



|                           |                                                 |
|---------------------------|-------------------------------------------------|
| <b>Framework:</b>         | <b>Collaborative Delivery Framework</b>         |
| <b>Supplier:</b>          | <b>Jeremy Benn Associates Ltd</b>               |
| <b>Company Number:</b>    | <b>03246693</b>                                 |
| <b>Geographical Area:</b> | <b>South East</b>                               |
| <b>Project Name:</b>      | <b>Teston Sluice Pre-SOC Initial Assessment</b> |
| <b>Project Number:</b>    | <b>ENV0002786C</b>                              |
| <b>Contract Type:</b>     | <b>Professional Service Contract</b>            |
| <b>Option:</b>            | <b>Option E</b>                                 |
| <b>Contract Number:</b>   | <b>31205</b>                                    |

| Revision | Status |  | Originator |  | Reviewer |  | Date |
|----------|--------|--|------------|--|----------|--|------|
|          |        |  |            |  |          |  |      |
|          |        |  |            |  |          |  |      |
|          |        |  |            |  |          |  |      |
|          |        |  |            |  |          |  |      |
|          |        |  |            |  |          |  |      |
|          |        |  |            |  |          |  |      |

PROFESSIONAL SERVICE CONTRACT under the Collaborative Delivery Framework  
CONTRACT DATA

Project Name                    Teston Sluice Pre-SOC Initial Assessment

Project Number                ENV0002786C

- This contract is made on     13 November 2020  
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  
PSC pre-SOC Scope\_Teston Sluice V1.3

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
  - 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                    Investigation into whether Teston sluice is required for flood risk mitigation purposes; initial assessment of options; development of an outline of an economically and technically viable scheme; development of the Strategic Outline Case (SOC); contribution to achievement of NPAS assurance of the SOC by March 2021.

The *Client* is                    Environment Agency

Address for communications                    Horizon House, Deanery Road  
Bristol  
BS1 5AH

Address for electronic communications                    [redacted]@environment-agency.gov.uk

The *Service Manager* is                    [redacted]  
Address for communications                    Environment Agency  
[redacted]  
[redacted]

Address for electronic communications                    [redacted]@environment-agency.gov.uk

The *Scope* is in  
PSC pre-SOC Scope\_Teston Sluice V1.3

The *partner contract* is  
70259, Teston Sluice Pre-SOC ESE, [redacted]

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 <i>key dates</i> and <i>conditions</i> to be met are |                 |
| <i>conditions</i> to be met                              | <i>key date</i> |
| 'none set'                                               | '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 | 16 November 2020 |
|-----------------------------|------------------|

|                                                                               |                    |
|-------------------------------------------------------------------------------|--------------------|
| The <i>Client</i> provides access to the following persons, places and things |                    |
| access                                                                        | <i>access date</i> |
| Asite                                                                         | 19 November 2020   |
| FastDraft                                                                     | 19 November 2020   |
| Teston Sluice site                                                            | 19 November 2020   |

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

|                                                                   |               |
|-------------------------------------------------------------------|---------------|
| The <i>completion date</i> for the whole of the <i>service</i> is | 31 March 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 *currency of the contract* is the £ sterling

|                                   |         |
|-----------------------------------|---------|
| The <i>assessment interval</i> is | Monthly |
|-----------------------------------|---------|

The *expenses* stated by the *Client* 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 |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| The <i>Consultant's</i> failure to use the skill and care normally used by professionals providing services similar to the <i>service</i>                                                                        | <b>£5,000,000</b> in respect of each claim, without limit to the number of claims    | 12 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 | <b>£15,000,000</b> in respect of each claim, without limit to the number of claims   | 12 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                                     | <b>£5,000,000</b>                                                                    |                                                                               |

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           | <a href="#">'to be confirmed'</a>  |
| 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 resulting 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.

**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 £1,000,000.00

The *Consultant's* liability to the *Client* for Defects that are not found until after the *defects date* is limited to £5,000,000.00

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 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

Jeremy Benn Associates Ltd

Address for communications

Address for electronic communications

@jbaconsulting.com

The fee percentage is

Option E

10.00%

The key persons are

Name (1)

Job

Responsibilities

Qualifications

Experience

Project Manager

Name (2)

Job

Responsibilities

Qualifications

Experience

Project Director

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

**3 Time**

The programme identified in the Contract Data is

**5 Payment**

The forecast of the total Defined Cost plus the fee is  
£30,395.66

**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



## Contract Execution

### *Client* execution

Signed under hand by

for and on behalf of the Environment Agency



23/11/2020



Signature

Role

### *Consultant* execution

### *Consultant* execution

Signed under hand by

for and on behalf of

Jeremy Benn Associates Ltd



21-Nov-20

Signature

Role