



Framework: Collaborative Delivery Framework
Supplier: Ove Arup & Partners Ltd
Company Number: 01312453

Geographical Area: North East
Project Name: Mitford Dam Remedials
Project Number: IMNE000794

Contract Type: Professional Service Contract
Option: Option E

Contract Number: project_33579

Stage: OBC_to_FBC

Revision	Status	Originator	Reviewer	Date
0.1	Superseeded			20/07/2021
0.2	Superseeded			23/08/2021
0.3	Superseeded			25/08/2021
0.4	Live			01/10/2021

**PROFESSIONAL SERVICE CONTRACT under the Collaborative Delivery Framework
CONTRACT DATA**

Project Name Mitford Dam Remedials

Project Number IMNE000794

This contract is made on 15 October 2021
between the *Client* and the *Consultant*

- This contract is made pursuant to the Framework Agreement (the "Agreement") dated 01st day of April 2019 between the *Client* and the *Consultant* in relation to the Collaborative Delivery Framework. The entire agreement and the following Schedules are incorporated into this Contract by reference
- Schedules 1 to 22 inclusive of the Framework schedules are relied upon within this contract.
- The following documents are incorporated into this contract by reference
LIT 13262 - Mitford Dam Remedials PSC scope - FINAL(revised 30 09.2021)

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
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Secondary Options

X2: Changes in the law
X9: Transfer of rights
X10: Information modelling
X11: Termination by the *Client*
X18: Limitation of liability
X20: Key Performance Indicators
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 Complete analysis of the 'problem' with regard to the slumping of downstream left bank gabions at Mitford Dam and develop remedial proposals ready for construction

The *Client* is Environment Agency

Address for communications



Address for electronic communications



The *Service Manager* is
Address for communications



Address for electronic communications



The *Scope* is in
LIT 13262 - Mitford Dam Remedials PSC scope - FINAL(revised 30.09.2021)

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
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2 The Consultant's main responsibilities

The <i>key dates and conditions</i> to be met are	<i>key date</i>
<i>conditions</i> to be met	'none set'
'none set'	'none set'
'none set'	'none set'
The <i>Consultant</i> prepares forecasts of the total Defined Cost plus Fee and <i>expenses</i> at intervals no longer than	4 weeks

3 Time

The <i>starting date</i> is	13 October 2021
The <i>Client</i> provides access to the following persons, places and things	
access	<i>access date</i>
The <i>Consultant</i> submits revised programmes at intervals no longer than	4 weeks
The <i>completion date</i> for the whole of the <i>service</i> is	13 December 2021
The period after the Contract Date within which the <i>Consultant</i> is to submit a first programme for acceptance is	4 weeks

4 Quality management

The period after the Contract Date within which the <i>Consultant</i> is to submit a quality policy statement and quality plan is	4 weeks
The period between Completion of the whole of the <i>service</i> and the <i>defects date</i> is	26 weeks

5 Payment

The <i>currency of the contract</i> is the £ sterling	
The <i>assessment interval</i> is	Monthly
The forecast of the Prices is	
The <i>expenses</i> stated by the <i>Client</i> are as stated in Schedule 9	
The <i>interest rate</i> is	2.00% per annum (not less than 2) above the
Base	rate of the Bank of England
The locations for which the <i>Consultant</i> provides a charge for the cost of support people and office overhead are	All UK Offices

6 Compensation events

These are additional compensation events

1. 'not used'
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 COVER	PERIOD FOLLOWING COMPLETION OF THE WHOLE OF THE <i>SERVICE</i> OR TERMINATION
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The <i>Consultant's</i> failure to use the skill and care normally used by professionals providing services similar to the service	£5,000,000 in respect of each claim, without limit to the number of claims	6 years after Completion
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	£5,000,000 in respect of each claim, without limit to the number of claims	6 years after Completion
Death of or bodily injury to the employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with the contract	<i>Legal minimum</i> in respect of each claim, without limit to the number of claims	<i>For the period required by law</i>
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	£5,000,000	

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 replaced by:

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

Add the following 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 result of rectifying a non-compliance with the Framework Agreement and/or any call off contracts following an audit

Z6 The Schedule of Cost Components

The Schedule of Cost Components are as detailed in the Framework Schedule 9.

After c154.2 and before c154 3, insert the following additional clause:

54 2A If, prior to the Completion Date, the Price for Service Provided to Date exceeds 112% of the total of the Prices, the amount in excess of 112% of the total of the Prices is retained from the Consultant.

Z23 Linked contracts

Issues requiring redesign or rework on this contract due to a fault or error of the *Consultant* 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.

Z24 Requirement for Invoice

Add the following sentence to 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 replace with:

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

Z25 Risks and insurance

The *Consultant* is required to submit insurances annually as Clause Z4 of the Framework Agreement

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 weeks

OPTION X18: Limitation of liability

The *Consultant's* liability to the *Client* for indirect or consequential loss is limited to £1,000,000

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

£5,000,000

The *end of liability* date is 6 years after the Completion of the whole of the *service*

OPTION X20: Key Performance Indicators (not used with Option X12)

The *incentive schedule* for Key Performance Indicators is in Schedule 17

A report of performance against each Key Performance Indicator is provided at intervals of 3 months

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

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

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

term	<i>beneficiary</i>
Any	None

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 Ove Arup & Partners Ltd

Address for communications 8 Fitzroy Street
London
W1T 4BQ

Address for electronic communications [Redacted]

The *fee percentage* is

Option E

[Redacted]

The *key persons* are

Name (1) [Redacted]
Job [Redacted]
Responsibilities [Redacted]
Qualifications [Redacted]
Experience [Redacted]

Name (2) [Redacted]
Job [Redacted]
Responsibilities [Redacted]
Qualifications [Redacted]
Experience [Redacted]

Name (3)
Job
Responsibilities
Qualifications
Experience

Name (4)
Job
Responsibilities
Qualifications
Experience

Name (5)
Job
Responsibilities
Qualifications
Experience

Name (6)
Job
Responsibilities
Qualifications
Experience

Name (7)
Job
Responsibilities
Qualifications
Experience

The following matters will be included in the Early Warning Register
Impact of covid-19 and coronavirus on project delivery

3 Time

The programme identified in the Contract Data is

TBC

Resolving and avoiding disputes

The *Senior Representatives* of the *Consultant* are

Name (1)

Address for communications

Address for electronic communications

Name (2)

Address for communications

Address for electronic communications

X10: Information Modelling

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

TBC



Contract Execution

Client execution

Signed Underhand by JBAHI for and on behalf of the Environment Agency

[Redacted Signature]

Signature

Date

[Redacted Signature]

Consultant execution

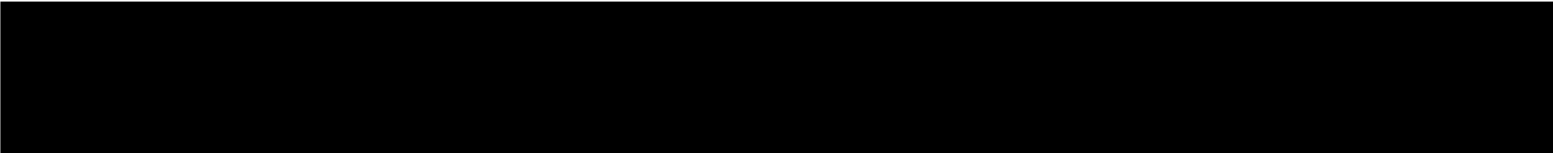
Signed Underhand by [PRINT NAME] for and on behalf of Ove Arup & Partners Ltd

[Redacted Signature]

Signature

Date

Role



Environment Agency

NEC4 Professional Service Contract (PSC)

Scope

Project / contract information

Project name	Mitford Dam Remedial Design (Part of Morpeth FAS)
Project SOP code	
Contract number	Project_33579
Date	(date when this is marked as 'final')

Assurance

Author		Date: 05/08/2021
Consulted		Date:05/08/2021
Consulted		Date: To be consulted during main scoping stage
Reviewed		Date:05/08/2021
Checked prior to issue		Date:23/08/2021

Revision History

Revision date	Summary of changes	Version number
05/08/21	First issue following comments from supplier	1
23/08/2021	DgC Review and CSM review	
08/09/2021	Location plan included and finalised	FINAL

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 *service* is to be compliant with the following version of the Minimum Technical Requirements:

Document	Document Title	Version No	Issue date
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Template Reference: LIT 13262	Version: 4.0	Security marking:	Page 1 of 8
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Project Reference:

Uncontrolled when printed

LIT13258	Minimum Technical Requirements	11	04/05/2021
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1 Overview

1.1 Background

Following construction of the Mitford Dam, gabions of the downstream left bank have slumped and require remediation or replacement to allow final sign off by the Construction Engineer.

1.2 Previous Studies

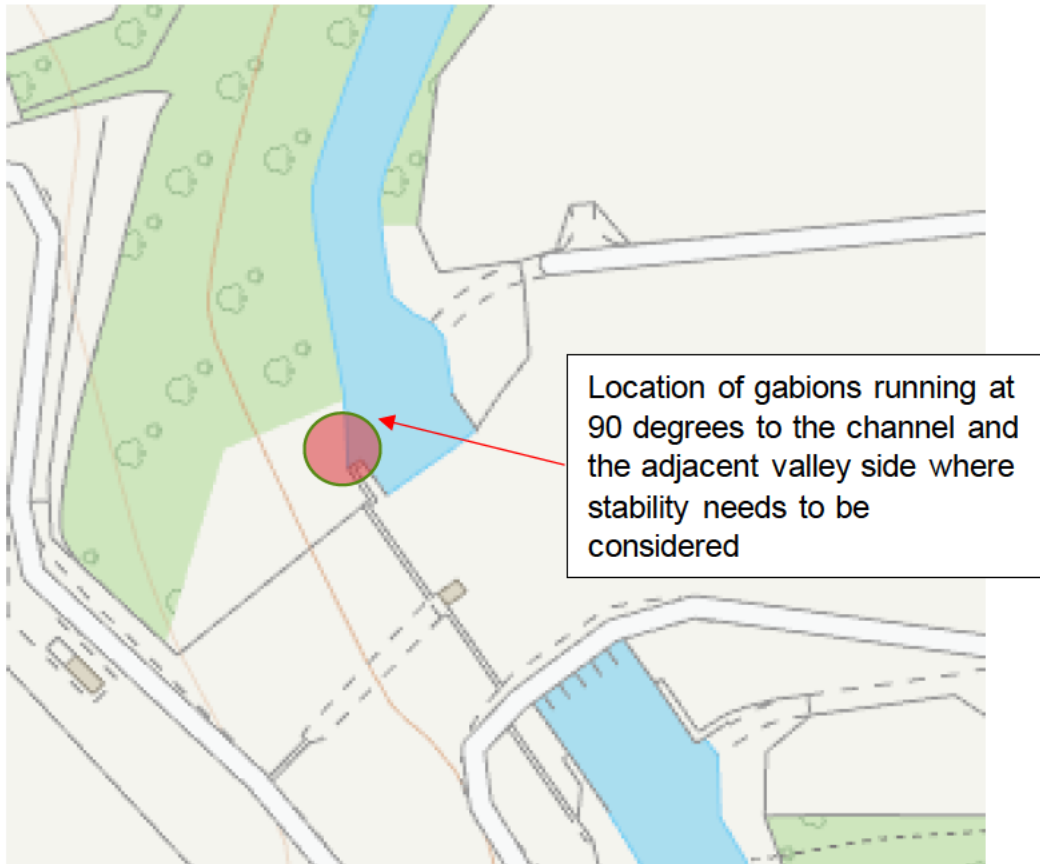
- 1.2.1 In undertaking the *service* the *Consultant* shall take account of the previous studies detailed in the table below and produce a short technical summary explaining how best use will be made of historical data.

Report	Date	Format	Outcomes of study
		E.g. Digital format (enclosed), paper copy (enclosed) or paper copy (available for inspection)	
Morpeth FAS (Mitford Dam) Health and Safety File	March 2019	PDF files	As built information about the dam
Output data from survey monitoring since construction	May 2019 Feb 2020 Jan 2021 August 2021	Excel, CAD	Coordinates of pegs along slope taken over different times
Annex to certificate of efficient execution of works	March 2016	Main report in PDF. Appendices mainly in PDF but also some in word and excel	Information of every aspect of the dam

- 1.2.2 The previous studies have been undertaken by or for the *Client* using reasonable skill and care and have been accepted. The *Consultant* shall review the information provided and notify the *Client* if the data is incorrect, contains anomalies, is not adequate for the purposes of detailed design or is based on inappropriate assumptions. This review should be completed using reasonable skill and care and the *Consultant* should not rely on any existing data that they believe to be suspect/incorrect.
-

1.3 Objectives

The overall intention of the project is to develop a detailed design to allow construction work to remediate or replace a set of gabions on the downstream left bank of Mitford Dam that have slumped. Slope stability of the area where the dam ties into the valley side on the downstream left bank of the dam also needs to be examined, to determine whether further action is recommended to mitigate a potential failure of the slope.



2 The service

2.1 Outcome Specification

The *Consultant* shall deliver the *service* such that it meets the outcomes listed in this section.

Initially the *Consultant* will review data available to the *Client* and appropriate data they already hold and complete a gap analysis to determine what, if any, additional data may be needed in order to develop and design a solution. They will attend a meeting with the *Client* to discuss the outcomes of this and potential options. They will document the outcome of this meeting and draft a scope of design services needed in order to develop a preferred option and detailed design suitable for construction. The scope should account for all elements required to take the project through to construction, for example the required environmental screening, surveys and design deliverables.

The *Client* will review and potentially adapt the scope before instructing it into this contract or utilise the scope in a separate contract.

2.2 Constraints

The Reservoir is classed as a large raised reservoir under the Reservoirs Act (1975) and currently has an appointed Construction Engineer. The Construction Engineer must be fully consulted through the project and provide acceptance (through the *Client*) of key deliverables, before the *Consultant* progresses to each next stage.

2.3 *Consultant* Project Management

2.3.1 The contract will be administered using FastDraft.

3 Health and Safety

- 3.1.1 Health, Safety and Wellbeing (HSW) is the number one priority of the *Client*. The *Consultant* shall promote and adopt safe working methods and shall strive to deliver solutions that provide optimum HSW to all.
 - 3.1.2 The *Consultant* shall follow and comply with the requirements outlined in the Safety, health environment and wellbeing (SHEW) Code of Practice (LIT 16559).
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4 Relevant guidance

4.1.1 The *Consultant* shall deliver the *service* using the following guidance:

Ref	Report Name	Where used
	Safety, health environment and wellbeing (SHEW) Code of Practice	Throughout
	Data management for FCRM projects	Mapping and modelling
	Computational Modelling to assess flood and coastal risk	Modelling
	Risk Guidance for Capital Flood Risk Management Projects	Detailed design
	Whole-life Carbon Planning Tool	Detailed design
	Whole Life (Construction) Carbon Planning Tool User Guide	Detailed design
	Access for All Design Guide	Detailed design
	Project Cost Tool	Costs
	Working with Others: A guide for staff	Consultation & Engagement
	Lessons Log template	FBC
	Integrated Assurance & Approval Strategy	Approvals
	Hub A Carbon Stop/Go form	To evidence low carbon decisions through the whole project life

5 Requirements of the Programme

- 5.1.1 The *Consultant* shall provide a detailed programme in Microsoft Project meeting all requirements of clause 31 of the *conditions of contract*.
- 5.1.2 The *Consultant* shall provide a programme for the project start up meeting and shall update the programme monthly for progress meetings with actual and forecast progress against the baseline. The programme shall also include alignment and submission of the BIM Execution Plan (BEP) and Master Information Delivery Plan (MIDP) as needed.
- 5.1.3 The programme shall cover all the activities and deliverables in the project and include all major project milestones from commencement to the end of the reporting, consultation and approvals stage.
- 5.1.4 The programme shall include review and consultation periods for drafts, scoping letters, statutory consultation etc.
- 5.1.5 The following are absolute requirements for Completion to be certified:
- Transfer to the *Client* of BIM data.
 - Clause 11.2(2) work to be done by the Completion Date.
-

6 Services and other things provided by the *Client*

6.1.1 Access to Environment Agency systems and resources including:

- Asite.
- FastDraft.
- Collaborative Delivery Community SharePoint access.

6.1.2 Site access authorisation letter(s).

6.1.3 Previous studies listed in Section 1.2.1. The *Client* will provide the previous studies within two weeks of contract award.

7 Data

Requirements for the handling of project data are covered by the framework schedules.

8 *Client's* Advisors

8.1.1 The *Client* for the contract is represented by the Programme & Contract Management (PCM) team, primarily the EA Project Manager and in their absence the Project Executive. Instructions may only be given by these staff.

8.1.2 The *Client* has a number of advisory departments. Instructions will only be deemed enacted from them when they are confirmed by an instruction from the *Service Manager*. These departments include Asset Performance, Partnership & Strategic Overview, NEAS and others.

8.1.3 The *Client's* organisation has a regulatory function. Communications from the Environment Agency in its capacity as a regulator are not to be confused with communications as the *Client* or the *Service Manager*.

Appendices

Appendix 1 – BIM Protocol

The *Consultant* shall adhere to the Environment Agency's Employers Information Requirements (EIR) framework level minimum technical requirements.

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

<https://www.asite.com/login-home>

The *Consultant* shall register for an Asite Account and request access to the project workspace to view the IDP.
