



Framework:
Supplier:
Company Number:

Client Support Framework



Geographical Area:
Project Name:
Project Number:

National
Navigation Asset Investment Delivery Support
ENV0002414C

Contract Type:
Option:

Professional Service Contract
Option E

Contract Number:

project_30498

Revision	Status		Originator		Reviewer		Date

**PROFESSIONAL SERVICE CONTRACT - Under the Client Support Framework
CONTRACT DATA**

Project Name Navigation Asset Investment Delivery Support

Project Number ENV0002414C

This contract is made on 30 September 2020
between the *Client* and the *Consultant*

- This contract is made pursuant to the Framework Agreement (the "Agreement") dated 02nd day of July 2019 between the *Client* and the *Consultant* in relation to the Client Support Framework. The entire Agreement and the following schedules are incorporated into this contract by reference
- Schedules 1 through to 14 inclusive of the Framework schedules are relied upon within this contract.
- The following documents are incorporated into this contract by reference
20200813 Navigation Asset Investment Delivery Scope, dated 07/08/2020.

Part One - Data provided by the *Client*
**Statements given in
all Contracts**

1 General

The *conditions of contract* are the core clauses and the clauses for the following main Option, the Option for resolving and avoiding disputes and secondary Options of the NEC4 Professional Service Contract June 2017.

Main
Option

Option E

Option for resolving and
avoiding disputes

W2

Secondary Options

X2: Changes in the law

X7: Delay damages

X9: Transfer of rights

X10: Information modelling

X11: Termination by the *Client*

X18: Limitation of liability

Y(UK)2: The Housing Grants, Construction and Regeneration Act 1996

Y(UK)3: The Contracts (Rights of Third Parties) Act 1999

Z: *Additional conditions of contract*

The *service* is Support and consultancy services to understand existing Navigation asset delivery model to new optimised model. Propose future integrated delivery model maximising opportunities from a new model

The *Client* is Environment Agency

Address for communications

[Redacted Address]

Address for electronic communications

[Redacted Address]

The *Service Manager* is

[Redacted Name]

Address for communications

Environment Agency
[Redacted Address]

Address for electronic communications

[Redacted Address]

The *Scope* is in
20200813 Navigation Asset Investment Delivery Scope, dated 07/08/2020.

The *language of the contract* is English

The *law of the contract* is
the law of England and Wales, subject to the jurisdiction of the courts of England and Wales

The *period for reply* is 2 weeks

The *period for retention* is 6 years following Completion or earlier termination

The following matters will be included in the Early Warning Register

Early warning meetings are to be held at intervals no longer than 2 weeks

2 The *Consultant's* main responsibilities

The *key dates* and *conditions* to be met are
condition to be met *key date*
 'none set' 'none set'
 'none set' 'none set'
 'none set' 'none set'

The *Consultant* prepares forecasts of the total Defined Cost plus Fee and *expenses* at intervals no longer than 4 weeks

3 Time

The *starting date* is 12 October 2020

The *Client* provides access to the following persons, places and things
 access *access date*
 Key EA staff 12 October 2020
 EA contract management systems 12 October 2020

The *Consultant* submits revised programmes at intervals no longer than 4 weeks

The *completion date* for the whole of the *service* is 31 March 2021

The period after the Contract Date within which the *Consultant* is to submit a first programme for acceptance is 4 weeks

4 Quality management

The period after the Contract Date within which the *Consultant* is to submit a quality policy statement and quality plan is 4 weeks

The period between Completion of the whole of the *service* and the *defects date* is 26 weeks

5 Payment

The *currency of the contract* is the £ sterling

The *assessment interval* is Monthly

The *expenses* stated by the *Client* are as stated in Schedule 6.

The *interest rate* is XXXXXXXXXX per annum (not less than 2) above the
 Base rate of the Bank of England

The locations for which the *Consultant* provides a charge for the cost of support people and office overhead are All UK Offices

The *exchange rates* are those published in on

6 Compensation events

These are additional compensation events

1. Managing and mitigating the impact of Covid 19 and working in accordance with Public Health England guidance, as may vary from time to time, between 1st July and 31st October 2020
2. 'not used'
3. 'not used'
4. 'not used'
5. 'not used'

8 Liabilities and insurance

These are additional *Client's* liabilities

1. 'not used'
2. 'not used'
3. 'not used'

The minimum amount of cover and the periods for which the *Consultant* maintains insurance are

EVENT	MINIMUM AMOUNT OF	PERIOD FOLLOWING COMPLETION OF THE WHOLE OF THE <i>SERVICE</i> OR TERMINATION

The <i>Consultant's</i> failure to use the skill and care normally used by professionals providing services similar to the service	██████ in respect of each claim, without limit to the number of claims	12 years
Loss of or damage to property and liability for bodily injury to or death of a person (not an employee of the <i>Consultant</i>) arising from or in connection with the <i>Consultant</i> Providing the Service	Which ever is the greater of ██████ or the amount required by law in respect of each claim, without limit to the number of claims	12 months
Death of or bodily injury to employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with the contract	Which ever is the greater of ██████ or the amount required by law in respect of each claim, without limit to the number of claims	For the period required by law
The <i>Consultant's</i> total liability to the <i>Client</i> for all matters arising under or in connection with the contract, other than the excluded matters is limited to		£5 million

Resolving and avoiding disputes

The <i>tribunal</i> is		litigation in the courts
The <i>Adjudicator</i> is		'to be confirmed'
Address for communications		'to be confirmed'
Address for electronic communications		'to be confirmed'
The <i>Adjudicator nominating body</i> is		The Institution of Civil Engineers

Z Clauses

Z1 Disputes

Delete existing clause W2.1

Z2 Prevention

The text of clause 18 Prevention is deleted.

Delete the text of clause 60.1(12) and replace with:

The *service* is affected by any of the following events

- War, civil war, rebellion, revolution, insurrection, military or usurped power;
- Strikes, riots and civil commotion not confined to the employees of the *Consultant* and sub consultants,
- Ionising radiation or radioactive contamination from nuclear fuel or nuclear waste resulting from the combustion of nuclear fuel,
- Radioactive, toxic, explosive or other hazardous properties of an explosive nuclear device,
- Natural disaster,
- Fire and explosion,
- Impact by aircraft or other aerial device or thing dropped from them.

Z3 Disallowed Costs

In second bullet of 11.2 (18) add:

(including compensation events with the Subcontractor, i.e. payment for work that should not have been undertaken).

Add the following additional bullets after 'and the cost of ' :

- Mistakes or delays caused by the *Consultant's* failure to follow standards in Scopes/quality plans.
- Reorganisation of the *Consultant's* project team.
- Additional costs or delays incurred due to *Consultant's* failure to comply with published and known guidance or document formats.
- Exceeding the Scope without prior instruction that leads to abortive cost
- Re-working of documents due to inadequate QA prior to submission, i.e. grammatical, factual arithmetical or design errors.
- Production or preparation of self-promotional material.
- Excessive charges for project management time on a commission for secondments or full time appointments (greater than 5% of commission value)
- Any hours exceeding 8 per day unless with prior written agreement of the *Service Manager*
- Any hours for travel beyond the location of the nearest consultant office to the project unless previously agreed with the *Service Manager*
- Attendance of additional individuals to meetings/ workshops etc who have not been previously invited by the *Service Manager*
- Costs associated with the attendance at additional meetings after programmed Completion, if delay is due to *Consultant* performance.
- Costs associated with rectifications that are due to *Consultant* error or omission.
- Costs associated with the identification of opportunities to improve our processes and procedures for project delivery through the *Consultant's* involvement
- Was incurred due to a breach of safety requirements, or due additional work to comply with safety requirements
- Was incurred as a result of the *Client* issuing a Yellow or Red Card to prepare a Performance Improvement Plan
- Was incurred as a resulting of rectifying a non-compliance with the Framework Agreement and/or any call off contracts following an audit

When appointing *Consultants* on a secondment basis only:

Add clause 19

19.1 The *Client* will from starting date to Completion Date indemnify the *Consultant* against any and all liabilities, proceedings, costs, losses, claims and demands whatsoever arising directly or indirectly out of the activities of the *Consultant* in providing the services save where such claims, in the reasonable opinion of the *Client*, arise from or are contributed to by:

19.1.1 Misrepresentation or negligence by or on behalf of the *Consultant* ;

or

19.1.2 The *Consultant* has acted contrary to the *Service Manager's* reasonable instructions or wholly outside the scope of the *Consultant's* duties as defined by the *Service Manager*.

Z6 The Schedule of Cost Components

The Schedule of Cost Components are as detailed in the Framework Schedule 6.

Z7 Linked contracts

Issues requiring redesign or rework on this contract due to a fault or error of the *Consultant* under this contract or a previous contract will neither be an allowable cost under this contract or any subsequent contract, nor will it be a Compensation event under this contract or any subsequent contract under this project or programme.

Z8 Requirement for Invoice

Insert the following sentence at the end of clause 51.1:

The Party to which payment is due submits an invoice to the other Party for the amount to be paid within one week of the *Service Manager's* certificate.

Delete existing clause 51.2 and insert the following:

51.2 Each certified payment is made by the later of

- one week after the paying Party receives an invoice from the other Party and
- three weeks after the assessment date, or, if a different period is stated in the Contract Data, within the period stated.

If a certified payment is late, or if a payment is late because the *Service Manager* has not issued a certificate which should be issued, interest is paid on the late payment. Interest is assessed from the date by which the late payment should have been made until the date when the late payment is made, and is included in the first assessment after the late payment is made

Z9 Conflict of Interest

The *Consultant* immediately notifies the *Client* of any circumstances giving rise to or potentially giving rise to conflicts of interest relating to the *Consultant* (including without limitation its reputation and standing) and/or the *Client* of which it is aware or which it anticipates may justify the *Client* taking action to protect its interests. Should the Parties be unable to remove the conflict of interest to the satisfaction of the *Client*, the *Client*, in its sole discretion, may terminate this Contract.

Z10 Change in Control

The *Consultant* shall notify the *Client* as soon as reasonably practicable, in writing, of any agreement, proposal or negotiations which will or may result in a *Consultant* Change in Control and shall give further notice to the *Client* when any Change in Control has occurred. The *Client* may terminate this contract with immediate effect by notice in writing and without compensation to the *Consultant* within six (6) months of being notified that a Change of Control has occurred, or, where no notification has been made, the date that the *Client* becomes aware of the Change of Control, but shall not be permitted to terminate where the Client's prior written acceptance was granted prior to the Change in Control. A Change of Control is defined as per the Deed of Agreement, Z14.4.

Z11 Rate Increase Provision

Contracts with a duration of less than two years, which are extended over this duration by the *Service Manager* due to *Client* Scope increases, may apply a rate review as follows. The *Consultant* will charge the *Client* the contract staff rates for a minimum of two full years, and at the next annual rate review where a new staff rate list is accepted (as stated in Schedule 6), the new staff rate will apply to the contract as per Schedule 6. No Compensation Event is permitted for this different contract staff rate.

Z12 Waiver

No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party by the Service Manager in writing in accordance with the Contract, and with express reference to Clause Z12. The failure of either party to insist upon strict performance of the Contract, or any failure or delay in exercising any right or remedy shall not constitute a waiver or diminution of the obligations established by the Contract.

Secondary Options

OPTION X2: Changes in the law

The *law of the project* is the law of England and Wales, subject to the jurisdiction of the courts of England and Wales

OPTION X10: Information modelling

The period after the Contract Date within which the *Consultant* is to submit a first Information Execution Plan for acceptance is

2

OPTION X18: Limitation of liability

The *Consultant's* liability to the *Client* for indirect or consequential loss is limited to

[REDACTED]

The *Consultant's* liability to the *Client* for Defects that are not found until after the *defects date* is limited to

[REDACTED]

The *end of liability date* is
Completion of the whole of the *service*

6 Years

after the

Y(UK2): The Housing Grants, Construction and Regeneration Act 1996

The period for payment is 14 Days after the date on which payment becomes due

Y(UK3): The Contracts (Rights of Third Parties Act) 1999

term

beneficiary

Part Two - Data provided by the *Consultant*

Completion of the data in full, according to the Options chosen, is essential to create a complete contract.

1 General

The *Consultant* is

Name and company number

[REDACTED]

Address for communications

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Address for electronic communications

[REDACTED]

The *fee percentage* is

[REDACTED]

[REDACTED]

The *key persons* are

Name (1)

[REDACTED]

Job

[REDACTED]

Responsibilities

[REDACTED]

Qualifications

[REDACTED]

Experience

See CV

The *key persons* are

Name (2)

[REDACTED]

Job

[REDACTED]

Responsibilities

[REDACTED]

Qualifications

[REDACTED]

Experience

See CV

The *key persons* are

Name (3)

-

Job

-

Responsibilities

-

Qualifications

-

Experience

-

The *key persons* are

Name (4)

-

Job

-

Responsibilities

-

Qualifications

-

Experience

-

The *key persons* are

Name (5)

-

Job

-

Responsibilities

-

Qualifications

-

Experience

-

The *key persons* are

Name (6)

-

Job

-

Responsibilities

-

Qualifications

-

Experience

-

The *key persons* are

Name (7)

-

Job

-

Responsibilities

-

Qualifications

-

Experience -

The following matters will be included in the Early Warning Register

-
-
-
-
-
-
-
-

3 Time

The programme identified in the Contract Data is

TBC

Resolving and avoiding disputes

The *Senior Representatives* of the *Consultant* are

Name (1) [REDACTED]

Address for communications

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Address for electronic communications

[REDACTED]

Name (2) *Lance Dawkins (CSF Framework Manager)*

Address for communications

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Address for electronic communications

[REDACTED]

X10: Information Modelling

The *information execution plan* identified in the Contract Data is

N/A

Contract Execution

Client execution

Signed under hand by

for and on behalf of **the Environment Agency**

Signature



Role

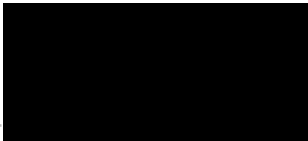
Commercial Manager

Consultant execution

Signed under hand by

for and on behalf of

Signature



Director

Role

9 October 2020

Environment Agency NEC4 professional services contract (PSC) Scope

Project / contract Information

Project name	Navigation Asset Investment Delivery Project
Project SOP reference	Tbc
Contract reference	Project_
Date	07/08/2020
Version number	0.2
Author	

Revision history

Revision date	Summary of changes	Version number

This Scope should be read in conjunction with the version of the Minimum Technical Requirements current at the Contract Date. In the event of conflict, this Scope shall prevail. The services are to be compliant with the version of the Minimum Technical Requirements.

Document	Document Title	Version No	Issue date
412_13_SD01	Minimum Technical Requirements	8	08/01/2018

Details of the services

Details of the *services* are as follows.

1. Description of the work:

Objective

The overall objective is to understand the existing Navigation Assets delivery model and establish the principles and transition options of an optimised model. To enable that, this commission should establish and utilise a diverse 'think bubble' to:

- Establish the existing delivery arrangements (e.g. where work is done and by whom, ['operator, maintainer, responder'] and under what arrangements).
- Propose a future integrated approach and delivery model maximising opportunities from existing EA delivery mechanisms and aligned to 'Fit for 2025' and other organisational developments related to Asset Management.
- Set out transition options with pros and cons.

Context

The Navigation asset portfolio has suffered from significant and prolonged under investment, so assets have deteriorated and teams have been operating a 'fix on fail' approach with small budgets. In 2019-20 however, DEFRA acknowledged the asset deterioration issue, and applied more value to the link between health and wellbeing and the waterways. This resulted in a step change in funding from £3M on average per year to £10M. In 2020-21 that stepped up again to £14.8M. Our current planning assumption is £30M in 2021-22, (year one of approx. £170M over 4 years). This spend is focussed in 5 operational areas (THM, KSL, EAN, LNA and SWMM) so could have a significant impact on the delivery model in those patches.

In order to effectively plan, manage and deliver the outcomes required and manage these increased sums of money, and give confidence to DEFRA accordingly, we are rapidly maturing our asset management and programme management capability. At the same time the approaches and the governance of Asset Management in the Environment Agency is developing and changing. Being prepared to respond to these changes and remain aligned to the corporate direction is key, hence the need to understand our existing model fully now and identify possible opportunities from a new model. We are not looking to become more efficient and effective not rationalise.

In addition Navigation have recently identified and assured £65M of routine, predictable capital investments (over the 7 years of the NGSA arrangements). This commission will build on that work to establish the optimal delivery mechanism for it.

This is one of various commissions and projects set up under the governance of the Navigation Asset Board to bring these many strands and developments together under one programme.

Outcome Specification

A – Establish existing model

Currently each of the Waterway teams have a slightly different approach and set up to manage their assets. Whilst the asset bases is broadly similar, there are local nuances in the asset types, investment approaches, resourcing strategies, use of commercial arrangements and so on.

The six subjects of the Institute of Asset Management concept model could be used to frame a review of the existing arrangements and interfaces between the various teams that currently deliver the Navigation function. It should identify what work does get done and if appropriate what doesn't, the relationships and approaches used. This work should contribute to determining the true cost of the Navigation function. An interpretation of the relative issues and opportunities of the various approaches would help determine what to carry forward into a future delivery model.

B – Set out the principles of an optimum delivery model

In future we would like to move to one optimised, consistent, reliable, approach which is:

1. Progressive and set up to truly utilise the experience, capability and capacity within the supply chain whilst ensuring local knowledge and needs are respected and included.
2. Ensures sustainability and carbon reduction are central in decision making and delivery.
3. Enables the delivery of a (whole life, risk based, value driven) asset management orientated programme where we have a predictable planned rolling programme of operation/ maintenance and clear optimal delivery mechanism.
4. Aligned with the delivery models of other asset investment programmes and current corporate thinking and developments (e.g. 'Fit for 2025') so that ultimately we can have one corporate approach to asset management.
5. Flexible enough to respond to change and opportunities that may arise, and able to be scaled up or down.
6. Uses modern tools, techniques and approaches through the system.
7. Identifies the right mix of delivery partners at each tier of the supply chain; identifies where specialist skills and competence would be beneficial and how that could be incorporated to the model.
8. Identify potential delivery benefits of potential delivery models

Consider both external and internal arrangements when setting out the principles that would help optimise Asset Management in Navigation. (E.g. externally – right mix of delivery partners and contracting arrangements; internally – right Asset Management roles in right places (responsible officers, site liaison officers, operators, maintainers etc.)

C- Develop transition options

The transition options to move to a new delivery model should be set out and evaluated. They should take into account the strategic and 'people' aspects of change as well as any more practical or tactical changes.

When approaching this task the provider should:

- Bring in experience and advice from across the supply chain and other similar organisations
- Consider the makeup of the current programme and work plans and consider some of the intelligence we're gathering about our assets and investment needs, to be able to design an appropriate delivery model.
- Consider other related work e.g.
 - Multifunction asset project – setting out an approach to W&S management
 - Bridge management – setting out an approach to bridge management
 - Asset Inspection strategy – developing a consistent compliant approach to asset inspection
 - Asset Management Roles and Responsibilities

- Consider the potential sensitivity and political nature of this commission and identify future points of alignment and improvement in delivery.
- As an indication, we expect this commission to take approx. half an FTE and around 5 months to complete.

2. Engagement Required

- Engage and utilise the experience and intelligence of local teams, other EA departments and other organisations where appropriate.
- Set out an engagement plan (which is considerate of other work activities) and engage with Area colleagues. This plan should enable the teams to understand when they need to dedicate resource to this project and help them manage their input into a number of commissions.
- Periodic (weekly) catch-ups with the *Service Manager* plus a brief summary for monthly board meetings as and when required.

3. Constraints on how the *Consultant* provides the *services*

The named Project Manager is not to delegate their duties or powers without prior written agreement from the *Client*.

Commencement date of the *services* is as soon as possible. Completion is expected by the end of March 2020.

4. Specifications or standards to be used

Health, safety and welfare is of paramount importance to the *Client* and one of the objectives for the contract is that the works should be undertaken in a manner that achieves highest possible standards. Health, safety and welfare provisions must be seen as integral parts of carrying out the works and not as stand-alone considerations. The *Consultant* will take reasonable steps, when considering documents supplied to them by all parties, that the management arrangements adopted for safety are suitable.

5. Services and other things provided by the *Client*

7.1 Contract to be administered

The *Client* will provide a copy of the contract to be administered.

7.2 Training to be provided by the *Client*

None

7.3 Data and information management and intellectual property rights

All of the data listed as being supplied to the supplier as part of this study remains the Intellectual Property of the *Client*.

7.4 Data custodianship

The data custodian for project deliverables from this commission will be stored within the *Client's* National Navigation Team SharePoint site. Access will be provided as required.

7.5 Licensing information

None

7.6 Metadata

None

7.7 Data security

None

7.8 Timesheets

Timesheets as normally utilised by the *Consultants* shall be submitted with fee notes unless otherwise agreed with the *Client's* project manager. Electronic submissions would be acceptable.

7.9 Payment procedure

Payment is subject to the procedure agreed in or under the framework.

7.10 Quality

The quality management system complies with the requirements of ISO9001 and ISO14001.

Please detail any other requirements of the Quality Plan

Appendix 1 BIM Protocol – Production and Delivery Table

All *Client* issued information referenced within the Information Delivery Plan requires verifying by the *Consultant* unless it is referenced elsewhere within the *Scope*.

www.Pow.bim4.info

You need google chrome for this link to work. Once the table is completed it should be printed for issue in the tender document, so that the correct baseline position can be seen by tenderers and price