New Milford, CT 06776.

Whereas the State desires to have the Contractor provide remote support services related to the FileNet and DataCap environment at New Hampshire Employment Security, the parties agree as follows:

The Contract price is not to exceed \$18,000, as set forth in P-37 General Provisions – Block 1.8: Price Limitation.

TERMS AND DEFINITIONS

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

Contract	A binding agreement between the State of New Hampshire, Department of Employment Security and the Contractor.
Contract Administrator	The State employee responsible for Contract execution.
Contract Documents	Documents that comprise this Contract. (See Ex. B Scope of Work, Section 2.)
Deliverables	Any written, software, or non-software deliverable (letter, report, manual, book, other), provided by the Contractor to the State under the terms of the Contract.
DoIT	Department of Information Technology, an agency of the State of New Hampshire.
Notice of Default	A formal notice declaring that a failure to comply with the Contract has occurred.
Services	The work to be performed by the Contractor and Subcontractors as described in the Contract.
State	State of New Hampshire, Department of Employment Security.
Subcontractor	A person, partnership, or company contracted by the Contractor 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 Special Provisions

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- c. Exhibit B Scope of Work
- d. Exhibit C Deliverable and Payment Schedule
- e. Exhibit D IT Required Work Procedures

3. SCOPE OF SERVICES

The Contractor shall provide the State the Services and Deliverables required under this Contract, as set forth in this Exhibit B, *Scope of Work*.

4. TERM

4.1 Period of Performance

The Contract and all obligations of the parties hereunder shall become effective after full execution by the parties, and the receipt of required governmental approvals, including, but not limited to, Governor and Executive Council of the State of New Hampshire approval ("Effective Date") and extend through the date indicated in the P-37 General Provisions – Block 1.7: Completion Date.

The Term shall be for one (1) year and may be extended for one (1) additional term of one (1) year, under the terms and conditions contained in the agreement and subject to approval by the New Hampshire Governor and Executive Council.

5. CONTRACT ADMINISTRATION

5.1 Fairfax Contract Manager

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

Tobi Gebauer
Fairfax Data Systems, Inc.
30 Bridge St., Ste 300
New Milford, CT 06776
(860)354-4472 Ext. 104
Email: rfp@fairfaxdatasystems.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:

William Laycock
Department of Information Technology
45 South Fruit Street
Concord NH 03301
Tel: 603-228-4189

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Email: william.laycock@dolt.nh.gov

5.3 Reference and Background Checks

The Contractor shall conduct criminal background checks and not utilize any staff, including subcontractors, to fulfill the obligations of the contract who have been convicted of any crime of dishonesty, including but not limited to criminal fraud, or otherwise convicted of any felony or misdemeanor offense for which incarceration for up to one (1) year is an authorized penalty. The Contractor shall promote and maintain awareness of the importance of securing the State's information among the Contractor's employees and agents.

The State may, at its sole expense, conduct reference and background screening of the Contractor Project Manager and any Contractor's key project staff. The State shall maintain the confidentiality of background screening results in accordance with the

6. STATEMENT OF WORK/DELIVERABLES/WORK PLAN

Fairfax shall perform the Services and provide the Deliverables described in this Contract.

Fairfax will provide remote support services related to NHDot's FileNet and DataCap environment at New Hampshire Employment Security (NHES). Services will include the following:

- System and application advisory
- Break and fix for applications and software platform, to include work being completed if the product is non-functioning or has bug defects
- Deployment and installation of hot fixes and patches
- Assistance with cause analysis and fix of erred and bad batches
- Quarterly remote meetings to discuss system overview
- Quarterly report outlining tickets opened in the quarter, closed in the quarter and all open tickets
- Change the Domain Controller from CONNHESDC2 to nhes.nhroot.int.
- Up to 40 hours of remote development time for form changes and minor application changes
- Up to 80 hours of support time

Services will not include the installation of new major or minor versions of the software. Additional development hours can be purchased at a rate of \$150 per hour for remote development.

6.1 Service Hours

Fairfax will provide support during the normal business hours of 9:00 AM EST and 5:00 PM EST Monday through Friday for all non-holidays. Anticipated activities required outside of this window, such as patches, should be coordinated and agreed upon with the business contact designated in this Statement of Work.

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Fairfax Data Systems observes the following holidays:

- New Year's Day
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- Day after Thanksgiving
- Christmas Eve
- Christmas Day

6.2 Engaging the Support Team

Fairfax uses Autotask (AT) as our primary on-line support ticketing system. Tickets for production issues will be opened up by the designated point of contact(s) using a client portal interface, enabling electronic tracking and facilitating communication of issues all the way through to ticket resolution.

Fairfax will set up the designated point of contact(s) as requested, to be able to use AT. A user ID, password and system link will be provided to the contacts upon set up. The Autotask (URL) is as follows: <http://autotask.fairfaxdatasystems.com>. The State will also be able to call the Fairfax support line using the number +1 (860) 354-4472 and pressing option 2 from the call menu.

6.3 Priorities and Response Times

To ensure that each incident registered in the support portal is given appropriate response, Fairfax uses the following four priorities to distinguish criticality of the issue:

- a. Critical: Production system is not operational with more than 90% of users affected. Status can only be applied to production systems;
- b. High: Production system is operation but a major feature is unavailable and affecting a significant number of users;
- c. Medium: Issue is a minor or intermittent problem which does not significantly impact production usage, and;
- d. Low: Requests for information and/or assistance on software capabilities, product enhancements, user instructions, and best practices.

Each of the above-described priorities is then mapped to the following response times:

- i. Critical: A response will be issued within 1 business hour
- ii. High: A response will be issued within 4 business hours
- iii. Medium: A response will be issued within 8 business hours
- iv. Low: A response will be issued within 16 business hours

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6.4 Roles and Responsibilities

Fairfax Responsibilities

1. Provide support activities as described in this Exhibit B, Scope of Work.
2. Establish account(s) for New Hampshire to create support tickets.

NH DoIT Responsibilities

1. Provide necessary access to infrastructure associated with the DataCap software.
2. Provide subject matter experts for the business and technology team(s) as applicable.
3. Assist in the testing of any application changes.
4. Provide key points of contact to be given access to the support portal and the ability to create tickets.

6.5. Assumptions

The Scope of Work was produced with the following assumptions taken into consideration:

1. All work will be completed remotely.
2. The State will provide adequate access to the appropriate systems and technology components to enable Fairfax resources to perform any necessary support work.
3. New Hampshire representatives will use the support portal to initiate support requests.
4. The work is considered to be "break and fix." Any work that is not break and fix will fall into the "development hours" allocation as described in this Statement of Work.
5. Fairfax will not perform any major or minor version software upgrades to the DataCap platform under the scope of this support agreement.
6. The State will provide appropriate expertise for the implementation and development of any fix or other work.
7. The State will be solely responsible for the testing of any application changes outside of Fairfax's internal development testing (user testing and/or user acceptance testing).
8. Fairfax will only provide support during the hours designated within this Scope of Work.

ADDITIONAL TERMS AND CONDITIONS

7. CONFIDENTIALITY

7.1 USE OF STATE'S INFORMATION AND CONFIDENTIALITY

7.1.1 In performing its obligations under the Contract, the Contractor may gain access to information of the State, including State Confidential Information. The State's "Confidential Information" shall include, but not be limited to, information exempted from public disclosure under New Hampshire RSA Chapter 91-A: Access to Public Records and Meetings (see e.g., RSA Chapter 91-A:5 Exemptions). The Contractor shall not use the State Confidential Information developed or obtained during the performance of, or acquired, or developed by reason of the Contract, except as directly connected to and necessary for the Contractor's performance under the Contract.

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SCOPE OF WORK

7.1.1. Fairfax shall maintain the confidentiality of and protect from unauthorized use, disclosure, publication, and reproduction, all State Confidential Information that becomes available to Fairfax in connection with its performance under the Contract, regardless of its form. 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

7.1.2 Subject to applicable federal or State laws and regulations, Confidential Information shall not include information which:

(i) Shall have otherwise become publicly available other than as a result of disclosure by the receiving party in breach hereof;

(ii) Was disclosed to the receiving party on a non-confidential basis from a source other than the disclosing party, which the receiving party believes is not prohibited from disclosing such information as a result of an obligation in favor of the disclosing party;

(iii) Is developed by the receiving party independently of, or was known by the receiving party prior to, any disclosure of such information made by the disclosing party; or

(iv) Is disclosed with the written consent of the disclosing party. A receiving party also may disclose Confidential Information to the extent required by an order of a court of competent jurisdiction.

7.1.3 Any disclosure of the State's Confidential Information shall require the prior written approval of the State. Fairfax shall immediately notify the State if any request, subpoena, or other legal process is served upon Fairfax regarding the State's Confidential Information, and Fairfax shall cooperate with the State in any effort it undertakes to contest the request, subpoena, or other legal process, at no additional cost to the State.

7.1.4 In the event of the unauthorized use or disclosure of the State's Confidential Information, Fairfax 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.

7.2 CONTRACTOR CONFIDENTIAL INFORMATION

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Insofar as Fairfax seeks to maintain the confidentiality of its confidential or proprietary information, Fairfax must clearly identify in writing all information it claims to be confidential or proprietary. Notwithstanding the foregoing, the State acknowledges that the Contractor considers their Documentation to be Confidential Information. Fairfax acknowledges that the State is subject to State and federal laws governing disclosure of information including, but not limited to, 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 laws or regulations, including but not limited to, RSA Chapter 91-A. In the event the State receives a request for the information identified by Fairfax as confidential or proprietary, the State shall notify Fairfax and specify the date the State will be releasing the requested information. At the request of the State, Fairfax shall cooperate and assist the State with the collection and review of Fairfax's information, at no additional expense to the State. Any effort to prohibit or enjoin the release of the information shall be Fairfax's sole responsibility and at Fairfax's sole expense. If Fairfax 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 Fairfax, without any liability to Fairfax.

7.3 This section 7 shall survive the termination of the Contract.

8. FORCE MAJEURE

Neither Fairfax 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, lockouts, riots and acts of War, epidemics, acts of Government, fire, power failures, nuclear accidents, earthquakes, and unusually severe weather.

9. FAIRFAX PARTICIPATION

Fairfax has read and agrees to all procedures as contained in EXHIBIT D, *IT 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.

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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	Fairfax	The State	Cumulative allotted time
First	Pradeep Chahil Padinhare	Brett Krochmal	5 Business Days
Second	Maureen Major	William Laycock	10 Business days
Third	Tobi Gebauer	Denis Goulet	15 Business Days

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. Fairfax shall not assign, delegate or otherwise transfer any of its interest, rights, or duties under the Contract without the prior written consent of the State. Such consent shall 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, and may constitute an event of default at the sole discretion of the State.

11.2. Fairfax shall remain wholly responsible for performance of the entire Contract regardless of whether assignees, delegates, Subcontractors or other transferees ("Assigns") are used, unless otherwise agreed to in writing by the State and the Assigns fully assumes in writing any and all obligations and liabilities under the Contract from the Effective Date. In the absence of a written assumption of full obligations and liabilities of the Contract, any permitted assignment, delegation, subcontract or other transfer shall neither relieve Fairfax of any of its obligations under the Contract nor affect any remedies available to the State against Fairfax that may arise from any event of default of the provisions of the Contract. The State shall consider Fairfax 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, Fairfax is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither Fairfax, nor any of its officers, employees,

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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

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

Fairfax warrants that it shall maintain the software Deliverables, including without limitation, DataCap Systems, to perform in accordance with its specifications. Fairfax 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, Fairfax shall repair or replace within forty-eight (48) hours of receiving notice from the State, excluding holidays listed in section 6 of this contract.

14. TERMINATION

14.1 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: Fairfax's breach of or failure to perform any warranty or other obligation contained in the Contract; or Fairfax ceasing to conduct Maintenance and Support Services.

14.2 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 Fairfax. Upon termination for convenience, Fairfax shall refund any unused portion of the Contract to the State.

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EXHIBIT C
DELIVERABLE AND PAYMENT SCHEDULE

1. **DELIVERABLE PAYMENT SCHEDULE.**

All charges by Fairfax Data Systems 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	Payment Amount
FileNet and DataCap One(1) Year Remote Support	\$18,000
Total Cost	\$18,000

Notwithstanding any other provision of this Contract, in no event shall the total payment made by the State exceed \$18,000. The State will not be responsible for any travel or out of pocket expenses incurred in the performance of the Services performed under this Contract.

3. **PAYMENTS**

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

All invoices shall be sent to:

Robin Untiet
Bill Laycock
Brett Krochmal
New Hampshire Employment Security
45 South Fruit Street
Concord, NH 03301

Fairfax shall perform the Services and provide the Deliverables described in this Contract.

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FOR THE BENEFIT OF NEW HAMPSHIRE EMPLOYMENT SECURITY
CONTRACT 2018-079 - REMOTE DATA CAP SUPPORT
EXHIBIT D
IT REQUIRED WORK PROCEDURES**

1. Required Work Procedures

1. All work done must conform to standards and procedures established by the Department of Information Technology and the State.
2. All products developed (requirements, Specifications, Documentation, program code, other) are work for hire and ownership is in accordance with the New Hampshire Contract Terms and Conditions.
3. Any technical education needed by Fairfax Data Systems to successfully complete the assumed assignment will be at the sole expense of Fairfax Data Systems and provided by Fairfax Data Systems.
4. Fairfax Data Systems must agree to provide an "equal or better" replacement for any personnel who leave employment of Fairfax Data Systems during the course of the Contract.
5. Fairfax Data Systems must make the individuals available to be interviewed by the State prior to the Project assignment.
6. Fairfax Data Systems must require its employees assigned to this Project to sign a "Computer Access and Use Agreement," as set forth below in Section 2.
7. The State may require a detailed background check on any individual assigned to the Project, as this Project may involve confidential or sensitive information.
8. Personnel assigned to the State must be available to work within ten (10) business days of the contract signing.

2. Computer Access and Use Agreement

PLEASE READ THIS AGREEMENT CAREFULLY. IT CONTAINS IMPORTANT INFORMATION ABOUT THE DUTIES YOU MUST UNDERTAKE AND THE RULES YOU MUST ADHERE TO ONCE YOU ARE GRANTED ACCESS TO USE THE STATE OF NEW HAMPSHIRE'S COMPUTER FACILITIES.

2.1 Computer Use

In consideration for receiving access to and use of the computer facilities, network, licensed or developed software, software maintained or operated by any of the State entities, systems, equipment, Documentation, information, reports, or data of any kind (hereinafter "Information"), User understands and agrees to the following rules:

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Initial all pages: Fairfax's initials 
Date: 3/17/2020

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- That numerous security and privacy regulations, both State and federal apply to client and business information contained in all State of New Hampshire's information systems. This includes New Hampshire Employment Security's enabling law RSA 282-A, which in Section 118, provides for the confidentiality of its records for the protection of claimants and employers served by the agency as follows:

o "Information . . . obtained from any individual, claimant or employing unit pursuant to the administration of this chapter shall be held confidential and shall not be published or open to public inspection in any manner revealing the individual's or employing unit's identity except [as otherwise provided by law]."

- Every Authorized User has the responsibility to assure the protection of Information from unauthorized access, misuse, theft, damage, destruction, modification, or disclosure.
- That any person or any use not specifically known by the User as being authorized to access or use Information shall be promptly reported to the appropriate supervisor.
- That information shall be used solely for conducting official State business, and all other use or access is strictly forbidden including, but not limited to, personal, or other private and non-State use.
- That at no time shall User access or attempt to access any information without having the express authority to do so.
- That at no time shall User access or attempt to access any information in a manner inconsistent with the approved policies, procedures, and/or agreements relating to system entry/access.
- That all software licensed, developed, or being evaluated by the State cannot be copied, shared, distributed, sub-licensed, modified, reverse engineered, rented, or sold, and that at all times User must use utmost care to protect and keep such software strictly confidential in accordance with the license or any other Agreement executed by the State.
- That only equipment or software owned, licensed, or being evaluated by the State, can be used by User. Personal software (including but not limited to palmtop sync software) shall not be installed on any equipment.

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- That at no time shall User's confidential computer password(s) or premises access card be shared with or used by any other person.
- That at no time shall User share or use another person's confidential computer password(s) or premises access card.
- That at no time shall User leave a workstation without first ensuring that the workstation is properly secured from unauthorized access.
- That User must report any and all violations of this Agreement to the appropriate supervisor promptly upon learning of such violation.
- That if User is found to be in violation of any of the above-stated rules, the User may face removal from the State contract, and/or criminal or civil prosecution, if the act constitutes a violation of law. This includes RSA 282-A:121, which states:
 - "Any employee of the department of employment security, member of an appeal tribunal, or any individual, corporation, association, partnership or other type of organization, who lawfully obtains or sees records, reports or information obtained in administration of this chapter who violates any provision of this subdivision shall be guilty of a misdemeanor."
- That from time to time circumstances may require that this Agreement be modified by the State to reflect any changes in procedure or policy. The User will be notified in writing of any changes and will be required to adhere to such changes.
- That the User acknowledges that he or she has read, fully understands, and agrees to abide by each of the above-stated rules as a condition of being granted access to use Information.

2.2 Email Use

Mail and other electronic communication messaging systems are State of New Hampshire property and are to be used for business purposes only. Email is defined as "internal Email systems" or "State-funded Email systems". The Authorized User understands and agrees that email shall not contain or be used for:

1. Any unlawful purpose.
2. Material that may be viewed as insulting. Demeaning, harassing or threatening (including sexual harassment).

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3. Distribution of pornographic or obscene material.
4. Profane or abusive language.
5. Distribution of non-business materials including but not limited to jokes, chain letters, cartoons, sound files, amusement or entertainment purposes or executables not specifically business related.
6. Creating or transmitting statements, messages, languages, images, that might constitute hostile or offensive material likely to be disparaging of others based on race, national origin, sex, sexual orientation, age, disability, religious beliefs, or political beliefs.
7. Personal business or commercial business.
8. Invasion of the privacy of others.
9. Any use that compromises the integrity of the systems, network, other network users, or any interruption or disruption of services or equipment.
10. Any use that reflects poorly on a State entity or the State of New Hampshire.
11. Any lobbying contact or effort in support of such contacts, or causing others to make contact with members of the legislature or legislative committees including but not limited to: preparation and planning activities, research, and other background work that is intended at the time performed, to influence the approval, modification, or rejection of any legislation by the legislature of the State of New Hampshire or any committee thereof without the explicit consent of the Chief Information Officer (CIO) or its designee.
12. Misrepresentation of the Authorized User's identity, including using another's Authorized User ID and password.

Technical support personnel shall not review the content of an Authorized User's communications out of personal curiosity or at the behest of another without the required authorization. Authorized Users shall not intercept, disclose or assist in intercepting or disclosing any electronic communications, except as authorized by this policy.

Authorized Users shall move important information from email message files to shared folders and drives to ensure proper backup. Messages no longer needed shall be purged periodically from personal storage areas. Technical support personnel shall monitor storage usage and advise when limits are approaching storage limits or have been reached and purging is required.

2.3 Internet/Intranet Use

The Internet/Intranet is to be used for access to and distribution of information in direct support of the business of the State of New Hampshire.

1. Authorized Users are given State provided access to Internet and Intranet resources to assist them in the performance of their jobs.

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2. Internet/Intranet Authorized Users are responsible for all material accessed under their user ID.
3. Software for browsing is provided to Authorized Users for State related business use only.
4. The Authorized User understands and agrees that the Internet/Intranet shall not be used for:
 - a. Chat rooms, interactive games, and personal message boards
 - b. Downloading graphics, sound files, video clips or other files for personal use
 - c. Access to or the distribution of pornographic or obscene materials
 - d. Anything that interrupts or disrupts other network Authorized Users, services or equipment
 - e. Violations of the privacy of other Authorized Users or their data
 - f. Intentional copying of any software, program(s), or data without a prior, good faith determined that such copying is permissible. (Efforts to obtain permission shall be documented)
 - g. Intentional misrepresentation of yourself electronically as another, unless specifically authorized to do so by that Authorized User
 - h. Intentionally developing programs designed to harass users or to infiltrate a computer or computing system and/or damage or alter the software components of same
 - i. Fund raising or public relations activities not specifically related to State business
 - j. Any purpose not directly related to the mission or intent of the agency.