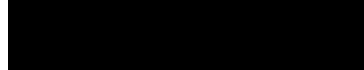




**Framework:**  
**Supplier:**  
**Company Number:**

**Client Support Framework**



**Geographical Area:**  
**Project Name:**  
**Project Number:**

**Midlands**  
**Navigation Multifunctional Asset Strategy**  
**ENV0002430C**

**Contract Type:**  
**Option:**

**Professional Service Contract**  
**Option E**

**Contract Number:**

**project\_30255**

Revision	Status		Originator		Reviewer		Date

### PROFESSIONAL SERVICE CONTRACT - Under the Client Support Framework

<b>Project Name</b>	Navigation Multifunctional Asset Strategy
---------------------	---

**Project Number** ENV0002430C

This contract is made on 05 October 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

### 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

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 Production of a strategy for the future management and funding of Environment Agency owned multifunctional assets.

The *Client* is Environment Agency

Address for communications

Address for electronic communications

N/A

The *Service Manager* is

Address for communications

Environment Agency

Address for electronic communications

The Scope is in  
Navigation\_Multifunctional\_Assets\_Scope v1 dated 7 July 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 05 October 2020

The *Client* provides access to the following persons, places and things  
 access *access date*

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

The *completion date* for the whole of the *service* is 28 February 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 the Government's advice
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 *Consultant's* failure to use the skill and care normally used by professionals providing services similar to the service

in respect of each 12 years claim, without limit to the number of claims

Loss of or damage to property and liability for bodily injury to or death of a person (not an employee of the *Consultant*) arising from or in connection with the *Consultant* Providing the Service

Which ever is the greater of 12 months or the amount required by law in respect of each claim, without limit to the number of claims

Death of or bodily injury to employees of the *Consultant* arising out of and in the course of their employment in connection with the contract

Which ever is the greater of 12 months 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 *Consultant's* total liability to the *Client* for all matters arising under or in connection with the contract, other than the excluded matters is limited to

£1 million

## Resolving and avoiding disputes

The *tribunal* is litigation in the courts

The *Adjudicator* is 'to be confirmed'

Address for communications 'to be confirmed'

Address for electronic communications ['to be confirmed'](#)

The *Adjudicator nominating body* 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 6 Years after the  
Completion of the whole of the *service*

### 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

Address for communications

Address for electronic communications

The fee percentage is

Option E

The key persons are

Name (1)  
Job  
Responsibilities  
Qualifications  
Experience

The key persons are

Name (2)  
Job  
Responsibilities  
Qualifications  
Experience

004Cer

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

### **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

Signature

for and on behalf of the Environment Agency

Role

Consultant execution

Signed under hand by

Signature

for and on behalf of Capita Property & Infrastructure Limited

Role

Signed under hand by

Signature

for and on behalf of Capita Property & Infrastructure Limited

Role

Signed under hand by

for and on behalf of

Role

## Environment Agency NEC4 professional services contract (PSC) Scope

### Project / contract Information

Project name	Navigation Multifunctional Assets (Weirs and Sluices) Strategy
Project SOP reference	Tbc
Contract reference	tbc
Date	7/07/2020
Version number	1.1
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 have a strategy for the future management and funding of Environment Agency (EA) owned multifunctional assets. The primary focus initially will be on weirs and sluices on EA watercourses in each of the four Operational Navigation Areas. (Anglian, Thames, West Midlands and Kent & South London) where we are the Navigation Authority.

Later phases of the project (to be scoped and priced separately in due course) will need to consider

- The management of other multifunctional Navigation assets.
- The management and funding for EA owned or managed weirs and sluices (that have a Navigation benefit) on rivers where they are not the Navigation Authority.

#### Outcome Specification

Currently each of the waterway areas has a different approach to the management of the weirs & sluices:

- **KSL** – Weirs & sluices have always been the responsibility of the Navigation department in this Area although funding contributions are sought for multifunctional assets from other functions including Water Land and Biodiversity (WLB) and Flood and Coastal Erosion Risk Management (FCERM). Navigation report weirs in their KPIs. (*Navigation are 'Operator, Maintainer, and Responder'*).
- **Anglian** – Weirs & sluices have historically been the responsibility of the FCERM department and the Area Navigation team do not currently have the knowledge or resource to manage the assets. FCERM report weirs in their KPI figures. (*FCERM are 'Operator, Maintainer, and Responder'*).
- **Thames** – Historically the weirs & sluices were the responsibility of the FCERM department. However in 2019 the Area had a restructure and Navigation assets moved under the management "Operations". All Navigation assets are managed by the same team as the FCERM assets – this includes weirs and sluices. However FCERM still reports on the weirs for their KPIs. (*Operation team are 'Operator, Maintainer, and Responder'*).
- **WMD** – No weirs on rivers the EA is the navigation authority for.

The Environment Agency is looking to determine the most appropriate and a consistent approach to the management of the weirs and sluices across the Areas; i.e. to develop options of where resources and funding would sit and who [which EA function] the weirs and sluices would be managed by in the future. The options should inform which function develops investment plans and what the 'Operator, Maintainer, Responder' roles look like for weirs and sluices in the EA.

Key steps are:

- to develop the options for a consistent management structure, and
- Set out the implications of moving to that approach.

Particularly consideration should be given to :

- Clarifying responsibilities for weirs and sluice management
- Setting out funding model requirements and options (capital and revenue)

- Establishing an *approach* to determine who the relative beneficiaries of the service of the assets are (and therefore how the funding should be apportioned). This commission does not include establishing the beneficiaries and funding model for individual assets.
- Understanding the resource implications of weirs & sluices management to inform the structure of teams in each function.

The governance arrangements to review and agree the recommendations of this strategy will also need to be clarified.

The strategy should aim to provide a cost-effective approach that enables the EA to make appropriate and timely asset management interventions which ensures its assets are sustainably managed and carbon use is minimised.

## 2. Related information and developments

Useful papers to refer to:

- “20200211 weirs and sluices supporting Document v3” A paper written by [REDACTED] for the Navigation board in February 2020 which sets out some initial thoughts on the issues and options for the management of weirs and sluices.
- ‘Thames weirs strategy’ paper
- Be aware that weirs and sluices are large structures that encompasses many aspects and has different implications for each department i.e. weirs need to have fish passes, not as relevant for Navigation but will be for Water, Land and Biodiversity (WLB) department. All aspects of the assets are considered part of the structure.

Future Development:

- The current project (focusing on Weirs and sluices on EA navigations) is scoped based on current funding availability to address our highest priority needs and risks. However in due course the EA’s ambition is to have an understanding of how any approach to multifunctional asset management can be applied across the full range of water level management assets in the navigation portfolio. It is likely that this phase of the project will be added as a compensation event provided the funding allows it in 21-22.

## 3. Required Outcomes

- Options and recommendations for the future management of EA owned weirs and sluices on the rivers where the EA are the Navigation Authority.
- For each option, clearly set out :
  - Where the ‘Operator Maintainer, Responder’ responsibilities lie.
  - Proposed funding model (for revenue and capital)
  - Proposed resource model for Weirs & Sluices management.
- Establish the governance arrangements to review and agree the recommendations.

This commission is for *Consultant* support, in the form of an experienced Technical Manager who is able to manage the commission and deliver the requirements.

This should be someone who has extensive experience and expertise in asset management and preferably someone who has knowledge of Navigation assets.

The *Consultant's* Technical Manager should be a self-starter with good communication, research and information assimilation skills. They should be able to negotiate and find compromises to develop an approach which will suit a number of Areas. They will have a good knowledge of the principles and practices of project and programme management, understand the risks associated with managing a variety of projects.

#### **4. Engagement Required**

- Engage with other EA departments (specifically FCERM and WLB), local teams and other organisations where appropriate, to use their experience to develop and embed the strategy.
- Engage with the Bridges Engineer that will join the National Operations Navigation team to assess the potential implications or precedents set by any recommendations about the management of other multifunctional assets like bridges.
- Set out an engagement plan (which is considerate of other work activities) and engage with Area colleagues in Anglian, Thames, West Midlands and Kent and South London to understand their current approaches to managing weirs. 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.

#### **5. Constraints on how the *Consultant* provides the services**

The named Technical 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 Dec 2020.

#### **6. 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.

#### **7. Services and other things provided by the *Client***

##### **7.1 Contract to be administered**

N/A

##### **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**

N/A

### **7.6 Metadata**

N/A

### **7.7 Data security**

N/A

### **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](http://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