



Framework:
Supplier:
Company Number:

Client Support Framework
Capita Black & Veatch

Geographical Area:
Project Name:
Project Number:

National
Navigation Weirs & Sluices Investment Plan Project Manager
ENV0003765C

Contract Type:
Option:

Professional Service Contract
Option E

Contract Number:

project_33254

Revision	Status		Originator		Reviewer		Date

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

Project Name Navigation Weirs & Sluices Investment Plan Project Manager

Project Number ENV0003765C

This contract is made on 19 July 2021
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)1: Project Bank Account

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 Fulfill the role of Weirs & Sluices Investment Plan Project Manager in support of the National Operations Navigation Team.

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
Navigation_WSIP_PM_Scope v1 dated 27 May 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

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 19 July 2021

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 31 December 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 2.00% 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 2021 and 31st August 2021
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 <i>service</i>	£5 million 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 £5m 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 £5m 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	£1 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 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

£1,000,000.00

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

Y(UK)1:Project Bank Account

The Consultant is to pay any bank charges made and to be paid any interest paid by the *project bank*

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*

term *beneficiary*

The provisions of
Y(UK)1

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

Capita Black & Veatch

Address for communications

Capita Black & Veatch



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

The *key persons* are

Name (3)
Job
Responsibilities
Qualifications
Experience

The *key persons* are

Name (4)
Job
Responsibilities
Qualifications
Experience

Principal Asset Management Consultant
Responsible for technical delivery of Phase 1 of project & Investment Plann
Diploma, Management Studies, Kingston Business School, London, 1991
Over 40 years water, waste, asset management and construction experient

The *key persons* are

Name (5)
Job
Responsibilities
Qualifications
Experience

Head of Strategic Advisory Services
Responsible for technical delivery of the project and Director role
MSc Asset Management & Maintenance Engineering (Manchester)
Fellow o
30 years Asset Management and infrastructure maintenance experience.

The *key persons* are

Name (6)
Job
Responsibilities
Qualifications
Experience

Senior Consultant recruited expected start date August 2021
Responsible for technical delivery of Phase 2 of project & Investment Plann
#REF!
MSc Mechanical Engineering. IAM Dip. 10 Years experience fo AM Plannin

The *key persons* are

Name (7)
Job
Responsibilities
Qualifications

Principal Asset Management Consultant
Responsible for technical delivery of the project
Environmental Earth Science BSc (Hons), University of East Anglia, 2004
ert

Experience

14 years' experience of asset planning & investment best practice

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) [REDACTED]
Address for communications

Address for electronic communications
[REDACTED]

Name (2)
Address for communications

Address for electronic communications

X10: Information Modelling

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

Y(UK)1: Project Bank Account

The *project bank* is

named suppliers are

Contract Execution

Client execution

Signed under hand by for and on behalf of the Environment Agency

[Redacted signature area]

Signature Role

Consultant execution

Consultant execution

Signed under hand by for and on behalf of Capita Black & Veatch

[Redacted signature area]

Signature Role

Environment Agency

NEC4 professional services contract (PSC)

Scope

Project / contract information

Project name	Navigation Weirs and Sluices Investment Plan Project Manager
Project SOP reference	ENV0003765C
Contract reference	project_33254
Date	27 May 2021
Version number	1
Author	

Revision history

Revision date	Summary of changes	Version number
	Tender Issue	1

1. Objectives of the services

1.1. Objective

1.1.1 The *Client* wishes to appoint an individual to undertake the role of Project Manager. The main objective is to bring together a prioritised investment plan for EA Weirs and Sluices*¹ (W&S) where Navigation are the primary beneficiary.

1.1.2 There are four Operational Navigation Areas: Anglian, Thames, West Midlands and Kent & South London. This commission will only look at weirs and sluices where the EA are the Navigation Authority, so West Midlands (Avon) W&S are excluded.

1.1.3 The Project Manager will primarily be working remotely, but some travel will be required for co-location and site visits including to Peterborough, Reading, London, and Maidstone.

1.1.4 The *Consultant* will provide a suitably qualified individual for the role of Project Manager, as detailed below.

1.2 Context

1.2.1 Each of the Operational Navigation areas has a different approach to the management of their W&S because historically they have been the responsibility of different departments. As a result, their management has been influenced by different local priorities, financial positions, resource availability and so on.

1.2.2 For the W&S that are EA owned and on rivers where we are the Navigation Authority, the Navigation team are now looking to bring a consistent approach to the management of them and plan for the investments needed to bring them up to required condition.

1.2.3 On the River Avon, the EA have responsibility to maintain the W&S but are not the Navigation Authority, so these assets are excluded from the scope of this commission.

1.2.4 DEFRA have acknowledged that there has been significant under investment in these assets in recent years, so through the spending review in 2020, capital funding was secured for 21-22 to initiate investment in these assets. Increased funding is expected to continue for a further three to four years to fix the failing structures and bring this asset class up to required condition. In order to secure the level of funding required, an estimated prioritised costed investment plan is required by July 2021 to support the SR21 bid. That plan should be further developed to an accurate, confident position by the end of the project.

1.3 Scope & Scale

1.3.1 The investment plan developed in this project will include W&S where Navigation are the primary beneficiary.

1.3.2 Even where Navigation are determined the primary beneficiary for a particular asset, because of the multifunctional nature of them they are often cross departmentally funded. Consequently there will be a need to agree the investment plan with FCRM and WR for all multifunctional assets.

1.3.3 Navigation (through this project) will plan and manage the work required for the W&S where Navigation are the primary beneficiary, and the other teams (primarily Water Resources (WR) and Flood & Coast Erosion Risk Management (FCERM) will need to advise Navigation where they are expecting Navigation to contribute to the work required on the assets where they are the primary beneficiary.

^{*1} A weir is a low dam built across a watercourse which provides multiple functions including raising and maintaining the level of water upstream and regulating flow. A sluice is a sliding gate or other device for controlling the flow of water. Sluices are a type of 'control structure' as described in the EA Data Requirements library.

1.3.4 Through discussion and appropriate governance routes, the *Consultant* will develop an agreed cross functional approach so that long term resource and funding planning can happen in each asset portfolio.

1.3.5 The EA will supply a list of the assets which we understand have a Navigation primary function, and summarised them in the table below. There is some uncertainty around this, particularly in the Anglian Area however. Consequently the *Consultant* will work with the Area and National teams to agree which assets will be included in the plan. Where that cannot be resolved in a timely fashion to enable the plan for July to form, the *Consultant* shall default to the list provided with this scope and resolve this issue in Q3 and Q4 of 2021/22.

Area	Total
Thames Total	257
Anglian Total	294
KSL Total	24
Grand Total	575

Table 2 - Asset inventory of weirs and sluices where the Environment Agency is the Navigation Authority

2. *Consultant* provides the following services:

2.1 The *Consultant* shall provide a full time Project Manager to work with a number of EA teams and other consultants working with the EA to create a prioritised costed investment plan for the W&S where Navigation are the primary beneficiary.

2.2 The key steps in the project are:

1. Create a clear list of which assets will be included in this investment plan.
 - Review the list of assets provided with this scope (approx. 575) and agree between Navigation, FCRM and WR which assets will be included in the Navigation investment plan.
2. Agree with FCRM and WR which assets are multifunctional (and therefore cross funded) so an agreed, shared plan and expected funding contributions is developed for those assets. (As per 1.3.3 above.)
3. Establish the condition of those assets by collating existing information or by working with Areas to ensure that information is gathered. Currently areas base the inspections on the T98 standard of visual inspection and MEICA Reliability Measures (MRM)
4. Identify and collate a National view of the work required to bring each asset back to target condition.
5. Make Areas and the National Navigation team aware of any W&S requiring immediate repairs.
6. Develop an indicative cost for the work required.
7. Develop and agree prioritisation criteria.
 - Prioritisation should consider the proposed remediation works, balancing short-term cost, life-cycle cost implications, health and safety, environmental impact, performance, durability, and other relevant criteria.
8. Create a prioritised investment plan which is profiled to match a funding planning assumption (to be agreed with the EA Project Sponsor).

*1 A weir is a low dam built across a watercourse which provides multiple functions including raising and maintaining the level of water upstream and regulating flow. A sluice is a sliding gate or other device for controlling the flow of water. Sluices are a type of 'control structure' as described in the EA Data Requirements library.

3. *Consultant* provides the following deliverables:

- The *Consultant* shall produce an indicative costed investment plan (extrapolated from known data for example) and if possible, share initial findings by July 2021 to support the bid for funding from DEFRA (Spending Review/ SR21).
- The *Consultant* shall produce, by the end of December 2021, a fully informed, costed Nationally prioritised investment plan. (This deadline will allow teams time to develop the commercial arrangements required to progress work on the assets in 22-23).

4. Definition of completion and Defects

Completion is only achieved when all of the *services and deliverables* have been provided and accepted by the *Client*.

The completion date for the *services* is **31st December 2021**.

A Defect is part of the *services* which is not in accordance with the Scope, the applicable law or acceptable good practice in the industry.

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

The *Client* will provide to IT systems, as necessary to undertake the role. Access to office space and office equipment will be dependent on the *Client's* COVID-19 policies.

*¹ A weir is a low dam built across a watercourse which provides multiple functions including raising and maintaining the level of water upstream and regulating flow. A sluice is a sliding gate or other device for controlling the flow of water. Sluices are a type of 'control structure' as described in the EA Data Requirements library.

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

^{*1} A weir is a low dam built across a watercourse which provides multiple functions including raising and maintaining the level of water upstream and regulating flow. A sluice is a sliding gate or other device for controlling the flow of water. Sluices are a type of 'control structure' as described in the EA Data Requirements library.