

**FAIRFAX COUNTY WATER AUTHORITY
PROCUREMENT DEPARTMENT
8570 EXECUTIVE PARK AVENUE
FAIRFAX, VA 22031**

AGREEMENT NO. 2025-026

DATA GOVERNANCE, WAREHOUSING, ANALYTICS, STRATEGY, AND IMPLEMENTATION

DISCOVERY PHASE (PHASE I)

THIS AGREEMENT is made and entered into by and between Fairfax County Water Authority (“FW” or “Client”) and Deloitte Consulting LLP (“Contractor” or “Deloitte Consulting”) a limited liability partnership under the laws of the State of Delaware authorized to do business in the Commonwealth of Virginia, and is effective as of the date executed by FW.

FW and the Contractor, for good and valuable consideration, the receipt and sufficiency of which is acknowledged hereby, hereby agree as follows:

1. CONTRACT DOCUMENTS

The Contract Documents consist of:

This Agreement,

Exhibit A – Statement of Work

- 1. Scope of Services
- 2. Estimated Timeline & Deliverables
- 3. Responsibility Matrix
- 4. Fees and Expenses

Exhibit B – Document Security License and Non-Disclosure Agreement

Exhibit C – Certificate of Insurance

Collectively, “Contract Documents”.

Where the terms and provisions of this Agreement vary from the terms and provisions of the other Contract Documents, the terms and provisions of this Agreement shall prevail over the other Contract Documents and the remaining Contract Documents shall be complementary to each other and if there are any conflicts the most stringent terms or provisions shall prevail.

The Contract Documents set forth the entire agreement between FW and the Contractor. FW and the Contractor agree that no representative or agent of either of them has made any representation or promise with respect to the parties’ agreement which is not contained in the Contract Documents. The Contract Documents may be referred to herein below as the “Contract” or the “Agreement.”

2. SCOPE OF WORK

The Contractor agrees to perform the services described in Exhibit A – 1. Scope of Services (hereinafter “the Work”). The primary purpose of the Work is to provide Data Governance, Warehousing, Analytics, Strategy, and Implementation – Discovery Phase (Phase I) services. The Contract Documents set forth the services agreed by FW and the Contractor to be provided as part of the Work. It shall be the Contractor’s responsibility, at the Contractor’s sole cost and expense, to provide the specific services set forth in the Contract Documents. Subject always to FW’s responsibilities and obligations set forth in the Contract, nothing in the Contract Documents shall be construed to limit the Contractor’s responsibility to manage the details and execution of

the Work further defined in Exhibit A. The Work shall include advice and recommendations, but Contractor shall not make any decisions on behalf of FW in connection with the implementation of such advice and recommendations. In connection with the performance of the Work, Contractor shall be entitled to rely on all decisions and approvals of FW.

3. CONTRACT TERM

The term of this Agreement for Phase I shall commence upon the date of execution of the Agreement by FW and, unless terminated earlier in accordance herewith, shall be completed in accordance with Exhibit A – 2. Estimated Timeline & Deliverables, thereafter, (such period, subject to any modifications as provided for in the Contract Documents, referred to herein as the “Contract Term”). No Work shall be deemed complete until it is accepted by the “Project Officer” (as defined in paragraph 7 below).

4. CONTRACT AMOUNT

FW will pay the Contractor in accordance with the terms of the Payment paragraph below, and Exhibit A – 4. Fees and Expenses for the Contractor's completion of the Work described and required in the Contract Documents. The Contractor agrees that it shall complete the Work for the total amount specified on Exhibit A – 4. Fees and Expenses (such amount, subject to modification in accordance with this Agreement, referred to herein as the “Contract Amount”).

5. PAYMENT

Payment schedule shall be agreed in Exhibit A – 4. Fees and Expenses which may include payment on a deliverable basis. The Contractor will be paid upon submission of a completed written invoice, that meets the requirements of this section and other applicable provisions of the Contract. Where payment is tied to a Deliverable, upon delivery of a Deliverable the Contractor shall submit an invoice describing the Deliverable. The invoice shall be deemed approved by the Project Officer unless Contractor is notified in writing that such invoice require corrections within a reasonable time after the Project Officer's receipt of such invoice. FW will pay the Contractor within thirty (30) days after the date of receipt of a correct invoice. If applicable, the total amount paid for each Deliverable shall not exceed the amount allocated for the Deliverable (if any), regardless of the number of hours spent or the amount of expenses incurred by the Contractor in the performance of the Work. The number of FW's Purchase Order pursuant to which shipments have been made or services performed shall appear on all invoices. Invoices shall be submitted in duplicate. With respect to any disputed invoice, FW shall provide written notice thereof to Contractor within fifteen days of FW's receipt of such invoice. The parties shall immediately escalate such dispute to Contractor's engagement leader and FW's business sponsor for the applicable Work. If they are unable to resolve such dispute within 15 days of FW's receipt of the invoice subject to such dispute, the parties shall escalate such dispute to Contractor's lead client service partner and FW's Procurement Manager. If they are unable to resolve such dispute within 30 days of FW's receipt of the invoice subject to such dispute, then the Contractor may also suspend the Work upon written notice to FW and if due to such dispute FW withholds payment in excess of 15% (or as otherwise agreed in writing by the parties of the total fees under the applicable SOW).

6. PROJECT OFFICER

The Deliverables (as defined in Section 51 below) provided by the Contractor to FW as part of its performance of the Work is subject to the review and approval of FW's Project Officer named in Exhibit A (“Project Officer”) who shall be appointed by the Division Director of FW's Division or Department requesting the work under this Contract. It shall remain the responsibility of the Contractor to manage the Contractor personnel and performance of its Work pursuant to the Contract Documents.

7. ADJUSTMENTS FOR CHANGE IN SCOPE

FW may order changes in the Work within the general scope of the Work consisting of additions, deletions or other revisions. No claim may be made by the Contractor that the scope of the work or that the Contractor's services have been changed requiring adjustments to the amount of

compensation due the Contractor unless such adjustments have been made by a written amendment to the Contract signed by FW and the Contractor and providing an agreed amount of compensation due. If the Contractor believes that any particular work is not within the scope of the Work or is a material change or otherwise will call for more compensation to the Contractor, the Contractor must promptly notify the Project Officer after the change or event occurs and within ten (10) calendar days thereafter must provide written notice to the Project Officer. The Contractor's notice must provide to the Project Officer the amount of additional compensation claimed, together with the basis therefor and supporting information for the claimed amount. The Contractor will not be compensated for performing any work unless a proposal complying with this paragraph has been submitted in the time specified above and a written Contract amendment has been signed by FW and the Contractor and a FW purchase order is issued covering the cost of the services to be provided pursuant to the amendment. If any of the following events occurs and adversely impacts Contractor's timeline, staffing, cost or ability to perform the Services in accordance with this SOW (each, an "Impact Event"), the parties shall amend the applicable SOW to eliminate such adverse impact (i) delays caused by FW's other vendors, (ii) an assumption set forth in Exhibit A becomes invalid, or (iii) any failure by FW to meet its obligations under this SOW. Contractor shall promptly notify FW after becoming aware of an Impact Event. If the parties do not execute a change order to address the Impact Event within thirty days of such notice, either party may suspend the Services impacted by the Impact Event upon written notice to FW and shall resume such Services upon the execution of a change order addressing the Impact Event and the suspension.

8. ADDITIONAL SERVICES

The Contractor shall not be compensated for any goods or services provided except those included in Exhibit A and included in the Contract Amount unless those goods or services are covered by a written amendment to this Contract signed by FW and the Contractor, and a Purchase Order is issued by FW covering the expected cost of such services.

Additional services agreed upon by the parties will be billed at the rates set forth in Exhibit B unless otherwise agreed by the parties in writing.

9. REIMBURSABLE EXPENSES

No expenses except those identified on Exhibit A – 4. Fees and Expenses of this Contract as project- related expenses will be reimbursed if incurred without the prior written approval of FW and the issuance of a FW purchase order detailing the specific expenses to be incurred by the Contractor and their estimated amount. Payment for approved reimbursable expenses will be made within thirty (30) days after receipt by the Project Officer of a correct invoice identifying the nature of the expense. Reimbursable expenses allowed shall be charged to FW on a unit price basis at the Contractor's cost. All amounts paid for reimbursable expenses shall be considered part of the Contract Amount.

The total amount paid for project related expenses shall not exceed the amount shown in Exhibit A – 4. Fees and Expenses.

10. *PAYMENT OF SUBCONTRACTORS

The Contractor is obligated to take one of the two following actions within seven (7) days after receipt of amounts paid to the Contractor by FW for work performed by any subcontractor under this Contract:

- a) Pay the subcontractor for the proportionate share of the total payment received from FW attributable to the Work performed by the subcontractor under this Contract; or
- b) Notify FW and the subcontractor, in writing, of the Contractor's intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.

The Contractor is obligated to pay interest to the subcontractor on all amounts owed by the

Contractor to the subcontractor that remain unpaid after seven (7) days following receipt by the Contractor of payment from FW for work performed by the subcontractor under this Contract, except for amounts withheld as allowed in subsection b., above. Unless otherwise provided under the terms of this Contract, interest shall accrue at the rate of one percent (1%) per month.

The Contractor shall include in each of its subcontracts, if any are permitted, a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

The Contractor's obligation to pay an interest charge to a subcontractor pursuant to this section may not be construed to be an obligation of FW. A Contract modification may not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

11. *NON-APPROPRIATION

All funds for payments by FW to the Contractor pursuant to this Contract are subject to the availability of an annual appropriation for this purpose by FW. In the event of non-appropriation of funds by FW for the goods or services provided under this Contract, FW will terminate the Contract, without termination charge or other liability to FW, on the last day of the then current calendar year or when the appropriation made for the then current year for the services covered by this Contract is spent, whichever event occurs first. If funds are not appropriated at any time for the continuation of this Contract, cancellation will be accepted by the Contractor on thirty (30) days prior written notice,. FW agrees to compensate Contractor for all Work performed up to the effective date of termination.

12. FAIRFAX WATER PURCHASE ORDER REQUIREMENT

FW purchases are authorized only if a FW Purchase Order is issued in advance of the transaction, indicating that the ordering agency has sufficient funds available to pay for the purchase. Such a Purchase Order is to be provided to the Contractor by the ordering agency within a reasonable period after the execution of this Agreement. FW will not be liable for payment for any purchases made by its employees without appropriate purchase authorization issued by FW's Procurement Manager. If the Contractor provides goods or services without a signed FW Purchase Order, it does so at its own risk and expense.

13. PROJECT STAFF

FW will, throughout the Contract Term, have the right to request removal or replacement of a Contractor personnel or subcontractors assigned to the project by the Contractor for performance related issue. If FW reasonably requests removal or replacement of staff or subcontractors pursuant to this section, the Contractor shall either cure such performance related issue or promptly provide replacement staff or subcontractors of equivalent experience in a timely manner and at no additional cost to FW in connection with any "ramp up" time spent acquainting any replacement with the Work. The day- to-day supervision and control of the Contractor's employees, and employees of any of its subcontractors, shall be the sole responsibility of the Contractor.

14. BACKGROUND CHECK

As part of its current hiring policies, with respect to all newly hired personnel, Consultant performs standard background checks. Upon FW's written request, Contractor shall confirm that Contractor personnel assigned to the Work have a completed background check prior to FW granting permission for such Contractor personnel to work onsite at a FW location or remotely.

15. SUPERVISION BY CONTRACTOR

The Contractor shall engage personnel that are qualified to provide the Work under this Contract, and shall be responsible for the performance of such personnel during the Contract Term .

16. *EMPLOYMENT DISCRIMINATION BY CONTRACTOR PROHIBITED

During the performance of this Contract, the Contractor agrees as follows:

- a) The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability or any other basis prohibited by state law relating to discrimination in employment except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- b) The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an Equal Opportunity Employer.
- c) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- d) The Contractor will comply with the provisions of the Americans with Disabilities Act of 1990 which prohibits discrimination against individuals with disabilities in employment and mandates their full participation in both publicly and privately provided services and activities.
- e) The Contractor will include the provisions of the foregoing paragraphs in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

17. *EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED

In accordance with §2.2-4311.1 of the Code of Virginia, 1950, as amended, the Contractor acknowledges that it does not, and shall not during the performance of this Contract for goods and/or services in the Commonwealth, knowingly employ an unauthorized alien as that term is defined in the federal Immigration Reform and Control Act of 1986.

18. *DRUG FREE WORKPLACE TO BE MAINTAINED BY CONTRACTOR

During the performance of this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for

employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a Contractor-site for the performance of work done in connection with a specific contract awarded to a contractor by FW in accordance with the Virginia Public Procurement Act, the employees of which Contractor are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

19. TERMINATION FOR CAUSE

The Contract shall remain in force for the Contract Term unless terminated earlier in accordance with this Section 19 or in accordance with Section 20. FW may terminate this Agreement, with cause, including breach by the Contractor, by giving thirty (30) days prior written notice to the Contractor. In the event of a termination for cause, the breaching party shall have the right to cure the breach within the notice period. The Contractor may terminate this Agreement or performance of any part of the Work upon written notice to FW if the Contractor determines that the performance of any part of the Work would be in conflict with law, or mandated independence or applicable professional rules.

If the Contractor has breached its obligations in its performance of the Work, then FW will give the Contractor written notice of such failure(s) and the opportunity to cure such failure(s) within at least fifteen (15) days before termination of the Contract takes effect ("Cure Period"). If the Contractor fails to cure within the Cure Period or as otherwise specified in the notice, the Contract may be terminated for the Contractor's failure to provide the Work in accordance with the terms of this Contract. Upon such termination, the Contractor may apply for compensation for Contract services properly performed by the Contractor, allocable to the Contract and accepted by FW prior to such termination unless otherwise barred by the Contract ("Termination Costs"). In order to be considered, such request for Termination Costs, with all supporting documentation, must be submitted to the FW Project Officer within fifteen (15) days after the expiration of the Cure Period. FW may accept or reject, in whole or in part, the application for Termination Costs (acting reasonably) and notify the Contractor of same within a reasonable time thereafter. The Contractor shall, on a pro rata basis, repay to FW any fees, expenses, or compensation received for any Work that has not been performed and provided.

Except as otherwise directed by FW in the notice, the Contractor shall stop work on the effective date of termination or other date specified in the notice. Any purchases after the date of termination contained in the notice shall be the sole responsibility of the Contractor.

In the event any termination for cause, default, or breach shall be found to be improper or invalid by any court of competent jurisdiction then such termination shall be deemed to have been a termination for convenience.

20. TERMINATION FOR THE CONVENIENCE OF FAIRFAX WATER

The performance of work under this Contract may be terminated by the FW Procurement Manager in whole or in part (subject to a change agreed upon in writing in accordance with Section 8) whenever the Procurement Manager shall determine that such termination is in FW's best interest. Any such termination shall be effected by the delivery to the Contractor of a written notice of termination at least fifteen (15) days before the date of termination, specifying the extent to which performance of the work under this Contract is terminated and the date upon which such termination becomes effective. The Contractor will be entitled to receive compensation for all Contract services properly performed by the Contractor and allocable to the Contract and accepted by FW prior to such termination and any other reasonable termination costs as negotiated by the parties, but no amount shall be allowed for anticipatory profits.

Upon receipt of a notice of termination and except as otherwise directed, the Contractor shall stop all designated work on the effective date of receipt of the notice of termination or other date specified in the notice; place no further orders or subcontracts for materials, services or facilities except as are necessary for the completion of such portion of the work not terminated.

21. INDEMNIFICATION (NOTE: Virginia law does not permit FW to indemnify others; cross indemnity provisions are not acceptable to FW)

The Contractor covenants for itself, its employees, and subcontractors to save, defend, hold harmless and indemnify FW, and its employees (collectively "FW" for purposes of this section) from and against any and all claims made by third parties for any and all losses, damages, injuries, costs (including reasonable court costs and attorney's fees), charges, liability, demands or exposure, however caused, solely for bodily injury, death or damages to real or tangible personal property occurring while Contractor is performing the Work to the extent directly and proximately caused by the negligence or intentional misconduct of Contractor that does not arise from Contractor's performance obligations under this Agreement acts or omissions, including the acts or omissions of its employees and/or subcontractors, in performance or nonperformance of the work called for by the Contract Documents. This duty to save, defend, hold harmless and indemnify shall survive the termination of this Contract.

The indemnified party shall provide the indemnifying party with prompt written notice of any claim, liability, or expense for which indemnification is sought under this Agreement (an "Indemnity Claim"), cooperate in all reasonable respects with the indemnifying party in connection with any such Indemnity Claim, and use reasonable efforts to mitigate any Indemnity Claim; provided, however, that the indemnified party's failure to comply with the foregoing obligations shall not relieve the indemnifying party of its indemnification obligations, except to the extent the indemnifying party has been actually prejudiced by such failure. The indemnifying party shall be entitled to defend and control the handling of any such Indemnity Claim, with counsel of its own choosing that is reasonably satisfactory to the indemnified party. The indemnifying party shall not settle any Indemnity Claim without the prior written consent of the indemnified party.

22. INTELLECTUAL PROPERTY INDEMNIFICATION

The Contractor warrants that the Deliverables shall not infringe upon the intellectual property rights of any third party, except to the extent that such infringement arises from (i) modification

of the Deliverable other than by Contractor or its subcontractors, or use thereof in a manner not contemplated by this Agreement, (ii) the failure of FW to use any corrections or modifications made available by Contractor, (iii) information, materials, instructions, specifications, requirements or designs provided by or on behalf of FW, or (iv) the use of the Deliverable in combination with any platform, product, network or data not provided by Contractor or contemplated by this Agreement.

The Contractor shall defend, at its expense, any action or claim brought by third parties against FW to the extent that the action or claim is based on a claim for infringement by a Deliverable of any intellectual property right, including any patent existing at the time of delivery or copyright or any unauthorized use of any trade secret, except to the extent that such infringement or unauthorized use arises from (i) modification of the Deliverable other than by Contractor or its subcontractors, or use thereof in a manner not contemplated by this Agreement, (ii) the failure of the indemnified party to use any corrections or modifications made available by Contractor, (iii) information, materials, instructions, specifications, requirements or designs provided by or on behalf of the indemnified party, or (iv) the use of the Deliverable in combination with any platform, product, network or data not provided by Contractor or contemplated by this Agreement. This duty to save, defend, hold harmless and indemnify shall survive the termination of this Contract.

In addition, and without obviating the Contractor's responsibilities set forth above, if the Deliverable becomes or in the Contractor's opinion is likely to become the subject of a claim based on an alleged infringement or breach as aforesaid, the Contractor may, at its expense and option, with prior written notice of agreement by FW, do one of the following:

- a) modify the Deliverable so that there is no longer any infringement or breach without adversely affecting the functional capabilities of the foregoing;
- b) procure for FW the right to continue to use the Deliverable;
- c) substitute for the Deliverable having a capability equivalent to the replaced Deliverable at no additional expense to FW.

In the event Contractor cannot reasonably procure, replace or modify such Deliverable in accordance with the immediately preceding sub-section, Contractor may require FW to cease use of such Deliverable.

23. INTELLECTUAL PROPERTY DEVELOPED PURSUANT TO CONTRACT

Subject to the terms and conditions herein, except in relation to Contractor's pre-existing IP, the Contractor hereby irrevocably transfers, assigns, sets over and conveys to FW all right, title and interest, including the sole exclusive and complete patent, copyright, trade secret, or other intellectual property right or interest, in any and all works created for delivery to FW pursuant to the Contract to operate FW's business, (the "Deliverables"), provided, however, that FW will not transfer, sell, license to, or otherwise commercially exploit with, any third party any of the Contractor's pre-existing IP in the Deliverables, except in connection with a sale, transfer, or change of ownership of FW's entire business or operations or of that part of FW's business change to which the Deliverables pertain. The Contractor further agrees to execute such documents and undertake such actions as FW may request to effect such transfer or assignment.

Contractor's pre-existing IP means all intellectual property created prior to or independently of the performance of the Work, or created by Contractor or its subcontractors as a tool for their use in performing the Work, plus any modifications or enhancements thereto and derivative works based thereon.

Further, the Contractor agrees that the rights granted to FW by this paragraph are irrevocable. Notwithstanding anything else in this Contract, the Contractor's remedy in the event of termination of or dispute over the terms of this Contract shall not include any right to rescind, terminate or otherwise revoke or invalidate in any way the rights conferred pursuant to the provisions of this paragraph. Similarly, no termination of this Contract shall have the effect of rescinding, terminating or otherwise invalidating the rights acquired pursuant to the provisions of this paragraph.

24. OWNERSHIP AND RETURN OF RECORDS

This Contract confers no ownership rights to the Contractor nor any rights or interests to use or disclose FW's data or inputs.

The Contractor agrees that all Deliverables (excluding Contractor's pre-existing IP) are the exclusive property of FW ("Record" or "Records"). All such Records are subject to the assignment provisions of paragraph 24 above and shall be provided to and/or returned to FW upon completion, termination, or cancellation of this Contract. The Contractor shall not use, willingly allow, or cause such materials to be used for any other purpose other than performance of all obligations under the Contract without the written consent of FW. Additionally, the Contractor agrees that the Records are "FW Information" as set forth in paragraph 30 below, that the Records are subject to the provisions of paragraph 30 below, and that neither the Records nor their contents shall be released by the Contractor, its subcontractors, or other third parties; nor shall their contents be disclosed to any person other than the Project Officer or his or her designee. The Contractor agrees that all oral or written inquiries from any person or entity regarding the status of any Record generated as a result of the existence of this Contract shall be referred to the Project Officer or his or her designee for response. At FW's request, the Contractor shall deliver all Records to the Project Officer, including "hard copies" of computer records, and at FW's written request, shall destroy all computer records created as a result of FW's request for services pursuant to this Contract. Notwithstanding anything herein to the contrary, Contractor shall have the right to retain copies of such Records to the extent necessary to evidence the Work, provided that Contractor retains such copies in accordance with its confidentiality obligations hereunder.

No termination of this Contract shall have the effect of rescinding, terminating or otherwise invalidating this section of the Contract.

25. DATA SECURITY AND PROTECTION & NON DISCLOSURE AGREEMENT

The Contractor shall hold FW Information in confidence and, while performing Work, comply with, in addition to any requirements set out in this Agreement or the SOW, (i) all applicable and reasonable FW security and network resources policies that are provided to Contractor in writing in advance of such performance (collectively, "Security Policies"); provided that such Security

Policies (a) do not expand the scope of such Work (absent a corresponding change order agreed to by the parties reflecting such expansion), (b) shall not apply to security controls on Contractor's computers, equipment, information systems or networks, (c) are applicable to Contractor in performance of the Work, (d) do not conflict with or modify the terms of this Contract and (e) shall not be deemed to permit FW to conduct an audit, inspection or testing of Contractor's systems, equipment or facilities, as well as (ii) all local, state and federal laws or regulatory requirements, in all such cases, as applicable to Contractor in its performance of the Work and concerning data privacy and security ("Applicable State and Local Standards"). The Contractor shall develop, implement, maintain, continually monitor and use appropriate administrative, technical and physical security measures designed to preserve the confidentiality, privacy, integrity and availability of all electronically maintained or transmitted FW Information received from or maintained on behalf of FW pursuant to Contractor's performance of the Work and control access to such FW Information. For purposes of this Contract, "FW Information" (also referred to as "FW Data") includes, but is not limited to, electronic information, documents, data, images, and records including, but not limited to, financial records, personally identifiable information, Personal Health Information (PHI), personnel, educational, registration, tax or assessment records, information related to public safety, FW networked resources, and FW databases, software and security measures which, in all such cases, is received, maintained, transmitted or accessed by Contractor on behalf of FW to perform the work under this Contract.

- a) **FW's Non-Disclosure and Data Security Agreement (NDA)**. The Contractor shall, on behalf of Contractor's employees, agents or subcontractors working on-site at FW facilities or otherwise performing non- incidental work under this Contract, sign the NDA (attached as an Exhibit B) prior to performing any work or permitting access to FW networked resources, application systems or databases under this Contract. The signed NDA shall be available to the FW Project Officer upon request.
- b) **Use of Data**. The Contractor shall ensure that the use, distribution, disclosure or access ("Use") to FW Information and FW networked resources under its control shall not occur in an unauthorized manner. Use of such FW Information for other than as specifically outlined in this Contract is strictly prohibited, unless such other Use is agreed to in writing by the parties or required by applicable law or professional standards. The Contractor will be responsible for any unauthorized Use of such FW Information and any Contractor non-compliance with this DATA SECURITY AND PROTECTION provision.
- c) **Data Protection**. Without limiting any of the Contractor's obligations with respect to the non-disclosure and protection of FW Information, the Contractor agrees that it will protect FW Information using at least the applicable industry standards, such as those established by the National Institute of Standards and Technology. Also without limiting any of the Contractor's obligations with respect to the non-disclosure and protection of FW Information, the Contractor agrees that it will protect FW Information using at least the Applicable State and Local Standards, which may include Va. Code §§ 59.1-442 – 59.1-444 (the Virginia Personal Information Privacy Act), Massachusetts 201 CMR 17.00 (Standards for the Protection of Personal Information of Residents of the Commonwealth). In any event, the Contractor shall protect FW Information at least as rigorously as it protects its own valuable trade secrets and confidential information substantially similar to FW Information. The Contractor shall provide to FW a copy of its data security policy and procedures in the form of its information security statement for

securing FW Information. The Contractor shall provide, if requested by FW in writing, on an annual basis, results of an annual audit of its internal information security program provided by a qualified independent firm engaged by Deloitte LLP ("DLLP"), the parent entity of Contractor, that is no less rigorous than the American Institute of Certified Public Accountant's Service Organization Controls 2 ("SOC 2") standards under the Statement on Standards for Attestation Engagements SOC 2 Type II report to evaluate the description, suitability of the design, and the operating effectiveness of the security controls of DLLP's Infrastructure Support Services System relevant to security and availability, and to prepare a report with respect thereto (the "SOC 2 Type II Report"). FW shall not disclose such SOC 2 Type II Report, or refer to such SOC 2 Type II Report in any communication, to any person or entity other than FW. In the event that FW has any questions regarding such SOC 2 Type II Report, Contractor shall make appropriate personnel reasonably available to discuss the contents thereof.

- d) **Data Sharing.** Except as otherwise specifically provided for in this Contract, the Contractor agrees that it shall not share, disclosure, sell or grant access to FW Information to any third party without the express written authorization of the FW's Chief Information Officer or designee.
- e) **Security Requirements.** The Contractor shall maintain industry standard anti-virus, industry accepted firewalls and/or other protections on its systems and networking equipment. The Contractor confirms that all systems and networking equipment that support, interact or store FW Information meet the above standards and industry standard practices for physical, network and system security requirements. Printers, copiers or fax machines that store FW Data into hard drives must provide data at rest encryption.
- f) **Data Protection Upon Conclusion of Contract.** Upon termination, cancellation, expiration or other conclusion of this Contract and upon FW's written request, the Contractor shall return all FW Information in its possession to FW unless FW requests that such data be destroyed. The Contractor shall complete such return or destruction not less than thirty (30) days after the receipt of request and shall confirm upon request following completion of the Contract, in writing, to FW. Notwithstanding anything herein to the contrary, Contractor may retain copies of FW Information for archival purposes to the extent permitted by law, or as otherwise required by any law, regulation or professional standard applicable to Contractor.
- g) **Notification of Security Incidents.** The Contractor agrees to notify the FW Chief Information Officer and FW Project Officer within forty-eight (48) hours of the discovery of any unintended access to, use or disclosure of FW Information under the control of Contractor that adversely affects the confidentiality, integrity, or availability of such FW Information.
- h) **Subcontractors.** To the extent the use of subcontractors is permitted under this Contract, requirements no less restrictive than the requirements of this entire paragraph 26 shall be incorporated into any subcontractor agreement entered into by the Contractor and any data sharing shall be compliant with requirements no less restrictive than these security and protection requirements and the NDA.

26. ***VIRGINIA FREEDOM OF INFORMATION ACT**

The parties understand and agree that FW is subject to the terms and provisions of Code of Virginia §§ 2.2-3700 et. seq, the Virginia Freedom of Information Act ("VFOIA"). All public records

in FW's custody, possession or control shall be open to the public for inspection and copying to the extent such disclosure is required by law. Certain exemptions or exclusions may apply, but it is the Contractor's obligation to assert any applicable VFOIA exclusions or exemption in accordance with Code of Virginia §§ 2.2-3700 et. seq, within the statutory deadlines. The FW Project Officer shall make available to the Contractor any VFOIA request which the Project Officer reasonably believes the Contractor may have an interest in.

27. *ETHICS IN PUBLIC CONTRACTING

This Contract incorporates by reference Virginia law, as well as any federal law related to ethics, conflicts of interest, or bribery, including by way of illustration and not limitation, the State and Local Government Conflict of Interests Act (Code of Virginia § 2.2-3100 et seq.), the Virginia Governmental Frauds Act (Code of Virginia § 18.2-498.1 et seq.), and Articles 2 and 3 of Chapter 10 of Title 18.2 of the Code of Virginia, as amended (§ 18.2-438 et seq.). The Contractor certifies that its offer was made without collusion or fraud and that it has not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer, or subcontractor and that it has not conferred on any public employee having official responsibility for this procurement any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised unless consideration of substantially equal or greater value was exchanged.

28. *FAIRFAX WATER EMPLOYEES

No employee of FW shall be admitted to any share in any part of this Contract or to any benefit that may arise therefrom which is not available to the general public.

29. FORCE MAJEURE

The Contractor shall not be held responsible for failure to perform the duties and responsibilities imposed by this Contract if such failure is due to fires, riots, rebellions, natural disasters, wars, or an act of God beyond control of the Contractor, and outside and beyond the scope of the Contractor's then current, by industry standards, disaster plan, that make performance impossible or illegal, unless otherwise specified in the Contract.

FW shall not be held responsible for failure to perform its duties and responsibilities imposed by the Contract if such failure is due to fires, riots, rebellions, natural disasters, wars, or an act of God beyond control of FW that make performance impossible or illegal, unless otherwise specified in the Contract.

30. *AUTHORITY TO TRANSACT BUSINESS

The Contractor shall, pursuant to Code of Virginia § 2.2-4311.2, be and remain authorized to transact business in the Commonwealth of Virginia during the Initial Term and any Subsequent Contract Term(s) of this Contract. A contract entered into by the Contractor in violation of this requirement is voidable, without any cost or expense, at the sole option of FW.

31. *RELATION TO FAIRFAX WATER

The Contractor is an independent contractor and neither the Contractor nor its employees or subcontractors will, under any circumstances, be considered employees, servants, partner, fiduciary, joint venture, representative or agents of FW. FW will not be legally responsible for any negligence or other wrongdoing by the Contractor, its employees, servants or agents. FW will not

withhold payments to the Contractor for any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to the Contractor. Furthermore, FW will not provide to the Contractor any insurance coverage or other benefits, including workers' compensation, normally provided by FW for its employees.

32. ANTITRUST

By entering into this Contract, the Contractor conveys, sells, assigns and transfers to FW all rights, title, and interest in and to all causes of action the Contractor may now have or hereafter acquire under the antitrust laws of the United States or the Commonwealth of Virginia, relating to the goods or services purchased or acquired by FW under this Contract.

33. REPORT STANDARDS

Reports or written material prepared by the Contractor in response to the requirements of this Contract or a request of the Project Officer shall, unless otherwise provided for in the Contract, meet standards of professional writing established for the type of report or written material provided, shall be thoroughly researched for accuracy of content, shall be grammatically correct and not contain spelling errors, shall be submitted in a format approved in advance by the Project Officer, and shall be submitted for advance review and comment by the Project Officer. The cost of correcting grammatical errors, correcting report data, or other revisions required to bring the report or written material into compliance with these requirements shall be borne by the Contractor.

When submitting documents to FW, the Contractor shall comply with the following guidelines:

- All submittals and copies shall be printed on at least thirty percent (30%) recycled-content and/or tree-free paper;
- All copies shall be double-sided;
- Report covers or binders shall be recyclable, made from recycled materials, and/or easily removable to allow for recycling of report pages (reports with glued bindings that meet all other requirements are acceptable);
- The use of plastic covers or dividers should be avoided; and
- Unnecessary attachments or documents not specifically asked for should not be submitted, and superfluous use of paper (e.g. separate title sheets or chapter dividers) should be avoided.

34. AUDIT

Upon FW's written request during the term of this Agreement, but not more often than once annually, Contractor shall provide the following financial information applicable to Deloitte LLP and prepared by Deloitte LLP for internal purposes: Net revenues, total assets, partners' capital, and current ratio. Such information is confidential information protected under the terms of this Agreement.

The Contractor agrees to retain all books, records and other documents related to billing and payment for the fees and expenses incurred in performing the Work under this Contract for at least five (5) years after final payment. FW or its authorized agents may audit such documents to the extent reasonably necessary to substantiate payment made under this Agreement once per

calendar year during the Contract Term and for a one (1) year thereafter. Records made available to FW under this Section may be redacted by Contractor to the extent necessary to protect personal proprietary and confidential information.

35. ASSIGNMENT AND SUBCONTRACTING

The Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of any award, or any or all of its rights, obligations, or interests under this Contract, without the prior written consent of FW. The Contractor may subcontract or assign any portion of the Work to any Deloitte Entity, whether located within or outside the United States through the SOW, as agreed by both parties. Work performed hereunder by Contractor's subcontractors shall be invoiced as professional fees on the same basis as Work performed by Contractor's personnel, unless otherwise agreed. Contractor agrees to be responsible to FW for the Work performed by its subcontractors (including any Deloitte Entity acting as a subcontractor) to the same extent that Contractor would be responsible to FW if Contractor had performed such Work. FW's sole recourse for any claims in connection with the Services under this Agreement or a SOW shall be against Contractor.

36. AMENDMENTS

This Contract shall not be amended except by written amendment executed by persons duly authorized to bind the Contractor and FW.

37. *DISPUTE RESOLUTION

All disputes arising under this Agreement, or its interpretation, whether involving law or fact, or extra work, or extra compensation or time, and all claims for alleged breach of Contract shall be submitted to the Project Officer for decision at the time of the occurrence or beginning of the work upon which the claim is based, whichever occurs first. Any such claims shall state the facts surrounding it in sufficient detail to identify it together with its character and scope. Claims denied by the Project Officer may be submitted to FW's General Manager in writing no later than sixty (60) days after final payment. The time limit for final written decision by the General Manager in the event of a contractual dispute is fifteen (15) days. The Contractor shall not cause a delay in the Work pending a decision of the Project Officer, General Manager, or a court, as the case may be.

38. *APPLICABLE LAW, FORUM, VENUE AND JURISDICTION

This Contract and the work performed hereunder shall be governed in all respects by the laws of the Commonwealth of Virginia and the jurisdiction, forum, and venue for any litigation with respect thereto shall be in the Circuit Court for Fairfax County, Virginia, and in no other court. In performing the Work under this Contract, the Contractor shall comply with applicable federal, state, and local laws, ordinances and regulations.

39. ARBITRATION

It is expressly agreed that nothing under the Contract shall be subject to arbitration, and any references to arbitration are expressly deleted from the Contract.

40. NONEXCLUSIVITY OF REMEDIES

Except where otherwise set forth in this Agreement, all remedies available to FW under this Contract are cumulative, and no such remedy shall be exclusive of any other remedy available to

FW at law or in equity.

41. NO WAIVER

The failure of either party to exercise in any respect a right provided for in this Contract shall not be deemed to be a subsequent waiver of the same right or any other right.

42. SEVERABILITY

The sections, paragraphs, sentences, clauses and phrases of this Contract are severable, and if any phrase, clause, sentence, paragraph or section of this Contract shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Contract, and the parties shall negotiate in good faith to modify the phrase, clause, sentence, paragraph or section of this Contract declared invalid to effect the original intent of the parties as closely as possible so that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

43. *NO WAIVER OF SOVEREIGN IMMUNITY

Notwithstanding any other provision of this Contract, nothing in this Contract or any action taken by FW pursuant to this Contract shall constitute or be construed as a waiver of either the sovereign or governmental immunity of FW. The parties intend for this provision to be read as broadly as possible.

44. SURVIVAL OF TERMS

In addition to any numbered section in this Agreement which specifically states that the term or paragraph survives the expiration of termination of this Contract, the following sections if included in this Contract also survive: INDEMNIFICATION; RELATION TO FAIRFAX WATER; OWNERSHIP AND RETURN OF RECORDS; AUDIT; INTELLECTUAL PROPERTY DEVELOPED PURSUANT TO CONTRACT; INTELLECTUAL PROPERTY INDEMNIFICATION; WARRANTY; CONFIDENTIAL INFORMATION AND DATA SECURITY.

45. HEADINGS AND INTERPRETATION

The paragraph and section headings in this Contract are inserted only for convenience and are not to be construed as part of this Contract or a limitation on the scope of the particular section to which the heading precedes. **Each provision of this Agreement shall apply to the fullest extent of the law, whether in contract, statute, tort (such as *negligence*) or otherwise, notwithstanding the failure of the essential purpose of any remedy.** Any references herein to the term “including” shall be deemed to be followed by “without limitation.” Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee (“DTTL”), the member firms of DTTL (including Deloitte LLP), and each of their respective affiliates (including Contractor) are referred to herein collectively as the “Deloitte Entities” and individually as a “Deloitte Entity.”

46. AMBIGUITIES

Each party has participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

47. NOTICES

Unless otherwise provided herein, all notices and other communications required by this Contract shall be deemed to have been given when made in writing and either (a) delivered in person, (b) delivered to an agent, such as an overnight or similar delivery service, or (c) deposited in the United States mail, postage prepaid, certified or registered, addressed as follows:

TO THE CONTRACTOR:

Marty Miller, Consulting Managing Director
Deloitte Consulting LLP
650 S. Tryon Street, Suite 1800
Charlotte, North Carolina, 28202

TO FAIRFAX WATER:

TBD
Project Manager
Fairfax County Water Authority
8570 Executive Park Avenue
Fairfax, Virginia 22031

AND

Elizabeth B. Dooley, CPPO, CPPB
Procurement Manager
Fairfax County Water Authority
8570 Executive Park Avenue
Fairfax, Virginia 22031

48. *NON-DISCRIMINATION NOTICE

FW does not discriminate against faith-based organizations.

49. INSURANCE REQUIREMENTS

The Contractor shall provide to the FW Procurement Manager an industry standard ACORD Certificate of Insurance indicating that the Contractor has in force the coverage below prior to the start of any Work under this Contract and upon any contract extension. The Contractor agrees to maintain such insurance until the completion of this Contract or as otherwise stated in the Contract Documents. All required insurance coverages must be acquired from insurers authorized to do business in the Commonwealth of Virginia, with a rating of "A-" or better and a financial size of "Class VII" or better in the latest edition of the A.M. Best Co. Guides, or the equivalent if AM Best is not available, and acceptable to FW. The minimum insurance coverage shall be:

- a) Workers Compensation - Virginia Statutory Workers Compensation (W/C) coverage including Virginia benefits and employers liability with limits of \$100,000/100,000/500,000. FW will not accept W/C coverage issued by the Injured Worker's Insurance Fund, Towson, MD.
- b) Commercial General Liability - \$1,000,000 combined single limit coverage with \$2,000,000 general aggregate covering all premises and operations and including Personal and Advertising Injury, Completed Operations, Contractual Liability pursuant to policy terms and conditions, Vicarious Liability for Independent Contractors, and Products Liability. The general aggregate limit shall apply to this Contract. Evidence of Contractual Liability coverage shall be typed on the certificate.

- c) Business Automobile Liability - \$1,000,000 Combined Single Limit (Owned, non-owned and hired).
- d) The Contractor shall carry Errors and Omissions or Professional Liability insurance which will pay for injuries arising out of errors or omissions in the rendering, or failure to render services or perform Work under the contract, in the amount of \$1,000,000.
- e) Insurance Against Intellectual Property Infringement – AMOUNTS TO BE NEGOTIATED.
- f) Cyber Security Liability Insurance Coverage: \$5,000,000 per claim. The insurance may be included within a professional liability coverage form.
- g) Additional Insured - Fairfax Water, and its officers, elected and appointed officials, employees, and agents shall be included as an additional insureds on all policies except Workers Compensation, Employers Liability, Cyber Security, Auto and Professional Liability; and evidence of the Additional Insured endorsement shall be typed on the certificate.
- h) Cancellation - If there is a material change or reduction in coverage the Contractor shall notify the FW Procurement Manager promptly upon Contractor's notification from the insurer. It is the Contractor's responsibility to notify FW upon receipt of a notice indicating that the policy will not be renewed or will be materially changed. Any policy on which the Contractor has received notification from an insurer that the policy has or will be cancelled or materially changed or reduced must be replaced with another policy consistent with the terms of this Contract, and FW notified of the replacement, in such a manner that there is no lapse in coverage. Not having the required insurance throughout the Contract Term is grounds for termination of the Contract.
- i) Any insurance coverage that is placed as a "claims made" policy must remain valid and in force, or the Contractor must obtain an extended reporting endorsement consistent with the terms of this Contract, until the applicable statute of limitations has expired, such date as determined to begin running from the date of the Contractor's receipt of final payment.
- j) Contract Identification - The insurance certificate shall state this Contract's number and title.

The Contractor maintains a \$100,000 deductible for Workers' Compensation, Employer's Liability and Automobile Liability, and no deductible or self-insured retention for General Liability or Professional Liability, which includes Cyber.

The Contractor shall require all subcontractors to maintain during the term of this Contract, Commercial General Liability insurance, Business Automobile Liability insurance, Workers' Compensation insurance and Insurance Against Intellectual Property Infringement in the same form and manner as specified for the Contractor. The Contractor shall furnish subcontractors' certificates of insurance to FW immediately upon request by FW.

No acceptance or approval of any insurance by FW shall be construed as relieving or excusing the Contractor from any liability or obligation imposed upon the Contractor by the provisions of the Contract Documents.

The Contractor shall be responsible for the work performed under the Contract Documents and every part thereof, and for all materials, tools, equipment, appliances, and property of any description used in connection with the work. The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed on or in connection with the Work contracted for, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the Contract, or in connection in any way whatsoever with the contracted work.

The Contractor shall be as fully responsible to FW for the acts and omissions of its subcontractors and of persons employed by them as it is for acts and omissions of persons directly employed by it.

Notwithstanding any of the above, the Contractor may satisfy its obligations under this section by means of self-insurance for all or any part of the insurance required, provided that the Contractor can demonstrate financial capacity and the alternative coverages are submitted to and acceptable to FW. The Contractor must also provide its most recent actuarial report and provide a copy of its self-insurance resolution to determine the adequacy of the insurance funding.

50. FAIRFAX WATER RESPONSIBILITIES

- a. In addition to FW's responsibilities as set forth in Exhibit A, FW shall cooperate with Contractor in the performance of the Work, including (i) providing Contractor with adequate working space, equipment and facilities and timely access to data, information, and personnel of FW; (ii) providing experienced and qualified personnel having appropriate skills to perform their assigned tasks and duties in a competent and timely fashion; (iii) providing a stable, fully functional system infrastructure environment which will support the Work and allow Contractor and FW to work productively; and (iv) promptly notifying Contractor of any issues, concerns or disputes with respect to the Work. With respect to the data and information provided by FW to Contractor or its subcontractors for the performance of the Work, FW shall have all rights required to provide such data and information, and shall do so only in accordance with applicable law and with any procedures agreed upon in writing. If Contractor is provided with access to or use of FW's facilities outside the United States for the purpose of performing the Work, such facilities will not be dedicated solely for Contractor's use and Contractor will not be deemed a tenant of FW with respect to such facilities.
- b. FW shall be solely responsible for, among other things (i) the performance of its personnel and agents; (ii) the accuracy and completeness of all data and information provided to Contractor for purposes of the performance of the Work; (iii) making all management decisions, performing all management functions, and assuming all management responsibilities; (iv) designating a competent management member to oversee the Work; (v) evaluating the adequacy and results of the Work; (vi) accepting responsibility for the results of the Work; and (vii) establishing and maintaining internal controls, including monitoring ongoing activities.

51. LIMITATION ON DAMAGES

Each party to this Agreement, its affiliates and subcontractors, and their respective personnel shall not be liable to the other party for any claims, liabilities, or expenses relating to or in connection with this Agreement ("Claims") in excess of two times total expected fees under the applicable SOW, except (i) to the extent resulting from their recklessness, bad faith or intentional misconduct, or (ii) for payment for fees and expenses due under this Contract, (iii) to the extent resulting from their disclosures of the other party's information in breach of Section 25 and Attachment J, or (iv) to the extent resulting from Contractor's breach of Section 53(b), (subsections (iii) and (iv) collectively "Special Breaches"), in which event the Contractor, its affiliates and subcontractors, and their respective personnel shall not be liable to FW for Claims resulting from any Special Breaches for an aggregate amount in excess of [three times] the total fees paid by FW to Contractor under such SOW. In no event shall a party to this Agreement, its affiliates or subcontractors, or their respective personnel be liable to the other party for any loss of use, data, goodwill, revenues or profits (whether or not deemed to constitute a direct Claim), or any consequential, special, indirect, incidental, punitive, or exemplary loss, damage, or expense, relating to or in connection with this Agreement. The terms of this Section shall not apply to any Claim for which one party has an express indemnification obligation under this Agreement.

52. LIMITATION ON WARRANTIES AND ACTION

- a. THIS IS A SERVICES AGREEMENT. CONTRACTOR WARRANTS THAT IT SHALL PERFORM THE WORK IN GOOD FAITH AND IN A PROFESSIONAL MANNER USING QUALIFIED PERSONNEL. CONTRACTOR DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE FOREGOING DISCLAIMER DOES NOT LIMIT CONTRACTOR'S OBLIGATIONS UNDER THIS AGREEMENT.
- b. In connection with Contractor's performance of the Work, Contractor shall not, without FW's authorization: (i) install any Malicious Code into any Deliverable or any FW information system or (ii) relay or disseminate any Malicious Code on to a FW information system to be subsequently activated or installed by another party. Contractor shall use industry-standard procedures to identify and neutralize Malicious Code installed on Deliverables (if developed on Contractor's information systems) before delivering such Deliverables to FW. If Malicious Code is installed in any Deliverable or FW information system or is activated as a result of Contractor's breach of the foregoing terms of this Section, Contractor shall, at no additional charge, take reasonable commercial measures to eliminate, and mitigate the effects of, the Malicious Code. As used in the preceding, "Malicious Code" means any code in any part of a software system or script that was developed and deployed with the intention of damaging, or compromising the security of, a system, without the authorization of such system's owner or operator.
- c. No action, regardless of form, arising under or relating to this Agreement, or the Work may be brought more than three years after the cause of action has accrued, except that an action for nonpayment may be brought not later than two years following the due date of the last payment owing to the entity bringing the action.

53. THIRD-PARTY BENEFICIARIES

The parties agree that there are no third-party beneficiaries of this Agreement, and no rights, benefits, or remedies of any kind or character whatsoever are conferred upon, and no party to this Agreement shall owe any duty to, any person or entity other than the other party to this Agreement.

WITNESS these signatures:

FAIRFAX COUNTY WATER AUTHORITY

CONTRACTOR

AUTHORIZED
SIGNATURE:



NAME: JAMIE BAIN HEDGES, P.E.
TITLE: GENERAL MANAGER

DATE: 2/27/2025

AUTHORIZED
SIGNATURE:



NAME AND
TITLE: Marty Miller - Consulting Managing Director

DATE: 2/7/2025

Exhibit A - Statement of Work

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1 Scope of Services

The Services consist of executing the discovery phase (or "Phase I") of the initiative. The goal of the discovery phase is to complete the current state assessment of the Data Lake Reporting & Analytics and Data Governance.

1.1 Deloitte Consulting Scope:

Deloitte Consulting responsibilities for the discovery phase are broadly classified into 4 categories:

- Mobilize
- Data Lake Reporting & Analytics Assessment
- Data Governance Assessment
- Implementation Estimation

1.1.1 Mobilize:

During Mobilize, Deloitte Consulting shall:

- Onboard Deloitte Consulting's project team members
- Develop high-level Data Governance and Data Lake discovery project plan
- Conduct project kick-off with Client's IT key stakeholders
- Roll out a Data Governance and Data Management survey to gather current state information

1.1.2 Data Lake Reporting & Analytics Assessment

During the Data Lake Reporting & Analytics assessment, Deloitte Consulting shall conduct workshops to:

- Understand the existing data management solution by understanding the source systems, consumption/analytics applications and enabled business use cases
- Identify and prioritize future state business reporting and analytics use cases
- Identify required data and analytical capabilities and required data sets to support future state business reporting and analytics use cases

1.1.3 Data Governance Assessment

During the Data Governance Assessment, Deloitte Consulting shall conduct workshops to:

- Assess the current data governance policies and pain points by understanding the existing capabilities, data management process, usage, classification, access and protection
- Understand the data governance capabilities needed for the future state data management solution
- Prioritize core master data that currently have data quality or data management issues and should be prioritized for enhanced data governance policies, data quality, data access and compliance restrictions.

1.1.4 Implementation Estimation

During the Implementation Estimation, Deloitte Consulting shall:

- Develop refined effort and cost estimate required to implement the future state data lake, reporting and analytics solution
-

1.2 Client Responsibilities

Client shall complete the submitted surveys during Mobilize that will provide:

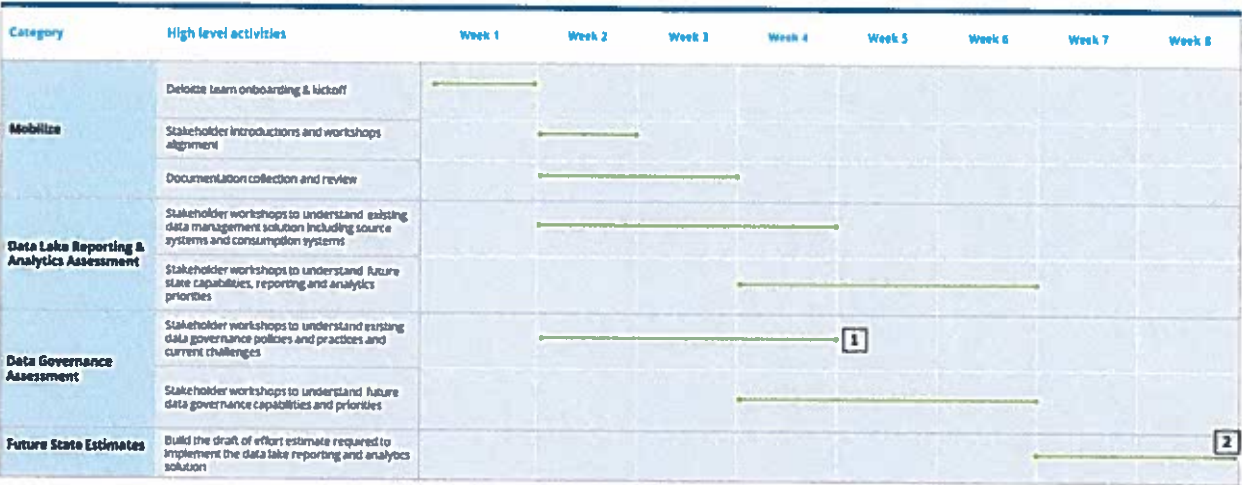
- Existing data governance objectives and priorities for future state
- Any existing data governance organizational models or operations, if any
- Prioritization of core master data that require data governance policies, data quality, data access and compliance restrictions.
- Source systems, consumption systems, use cases, data and analytics capabilities
- Contact information of key stake holders viz. data owners, data stewards, IT and data teams who can provide detailed inputs on the existing data landscape and future state vision

1.3 Out of Scope

Anything not specifically listed in this SOW as being within the scope of Services will be out of the scope for this SOW.

2 Estimated Timeline & Deliverables

Below is the estimated schedule for completing the Data Governance Assessment and the Data Lake & Analytics Assessment activities and the associated deliverables for Phase 1 Discovery.



2.1 Deliverables

#	Deliverable	Description	Due Date
1	Current State Assessment and Future state Capabilities	Document detailing: <ul style="list-style-type: none"> - Current state of Data and Analytics solution and the existing capabilities - Future state Data and Analytics capabilities - Current state of Data Governance policies and procedures - Future state Data Governance priorities 	End of Week 4
2	Future state implementation estimate	A draft of effort estimate required to implement future state Data and Analytics solution	End of Week 8

2.2 Approval of Deliverables

- a. FW shall approve each Deliverable that conforms in all material respects with the specifications for such Deliverable set forth in Exhibit A or as otherwise agreed by FW and Contractor in writing ("Specifications"). Within five business days (or such other period agreed upon in Exhibit A) from its receipt of a Deliverable, FW shall provide Contractor with (i) written approval of such Deliverable or (ii) a written statement which identifies in reasonable detail, with references to the applicable Specifications, all of the deficiencies preventing approval (the "Deficiencies").
- b. Contractor shall have five business days (or such other period agreed upon in Exhibit A) from the date it receives the notice of Deficiencies to complete corrective actions in order for such Deliverable

to conform in all material respects to the applicable Specification. FW shall complete its review of the corrected Deliverable and notify Contractor in writing of acceptance or rejection in accordance with the foregoing provisions of this Section.

- c. Notwithstanding the foregoing provisions of this Section, approval of a Deliverable shall be deemed given by FW if FW has not delivered to Contractor a notice of Deficiencies for such Deliverable prior to the expiration of any period for FW review thereof as set forth in this Section, or if FW uses the Deliverable in production.
- d. To the extent that any Deliverable has been approved by FW at any stage of Contractor's performance under the Work, Contractor shall be entitled to rely on such approval for purposes of all subsequent stages of Contractor's performance under Exhibit A. In the event an approved Deliverable differs from the Specification for such Deliverable, the Specification shall be deemed modified to conform with such approved Deliverable.

3 Responsibility Matrix

The roles and time commitments from Client and Deloitte Consulting are based on our assessment of what is needed for the discovery effort.

Role	Responsibility	Location	Client	Deloitte
Executive Project Leaders	Oversees the overall engagement progress and quality and serves as the primary escalation point regarding project quality, budget, and contractual items for overall engagement.	Onshore		
Discovery Delivery Manager	Responsible for the overall direction, coordination, stakeholder interviews, workshops and other relevant activities required for discovery. The project manager also manages risk, communicates status and facilitates that the project aligns with the organizational strategy.	Onshore		
Technical Architect	Responsible for the overall technical design solution and brings experience in Data Lake Technology	Onshore		
Data Owners	Responsible for providing the required details for the data flows starting from source system to consumption, and clarify all data related technical clarifications	Onshore		
Business SME	Key stakeholders who represent business requirements and functional knowledge. Responsible for providing use cases overview	Onshore		
Discovery Support	Developers documenting the deliverables for the discovery effort based on the stakeholder interviews and discovery workshops	Onshore & Offshore		 

-  Part Time US
-  Full Time US
-  Part Time Offshore
-  Full Time Offshore

4 Fees and Expenses

4.1 Estimated Fee

Deloitte Consulting will perform the Services on a fixed fee basis. Based on the scope, timing, Client responsibilities, and assumptions set forth herein, Deloitte Consulting's fees for the Services will be \$199,999 including travel expenses.

Deloitte Consulting will invoice Client the fee amounts upon submission of each Deliverable listed in the table below.

	Deliverables	Fee amount	Estimated invoice date
1	Current state assessment and future state capabilities	\$100,000.00	(End of Week 4)
2	Future state implementation estimate	\$99,999.00	(End of Week 8)
	Total	\$ 199,999	

Notwithstanding the foregoing, Client agrees to pay to Deloitte Consulting all pro-rata amount of the applicable fee amount within thirty (30) days of early termination of this SOW by either Party as permitted under the Agreement or this SOW.

4.2 Change Orders

Changes to this SOW will follow the agreed upon process for adjustments per Section 7 of the Agreement.

Exhibit B - Document Security License and Non-Disclosure Agreement

THIS LICENSE AND NON-DISCLOSURE AGREEMENT, made on this _____ (the "Effective Date"), by and between the Fairfax County Water Authority, 8570 Executive Park Avenue, Fairfax, VA 22031, and hereinafter called "Fairfax Water," and Deloitte Consulting LLP, 30 Rockefeller Plaza, NY, NY 10112' and hereinafter called "Licensee," recites and provides as follows:

Recitals

Fairfax Water owns and holds proprietary rights to the Confidential Information (as defined below). Fairfax Water wishes to grant the Licensee a non-transferrable, non-exclusive, limited and revocable license to use the Confidential Information in connection with Licensee's performance of the Services (as defined below), and Licensee wishes to accept such a license, all on the terms and in accordance with the conditions set forth in this Agreement.

Agreement

NOW THEREFORE, in consideration of the covenants and agreements contained herein and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged) the parties hereto agree as follows:

Section 1 - Definitions:

"Confidential Information" means and includes all documents, drawings, specifications, field data, electronic and other materials and records (regardless of form or format) provided by Fairfax Water to the Licensee in connection with the Licensee's performance of the Services including, but not limited to data, files, emails, shapefiles, databases (geospatial and non-geospatial), spreadsheets, tabular lists, and metadata. Certain items of Confidential Information are identified on RFP 24-022 – Attachment List to this Agreement.

"Services" means the services provided by a prime and/or subcontractor related work for the Data Governance, Warehousing, Analytics, Strategy, and Implementation that is the subject of Fairfax Water's RFP 24-002.

Section 2 – Grant of License:

Subject to the terms and conditions set forth in this Agreement, Fairfax Water hereby grants to the Licensee, and the Licensee hereby accepts, a non-transferable, non-exclusive, limited and revocable license to use the Confidential Information during the Term (as defined in Section 7 below) for the sole purpose of performing the Services. The Licensee shall not assign, sell,

sublease, transfer or otherwise convey this Agreement, the license granted hereunder, or any other right or obligation hereunder, unless authorized in advance and in writing by Fairfax Water to do so.

Section 3 – Confidentiality and Restrictions on Use:

- A. The Licensee hereby agrees that, except as otherwise expressly permitted herein or in the Contract: (a) the Licensee will only use the Confidential Information for performance of the Services and not for its own benefit or for any other purpose; (b), Confidential Information will maintained by the Licensee as confidential and only be disclosed on a “need-to-know” basis to individuals who have been apprised of the confidential nature of the information, who are Licensee personnel, its consultants, contractors providing administrative, infrastructure and other support services or subcontractors of the Licensee, and who are bound to the Licensee by obligations of confidentiality that are no less restrictive than those contained herein (such individuals, employees, consultants, contractors and/or subcontractors to be sometimes collectively referred to herein as the “Authorized Representatives”), (c) the Licensee will handle and protect the Confidential Information using the same internal security procedures and degree of care regarding confidentiality as similar information belonging to the Licensee (but not less than reasonable care); (d) the Licensee will not disclose, publish, or provide access to the Confidential Information to any person, firm, corporation, or other organization without the prior written consent of Fairfax Water. Fairfax Water hereby consents to the Licensee disclosing such information (i) as may be required by law or regulation, or to respond to governmental inquiries, or as required by applicable professional standards or rules, or in connection with litigation pertaining to this Agreement, provided that, to the extent permitted by applicable law or regulation, the receiving party provides the disclosing party with prompt written notice of such required disclosure. Upon receipt thereof, the disclosing party may seek a protective order or other appropriate remedy. If such protective order or other remedy is not obtained, the receiving party shall furnish only that portion of the confidential information that is required to be furnished; or (ii) to the extent such information (A) is or becomes publicly available other than as the result of a disclosure in breach hereof, (B) becomes available to the receiving party on a nonconfidential basis from a source that is not prohibited from disclosing such information to the receiving party, (C) is already known by the receiving party without any obligation of confidentiality with respect thereto, or (D) is developed by the receiving party independent of any disclosures of such information to the receiving party hereunder.
- B. The Services and Deliverables are being provided to FW for FW’s sole benefit and use as set forth in the Agreement. FW shall not disclose to any third party any of Contractor’s confidential information and pre-existing IP that is embedded in the Deliverables and that is confidential information owned by Contractor except (i) in accordance with the Agreement, (ii) as required by law or regulation, or (ii) to FW’s contractors, vendors, or providers to enable them to provide services to FW, and with requirements that such contractors, vendors, or providers comply with the restrictions on disclosure and confidentiality provisions set forth in this sentence.

Section 4 – Ownership and Rights to Use Confidential Information:

- A. The Confidential Information, and all intellectual property rights embodied in such Confidential Information, will remain the property of Fairfax Water. This Agreement and the disclosure of the Confidential Information to the Licensee hereunder (a) creates only a limited and revocable license to use such information solely for the performance of the Services by the Licensee; (b) will not be construed as granting or conferring any express or implied right, license, or authority in or to Fairfax Water's other proprietary information, except the limited right to use Confidential Information as authorized by this Agreement; and (c) will not grant or create any express or implied right, license, conveyance, or authority in or to any of Fairfax Water's patents, copyrights, trademarks, trade secrets, or other intellectual property rights.
- B. Notwithstanding any provision hereof to the contrary, the Licensee may disclose Confidential Information if and to the extent required of it by applicable judicial or other governmental order, provided that the Licensee first provides reasonable notice to Fairfax Water prior to such disclosure and the Licensee complies with any applicable protective order or equivalent.
- C. The Licensee is signing this Non-Disclosure Agreement on behalf of its employees, consultants, and shall be responsible for any breach by its employees, consultants.

D. Record Keeping

Licensee and its employees, consultants, and subcontractors must maintain a list of all entities to which the Confidential Information is disseminated, in accordance with sections 2 and 3 of this clause. This list must include at a minimum: (1) name of federal, state, or local government, entity, utility, or firm to which the Confidential Information has been disseminated; (2) the name of the individual at the entity or firm who is responsible for protecting the Confidential Information, with access strictly controlled and limited to those individuals having a legitimate business need to know such information; (3) contact information for the named individual and (4) a description of the Confidential Information provided. Once "as-built" drawings are submitted, the Licensee must collect all lists maintained in accordance with this clause, including those maintained by any subcontractors or suppliers, and submit them to Fairfax Water's Resident Engineer in Charge of Design and/or Construction.

Section 5 – Liability by Licensee; Obligation to Notify and Assist Fairfax Water of Unauthorized Disclosure:

The Licensee will be liable to Fairfax Water for any breach of this Agreement by the Licensee or any of its Authorized Representatives. The Licensee will notify Fairfax Water immediately (within two (2) business days of), in the manner prescribed in Section 7 hereof, upon discovery of any unauthorized access, use, and/or disclosure of the Confidential Information whether by the Licensee, any Authorized Representative, or any third party, or any other breach of this Agreement. The Licensee will cooperate with Fairfax Water in every reasonable way to help Fairfax Water regain possession of the Confidential Information and prevent its further unauthorized access, use, or disclosure including but not limited to pursuing court proceedings to restrain the Licensee's Authorized Representatives, employees, consultants, or agents, or any third party from unauthorized use or disclosure of Confidential Information.

Section 6 – Incidents:

Every improper access, use, and/or disclosure of Confidential Information under the control of Licensee that adversely affects the confidentiality, integrity, or availability of such FW Information must be immediately (within forty-eight (48) hours of discovery) reported to Fairfax Water in the manner prescribed in Section 7 below.

Section 7 - Notices:

Except for notices required or permitted under Sections 5, 6, or 8 of this Agreement, any notice provided under or in connection herewith must be in writing and must be: (a) delivered in person; (b) sent by first class mail, or registered mail; or (c) sent by nationally-recognized overnight courier, in each case posted to the appropriate address set forth in the first paragraph of this Agreement and to the attention of the individuals whose names are set forth below:

For Fairfax Water: Attention: Elizabeth B. Dooley, CPPO, CPPB
Email: Edooley@fairfaxwater.org

For Licensor: Attention: Marty Miller
Email: martinmiller@deloitte.com

Any notice required or permitted under Sections 5, 6 or 8 of this Agreement will be transmitted by or on behalf of the party giving notice as follows: (i) promptly, to the fax number and e-mail address designated above for receiving party; and (ii) promptly thereafter, to the physical address for the receiving party in the manner specified in the first sentence of this Section 7. Either party may change its address for notices hereunder by sending notice to the other party in the manner specified this Section. Notices will be considered to have been given at the time of actual delivery in person, by fax, or by e-mail, three (3) business days after deposit in the mail as set forth above, or one (1) business day after delivery to a nationally-recognized overnight courier service for next-day delivery.

Section 8 – Term and Termination:

Unless terminated sooner in accordance with this Section, the term of this Agreement (the "Term") will commence on the Effective Date and will remain in effect until final completion of the Services by the Licensee; provided, however, that notwithstanding the expiration of the Term or other termination of this Agreement, the Licensee will continue to be bound by all confidentiality restrictions and limitations of this Agreement so long as Licensee remains in possession of any Confidential Information. If Licensee fails to comply with any provision of this Agreement, then Fairfax Water will have the right to terminate this Agreement by sending written notice of termination to the Licensee. Any such termination will be effective immediately upon receipt by the Licensee of Fairfax Water's notice of termination. Upon the expiration of the Term or other termination of this Agreement, the Licensee promptly will cease using the Confidential Information for any purpose and will, at Fairfax Water's option and written request: (a) promptly return all originals, copies, reproductions and summaries of the Confidential Information, and notes made therefrom; or (b) confirm destruction of the same in a secure manner so as to make inadvertent recovery impossible and intentional recovery impractical. Notwithstanding anything herein to the contrary, Licensee shall have the right to

retain copies of such Confidential Information to the extent necessary to evidence the Services, provided that Licensee retains such copies in accordance with its confidentiality obligations hereunder.

Section 9 – NO WARRANTY; DISCLAIMER OF LIABILITY; WAIVER OF CLAIMS:

- A. FAIRFAX WATER MAKES NO EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS OF ANY KIND, STATUTORY OR OTHERWISE, WITH RESPECT TO THE CONFIDENTIAL INFORMATION, THE CONFIDENTIAL INFORMATION'S CONTENT, ACCURACY, COMPLETENESS, PERFORMANCE, OR THE RESULTS TO BE OBTAINED FROM QUERIES OR USE OF THE CONFIDENTIAL INFORMATION, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY, QUALITY, AND FITNESS FOR A PARTICULAR PURPOSE OR THOSE ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE. ALL CONFIDENTIAL INFORMATION IS EXPRESSLY PROVIDED 'AS IS' AND 'WITH ALL FAULTS'. Notwithstanding the above, Fairfax Water agrees that Contractor will not be liable for any Claims arising as a result of Licensee relying on Fairfax Water's Confidential Information to the extent that that Confidential Information is false, misleading, inaccurate or incomplete, or the withholding or concealment or misrepresentation of Fairfax Water's Confidential Information by, any person other than the Contractor.

Section 10 – Interpretation of Confidential Information:

The Confidential Information has been developed and is maintained by Fairfax Water solely for and in connection with its operations and activities. The use or interpretation of the Confidential Information by Licensee or the Authorized Representatives is their sole responsibility. Fairfax Water does not provide interpretation services with respect to the Confidential Information.

Section 11 - Injunction Remedy and Attorneys' Fees; Exclusive Jurisdiction and Venue

The parties hereby acknowledge and agree that monetary damages will not be a sufficient remedy in the event of any unauthorized disclosure or use of Confidential Information and that, as such, Fairfax Water will be entitled, without waiving any other rights or remedies, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction. The Licensee agrees that the exclusive jurisdiction and venue for any action relating to or arising from this Agreement, or the enforcement of any rights thereunder, is either the Circuit Court of Fairfax County, or the United States District Court for the Eastern District of Virginia (Alexandria Division), and Licensee hereby waives any and all objections to jurisdiction or venue in those courts. The Licensee hereby waives any requirement for the posting of a bond or other security by Fairfax Water in connection with any such proceeding. In the event that any suit or action is filed to enforce any rights arising from or relating to this Agreement, then the prevailing party in any such action or suit shall be entitled to recover its reasonable attorneys' fees and litigation expenses (including but not limited to expert witness fees and other usual and customary expenses incurred by trial counsel in commercial litigation), as well as all court costs.

Section 12 - Hardware and Software:

The Licensee, at its own expense, shall provide all necessary hardware, software and equipment needed to access and use the Confidential Information.

Section 13 - Governing Law:

This Agreement, its construction, and all rights, remedies and causes of action arising from or relating to it, including any that may be asserted in any action or suit referred to in Section 11 of this Agreement, shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without reference to conflict of laws principles.

Section 14 - Entire Agreement:

This Agreement (including the Appendix) constitutes the entire agreement between the parties regarding its subject matter, and merges all prior discussions between them regarding the Confidential Information and the license granted hereunder. This Agreement may not be modified except by a later written agreement signed by both parties. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together will constitute one and the same original instrument. No provision of this Agreement shall be deemed waived by any act or acquiescence on the part of either party unless expressly agreed to in writing and signed by an authorized representative thereof. No waiver of any provision of this Agreement shall constitute a waiver of any other provision(s) or of the same provision on another occasion. Each of the parties, by signing below, represents to the other party that it, he or she has the authority to bind the named person or entity to this Agreement.

Section 15 – Waiver of Jury Trial:

The parties hereby waive any right they may have to a trial by jury in connection with the resolution of any action or suit arising from or relating to this Agreement, including any action or suit referred to in Section 11 of this Agreement.

IN WITNESS WHEREOF, the undersigned parties have caused this Agreement to be executed by their duly authorized representatives, in duplicate copies, each of which shall constitute an original, and effective as of the Effective Date set forth in the first paragraph above.

FAIRFAX COUNTY WATER AUTHORITY

By: Jamie Bain Hedges, P.E.:

General Manager

Signature:  _____

Date: 2/27/2025

DELOITTE CONSULTING, LLP

By: Marty Miller

Title: Consulting Managing Director

Signature:  _____

Date: 2/7/2025



ADDITIONAL REMARKS SCHEDULE

AGENCY MARSH USA, LLC.		NAMED INSURED Deloitte LLP, Deloitte & Touche LLP; Deloitte Consulting LLP; Deloitte Tax LLP; Deloitte Services LP; Deloitte Financial Advisory Services LLP; Deloitte Transactions and Business Analytics LLP 30 Rockefeller Plaza New York, NY 10112
POLICY NUMBER		
CARRIER	NAIC CODE	
EFFECTIVE DATE:		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
 FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance

CONTINUED FROM DESCRIPTION SECTION:

infringement claims.