



Professional Service Contract

Contract Data Forms

June 2017

(with amendments January 2019)

Contract Execution

This agreement is made between the *Client*, the *Consultant* and the Named Suppliers.

Terms in this agreement have the meanings given to them in the contract between the Environment Agency and WSP (UK) Limited for River Thames Scheme Additional Technical Services (the *service*). The Consultant offers to Provide the Services in accordance with these conditions of contract for an amount to be determined in accordance with these conditions of contract. The Consultant was appointed to the framework and executed the framework agreement (with reference number RM6165).

Client execution

Signature Role

Name [Print]

In the presence of:

Signature Date Role Address

Name [Print]

Consultant execution

Signed as a Deed by: Carl Gent as attorney for WSP UK Limited under a power of attorney dated:

Name

Contract Data

PART ONE – DATA PROVIDED BY THE CLIENT

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

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 (with amendments January 2019)

Main OptionOption for resolving and avoiding disputes

W2

Secondary Options

X2, X7, X8, X9, X10, X11, X12, X18, Y(UK)2, Z1, Z2, Z3, Z4, Z5, Z7, Z8, Z9, Z10, Z12, Z14, Z15, Z125, Z130

The *service* is

The contract shall facilitate provision of technical design services for the River Thames Scheme for the Environment Agency and Surrey County Council. It will also provide support in fulfilling obligations associated with statutory consultation and DCO submission.

The scope of works will cover environmental services, environmental surveys, design development, consents and permitting, production of information to understand and inform the engineering construction contract including materials management, development of the business case along with consultation and engagement activities. It shall ensure all relevant deliverables are in-line with the submission of the DCO. It will contribute towards the qualification of scheme benefits and the realisation thereafter. The consultant shall be required to comply with relevant technical, environmental and health and safety standards and shall act in a collaborative and professional manner in all it's dealings.

The *Client* is

Name

Environment Agency

Address for communications

Horizon House
Deanery Road
Bristol
BS1 5AH

Address for electronic communications

enquiries@environment-agency.gov.uk

The *Service Manager* is

Name

Address for communications

x

Professional Service Contract: Contract Data | 3

Address for electronic communications

The Scope is in

The Scope is in Schedule 1: RTS Additional Technical Services scope v1.0 as an attachment to this Contract as described in the service above

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

 except that

- The *period for reply* for

n/a

 is

n/a
- The *period for reply* for

n/a

 is

n/a

The *period for retention* is

12

 year(s) 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

If the <i>Client</i> has identified work which is set to meet a stated <i>condition</i> by a <i>key date</i>	The <i>key dates</i> and <i>conditions</i> to be met are	
	<i>condition</i> to be met	<i>key date</i>
	(1) <div>n/a</div>	<div>n/a</div>
	(2) <div>n/a</div>	<div>n/a</div>
	(3) <div>n/a</div>	<div>n/a</div>

If Option A is used	The <i>Consultant</i> prepares forecasts of the total <i>expenses</i> at intervals no longer than	n/a
If Option C or E is used	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	1 st April 2024
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The *Client* provides access to the following persons, places and things

	access	access date
(1)	Client and Surrey County Council RTS project team	1 st April 2024
(2)	Existing information set out in the Scope	1 st April 2024
(3)		

The <i>Consultant</i> submits revised programmes at intervals no longer than	4 weeks
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If the <i>Client</i> has decided the <i>completion date</i> for the whole of the <i>service</i>	The <i>completion date</i> for the whole of the <i>service</i> is	
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If no programme is identified in part two of the Contract Data	The period after the Contract Date within which the <i>Consultant</i> is to submit a first programme for acceptance is	4 weeks
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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
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The period between Completion of the whole of the <i>service</i> and the <i>defects date</i> is	52 weeks
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5 Payment

The <i>currency of the contract</i> is the	£ sterling
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The <i>assessment interval</i> is	Monthly
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If the *Client* states any *expenses*

The *expenses* stated by the *Client* are

item	amount
In the Scope	

The <i>interest rate</i> is	2	% per annum (not less than 2) above the
Base		rate of the Bank of England bank

If the period in which payments are made is not three weeks and Y(UK)2 is not used
If Option C or E is used and the *Client* states any locations

The period within which payments are made is

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

If Option C or E is used

The *exchange rates* are those published in

on (date)

6 Compensation events

If there are additional

These are additional compensation events

8 Liabilities and insurance

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 SERVICE 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>	<input type="text" value=""/> in respect of each claim, without limit to the number of claims	6 years following Completion of the whole works or earlier termination
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	Whichever is greater of <input type="text" value=""/> or the amount required by law in respect of each event, without limit to the number of events	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	Whichever is greater of <input type="text" value=""/> the amount required by law in respect of each event, without limit to the number of events	For the period required by law

The *Consultant* provides these additional insurances

(1) Insurance against	n/a
Minimum amount of cover is	n/a
The deductibles are	n/a
(2) Insurance against	n/a
Minimum amount of cover is	n/a
The deductibles are	n/a
(3) Insurance against	n/a
Minimum amount of cover is	n/a
The deductibles are	n/a

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

Resolving and avoiding disputes

The *tribunal* is

Litigation in the courts

If the <i>tribunal</i> is arbitration	The <i>arbitration procedure</i> is	'to be confirmed'
	The place where arbitration is to be held is	'to be confirmed'

The person or organisation who will choose an arbitrator if the Parties cannot agree a choice or if the *arbitration procedure* does not state who selects an arbitrator is

The Institution of Civil Engineers

The *Senior Representatives* of the *Client* are

Name (1)	
Address for electronic communications	
Name (2)	
Address for communications	
Address for electronic communications	

The *Adjudicator* is

Name	'to be confirmed'
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Address for communications

'to be confirmed'

Address for electronic communications

'to be confirmed'

The Adjudicator nominating body is

Institution of Civil Engineers

X2: Changes in the law

If Option X2 is used

The law of the project is

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

X5: Sectional Completion

If Option X5 is used

The completion date for each section of the service is

section	description	completion date
(1)		
(2)		
(3)		
(4)		

X7: Delay damages

If Option X7 is used without Option X5

Delay damages for Completion of the whole of the service are per day

If Option X7 is used with Option X5

Delay damages for each section of the service are

section	description	amount per day
(1)		
(2)		
(3)		
(4)		

The delay damages for the remainder of the service are

The delay damages are capped in total with the delay damages for each section and the delay damages for the remainder of the services to be no greater than 2.5% of the total of the Prices

X8: Undertakings to Others

If Option X8 is used

The undertakings to Others are provided to

Surrey County Council

X9: Transfer of Intellectual Property Rights

X10: Information modelling

If Option X10 is used

If no *information* is identified in part two of Data

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

2 weeks

execution plan the Contract

X11: Termination by the Client

X12: Multi Party Collaboration

The Promoter is: Environment Agency
Horizon House
Deanery Road
Bristol
BS1 5AH

The Schedule of Partners is in:
RTS_Schedule_of_Partners v3.0.docx

The Promoter's objective is:
As provided in RTS_Promoter's_Objectives v2.docx

The Partnering Information is in:
RTS_Partnering_Information v3.1.docx

X13: Performance bond

If Option X13 is used

The amount of the performance bond is

Not used

X18: Limitation of liability

If Option X18 is

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

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

The *end of liability date* is 12 years after the Completion of the whole of the *service*

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

If Option X20 is

The *incentive schedule* for Key Performance Indicators is in Not Used used

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

Y(UK)1: Project Bank Account

Not used

project bank)

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

If Option Y(UK)2 is used
and the final date for
payment is not fourteen
days after the date on
which payment becomes
due

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

If Option Y(UK)3 is used	term	<i>beneficiary</i>
	<div>None</div>	<div>None</div>
	<div></div>	<div></div>
	<div></div>	<div></div>
	<div></div>	<div></div>
	<div></div>	<div></div>

Additional conditions of contract

If Option Z is used

The *additional conditions of contract* are**Z1 Disputes**

Option W2 subclause W2.1(4) is deleted. The Parties agree that adjudication under Clause option W2 should only commence if the dispute resolution procedure has been exhausted and that the dispute resolution procedure in the Scope, takes precedence over Option W2.

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

Z4 Share on Termination

Delete existing clause 93.3 and 93.4 and replace with:

93.3 In the event of termination in respect of a contract relating to services there is no Consultant's share.

Z5 Secondment

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.

Z7 Linked Contracts

Z7. Any delays or issues requiring reworks, redesign or any additional costs on this contract that arise from or in relation to any faults, errors, delays, inaccuracies, or otherwise in relation to the quality of any output from, the River Thames Scheme Technical Services contract (Contract No project 36321), or any subsequent contract for the provision of equivalent or similar services for the River Thames Scheme, shall be treated as a Disallowed Cost and no Compensation Event will be accepted, either under this contract or any subsequent contract under this project or programme, in respect of such delays or issues.

Where any products, deliverables, outputs, designs or documentation arising from or in relation to the River Thames Scheme Technical Services (Contract no. project 36321) between the Environment Agency and WSP and Binnies, or any subsequent contract for the provision of equivalent or similar services for the River Thames Scheme, are relied upon by the Consultant in order to deliver its performance and or Scope of this contract, they shall be the liability of the Consultant and regarded for the purposes of this contract as adopted by the Consultant as if the Consultant had produced same under this contract. This does not relieve the Parties to the above Contract no project 36321) of their responsibilities and liabilities under that contract.

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.

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.

Z14 Eligibility to Tender for RTS Engineering & Construction Contract

The Consultant undertakes that they will not be eligible to tender for the River Thames Scheme Engineering and Construction Contract (ECC) or part thereof, either in their own right, as part of a joint venture or consortium, or as a sub-contractor to a party bidding for the works.

The Consultant will procure the same undertakings from any of their Subconsultants that are involved in developing the scope for the River Thames Scheme Engineering and Construction Contract where either:

- (a) Their work could introduce Scope items which are not able to be delivered by the market in the relevant discipline generally, or
- (b) They would gain advantageous knowledge which would not be shared with the market during the pre-tender and tender process

The Consultant's constituent or parent companies will not be eligible to tender for the River Thames Scheme Engineering and Construction Contract where those companies are involved in developing the scope for the River Thames Scheme

Engineering and Construction Contract.

Z 15 Delay damages

Where any delay resulting in delay damages arising from same individual resources and number of days being delayed in the programme, such delay damages will only be applied on either this contract or the River Thames Scheme Technical Services Contract (contract no project_36321). The delay damages are subject to a maximum limit of 2.5% of the combined total Prices of both this contract and the River Thames Scheme Technical Services Contract (contract no project_36321).

Z125 Limitation of Liability

Under clause 87.1; after the fourth bullet point; insert the additional bullet points: • loss of or damage to the Client’s property, to the sum that the Consultant is required to insure under the contract in respect of such loss or damage, • 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, to the sum that the Consultant is required to insure under the contract in respect of such death or bodily injury.

Z 130 Rate adjustment

Z130.1 The Defined Cost for People Rates shall be increased by the same proportion and on the same date as the appropriate Framework Prices.

Z130.2 (Option C ONLY) The Prices are adjusted for the outstanding portion of the Prices for the amendment to rates in Z130.1.

Z 131 Change to the Schedule of Cost Components Add clause 11.2(19) The People Rates are the people rates unless later changed in accordance with the contract and provided that at all times and under any circumstance howsoever arising the People Rates do not exceed the equivalent and directly comparable Framework Price as set out in Crown Commercial Services (CCS) Construction Professional Services Framework RM6165.

In the Schedule of Cost Components delete the section titled People and replace with:

People 1 The following components of the cost of people.

11 Amounts calculated by multiplying each of the People Rates by the total time appropriate to that rate properly spent on work on the contract.

Name (11)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Responsibilities

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

The following matters will be included in the Early Warning Register

2 The Consultant’s main responsibilities

If the *Consultant* is to provide Scope

The Scope provided by the *Consultant* is in

3 Time

If a programme is to be identified in the Contract Data

The programme identified in the Contract Data is

If the *Consultant* is to decide the *completion date* for the whole of the *service*

The *completion date* for the whole of the *service* is

12/06/25

5 Payment

If the *Consultant* states *expenses*

The *expenses* stated by the *Consultant* are any

item	amount

If Option A or C is used

The *activity schedule* is

If Option E is used

The forecast of the prices is

£3,579,220.77

Resolving and avoiding disputes

The *Senior Representatives* of the *Consultant* are

Name (1)	

X10: Information modelling

If Option X10 is used

If an *information execution plan* is to be identified in the Contract Data

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

TBC

Y(UK)1: Project Bank Account

If Option Y(UK)1 is used

The *project bank* is

named suppliers are

Data for the Schedule of Cost Components (used only with Options C or E)

The *overhead percentages* for the cost of support people and office overhead are

location	overhead percentage
N/a	N/a %
	%
	%

Data for the Short Schedule of Cost Components (used only with Option A)

The *people rates* are

category of person	unit	rate
N/A	N/A	N/A