

Public Document Pack



Corporate Management Committee

Thursday, 24 March 2022 at 7.30 pm

Council Chamber, Runnymede Civic Centre, Addlestone

Supplementary Agenda

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River Thames Scheme – Service Level Agreements (External Projects – Dr Marcel Steward)

Synopsis of report: The Service Level Agreement (SLA) between the Applicant and the Local Planning Authority – the ‘Applicant SLA’ and between the 4 key local planning authorities – the ‘Inter Authority SLA’ – in respect of the River Thames Scheme (RTS) are almost finalised. The SLAs define the contractual relationship between the parties, the structure which the Development Consent Order (DCO) pre-application consultation will follow, the support which the Applicant will provide to the Consulting Local Authorities and the role of Runnymede Borough Council (RBC) as the Coordinating Authority for Surrey County Council (SCC), Spelthorne (SBC), Elmbridge (EBC) and Runnymede Borough Council (RBC) in their capacity as statutory consultees.

Both must be signed off at the earliest opportunity so that work can progress on the DCO to meet the planned timetables and permit the recruitment of staff to the Coordination Role to be carried out by RBC.

Recommendation: To agree to the RTS Applicant SLA in principle and to delegate authority to agree the final version and to sign the Applicant SLA and the Inter Authority SLA to the Chief Executive Officer in consultation with the Chairman and Vice-Chairman of the Corporate Management Committee.

1. **Context of report**
 - 1.1 Appendix ‘A’ attached sets out information on the River Thames Scheme In Context which is summarised from the Environment Agency River Thames Scheme website.
2. **Report and, where applicable, options considered**
 - 2.1 The River Thames between Egham and Teddington is one of the largest areas of undefended developed floodplain in England. There is a history of flooding in the area over the past 100 years with major floods occurring in 1947, 1968, 2003 and 2014.
 - 2.2 UK climate change projections forecast that the situation will worsen. Data estimations are that the average winter daily average rainfall in England will increase by approximately 41% by 2050; peak river flows could increase by approximately 50% increasing the severity and intensity of flooding for communities, businesses and infrastructure.
 - 2.3 The estimated impact of a major flood in this area is currently estimated at £1 billion. Due to the impact of climate change this could be doubled by 2055. More than 11,000 homes and 1,600 businesses will benefit from reduced flood risk and rail, power and water networks will be more resilient. More detail is available in Appendix ‘A’ attached.
 - 2.4 The River Thames Scheme (RTS) flood relief scheme will consist of two new

flood channels through the Boroughs of Runnymede and Spelthorne in Surrey. There will also be increased capacity at the weirs in Sunbury, Molesey and Teddington and the Desborough Cut.

- 2.5 The RTS will ensure that there is no increased flood risk to any community in the area. In addition to increased flood resilience, the RTS is also projected to deliver the following benefits:
- contribute to a vibrant local economy by providing greater resilience to flooding of homes, businesses, and key infrastructure.
 - enhance the social and environmental value of the river
 - create new green spaces and recreation opportunities such as fishing, boating, and cycling.
- 2.6 The direct planning implications of the RTS are confined to 4 key planning authorities: Runnymede, Spelthorne and Elmbridge Borough Councils and Surrey County Council.
- 2.7 The Applicant (see paragraph 2.15 of this report for the definition of the Applicant) has confirmed that the Scheme is fully funded and the Outline Business Case has received HM Treasury approval. Final Business Case approval will follow when the Scheme receives Development Consent Order (DCO) consent (see Appendix 'B' attached and the Legal Implications in this report for further detail on the DCO). The Government contribution to the RTS is £380 million. Surrey County Council is contributing £270 million towards flood resilience in the County, including a financial contribution to the RTS of £237 million. Partnership contributions total £95 million (the partnership members are set out in paragraph 2.15 of this report). The 4 key planning authorities have contributed to the Scheme's development over 4 years from 2016 – 2020. RBC's contribution is £336,000. The Scheme does not require further revenue contributions from the 4 key planning authorities.
- 2.8 At its meeting on 19 October 2017, Runnymede's Full Council meeting considered a recommendation from the Corporate Management Committee held on 12 October 2017. Members fully supported the Council making a contribution to the River Thames Scheme in order to protect the Borough's residents, but expressed concern that some other local authorities had as yet not made any funding commitment to the River Thames Scheme. Members also considered that pressure should continue to be applied to Government to meet any shortfall in funding of the Scheme to enable it to go ahead.
- 2.9 Full Council on 19 October 2017 resolved that the Council would make a contribution in principle of £5m to the River Thames Scheme subject to the following caveats:
- a) the capital contribution was spread over 3 years: 2020/21, 2021/22, 2022/23;
 - b) all the participating authorities would commit to appropriate and proportionate contributions;
 - c) there was a robust, realistic and sustainable plan to close the financial gap and make the River Thames Scheme project achievable, which could be reported back to participating authorities at the earliest opportunity;

- d) every effort was made to improve on the contribution from central Government by improving the business case;
 - e) all parties would continue to seek private sector contributions from businesses that were going to benefit from the River Thames Scheme, especially Thames Water;
 - f) should the Treasury withdraw support for the River Thames Scheme, the Council reserved the right to withdraw its financial offer;
- 2.10 Full Council also resolved on 19 October 2017 that the Council would reserve the right to limit its liabilities in the event of project overspend and supported in principle a flood defence levy of Surrey households subject to further detail being provided.
- 2.11 The funding gap referred to in paragraphs 2.8 and 2.9 above has now been closed (see paragraph 2.7 above).
- 2.12 Elmbridge and Spelthorne Councils are committed to contributing to the Scheme at different amounts.
- 2.13 The Government directed that the RTS be treated as a Nationally Significant Infrastructure Project (NSIP) in December 2020. Appendix 'B' attached and the Legal Implications in this report provide detail on the Development Consent Order.
- 2.14 The project is finalising technical design work which includes the Pre-Application DCO Consultation and the subject of these SLAs. Assuming that the DCO is granted, construction is planned to commence in 2025/26. Approval of the outline business case was given by HM Treasury in Spring 2021. Final approval of the business case will be granted on the successful award of the DCO.
- 2.15 The RTS is being delivered by the Environment Agency (EA) and Surrey County Council (SCC) (both the EA and SCC are jointly referred to as "the Applicant") in partnership with:
- Runnymede Borough Council (RBC)
 - Elmbridge Borough Council (EBC)
 - Spelthorne Borough Council (SBC)
 - Royal Borough of Kingston upon Thames
 - London Borough of Richmond upon Thames
 - Thames Valley Berkshire Local Enterprise Partnership
 - Enterprise M3 Local Enterprise Partnership
 - Department for Environment Food and Rural Affairs (Defra)
 - Thames Water
 - Thames Regional Flood and Coastal Committee (RFCC)
- 2.16 It is important to note the unusual nature of the project in regard to the DCO Application in so far as the project Applicants (SCC and EA) and the 4 key planning authorities are all partners in the Scheme and contributors to the Capital Costs. In addition, all parties are Statutory Consultees under the DCO process. This complexity creates the requirement to establish an internal 'glass wall' within the Project Applicant side and within the key local

authority partners contributing to the Capital Cost of the Scheme in order to maintain the independence and integrity of the Planning Authorities i.e. SCC, RBC, EBC and SBC.

- 2.17 It has been agreed that the complexity of the consultation and the importance of maintaining the integrity of the interparty relationships, requires the creation of a Secretariat to manage this operation. RBC has been chosen to host this function as the Borough is the Coordinating Authority, is the location of the largest channel section and is expected to experience the majority of the direct positive and negative impacts of the Scheme. Appendix 'C' attached provides detail on the Secretariat.
- 2.18 In summary the function of the Secretariat will be as follows:
- the Secretariat will receive Work Requests (WR)s from the Applicant's Consultant for information and feedback
 - if the subject of the WR is directly responsible by each of the 4 key planning authorities the work requests will be forwarded directly to the authorities
 - if the subject of the WR is beyond the technical resources of any one or more of the 4 key authorities the Secretariat will forward the WR to the LA Tech. Consultant.
 - the findings of the LA Tech. Consultant will be forwarded to the 4 key planning authorities for response
 - all WRs are subject to a cost cap of £20k per WR. Where a WR is received which is expected to exceed this amount – either the costs of the 4 key planning authorities or the LA Tech. Consultant of both – the Secretariat will seek prior approval from the Applicant
 - the Secretariat will co-ordinate the communication and timing of the responses from the 4 key planning authorities to the Applicant
 - the Secretariat will regularly monitor the invoices from the 4 key planning authorities to the Applicant on a periodicity to be agreed
 - the Secretariat will coordinate and diarise all consultation meetings for the 4 key planning authority partner groups
- 2.19 The Applicant has agreed that the RTS will pay for the following:
- o As the direct planning implications are confined to 4 local planning authorities, the Applicant has agreed that the Scheme will pay for independent consultants to collectively and individually support the planning authorities in assessing the information being submitted by the Applicant for the DCO
 - o The independent consultants supporting the local planning authorities will be procured by the Applicant. The Applicant's sole responsibility in this regard is to procure and pay for the independent consultants supporting the planning authorities.
 - o The independent consultants will be solely managed by the key planning authorities via the Secretariat
 - o In procuring the independent consultants it has been agreed that the company appointed will provide assurance that there will be a demonstrable separation of interests between their contractual obligations to the key local planning authorities and any other obligations which are in place between the appointed company and the Applicant. This is not an unusual circumstance. There are a limited number of consultants in this sector of the market and large complex projects will commonly employ all of the available companies on both sides of the DCO

- It has further been agreed that the key local planning authorities will have rights of reliance on the findings of the independent consultants in the absence of a direct contractual relationship between the parties
 - The Applicant has also agreed that the RTS will pay for the officer time involved in attending regular meetings, provision of information, consultation and feedback to the process. This aspect is in discussion and subject to finalisation.
 - The Applicant has also agreed that RTS will pay for the employment costs of personnel to staff the Secretariat hosted by RBC.
 - In keeping with normal practice, the Applicant has not agreed that the Scheme will pay for the costs of the 4 key local planning authorities responding to their statutory duties under the Planning Act 2008. In practice this principally means responding to public consultations, responding to the Examination Authority or in the circumstances where the key planning authorities take on legal advisers to challenge any aspect of the DCO. This is normal practice within the DCO.
- 2.20 It is expected that during a long consultation process items will arise which are not identifiable or foreseeable but which will have to be addressed and may require extra resource. These will be considered on an individual basis as they become known. Whether the Applicant will financially support these will be decided at the time. The circumstances where the Applicant declines to provide support but where the resource is required will be covered under the terms of the Inter Authority SLA.
- 2.21 The Planning aspects of the Scheme are at the heart of the DCO process. In order to manage this, SLAs are required to ensure that the key Planning authorities have access to the necessary resources in order to cover all of the aspects of the Planning process via the DCO and act independently.
- 2.22 There are two SLAs currently being finalised:
- The **Applicant SLA** relates to the proposed RTS and is between the Applicant (EA & SCC) and the 4 key local planning authorities (RBC, EBC, SBC and SCC). This SLA addresses the funding mechanism for the independent consultant supporting the 4 key planning authorities, as well as the internal delineations to ensure that the planning advice provided is demonstrably independent from the Applicant. This SLA also identifies RBC as the Co-ordinating Authority for the DCO process and the host for the Secretariat. The draft Applicant SLA is at Appendix 'D' attached.
 - The **Inter Authority SLA** is between the 4 key planning authorities (RBC, EBC, SBC and SCC). This addresses RBC's role as the Coordinating Authority on behalf of EBC, SBC and SCC for the management of the independent consultant in assessing the DCO information in detail on behalf of the collective planning authorities, facilitating and managing the transfer of information from the Applicant's Consultant and returning the responses from the 4 key local planning authorities. The Inter Authority SLA will also cover those aspects of the DCO process which the Applicant has not agreed to pay for, but which may be required by the local planning authorities in fulfilment of their statutory duties. In large part the Inter Authority SLA will mirror the Applicant SLA.

3. Policy framework implications

- 3.1 One of the Opportunities set out on page 9 of the Council's Corporate Business Plan 2016 -2020 refers to reducing the risk of flooding to properties through our contribution to the River Thames Scheme.

4. Resource implications

- 4.1 There are significant resource implications arising from this project. The Capital contribution has already been dealt with and sits within the existing Capital Programme. Runnymede Borough Council services such as Planning and Environmental Services will be required to respond to the work requests of the Applicant in a timely manner although the costs will be met by the Applicant. Some costs may fall to the Council in the future under our own responsibilities as statutory consultee and Members will be informed of indicative costs as these become clearer as the programme progresses and we move towards the examination phase. Costs will also be incurred in undertaking the co-ordination role between Applicant and consultees; again, these costs are to be met by the Applicant and any financial risk is mitigated under the SLA which will confirm the mechanism by which these costs are to be reimbursed.

5. Legal implications

- 5.1 As explained in the body of the report the Development Consent Order (DCO) is a particular process which can be used for obtaining permission for developments categorised as Nationally Significant Infrastructure Projects (NSIP). The DCO automatically removes the need to obtain several separate consents, including planning permission and is designed to be a much quicker process than applying for these separately.
- 5.2 The DCO process starts when an application is formally accepted by the National Infrastructure Planning Unit and lasts approximately 12-15 months. The process however, is front-loaded with a number of pre-application consultation requirements, which, depending on the complexity of the project, can take a long time to carry out.
- 5.3 In the DCO process various bodies are deemed statutory consultees that promoters of DCOs must engage with. Given the nature of the projects which fall within the remit of the DCO process responding to such consultations can be a costly exercise due to the sheer volume and technical nature of information associated with such schemes. By the promoters of a DCO providing financial assistance to statutory consultees they hope to speed up the process of securing the DCO. The provision of funding enables the statutory consultee to understand the process better and avoid delays which might flow from raising issues which are not relevant or can be resolved through adjustments to the scheme.
- 5.4 The process being adopted in relation to the RTS is not unusual. The promoters of the DCO are aware of the obligations which fall on the key local planning authorities and are prepared to provide funding to cover the work they have to undertake. What they will not fund is work associated with

opposing any aspect of the RTS. It has to be accepted that the respective local authorities will have to fund any such work from their own resources.

- 5.5 Whilst the applicants for the RTS DCO will procure the external consultant and enter into the legally binding contract with them it will be a term of the contract that services and assistance will be provided to the key local planning authorities. What is important to note is that the role of the external consultant is not to draft grounds to oppose the RTS but rather provide technical advice on the proposals. There will therefore be instances when the consultant might advise that whilst a particular aspect of the RTS might not be the best proposal it is still nevertheless acceptable in general terms.
- 5.6 The creation of a secretariat to support the work of the key local planning authorities is not unusual in this type of process where there are multiple parties with common interests. Issues which will need to be addressed are that whilst staff will be employed by one local authority they will in essence be employed on behalf of all the local authorities served by the secretariat. Such staff will be employed in fixed term contracts and be subject to the employment policies of the local authority which employs them. The interauthority SLA will deal with how any funding is provided to cover staffing costs.
- 5.7 The arrangements proposed in the report to deal with engaging in the DCO process are not unusual and are not unlawful. It has to however be borne in mind that the promoters of the DCO are not providing funding for the key local planning authorities to oppose the RTS but rather enabling them to respond to the consultation process in a meaningful way. What any of the local authorities involved in the process must be clear about is that if they oppose any aspect they must clearly state that at the appropriate time rather than merely agree to resolve it at a future date. Failing to adopt a clear stance on matters at the appropriate time can lead to confusion at a later stage, such as at the public examination stage of the DCO process.

6. **Equality implications**

- 6.1 The RTS will not amplify any equality and diversity issues. There will be a requirement to assess any associated planning aspects of the scheme e.g. access, path and cyclways layouts, etc. These will form part of the DCO consultation.

7. **Environmental/Sustainability/Biodiversity implications**

- 7.1 The RTS mitigates the impacts of flooding, assists in mitigating the impacts of climate change, will be constructed adhering to the highest standard of sustainability as possible and creates opportunities for increased biodiversity through the creation of wetlands and potentially woodland and grassland habitats which will be incorporated into the RTS.

8. **Other implications**

- 8.1 The Secretariat will require the creation of at least 3 new staff posts. The precise function of the Secretariat will be detailed within the Applicant SLA. When this has been confirmed, the staffing requirements (number of people / grade, etc), together with employment and associated support costs will be determined. All agreed costs will be invoiced to the Applicant monthly.

8.2 The services of the LA Tech Consultant for the RTS will be procured by the Applicant and not RBC. The nature of this arrangement is set out in the Applicant SLA.

9. **Conclusions**

9.1 The purpose of this report is to seek the Committee's agreement to delegating the signature of both SLAs to the Chief Executive Officer on behalf of RBC in consultation with the Chairman and Vice-Chairman of the Corporate Management Committee.

9.2 The RTS is an opportunity to provide greater protection to residents and businesses in the Borough against major flooding. It is vital that RBC maintains its commitment to the Scheme in order to maximise the primary and secondary benefits which will be delivered by its construction.

9.3 The execution of the SLAs provides security of funding for the RBC Planning Authority to be fully involved within the DCO process and enable it to submit detailed responses to ensure that the Scheme is fit for purpose. The SLAs also define and confirm the role of RBC as Coordinating Authority and host to the Secretariat and secure the funding for this function.

9.4 Not partaking in the SLAs will limit the capacity of RBC's Planners to respond to the DCO process in detail and limit our opportunities to influence the objectives of the scheme, including the expected positive effects on flood defence, adaptation and mitigation of climate change, biodiversity, and recreational opportunities.

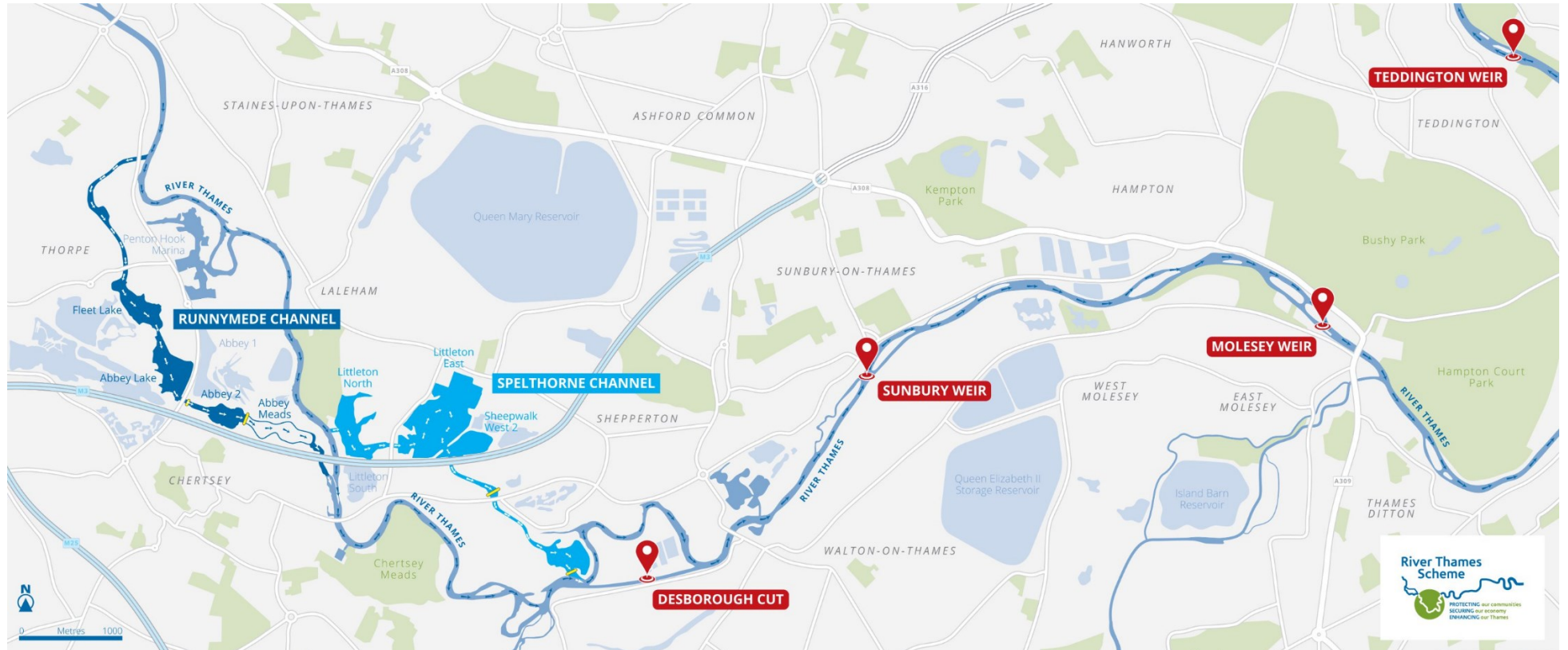
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Background papers

None stated

APPENDIX 'A'

THE RIVER THAMES SCHEME IN CONTEXT (Ref Environment Agency)



Summarised from the Environment Agency River Thames Scheme Website:

- The River Thames between Egham and Teddington is one of the largest areas of undefended, developed floodplain in England
- There is a history of flooding in the area over the past 100 years. Large floods occurred in 1947, 1968, 2003 and 2014 when there was a prolonged and widespread flood affecting 1,000+ homes and many business
- UK climate change projection data estimates that the winter daily average rainfall in England could increase by approximately 41% by 2050. Peak river flows could increase by approximately 50%, increasing the severity and intensity of flooding for communities, businesses, and infrastructure
- The estimated economic impact of a major flood is currently £1 billion. Due to the impact of climate change, damage could be twice as great by 2055
- The RTS will reduce the flood risk to communities in Surrey and Southwest London. More than 11,000 homes and 1,600 businesses will benefit from reduced flood risk and rail, power and water networks will be more resilient
- The RTS will consist of two new flood channels in sections through the boroughs of Runnymede and Spelthorne in Surrey. There will also be increases in the capacity at the Sunbury, Molesey and Teddington weirs and the Desborough Cut
- The channel is designed to convey water from a flood with a severity of up to a 5% chance in any one year (equivalent to a 1 in 20-year flood). Flows (volume and speed of waterflow) in the channel will increase slowly as the flow in the Thames increases
- The Runnymede channel is 4.8km long starting at Egham Hythe and ending at Chertsey. The channel will flow through five lakes, intersect with four existing watercourses and cross five roads including the M3
- The Scheme will control the amount of water that can flow through the Desborough Cut and Sunbury, Molesey and Teddington weirs. The increased capacity in these locations removes the existing pinch points in the River Thames enabling the passage of a greater volume of water during flood conditions
- Making use of the five existing lakes, including Thorpe Park Lakes, keeps the requirement for hard engineering to a minimum
- Channels will cut through natural and made ground. For the majority of the course these will be engineered with a 'natural' looking trapezoidal cross-section approximately 45m wide and 3m deep
- The objective is that the new channel will blend into the landscape and appear as an established river
- The Scheme will ensure that there is no increased flood risk to any community in the Scheme area including those downstream
- In addition to reducing the flood risk the construction of the new channels is an opportunity to improve the environment in the surrounding area
 - Landscape proposals include increased access to the river and nature for communities who live, work, and visit the area – creating and enhancing the habitat for wildlife

- Two new public open spaces, one in Runnymede and one in Spelthorne will bring health benefits to communities, tourism, recreation and leisure
- New habitat will be created around the Scheme area helping to increase biodiversity
- New footpaths and cycleways connected to the existing network, footbridges across the new channel, and sections supporting fishing, boating, and canoeing are proposed
- The Applicants have just started market engagement for the companies to build the Scheme with the publication of the *Prior Information Process* on the Government '*Find A Tender Site*': [River Thames Scheme - Construction Partner - Market Engagement - Find a Tender \(find-tender.service.gov.uk\)](https://find-tender.service.gov.uk)
- In addition to Tier 1 Contractors (or joint venture partner) the Applicant recognises that Tier 2 expertise and local SMEs have an important role to play in the market engagement process and in the supply chain. Companies are being encouraged to sign up via the '*Bravo Portal*' to receive documentation and communication
- Online consultation and public events will take place to update communities on progress and to invite feedback on the final outline design.
- Previous consultations have been held in 2016 and 2009. These can be found at the following websites:
 - 2016 Consultation: [How engagement has informed design of the River Thames Scheme - GOV.UK \(www.gov.uk\)](https://www.gov.uk)
 - 2009 Consultation: [Lower Thames strategy - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

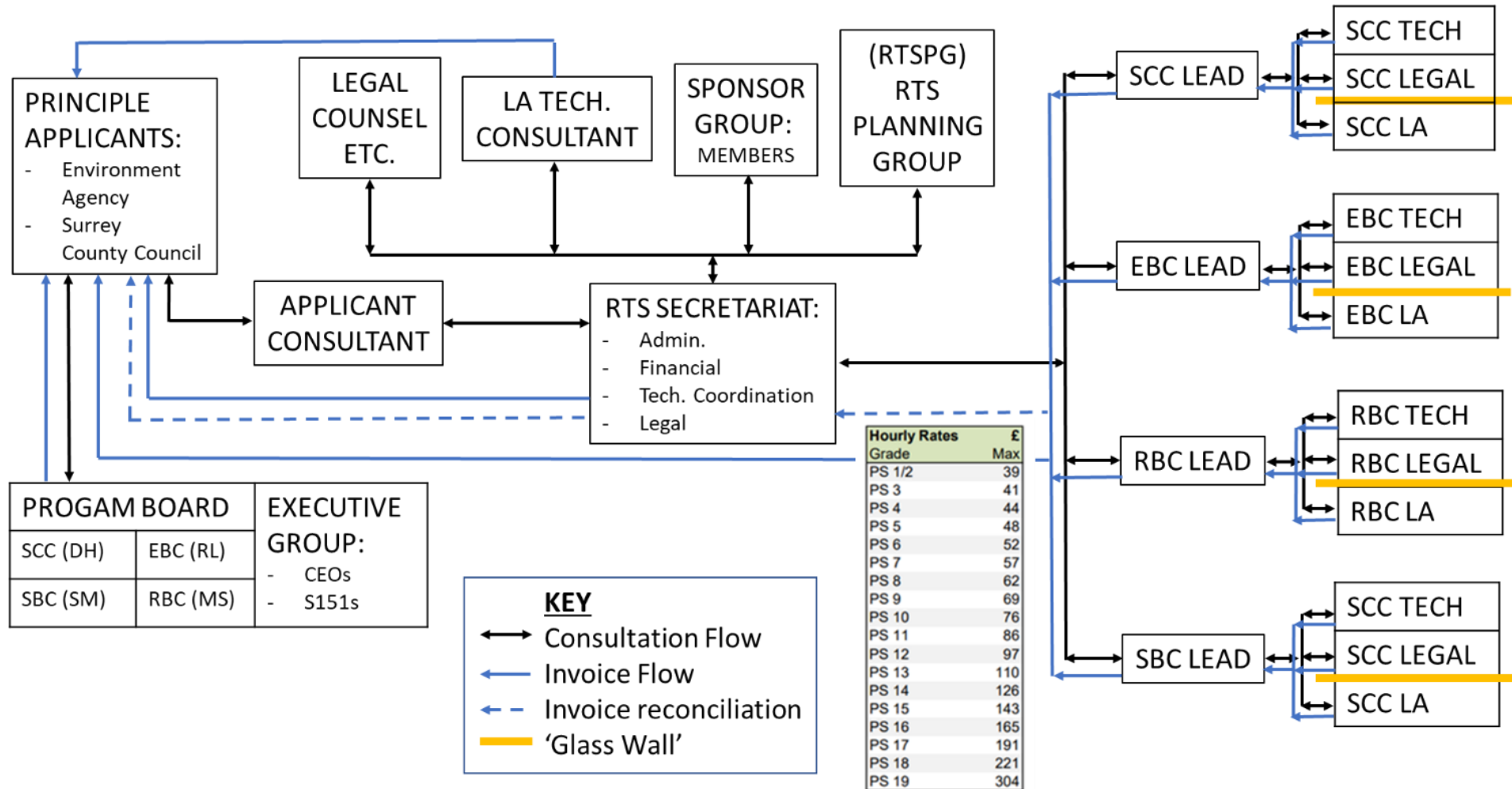
Further information on the RTS can be found at the following EA Website: [River Thames Scheme - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

RTS - WHAT IS A DEVELOPMENT CONSENT ORDER?

- The large scale of the project means that the Government have directed that it be treated as a Nationally Significant Infrastructure Project (NSIP) (December 2020)
- NSIPs require consent known as a 'Development Consent Order' (DCO).
- The DCO is a statutory instrument granted by the Secretary of State to authorise the construction and development of a NSIP as defined by the Planning Act 2008.
This removes the requirement to obtain many separate consents, including planning permission, and is designed to speed up the process
- The stages of the DCO Process:
 - Pre-Application: Public and Statutory Consultation
 - Acceptance
 - Pre-examination
 - The Examination
 - Recommendation & Decision
 - Post Decision
- Local Planning Authorities are a statutory consultee with a duty to respond to the DCO consultation
- The RTS is currently at the beginning of the Pre-Application: Statutory Consultation stage
- The final scope and design of the project is yet to be fully determined. This will be shaped by the technical, environmental, and economic factors alongside consultation and feedback
- Following acceptance of the Application, parties with an interest in the Scheme will be able to give their views to the Planning Inspectorate during the Examination stage. These will be taken into account alongside the application
- The Planning Inspectorate will make a recommendation to the Secretary of State who will publish the decision
- Throughout the DCO process, all documents submitted to the Planning Inspectorate will be publicly available on the Planning Inspectorate Website: [National Infrastructure Planning \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk)

THE RIVER THAMES SECRETARIAT – FORM & FUNCTION RELEVANT TO RBC

RTS CONSULTATION STRUCTURE



RTS SECRETARIAT (RTS Sec) FUNCTION – SUMMARY

- Coordinate the transfer of information and work requests between the Applicants Consultant, the LA Tech Consultant, the 4 key local planning authorities, the RTS Planning Group (RTSPG), Program Board, Sponsor Group, and where required Legal Counsel services
- Monitor all individual WR expenditure relative to the £20k Cap per request. Where it is estimated in advance that the Cap will be exceeded – obtain agreement from the Applicant
- Monitor all LA expenditure and reconcile time spent against WRs – timing to be agreed
- Diarise and facilitate all meetings of the 4 key LAs with the Applicant and / or their consultant - relative to the DCO process

FINANCIAL SUPPORT SUMMARY

- The LA Tech Consultant will be procured by the Applicant
- The Applicant will be responsible for the LA Tech Consultant fees
- LA resourcing in responding the WRs will be costed at the agreed hourly rates – grades to be determined by the individual LA
- RTS Sec staff will be recruited by RBC. Costs will be invoiced to the Applicant.

RTS Sec: APPLICANT SLA OPERATIVE CLAUSES

The functioning of the RTS Sec is governed by the following operative clauses:

Clause 2.5 - The Coordinating Authority will act on behalf of the LAs and assist the Applicant with the development and delivery of the Project Deliverables in accordance with the Resourcing Schedule and Programme (Schedule 4 of the SLA);

Clause 3.3.4 - Each meeting of the RTSPG shall be organised by the Coordinating Authority;

Clause 3.3.5 - The Coordinating Authority shall make a request for agenda items from the members of the RTSPG, the STC, the Applicant and the Applicant's Consultants no later than 6 Business Days prior to any meeting, with responses to be given by no later than 4 working days prior to any meeting;

Clause 3.3.6 - The Coordinating Authority will circulate meeting agendas, unless otherwise agreed, no later than 3 Business Days prior to any meeting;

Clause 3.3.8 – Unless otherwise agreed, the Coordinating Authority will circulate meeting minutes no later than 5 Business Days after the meeting;

Clause 5.2.1 - Work Requests shall follow the process set out below - the Applicant or the Applicant's Consultants shall issue by email a Work Request to the Coordinating Authority and the STC;

Clause 5.2.3 - No later than 5 (five) Business Days of a Programmed Work Request being made, the Coordinating Authority shall:
on behalf of the LAs that are the subject of the Work Request, and further to the discussions undertaken under clause 3.3.12, confirm to the Applicant and the

Applicant's Consultants if, it is considered that the Work Request is a Technical Request or a Non-Technical Request; and
if it is a Technical Request, procure that the STC shall confirm to the Applicant and the Applicant's Consultants within that same time period either:
that it is not considered at that time that the work undertaken to meet the Programmed Work Request by the STC will cost more than £20,000 (inclusive of VAT), based on the principles set out in clause 6; or
that it is considered at that time that such work would cost more than £20,000 (inclusive of VAT); accompanied by an Estimate to answer the Programmed Work Request, based on the principles set out in clause 6;

Clause 5.2.4 - No later than 10 (ten) Business Days of a Non-Programmed Work Request being made (or such longer period as may be agreed between the Applicant and the Party subject to the request), the Coordinating Authority shall:

on behalf of the LAs that are the subject of the Work Request, and further to the discussions undertaken under clause 3.3.12, confirm to the Applicant and the Applicant's Consultants if, it is considered that the Work Request is a Technical Request or a Non-Technical Request; and

if it is a Technical Request, procure that the STC shall confirm to the Applicant and the Applicant's Consultants within that same time period either:
that it is not considered at that time that the work undertaken to meet the Programmed Work Request by the STC will cost more than £20,000 (inclusive of VAT), based on the principles set out in clause 6; or

that it is considered at that time that such work would cost more than £20,000 (inclusive of VAT); accompanied by an Estimate to answer the Programmed Work Request, based on the principles set out in clause 6;

Clause 5.2.7 - Once the Estimate is approved, the Coordinating Authority shall coordinate the preparation of a suitable response by the STC on behalf of all of the LAs affected by the Work Request by the date set out in the Estimate; and

Clause 5.2.8 - if it is not possible for the response to deal with matters from all of the LAs (or the STC on all of the LAs behalf) affected by the Works Request, this should be made clear in the response provided and the response should include a statement setting out how the missing responses are to be resolved

Clause 5.3 – If, in the course of responding to a Work Request, it becomes clear to any of the LAs or the Coordinating Authority that:
what was considered to be a non-Technical Request should actually be considered to be a Technical Request; or

the STC's costs exceed an Estimate approved under clause 5.2.6 or exceed £20,000 where an Estimate has not previously been provided,
that LA or Coordinating Authority must notify the Applicant and the process set out in clauses 5.2.3- 5.2.8 must be repeated, with such notification to be considered as having the same status as a Programmed Work Request.

Clause 6.1 - Subject to clause 6.3, the Applicant agrees that it shall pay, within 30 days of receipt of an invoice...

6.1.2... the reasonable and properly incurred costs of the STC in attending RTSPG meetings, based on the STC Hourly Rates (*The costs to be payable pursuant to this clause shall be agreed between the Coordinating Authority and the Applicant before*

they are incurred).

6.1.3.... the reasonable and properly incurred staffing and administrative costs of the Coordinating Authority, to include preparing for and attending meetings of the RTSPG and facilitating the response to a Work Request...

Clause 7 – External Legal costs:

7.1 Prior to the appointment of any external legal advisor in respect of the RTS, or the issuing of instructions to them by the LAs or the Coordinating Authority that those parties wish to be paid for by the Applicant, the LAs or the Coordinating Authority shall notify to the Applicant in writing:

the nature (but not the content) of the advice sought and the issue to which it will relate;
the external legal advisor that is sought to be utilised; and
the estimated costs of the external legal advisor in giving that advice.

Clause 10.6 – Confidentiality - The Applicant and Coordinating Authority shall ensure that the Applicant's Consultants and the STC, respectively, shall comply with the provisions of this clause 10, such that the obligations upon the Parties in this clause are also imposed on the Applicant's Consultants and the STC in dealing with any Confidential Information that is shared with them. Where such obligations are imposed an LA or the Applicant may disclose Confidential Information to (as appropriate) the STC and/or the Applicant's Consultants in connection with the RTS and the discharge of the Party's obligations under this SLA.

Clause 12.2 – Intellectual Property - Insofar and to the extent that:

12.2.1 the Intellectual Property is vested in any Party, the STC or the Applicant's Consultants; or

12.2.2 any Party have rights to the same from time to time and are entitled to sub-licence to the other Party on the terms of this clause 12.2 (and the Coordinating Authority and the Applicant shall be obliged to ensure that this is possible from the STC and the Applicant's Consultants respectively, and in all other respects the Parties, shall use reasonable endeavours that the other Parties are entitled to grant such a sub-licence);

the Parties hereby grant (or the Coordinating Authority and the Applicant shall be obliged to ensure that the STC or Applicant's Consultants, as relevant, grants) to the other Parties an irrevocable and freely assignable royalty free and non-exclusive licence (carrying the right to grant sub-licences) to use or permit the use of the relevant Design and Environmental Documents and such Intellectual Property in them but in each case; only for such purpose connected with or related to the delivery of the Project Deliverables or the RTS, without further payment or compensation to any other Party.

**DRAFT APPLICANT SERVICE LEVEL AGREEMENT 09 March
2022**

DATED

2022

(1) ENVIRONMENT AGENCY

(2) SURREY COUNTY COUNCIL

AND

(3) RUNNYMEDE BOROUGH COUNCIL

(4) SPELTHORNE BOROUGH COUNCIL

(5) ELMBRIDGE BOROUGH COUNCIL

(6) SURREY COUNTY COUNCIL

SERVICE LEVEL AGREEMENT
relating to the proposed River Thames
Flood Alleviation Scheme

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BETWEEN:-

- (1) **ENVIRONMENT AGENCY** of Horizon House, Deanery Road, Bristol BS1 5AH ("**the Agency**"); and
 - (2) **SURREY COUNTY COUNCIL**, of Woodhatch Place, 11 Cockshot Hill, Woodhatch, Reigate RH2 8EF in its role as project promoter ("**SCC**"),
(together "**the Applicant**")
- AND
- (3) **RUNNYMEDE BOROUGH COUNCIL** of Runnymede Civic Centre, Station Road, Addlestone, Surrey KT15 2AH ("**Runnymede**");
 - (4) **SPELTHORNE BOROUGH COUNCIL** of Council Offices, Knowle Green, Staines-upon-Thames TW18 1XB ("**Spelthorne**");
 - (5) **ELMBRIDGE BOROUGH COUNCIL** of Civic Centre, High Street, Esher, Surrey KT10 9SD; and
 - (6) **SURREY COUNTY COUNCIL** of Woodhatch Place, 11 Cockshot Hill, Woodhatch, Reigate RH2 8EF in its role as Minerals and Waste Authority ("**the County Council**"),
(each "**an LPA**" and together "**the LPAs**")

WHEREAS:

- A. The Applicant is intending to make an application under the Planning Act 2008 to the Secretary of State, seeking a Development Consent Order ('DCO') for the River Thames Scheme ('the RTS'). The current proposals for the RTS are described in Schedule 1 to this SLA but are to be developed further by the Applicant, including through engagement and consultation with the LPAs.
- B. The LPAs will perform a statutory role in the consultation and examination of the DCO application under the Planning Act 2008 and have on-going statutory roles and duties in respect of matters which will be included in that application which will help inform its content.
- C. In this context, the Parties have agreed to work closely with each other in the development of the RTS; through engagement and consultation and the development of the DCO application for the RTS and as such the Parties recognise that a project management framework is therefore required which also enables sufficient resourcing to be put in place, as set out in this SLA.

IT IS AGREED as follows:

1. INTERPRETATION

- 1.1 In this SLA:
 - "Access to Information Exemption" means any applicable exemption or exception contained within the Access to Information Legislation;
 - "Access to Information Legislation" means the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 (or any modification or replacement of them);
 - "Affected Land" means land in which any LPA has a property interest that is affected by the RTS;
 - "Agreed LPA Staff Costs" means the agreed hourly rates for the different levels of LPA Staff expected to be involved in the RTS set out in Schedule 5 plus indexation (as determined by the LPAs from time to time acting reasonably and notified in writing to the Applicant) (or as otherwise agreed by the Parties);
 - "Application" means the application for a DCO to be submitted by the Applicant;
 - "Applicant's Consultants" means any consultant or legal advisors appointed by the Applicant in respect of the RTS;
 - "Business Day" means any day other than a Saturday, Sunday or public holiday in England;

"CEDR"		means the Centre for Effective Dispute Resolution of the International Dispute Resolution Centre, 70 Fleet Street, London EC4Y 1EU;
"the Coordinating Authority"		means Runnymede, unless circumstances mean that Runnymede are unable to temporarily perform its obligations under this SLA, in which case the LPAs can agree a temporary substitute to fulfil those obligations;
"Confidential Information"		has the meaning set out in clause 10;
"DCO"		means a Development Consent Order made pursuant to the Planning Act 2008;
"Design and Environmental Documents"	and	means all assessment, calculations, designs, design information, specifications, plans, drawings, graphs, sketches, models, design details, photographs, brochures, reports, notes of meetings, CAD materials and other materials, including all eye readable or computer or other machine readable data (and any software required for utilising such computer or other machine readable data) and works, designs, calculations and inventions incorporated within such material prepared by the Parties, the Applicant's Consultants or the STC in respect of the RTS;
"Estimate"		means an approximate estimation (not a calculation) by the STC of the STC's costs to respond to a Work Request (based on the STC Hourly Rates) prepared by the Coordinating Authority in conjunction with the STC, based on the principles set out in clause 6;
"Examination"		means an Examination of a DCO application for the RTS carried out by a planning inspector, or panel of inspectors pursuant to the Planning Act 2008;
"Exempted Information"		means any information or category of information, document, report, contract or other material containing information relevant to this SLA that has been designated by the mutual agreement of the Parties in accordance with clause 11.4 as potentially falling within an Access to Information Exemption;
"Force Majeure Event"		means an event beyond the reasonable control of a Party that renders the performance of the SLA impossible whether temporarily or otherwise which for the avoidance of doubt may include prohibitive government regulation, flood, lightning or other extreme weather conditions, fire, explosion, malicious damage, industrial actions or lockouts, terrorism, war, civil commotion, military operations, riot, national emergency, the act or omission of any third party not being its agent or sub-contractor, any change in the law or in the interpretation of the law by the courts;
"Intellectual Property Rights"	a.	means, in relation to Design and Environmental Documents and any other documents that are shared between the Parties and between the STC or the Applicant's Consultants and any of the Parties in respect of the RTS, and without limitation, all intellectual property rights including

patents, business service and trade marks and names, designs, registered designs and design rights whether or not registered or capable of registration and the right to apply for and any applications for any of the foregoing, copyrights, database rights, domain names, together with the rights in inventions, methods, processes, drawings, documents, methodologies, utility models semi-conductor chip topography, software, databases, know-how, trade or business secrets and other industrial property, and in each case whether protectable or not and, if protectable, whether an application has been made for protection or not, and all similar industrial, commercial, monopoly or other similar right or asset capable of protection whether present or future, vested or contingent, and wherever protected;

b.

"Mediator"	means an independent third party appointed to resolve disputes pursuant to clause 8.9.
"Non-Programmed Work Request"	means requests for assistance from the LPAs made by the Applicant outside of the Resourcing Schedule and Programme that do not relate to legal issues or issues relating to Affected Land;
"Non-Technical Work Request"	means a Work Request that will not require the LPAs to utilise the STC; and
"Performance Standards"	means the standards for the RTSPG set out in clause 3.3
"Personal Data"	has the same meaning as in the Data Protection Act 2018 and the UK GDPR (as that latter term is defined in the Data Protection Act 2018);
"Project Deliverables"	means the schedule of high level deliverables that the Applicant will be preparing for the Application and as part of the Examination and anticipated inputs by the LPAs and the STC set out at Schedule 3 (and as otherwise updated following reviews undertaken pursuant to clause 3.3.12) and the information and data that will underpin those deliverables;
"Programmed Work Request"	means requests for assistance from the LPAs made by the Applicant within the Resourcing Schedule and Programme and/or made following a request from the LPAs under clause 5.5 that do not relate to legal issues or issues relating to Affected Land;
"Resourcing Schedule and Programme"	means the resourcing schedule and programme expected of the LPAs set out at Schedule 4 (and as otherwise updated following reviews undertaken pursuant to clause 3.3.12) which sets out likely meeting dates, consultation dates, milestones and tasks that will be required of the LPAs and the STC to inform the development of the Project Deliverables by the Applicant and the information and data that will underpin them;

"RTS"		means the River Thames Scheme that will form the subject of a DCO application by the Applicant as described in Schedule 1 but to be developed further by the Applicant, including through engagement and consultation with the LPAs;
"RTSPG"		means the RTS Planners Group to be set up by the Applicant and the LPAs pursuant to clause 3;
"RTS Manager"	Project	means Tamara Stone or such other person as the Applicant may notify to the LPAs in writing;
"SLA"		means this Service Level Agreement;
"Staff"		c. means employees, contractors, consultants, students and agents of a Party who are engaged or provided by the Party for the carrying out of its obligations in connection with this SLA, and each of them; d.
"STC"		means the single technical consultant appointed by the LPAs from time to time to provide specialist technical advice to the LPAs in respect of the RTS; and
"STC Hourly Rates"		means the hourly rates for each grade of staff anticipated to undertake work pursuant to this SLA;
"Technical Request"	Work	means a Work Request which will require one or more of the LPAs to utilise the STC for all or part of responding to a Work Request; and
"Work Request"		means a request for assistance from the LPAs by the Applicant that is either a Programmed Work Request or a Non-Programmed Work Request which shall include details as to when a response to that Work Request is required.

- 1.2 The headings in this SLA are for convenience only and shall not be taken into consideration in the interpretation or construction of this SLA.
- 1.3 Words importing the singular shall include the plural and vice versa, words importing any gender include every other gender and words importing persons include firms, companies and corporations and vice versa.
- 1.4 Any reference in this SLA to a 'Party' or the 'Parties' is a reference to the parties who are signatories to this SLA and their successors in title or statutory successors and commitments made in this SLA shall be binding on those successors.
- 1.5 Unless the context otherwise requires, references:
 - (a) (a) to numbered clauses and Schedules are references to the relevant clause in, or Schedule to, this SLA; and
 - (b) (b) to a numbered paragraph in a Schedule are references to the relevant paragraph in that Schedule.
- 1.6 Where examples are given (including when the word "including" is followed by a list of items) such examples shall not limit any general description preceding or succeeding such examples.
- 1.7 Words importing one gender include both other genders.
- 1.8 All undefined words and expressions are to be given their normal English meaning.
- 1.9 Any reference in this SLA to a Party includes its employees, contractors (but not the STC), servants or agents.

- 1.10 Any reference in this SLA to any enactment includes a reference to it as amended (whether before or after the date of this SLA) and to any other enactments which may, after the date of this SLA, directly or indirectly replace it, with or without amendment.
- 1.11 Any reference to "in writing" shall include emails and any reference to "meetings" shall include virtual meetings.
2. **GENERAL PRINCIPLES**
- 2.1 The Parties agree that the objective of this SLA is to enable the LPAs to target their resources appropriately, identify the Project Deliverables, comply with the Resourcing Schedule and Programme, identify any additional resources or specialist expertise that might be needed and set a framework for how the Applicant will both financially and through agreed ways of working, support the LPAs in delivering their role in the DCO process as local planning authorities and statutory consultees.
- 2.2 The Parties agree to carry out their respective roles and obligations set out in this SLA in accordance with the following principles:
- Principle 1 To all work together in good faith, and to respect each other's interests and confidentiality.
 - Principle 2 To commit and provide promptly information to support and manage the delivery of the Project Deliverables by the Applicant, in accordance with the Performance Standards (see clause 3.3).
 - Principle 3 To be transparent and consistent at all times so that outcomes are anticipated, defined and understood.
 - Principle 4 To meet the Resourcing Schedule and Programme unless otherwise agreed.
 - Principle 5 To identify and involve specialist consultees and advisors including authority officers/managers where appropriate
- 2.3 It is agreed by the Parties that this SLA does not fetter the discretion of the LPAs in the performance of their statutory duties and in particular in respect of the contents of:
- 2.3.1 any formal consultation responses to any pre-application consultation undertaken by the Applicant for the RTS that are to be submitted by the LPAs pursuant to their statutory duties and obligations or in respect of Affected Land; and
 - 2.3.2 any written representations or oral submissions that are to be submitted or made by the LPAs during the Examination pursuant to their statutory duties and obligations or in respect of Affected Land, and
- for the avoidance of doubt the Applicant agrees that where an LPA is obliged by its statutory duties and obligations to act or omit from acting in a particular way that does not align with its obligations under this SLA then the LPA shall where it acts in accordance with such statutory duties and obligations not be in breach of this SLA.
- 2.4 Each Party recognises that within their organisation there shall be different parts of that organisation that will have different roles in respect of this SLA and in respect of the RTS as a whole and each Party shall therefore put in place sufficient procedures to ensure that there is appropriate separation of information and responsibility to enable that organisation's statutory duties and its obligations under this SLA to not be fettered.
- 2.5 The Applicant and County Council (each a '**Possible STC Party**') shall ensure that if the STC appointed pursuant to clause 4 is an organisation which has members of staff which also work for the other Possible STC Party, that that STC shall put in place sufficient procedures to ensure that there is appropriate separation of information and responsibility between those individuals responsible for advising the Applicant and those individuals responsible for advising the LPAs as part of the functions of the STC under this SLA.
- 2.6 The Coordinating Authority will act on behalf of the LPAs and assist the Applicant with the development and delivery of the Project Deliverables in accordance with the Resourcing Schedule and Programme.

- 2.7 The Parties acknowledge that the Project Deliverables and the Resourcing Schedule and Programme set out at Schedule 3 and Schedule 4 as at the date of this SLA are high level indicative documents that will be subject to further review in accordance with clause 3.3.12. For the avoidance of doubt any change to the Project Deliverables and the Resourcing Schedule and Programme requires the unanimous agreement of those Parties who are affected by the proposed change.
- 2.8 The Applicant agrees that it shall pay the internal and external legal costs of the LPAs in negotiating this SLA within 30 Business Days of receipt of an invoice for those costs.
- 3. RTS PLANNERS GROUP**
- 3.1 There shall be created a RTS Planners Group to facilitate discussion between the Applicant and the LPAs in respect of the RTS. The RTSPG is not a decision making body with regard to the RTS and this SLA.
- 3.2 The membership of the RTSPG shall work on the following basis:
- 3.2.1 the membership shall at all times be made up of at least one individual from each LPA and the STC (save where the STC is not currently appointed);
 - 3.2.2 the initial membership in respect of the LPAs, and additional local planning authorities that it has been agreed by the Parties shall be members of the RTSPG, shall be made up of the individuals identified in Schedule 2;
 - 3.2.3 each LPA shall have discretion to replace their members on the RTSPG as it sees fit but any replacement members must, where practicable be as competent and experienced as the member they replace; and
 - 3.2.4 additional individuals from the LPAs, the STC and other statutory stakeholders (including other local planning authorities) with an interest in the RTS will be able to attend RTSPG meetings as appropriate and in order to discuss specific items on the agenda at that meeting of the RTSPG;
- 3.3 Liaison within the RTSPG and in relation to meetings shall be carried out as follows (unless otherwise agreed by the Parties or where not reasonably practicable):
- 3.3.1 communications between the members of the RTSPG, the STC and the Applicant, be it via email or hard copy correspondence, shall be acknowledged within 5 Business Days with a suitable response where possible;
 - 3.3.2 telephone messages shall be returned within 2 Business Days of receipt;
 - 3.3.3 relevant information (including information required to facilitate the discussions referred to in clause 3.3.12) will be circulated to the members of the RTSPG, the STC, the Applicant and the Applicant's Consultants no later than 3 Business Days prior to any meeting;
 - 3.3.4 each meeting shall be organised by the Coordinating Authority and may be held in person or virtually/remotely or a hybrid of the two;
 - 3.3.5 the Coordinating Authority shall make a request for agenda items from the members of the RTSPG, the STC, the Applicant and the Applicant's Consultants no later than 6 Business Days prior to any meeting, with responses to be given by no later than 4 Business Days prior to any meeting;
 - 3.3.6 the Coordinating Authority will circulate meeting agendas, unless otherwise agreed, no later than 3 Business Days prior to any meeting;
 - 3.3.7 unless otherwise agreed, actions arising from meetings and the timescales associated with them shall be agreed by the majority of members of the RTSPG representing a Party to which each action relates and the Applicant no later than 7 Business Days after the meeting, having been initially discussed at the meeting;
 - 3.3.8 unless otherwise agreed, the Coordinating Authority will circulate meeting minutes no later than 5 Business Days after the meeting;
 - 3.3.9 each member of the RTSPG representing a Party and the Applicant is responsible for engaging with the executive staff or elected members at their authority in relation to any input into discussions at, and actions arising from, meetings of the RTSPG;
 - 3.3.10 all meetings will be attended by all members of the RTSPG and the Applicant (and the Coordinating Authority and the Applicant should procure that the STC and Applicant's Consultants respectively shall attend) for whom the agenda items for that meetings are relevant;

- 3.3.11 if the named individual member of the RTSPG cannot attend a meeting, they shall nominate a substitute to attend; and
- 3.3.12 the following matters shall be standing items on the agenda of meetings of the RTSPG:
- (a) a review of the Project Deliverables and the Resourcing Schedule and Programme including the approval of any updates to it pursuant to clause 2.7; and
 - (b) a discussion of forthcoming Work Requests that the Applicant is anticipating will be issued in the following 4 weeks from the date of the RTSPG meeting in question, to enable the LPAs, the Coordinating Authority and the STC to take an initial view as to whether the Work Request will be a Technical Work Request or a Non-Technical Work Request.
- 3.4 Meetings shall take place in accordance with the Resourcing Schedule and Programme unless otherwise agreed by the Parties.
- 3.5 Additional meetings of the RTSPG can take place outside of the Resourcing Schedule and Programme where any Party requests such a meeting with a minimum of 5 Business Days' notice (unless otherwise agreed), and where such a request is made, the Parties shall use reasonable endeavours to ensure that they can attend such a meeting.
- 3.6 Nothing in this clause 3 prevents the Parties from holding meetings in respect of the RTS other than the RTSPG including, but not limited to, meetings with other statutory stakeholders and between individual LPAs and the Applicant.
4. **APPOINTMENT OF THE STC**
- 4.1 The County Council shall, on behalf of the LPAs, from time to time appoint a STC, to provide the LPAs with technical support in relation to the RTS and shall carry out the procurement and contractual arrangements with the STC in a manner which is to be agreed between the LPAs. The Parties acknowledge that the County Council may make several appointments of the same person as STC where it utilises a framework for the appointment.
- 4.2 The Applicant shall pay to the County Council the internal and/or external costs (including legal costs) associated with the appointment (including where there are multiple appointments under a framework) under clause 4.1.
- 4.3 The STC shall be appointed to provide support to each of the LPAs and shall therefore be allowed to provide different advice to different LPAs if this is required and requested by those LPAs.
- 4.4 The procurement of the STC shall be undertaken in consultation with the Applicant and the Applicant shall approve the identity and terms of appointment of the STC, and any external advisors on the appointment of the STC (including in respect of their latter, their fee arrangements) in writing prior to its appointment (such approval not be unreasonably withheld or delayed).
- 4.5 Unless otherwise agreed by the Applicant in writing each LPA shall not appoint any other consultants in relation to the RTS except for external legal advisors (such appointment to be dealt with pursuant to clause 7 below where the LPA requires the Applicant to pay the costs) and in relation to any Affected Land.
- 4.6 Unless otherwise agreed by the Applicant in writing, the STC shall first be appointed no later than 1 September 2022 provided always that the LPAs shall not be in breach of this clause 4.6 where: (a) it has not been necessary to appoint the STC to advise on a Technical Work Request prior to this date; and/or (b) where the STC is the subject of a number of appointments as required to respond to Technical Work Requests and on or after 1 September 2022 there is not a current appointment due to there not being Technical Work Requests.
- 4.7 No later than 3 months from the date of any appointment of a STC or any change in the STC Hourly Rates, the County Council shall supply the Applicant with the STC Hourly Rates.
- 4.8 Any changes to the identity of the STC must be approved in writing by the Applicant (such approval not be unreasonably withheld or delayed).

4.9 In exercising its rights under this Clause 4 in respect of the appointment of the STC (or any other consultant approved under Clause 4.5), the Applicant agrees that it shall not act or omit to act in such a way that would place the Coordinating Authority, the County Council or any other LPA in breach of the public procurement regulations in force from time to time.

5. **WORK REQUESTS AND ESTIMATES**

5.1 The LPAs will and will ensure that the STC will support the delivery of the Project Deliverables in accordance with the Resourcing Schedule and Programme or through the Applicant issuing either a Programmed Work Request or a Non-Programmed Work Request.

5.2 Work Requests shall follow the process set out below:

5.2.1 the Applicant or the Applicant's Consultants shall issue by email a Work Request to the Coordinating Authority and the STC;

5.2.2 a Work Request that is Programmed Work Request should be made at least 10 (ten) Business Days (or such other period as may be agreed between the Applicant and the Party subject to the request) prior to the date to which the request relates in the Resourcing Schedule and Programme;

5.2.3 no later than 5 (five) Business Days of a Programmed Work Request being made, the Coordinating Authority shall:

(a) on behalf of the LPAs that are the subject of the Work Request, and further to the discussions undertaken under clause 3.3.12, confirm to the Applicant and the Applicant's Consultants if, it is considered that the Work Request is a Technical Work Request or a Non-Technical Work Request; and

(b) if it is a Technical Work Request, procure that the STC shall confirm to the Applicant and the Applicant's Consultants within that same time period either:

(i) that it is not considered at that time that the work undertaken to meet the Programmed Work Request by the STC will cost more than £20,000 (inclusive of VAT), based on the principles set out in clause 6; or

(ii) that it is considered at that time that such work to be undertaken by the STC would cost more than £20,000 (inclusive of VAT); accompanied by an Estimate to answer the Programmed Work Request, based on the principles set out in clause 6;

5.2.4 no later than 10 (ten) Business Days of a Non-Programmed Work Request being made (or such longer period as may be agreed between the Applicant and the Party subject to the request), the Coordinating Authority shall:

(a) on behalf of the LPAs that are the subject of the Work Request, and further to the discussions undertaken under clause 3.3.12 confirm to the Applicant and the Applicant's Consultants if, it is considered that the Work Request is a Technical Work Request or a Non-Technical Work Request; and

(b) if it is a Technical Work Request, procure that the STC shall confirm to the Applicant and the Applicant's Consultants within that same time period either:

(i) that it is not considered at that time that the work undertaken to meet the Non-Programmed Work Request by the STC will cost more than £20,000 (inclusive of VAT); or

(ii) that it is considered at that time that such work to be undertaken by the STC would cost more than £20,000 (inclusive of VAT); accompanied by an Estimate to answer the Non-Programmed Work Request;

- 5.2.5 no later than 2 (two) Business Days after a confirmation is received under clauses **Error! Reference source not found.**, **Error! Reference source not found.**, 5.2.4(a) or 5.2.4(b)(i), the Applicant shall, as the case may be:
- (a) confirm that the approach in those confirmations is agreed;
 - (b) withdraw the Work Request;
 - (c) require an Estimate to be produced within such time period as is agreed with the LPAs; or
 - (d) invoke clause 8 provided always that the determination of whether a Work Request is a Technical Work Request or a Non-Technical Work Request is a matter for the LPAs,
- and the LPAs shall not be obliged to commence work under a Work Request until a confirmation under clause 5.2.5(a) is received.
- 5.2.6 no later than 2 (two) Business Days of an Estimate being given under clause **Error! Reference source not found.** or 5.2.4(b)(ii), the Applicant shall confirm whether it is approved or if it is not approved, invoke clause 8 or withdraw the Work Request;
- 5.2.7 once the Estimate is approved, the Coordinating Authority shall coordinate the preparation of a suitable response by the STC and the LPAs on behalf of all of the LPAs affected by the Work Request by the date set out in the Estimate. The LPAs shall not be obliged to commence any work not assigned to the STC under a Technical Work Request until such time as the Estimate is approved or if the same Work Request is re-determined as a Non-Technical Work Request and a confirmation under clause 5.2.5(a) is received; and
- 5.2.8 if it is not possible for the response to deal with matters from all of the LPAs (or the STC where it is a Technical Work Request) affected by the Works Request, this should be made clear in the response provided and the response should include a statement setting out how the missing responses are to be resolved.
- 5.3 If, in the course of responding to a Work Request, it becomes clear to any of the LPAs or the Coordinating Authority that:
- 5.3.1 what was considered to be a Non-Technical Work Request should actually be considered to be a Technical Work Request; or
 - 5.3.2 the STC's costs exceed an Estimate approved under clause 5.2.6 or exceed £20,000 (inclusive of VAT) where an Estimate has not previously been provided,
- that LPA or Coordinating Authority must notify the Applicant as soon as reasonably practicable and the process set out in clauses **Error! Reference source not found.**- REF_Ref62030109 \r \h 5.2.8 must be repeated, with such notification to be considered as having the same status as a Programmed Work Request.
- 5.4 It is the responsibility of each LPA to ensure that they provide sufficient information to the STC and the Coordinating Authority to inform the Coordinating Authority's response to a Work Request within the timeframe set out in the Estimate approved by the Applicant.
- 5.5 If any of the LPAs determine that work to inform the Project Deliverables or the RTS more generally is required that isn't provided for in the Resourcing Schedule and Programme and hasn't yet formed the basis of a Work Request, it may through the Coordinating Authority issue a request (which shall also include an explanation of why it is considered the work is required) to the Applicant and the Applicant's Consultants, that the process set out at clauses **Error! Reference source not found.**- 5.2.8 be undertaken in respect of that work, with such a request to be considered as having the same status as a Programmed Work Request where the Applicant confirms the request is agreed.

- 5.6 All notices (including Work Requests) served to or from the Coordinating Authority under this clause 5 shall be copied to the County Council for information purposes only.
6. **COSTS - PRINCIPLES**
- 6.1 Subject to clause **Error! Reference source not found.**, the Applicant agrees that it shall pay, within 30 days of receipt of an invoice, the following:
- 6.1.1 the reasonable and properly incurred costs of the STC in answering a Technical Work Request within the period covered by the invoice up to:
- (a) £20,000 (inclusive of VAT) for any one Work Request where the STC has made a confirmation under clauses **Error! Reference source not found.** or 5.2.4(b)(i) and that confirmation has not been disagreed with by the Applicant under clause 5.2.5; and
 - (b) the monies incurred as part of undertaking work within an Estimate approved pursuant to clause 5.2.6 or resolved through the dispute resolution process in clause 8 (up to the maximum amount agreed under that Estimate), including any costs incurred where the work that is the subject of the Work Request is aborted by the Applicant;
- 6.1.2 the reasonable and properly incurred costs of the STC in attending RTSPG meetings, based on the STC Hourly Rates;
- 6.1.3 the reasonable and properly incurred staffing and administrative costs of the Coordinating Authority, to include preparing for and attending meetings of the RTSPG and facilitating the response to a Work Request;
- 6.1.4 the reasonable and properly incurred staffing and administrative costs of the County Council in managing the STC and facilitating the response by the STC to any Technical Work Request;
- 6.1.5 the reasonable and properly incurred staffing and administrative costs of the LPAs in:
- (a) answering a Non-Technical Work Request; and
 - (b) answering any element of a Technical Work Request where and to the extent the STC is not providing advice and support to any LPA; and
 - (c) providing information to the STC, the County Council (in respect of the STC's involvement) or the Coordinating Authority in order to provide a response to a Technical Work Request (including any costs incurred in relation to the provision of an Estimate); and
 - (d) reviewing the STC's response to a Technical Work Request, before it is issued to the Applicant and the Applicant's Consultants,
- all based on the Agreed LPA Staff Costs;
- 6.1.6 the reasonable and properly incurred staffing and administrative costs of the LPAs in preparing for and attending meetings of the RTSPG based on the Agreed LPA Staff Costs but not in respect of undertaking the processes set out in clause 8; and
- 6.1.7 the reasonable and properly incurred staffing and administrative costs of the LPAs and the STC in preparing for and attending other meetings pursuant to clause 3.6 which are attended by the Applicant PROVIDED THAT the Applicant has agreed in advance that the costs incurred by the LPAs for that meeting will be paid for pursuant to this SLA and which for the LPAs' staffing and administrative costs shall be based on the Agreed LPA Staff Costs and the STC costs based on the STC Hourly Rates.
- 6.2 The Applicant shall not pay the staffing or administrative costs of the LPAs in respect of the preparation of the LPA's formal responses to any consultation carried out on the RTS or any written or oral submissions made during any Examination of the RTS PROVIDED THAT the Applicant shall pay the reasonable and properly incurred costs

of the STC in providing technical input to those responses where such input has been undertaken pursuant to the Work Request process set out in clause **Error! Reference source not found.**

- 6.3 The costs to be payable pursuant to clause 6.1.2 shall be agreed between the Coordinating Authority and the Applicant before they are incurred. Where they are not agreed the STC shall not be obliged to attend the relevant meeting.
- 6.4 The LPAs and the Coordinating Authority shall be able to invoice on a monthly basis and any invoice must include a breakdown of:
- 6.4.1 the hours (presented in the context of the STC Hourly Rates) in that month (or such other period covered by the invoice) undertaken by STC staff in being involved with the RTS (including answering any Work Request and its obligations under this SLA);
 - 6.4.2 the hours (presented in the context of the Agreed LPA Staff Costs) in that month (or such other period covered by the invoice) undertaken by the staff of the LPAs in that month (including answering any Work Request and its obligations under this SLA which for the avoidance of doubt includes the additional obligations of the Co-ordinating Authority and/or the County Council under this SLA);
 - 6.4.3 if relevant, a breakdown of the proportion of the costs associated with meeting each Work Request that has been considered in that month (or such other period covered by the invoice) but is not the subject of an approved Estimate;
 - 6.4.4 if relevant, a breakdown of the proportion of an approved Estimate under clause 5.2.6 or pursuant to clause 7, that have been included within that month's invoice; and
 - 6.4.5 any additional information or supporting evidence that may be reasonably requested by the Applicant in writing.
- 6.5 The Parties agree that the principles set out in this clause 6 shall apply from the date of this SLA until any decision on the DCO application for the RTS is made by the Secretary of State, to apply to all costs incurred in accordance with this clause 6 prior to that decision being made even if claimed after the decision by the Secretary of State has been made.

7. **EXTERNAL LEGAL COSTS**

- 7.1 Prior to the appointment of any external legal advisor in respect of the RTS, or the issuing of instructions to them by the LPAs or the Coordinating Authority where those Parties wish the costs of such external legal adviser to be paid for by the Applicant, the LPAs or the Coordinating Authority shall notify to the Applicant in writing:
- 7.1.1 the nature (but not the content) of the advice sought and the issue to which it will relate;
 - 7.1.2 the external legal advisor that is sought to be utilised; and
 - 7.1.3 the estimated costs of the external legal advisor in giving that advice.
- 7.2 Upon receipt of a notice under clause **Error! Reference source not found.**, the Applicant must, within 5 Business Days confirm whether it agrees with all aspects of that notice, or whether it wishes to hold a meeting with the Party who has served the notice under clause **Error! Reference source not found.** to seek to agree the scope and costs of the legal advice.
- 7.3 If a meeting under clause 7.2 does not reach an agreed solution, then the Parties to that meeting may invoke clause 8.

8. **DISPUTE RESOLUTION**

- 8.1 If:
- 8.1.1 the Parties cannot agree an Estimate;
 - 8.1.2 there is a dispute as to an invoice issued pursuant to clause 6;
 - 8.1.3 there is a dispute in relation to the provisions of this SLA; or
 - 8.1.4 there is a dispute in relation to any aspect of the RTS not related to issues in relation to any Affected Land
 - (a) (together a "**Dispute**");
 - (b) the Dispute must be dealt with in accordance with the process set out in this clause 8.

- 8.2 As soon as practicable each Party must refer a Dispute to the RTS Project Manager and the Head of Planning (or equivalent) for the LPAs that are involved in the Dispute (as applicable).
- 8.3 The RTS Project Manager and the relevant Head(s) of Planning (or equivalent) shall meet within 5 (five) Business Days of a referral pursuant to clause 8.2 and acting in good faith try to resolve the Dispute.
- 8.4 If the Dispute cannot be resolved pursuant to clause 8.3, the Dispute must be referred to the relevant senior managers of those individuals for each of the Agency, SCC and the LPAs that are involved in the Dispute.
- 8.5 The relevant senior managers shall meet within 10 (ten) Business Days of a referral pursuant to clause 8.4 and acting in good faith try to resolve the Dispute.
- 8.6 If the Dispute cannot be resolved pursuant to clause 8.5, the Dispute must be referred to the chief executives of each of the Agency, SCC and the LPAs that are involved in the Dispute.
- 8.7 The relevant chief executives shall meet within 10 (ten) Business Days of a referral pursuant to clause 8.6 and acting in good faith try to resolve the Dispute.
- 8.8 If the Dispute cannot be resolved pursuant to clause 8.7, the Parties that are involved in the Dispute shall acting in good faith consider referring the matter to mediation in accordance with clause 8.9 and if this cannot be agreed the Applicant may terminate the SLA in accordance with clause 9.
- 8.9 In the event that the Parties decide that mediation is appropriate pursuant to clause 8.8, the Parties involved in the Dispute will use the following procedure:
- 8.9.1 the Mediator shall be chosen by agreement between the Parties, provided that any Party may within 14 (fourteen) calendar days from the date of the proposal to appoint a mediator, or within 14 (fourteen) calendar days of notice to any Party that the chosen mediator is unable or unwilling to act, apply to CEDR to appoint a mediator;
- 8.9.2 unless agreed otherwise the costs of the Mediator shall be shared equally between the Parties involved in the Dispute;
- 8.9.3 the Parties to the dispute shall within 14 (fourteen) calendar days of the appointment of the Mediator agree a timetable for the mediation. If appropriate, the relevant Parties may at any stage seek guidance from CEDR on a suitable procedure;
- 8.9.4 unless otherwise agreed, all negotiations and proceedings in the mediation connected with the dispute shall be conducted in strict confidence and shall be without prejudice to the rights of the Parties in any future proceedings;
- 8.9.5 where the Parties agree that mediation is appropriate, the dispute resolution procedure in this Clause 8 shall be binding on the Parties but the Parties shall not be bound by the outcome of the mediation unless and until the Parties agree to be so bound and set out the agreed resolution in a written agreement;
- 8.9.6 failing agreement, any Party to the dispute may invite the Mediator to provide a non-binding but informative opinion in writing. Such opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the dispute without the prior written consent of the relevant Parties. The Party requesting the opinion shall bear the costs incurred in obtaining that opinion unless the Parties agree otherwise; and
- 8.9.7 for a period of 60 (sixty) calendar days from the date of the appointment of the Mediator, or such other period as the Parties to the dispute may agree, none of those Parties may commence any proceedings in relation to the matters referred to the Mediator save that those Parties shall be free to apply to the courts for interlocutory relief at any time.
9. **TERMINATION**
- 9.1 This SLA shall terminate:
- 9.1.1 on the Applicant notifying the LPAs that it shall not be proceeding with the RTS;
- 9.1.2 on the date of the decision by the Secretary of State in respect of the application for the DCO for the RTS;
- 9.1.3 by mutual consent on such terms as the Parties may agree;
- 9.1.4 by the Applicant notifying the LPAs that it has not been possible to resolve a Dispute pursuant to clause 8.8; or

- 9.1.5 on any Party notifying the other Parties of a Force Majeure Event in accordance with clause 14.4.
- 9.2 Any individual LPA may choose to no longer be bound by the terms of this SLA on service of 1 (one) months' notice to the other Parties but this shall not, unless otherwise agreed by the Parties, terminate the SLA.
- 9.3 Where a notice is served by a LPA pursuant to clause 9.2 the Applicant is not required to pay any costs under clause 6 that are incurred by the LPA after the date of the expiry of the notice.
- 9.4 Upon termination of this SLA or the replacement of the Coordinating Authority (whichever occurs first), the Applicant shall pay any costs under clause 6 that are incurred by the Coordinating Authority after the date of termination of this SLA specifically related to the employment of any staff taken on by the Coordinating Authority for the purpose of supporting its duties under this SLA until such time as any notice to terminate their term of employment (to include payment in lieu of notice) expires, where such invoices are served after the date of termination of this SLA.
- 9.5 The Applicant shall pay all costs due under clause 6 incurred until the date of termination pursuant to clause 9.1, even if invoices are served after the date of termination.
- 9.6 Clause 9.5 is without prejudice to the Applicant's liability to pay any costs relating to the period prior to termination and that those payment provisions survive until payment is made.
10. **CONFIDENTIALITY**
- 10.1 Subject to clause 11.1, Confidential Information shall include all data and information whether or not owned or held by a Party that:
- 10.1.1 is identified by a Party, the STC or the Applicant's Consultants as being confidential;
- 10.1.2 ought reasonably to be regarded as confidential (however it is conveyed or on whatever media it is stored).
- 10.2 Confidential Information includes, but is not limited to:
- 10.2.1 information relating to the contracting and commercial or business activities, personnel, customers and suppliers of a Party;
- 10.2.2 methods of information, techniques, know-how acquisition, software design, financial information and statistical methods;
- 10.2.3 any of the Design and Environmental Documents or Project Deliverables which are identified by a Party, the STC or the Applicant's Consultants as being confidential;
- 10.2.4 all Intellectual Property Rights, know-how, and information relating to the ownership, protection and exploitation of any Intellectual Property Rights; and
- 10.2.5 all Personal Data.
- 10.3 Information shall not be or shall cease to be Confidential Information where or at the point when it is:
- 10.3.1 generally available to the public other than as a result of disclosure by a Party in breach of this SLA;
- 10.3.2 already known to the receiving Party free of obligations of confidentiality (as evidenced by written records) at the time of its disclosure;
- 10.3.3 provided to the receiving Party by a third party having a right to disclose the information free of any restriction as to the use or disclosure, whether under this SLA or otherwise;
- 10.3.4 independently developed by the receiving Party (as evidenced by written records) other than pursuant to this SLA;
- 10.3.5 it is required to be disclosed by a Party pursuant to the Access of Information Legislation (subject to the provisions of clause 11) or any other law; or
- 10.3.6 subject to an express written waiver by the disclosing Party and the disclosing Party has the necessary authority to give such a waiver.
- 10.4 Each Party shall not:
- 10.4.1 use or disclose the Confidential Information except for the purposes of this SLA;
- 10.4.2 use or disclose the Confidential Information so as to procure any commercial advantage over the disclosing Party;

- 10.4.3 disclose the Confidential Information within an LPA to Staff outside of the members of the RTPSG or within the Applicant's organisation or Staff (or elected members) except to the extent necessary to perform that Party's obligations in connection with this SLA and provided that any Staff (or elected members) to whom Confidential Information is disclosed are subject to substantially the same obligations of confidentiality as are contained in this SLA save that the LPAs may disclose to elected members where required by law and/or in accordance with such terms of confidentiality as may be set out in the constitution of the relevant LPA; and
- 10.4.4 otherwise use or disclose to any third party any Confidential Information, including, but not limited to, as part of RTS consultation material or responses, as part of the Application, or as part of Examination submissions, unless such use or disclosure is permitted by the disclosing Party.
- 10.5 The receiving Party shall inform the disclosing Party immediately if it comes to its notice that any Confidential Information has been or potentially may be improperly disclosed or misused.
- 10.6 The Applicant and Coordinating Authority shall ensure that the Applicant's Consultants and the STC, respectively, shall comply with the provisions of this clause 10, such that the obligations upon the Parties in this clause are also imposed on the Applicant's Consultants and the STC in dealing with any Confidential Information that is shared with them. Where such obligations are imposed an LPA or the Applicant may disclose Confidential Information to (as appropriate) the STC and/or the Applicant's Consultants in connection with the RTS and the discharge of the Party's obligations under this SLA.
- 10.7 Without affecting any other rights or remedies that the disclosing Party may have, the receiving Party acknowledges and agrees that damages alone would not be an adequate remedy for any breach of its obligations of confidentiality in connection with this SLA and the disclosing Party shall be entitled to seek the remedies of injunction, specific performance and/or other equitable relief for any actual or threatened breach of this SLA whether by the receiving Party or its Staff.
- 10.8 The obligations of confidentiality shall survive for 6 (six) years from the end of any Examination for the RTS, or termination of the SLA under clause 9, except where the Confidential Information is Intellectual Property Rights in which case the obligations shall survive indefinitely.
- 11. ACCESS TO INFORMATION LEGISLATION**
- 11.1 The Parties acknowledge that they are each subject to legal duties, which may require the release of information under the Access to Information Legislation, and may be under an obligation to provide information on request and that such information may include matters relating to, arising out of or under, this SLA in any way.
- 11.2 The Parties further recognise that each request for information must be considered individually.
- 11.3 Notwithstanding anything in this SLA to the contrary including, but without limitation to the general obligation of confidentiality imposed on the Parties pursuant to clause 10, in the event that a Party receives a request for information under a provision of the Access to Information Legislation (a "**Request**"), that Party will be entitled to disclose all information and documentation (in whatever form) as necessary to respond to that Request in accordance with the relevant requirements of the Access to Information Legislation applicable to that request or to withhold such information and/or documentation where that Party considers it to be Exempted Information.
- 11.4 Where the information requested under clause 11.3 is information that has been given to the Party dealing with a Request by another Party to this SLA, or which relates to such other Party, the Party dealing with the Request will:
- 11.4.1 inform the other Party of the details of the Request relevant to that other Party within 48 (forty eight) hours of receipt of the Request; and
- 11.4.2 should the other Party wish to make any representations to the Party dealing with the Request, including whether that other Party considers the information requested to be Exempted Information and should therefore be subject to an Access to Information Exemption, any such representations shall be made within 5 (five) Business Days of the sharing of the Request under clause 11.4.1, and the Party dealing with the Request shall, acting

reasonably, take those representations into consideration SAVE THAT all Parties acknowledge that the final decision on the release of information will be taken by the Party dealing with the Request

- 11.5 Where any information is determined by the Party in receipt of the Request to be Exempted Information and is subject to an Access to Information Exemption, the Party dealing with the Request shall ensure that the Exempted Information remains withheld unless otherwise directed to disclose by any regulatory body or court of competent jurisdiction.

12. **INTELLECTUAL PROPERTY**

- 12.1 No Party shall itself or by a third party use or reproduce or otherwise deal with the logos distinctive marks or trade marks of another Party or cause or permit the same without the consent in writing of the Party to whom the logos, distinctive marks or trade marks belong.

- 12.2 Insofar and to the extent that:

12.2.1 the Intellectual Property is vested in any Party, the STC or the Applicant's Consultants; or

12.2.2 any Party have rights to the same from time to time and are entitled to sub-licence to the other Party on the terms of this clause 12.2 (and the Coordinating Authority and the Applicant shall be obliged to ensure that this is possible from the STC and the Applicant's Consultants respectively, and in all other respects the Parties, shall use reasonable endeavours that the other Parties are entitled to grant such a sub-licence);

- (a) the Parties hereby grant (or the Coordinating Authority and the Applicant shall be obliged to ensure that the STC or Applicant's Consultants, as relevant, grants) to the other Parties an irrevocable and freely assignable royalty free and non-exclusive licence (carrying the right to grant sub-licences) to use or permit the use of the relevant Design and Environmental Documents and such Intellectual Property in them but in each case; only for such purpose connected with or related to the delivery of the Project Deliverables or the RTS, without further payment or compensation to any other Party.

- 12.3 To the extent that any Design and Environmental Documents and Intellectual Property to which the licence in clause 12.2 applies consist of computer or other machine readable data then to the extent that the rights in the relevant software and/or database required by the other Party to access and/or use such data are vested in the Party granting that licence, that Party hereby grants (or the Coordinating Authority and the Applicant shall be obliged to ensure that this is possible from the STC and the Applicant's Consultants respectively, grants) a licence or sub licence for and supply of such relevant software or database to enable the Other Party to have access and otherwise use such data (but only for such purposes connected with or relating to the delivery of the Project Deliverables or the RTS). To the extent that the rights in the relevant software and/or databases are vested in a third party other than the Party seeking to grant the licence, the licensing Party shall provide reasonable assistance to the recipient Party to procure a licence of such software and/or databases at the recipient Party's cost.

- 12.4 The licence granted by 12.2 and 12.3 shall terminate upon termination of this SLA, unless otherwise agreed by the relevant Party that has granted the licence.

13. **ASSIGNMENT & SUB-CONTRACTING**

- 13.1 No Party shall be entitled to sub-contract, assign or otherwise transfer the whole or any part of its obligations under this SLA (except in the case of assignment or transfer where for the purposes of solvent reorganisation or transfer to a statutory successor body or by operation of law) without the prior written consent of all Parties. As the nature of the relationship between the Parties is to be a close collaborative relationship, it shall be reasonable in any case to refuse to consent to assignment or transfer.

- 13.2 No assignment, transfer or sub-contracting by a Party shall relieve it of any of its obligations or duties under this SLA and that Party shall remain fully liable as though the matter assigned, transferred or sub-contracted matters were carried out by itself.

- 13.3 The terms of any sub-contract entered into by a Party in connection with this SLA shall be consistent with and shall ensure compliance with this SLA, including all auditing and financial requirements.
- 13.4 Any Party sub-contracting work under this SLA shall ensure that it and any third party contractor to whom that work is sub-contracted has appropriate financial and auditing procedures in place to manage its commitments to the RTS and that Party shall ensure that both it and its sub-contractor have complied with all relevant tax requirements relevant to the SLA and their involvement with it.
- 13.5 The County Council will be the contracting party in respect of any contracts entered into with the STC and the County Council shall be responsible for all liabilities to the STC subject to the provisions of this SLA on the Applicant's liability to the LPAs in respect of the STC's costs and such arrangements as the LPAs may put in place between them concerning liability.
14. **FORCE MAJEURE**
- 14.1 If the performance by any Party of any of its obligations under this SLA is prevented or delayed by a Force Majeure Event then that Party shall be excused from performance of that obligation for the duration of the Force Majeure Event.
- 14.2 If a Party becomes aware of a Force Majeure Event that is or is likely to give rise to a failure or delay on its part, then that Party shall notify the other Parties soon as reasonably practicable giving a description of the Force Majeure Event and, where possible, an estimate of its likely duration.
- 14.3 If the Force Majeure Event in question continues or is likely to continue for a continuous period in excess of 30 (thirty) calendar days the Parties shall enter into discussions with regard to alternative arrangements in respect of this SLA which may include but are not limited to termination of it pursuant to Clause 9.
- 14.4 Where a Force Majeure Event has extended or is reasonably anticipated to extend for a period of more than 60 (sixty) calendar days or for periods in aggregate of more than 60 (sixty) calendar days in any 12 (twelve) month period then this SLA or the continued participation in it of the Party subject to the Force Majeure Event may be terminated by any other Party with immediate effect.
15. **THIRD PARTIES**
- (a) Save where this SLA expressly provides to the contrary, for the purposes of the Contracts (Rights of Third Parties) Act 1999 this SLA is not intended to and does not give any person who is not a party to it any right to enforce any of its provisions. This does not affect any right or remedy of any such party which exists or is available apart from that Act.
16. **CONFLICT**
- (a) Subject to clause 2.3, the Parties shall not (whether directly or indirectly) and shall not allow, permit or instruct work which would cause a conflict with the work that Party is undertaking under this SLA where such conflict would have a direct and adverse impact on the Party's ability to comply with its obligations under this SLA or would otherwise impede or interfere with the Party's proper performance of this SLA.
17. **VARIATIONS**
- (a) No change or variation to this SLA will be effective unless and until it is agreed in writing, signed by all Parties and annexed to this SLA.
18. **WAIVER**
- (a) No failure or delay or grant of indulgence by a Party to exercise or enforce any right, power or remedy available to it, will operate or be construed as a waiver of such right, power or remedy under this SLA or otherwise, nor will any partial exercise preclude any further exercise of the same or of some other right, power or remedy.
19. **SEVERABILITY**

19.1 If any court or other competent authority finds that any part or provision of this SLA is void, unlawful or unenforceable then that part or provision will be deemed to have been severed from this SLA and shall have no force and effect. The remaining provisions of this SLA will continue to be valid and enforceable to the fullest extent permitted by law, and the Parties shall negotiate in good faith to agree the terms of a mutually acceptable and satisfactory alternative part or provision in that, as amended, it is valid and lawful and enforceable.

20. **COUNTERPARTS**

20.1 This SLA may be executed in any number of counterparts or duplicates each of which shall be an original but such counterparts or duplicates shall together constitute one and the same agreement.

20.2 Transmission of an executed counterpart of this agreement (but for the avoidance of doubt not just a signature page) OR the executed signature page of a counterpart of this agreement by e-mail (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this agreement. If either method of delivery is adopted, without prejudice to the validity of the agreement thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.

20.3 No counterpart shall be effective until each party has executed and delivered at least one counterpart.

21. **GOVERNING LAW & JURISDICTION**

(a) This SLA shall be governed by and construed in accordance with the laws of England and Wales and subject to the agreed provisions in respect of alternative dispute resolution the Parties agree to submit to the exclusive jurisdiction of the courts of England and Wales regarding any claim or matter arising under this SLA.

AS WITNESS the hands of authorised signatories for the Parties hereby agree.

(b)

[EXECUTION BLOCKS TO BE ADDED].

SIGNED for and on behalf of the
ENVIRONMENT AGENCY

Name:

Position:

SIGNED for and on behalf of **SURREY**
COUNTY COUNCIL (as Applicant)

Name:

Position:

SIGNED for and on behalf of **ELMBRIDGE**
BOROUGH COUNCIL

Name:

Position:

SIGNED for and on behalf of **RUNNYMEDE**
BOROUGH COUNCIL

Name:

Position:

SIGNED for and on behalf of **SPELTHORNE**
BOROUGH COUNCIL

Name:

Position:

SIGNED for and on behalf of **SURREY**
COUNTY COUNCIL (as LPA)

Name:

Position:

SCHEDULE 1: THE RIVER THAMES SCHEME

Channel Section 1 (Egham Hythe to Chertsey) will be entirely within the Borough of Runnymede. This channel will leave the right bank of the River Thames at Egham Hythe. It will pass through agricultural fields before heading south across Green Lane and joining the existing course of the Meadlake Ditch. Passing through six lakes, including the Thorpe Park lakes, it will cross Chertsey Lane (A320) towards Abbey Meads and return to the River Thames through the existing Burway Ditch M3 motorway flood culverts, just south of the M3 and downstream of Chertsey Weir. The channel will then pass through areas of previous landfilling at Royal Hythe Farm, Norlands Lane and Chertsey Lane. Additionally, there will be two flood embankments. The new pedestrian and cycle routes along Channel Section 1 will provide enhanced off-road cycle links from Chertsey towards Heathrow as well as more local connections between Chertsey and Thorpe Park.

Channel Section 2 (Laleham to Shepperton) will be entirely within the Borough of Spelthorne. This section of the channel will leave the left bank of the River Thames at Laleham, approximately 0.4km upstream of the outfall of Channel Section 1 and north of the M3 motorway. The channel will pass east through three existing lakes and cross two local roads before turning south beneath the M3 via a new motorway underbridge. The channel will pass through areas of grassland and scrub at Sheepwalk and Manor Farm and will cross a further three local roads and a lake before re-joining the River Thames opposite D'Oyly Carte Island, just upstream of Desborough Island and downstream of Shepperton Weir. The channel then passes through areas of previous landfilling at Littleton Lane, Sheepwalk, Manor Farm, Shepperton Ranges and The Margins Landfill. Additionally, there will be two flood embankments. Within Channel Section 2, the new pedestrian and cycle link between Littleton Lane and Thames Side would be a local access benefit.

The proposed Nationally Significant Infrastructure Project:

Scheme feature	Description
Main flood relief channel	<p>A flood relief channel in one or more sections between Egham Hythe and Shepperton. Includes inlet and outlet structures, weirs and flow control structures, bridges and services crossings, culverts, walls, flood embankments.</p> <p>The flood relief channel will link existing lakes and will also include fish passages.</p>
Capacity improvements on the Thames	<p>Capacity improvement to Thames weirs including the addition of new radial gates at Moseley, Sunbury and Teddington Weirs and replacement or new fish passage structures.</p> <p>The works will also include lowering the bed along a section of the Thames downstream of Walton Bridge.</p>
Country Parks	<p>New green open spaces created for public access and environmental and amenity benefits.</p> <p>The parks will include planting and other landscaping, footpaths and cycleways, car parking, and toilets.</p>
Sites for provision of biodiversity net gain	<p>Habitat creation and enhancement at various locations to provide biodiversity compensation, offsetting and deliver biodiversity net gain requirements for the development.</p> <p>The locations for habitat enhancement and creation have not yet been finalised. They are expected to be mostly adjacent to or in the vicinity of</p>

The Associated Development proposed but not limited to:

Scheme feature	Description
Temporary materials processing sites and compound areas and access routes	A number of temporary areas and access routes will be required for the processing of excavated material and to enable construction of the scheme.
Utilities, highways, streets and public right of way diversions	A number of utilities, highways, streets and public right of way diversions may be required either temporarily or permanently, to facilitate the scheme.
Infrastructure associated with the flood relief channel	<p>Landscaping, habitat mitigation and enhancement features, bank protection and maintenance access tracks associated with the flood relief channel.</p> <p>New or improved footpaths and cycleways within the flood relief channel corridor.</p> <p>Permanent site compounds adjacent to the gated control structures will provide an area to operate and maintain the gates of the structures. Smaller permanent compounds will be located at the fixed level control structures.</p>
Surface Water attenuation	Improvements to surface water management throughout the project. Locations have not yet been finalised.
Biodiversity, heritage and landscape mitigation	Mitigation works required to mitigate the effects of the scheme.
Landfill works	Works to existing, or creating new areas of landfill, as a result of the scheme.
Associated Flood Defence Works	Flood defence works to reduce the residual risk of flooding following construction of the main scheme. Locations have not yet been finalised.
Works to achieve carbon reduction and offsetting	<p>Planting to offset carbon production as part of the scheme will take place within the scheme but may also include adjacent sites or a contribution to an offsite carbon offsetting project.</p> <p>The quantity of residual carbon that requires offsetting will be calculated as part of the scheme's environmental assessment.</p> <p>Consideration will also be made to installation of features for renewable energy production where this can be associated with the NSIP works.</p>
Further works to provide community benefits	<p>The provision of further community benefit through, for example, areas of public amenity, enhanced facilities within the public areas such as refreshment or education centres, public art, water-based recreation, and access to Thames ferries.</p> <p>The number and type and type of community benefits will be influenced by Surrey County Council and public engagement, an assessment of what is considered feasible as part of the scheme and what is suitable for inclusion within a DCO.</p>

SCHEDULE 2: RTSPG INITIAL MEMBERSHIP

This Schedule will contain the names, disciplines, positions, roles and contact details of the initial membership of the RTSPG.

The initial membership of the RTSPG will include officer representatives from RBC, SBC, EBC, SCC and Richmond upon Thames LBC.

SCHEDULE 3: PROJECT DELIVERABLES

Stage 1: Mobilisation to EIA scoping

Deliverable or activity for the Applicant	Engagement activity for the LPAs (indicative)
Develop scheme design for EIA scoping / Non-statutory Consultation milestone	Workshop(s) to discuss design to be used for EIA scoping. Includes scheme boundary for scoping and latest iteration of landscape and green infrastructure proposals.
Production of EIA scoping report	Data gathering for specialist topics (traffic, archaeology etc.)
EIA scoping opinion consultation (by PINS)	Workshop to discuss proposed scope of EIA Engagement with RTS team to respond to queries prior to LPA statutory response
Agreement of EIA methodologies	EIA methodologies will be submitted alongside EIA scoping report. Feedback either via PINS or direct to RTS team. Meetings to discuss approach may be required.

Stage 2: EIA scoping to Statutory Consultation

Deliverable or activity for the Applicant	Engagement activity for the LPAs (indicative)
Develop scheme design and consultation materials for Non-Statutory Consultation	Workshop(s) to discuss non-statutory consultation materials.
Production of Statement of Community Consultation	Engagement with RTS team to respond to queries and develop proposals prior to LPA statutory response.
Develop scheme design for Statutory Consultation	Workshop(s) to discuss design to be used for Statutory Consultation. Includes latest iteration of landscape and green infrastructure proposals; temporary compounds.
Production of Preliminary Environmental Information Report	Data gathering for specialist topics (traffic, archaeology etc.) including baseline and future baseline. Workshop to discuss proposed content of PEIR / targeted review of draft PEIR if required

Stage 3: Statutory Consultation to Preparation of DCO submission

Deliverable or activity for the Applicant	Engagement activity for the LPAs (indicative)
Develop scheme design for EIA technical assessment	Workshop(s) to discuss design to be used for EIA. Includes draft red line for EIA and latest iteration of landscape and green infrastructure proposals; temporary compounds.
Production of Environmental Statement. Includes: <ul style="list-style-type: none"> - Topic chapters - Habitats Regulations Assessment - Water Framework Assessment - Flood Risk Assessment - Transport assessment - Equality Impact Assessment - Non-technical summary 	Data gathering for specialist topics (traffic, archaeology, cumulative developments etc.) Workshop(s) to discuss draft findings of assessments / review of draft chapters if required.

- Associated survey reports and technical appendices	
Finalise scheme design for DCO submission, including design mitigation measures identified in EIA	Workshop(s) to discuss design to be submitted for DCO.
Production of Biodiversity Net Gain Strategy	Workshop(s) to discuss approach to biodiversity net gain and design of measures
Production of Mitigation Framework including outline documents or plans to be submitted as part of the DCO application (e.g. CEMP or CoCP/CTMP/Drainage/Landscaping/ecological management/waste management/public rights of way)	Workshop(s) to discuss design of mitigation / targeted review of draft documents and plans if required.
	Agreement of role of different stakeholders (consultation/approval) in their development post-consent.
	Agreement of any 'control/monitoring/management groups' to be created by the DCO.
Production of other supporting documents for the DCO, including:	Workshop(s) and/or bespoke engagement on deliverables
- Planning Policy statement	
- Case for the Scheme	Data gathering for specialist topics
- Equalities Impact Assessment	
- Open Space Strategy (dealing with management and maintenance of created public open space)	
- Scheme Development Report	
- Design and Access statement	
- Energy / carbon statement	
- Statement of Need	
- Consents Position Statement	
Production of DCO including:	Workshop(s) and targeted review of DCO drafting if required.
• Traffic/highways articles and schedules and related plans and Protective Provisions.	
• LLFA articles and Protective Provisions.	
• Transfer of benefit provisions	
• Disapplication or modification of other legislation provisions	
• Schedule 1	
• Requirements	
Agreement of Statements of Common Ground	Workshop / meetings and collaborative production
Agreement of Development Consent Obligations	Workshop / meetings and collaborative production

Stage 4: DCO Examination

Deliverable or activity for the Applicant	Engagement activity for the LPAs (indicative)
Development of Statements(s) of Common Ground and if necessary, any legal agreements.	Regular SoCG Meetings throughout Examination
Preparation of Responses to Examining Authorities' Questions	Topic workshops and correspondence to seek to agree consistent responses (where all parties agree).
Preparation of Responses to Third Parties	Topic workshops and correspondence to seek to agree consistent responses (where all parties agree).
Preparation for Hearings and Post-Hearing Summaries	Topic workshops and correspondence to seek to agree consistent responses (where all parties agree).

Updates to application documents
(including DCO itself)

Topic workshops and correspondence to seek to
agree common positions (or agreement to disagree)
on documents.

SCHEDULE 4: RESOURCING PROGRAMME AND SCHEDULE

Activities	Timescales
Design, Technical Evidence Base and Methodologies Development	Winter 2021 – Spring 2023
Preparation of EIA Scoping Report	Winter 2021 – Spring 2022
Preparation of Non-Statutory Consultation documentation	Winter 2021 – Autumn 2022
Preparation of Statutory Consultation documentation	Autumn 2022 – Winter 2022
Preparation of DCO Application documentation	Spring 2023 - Spring 2024
DCO Examination	Autumn 2024 – Spring 2025

SCHEDULE 5: AGREED LPA STAFF COSTS

Hourly Rates	£
Grade	Max
PS 1/2	39
PS 3	41
PS 4	44
PS 5	48
PS 6	52
PS 7	57
PS 8	62
PS 9	69
PS 10	76
PS 11	86
PS 12	97
PS 13	110
PS 14	126
PS 15	143
PS 16	165
PS 17	191
PS 18	221
PS 19	304