

**DRAINAGE SERVICES DEPARTMENT**

**AGREEMENT NO. DP 03/2012**

**INVESTIGATION FOR DRAINAGE IMPROVEMENT WORKS  
IN HAPPY VALLEY**

**Briefing on the Adoption of NEC3 PSC on 4<sup>th</sup> July 2013**



**EC HARRIS**  
**BUILT ASSET**  
**CONSULTANCY**


## **CONTENTS**


- 1. Introduction**
- 2. PowerPoint Presentation for the Briefing**
- 3. Response to Comments Made at the Briefing**
- 4. Response to Concerns Raised in the Feedback Survey**

**1. Introduction**

- 1.1 A NEC PSC Briefing (Briefing) aims to provide an introductory course on the adoption of NEC3 PSC was held on Tuesday 4th July 2013 at 2:00pm – 4:00pm at Room 4312, Revenue Tower, Wanchai, Hong Kong.
- 1.2 A total of 26 participants from 14 consultants have attended the Briefing on that day.
- 1.3 The Briefing, which was conducted in English, covered the following topics:
- a) What is PSC;
  - b) Project overview;
  - c) GCE vs PSC;
  - d) Benefits of adoption PSC; and
  - e) Questions and Answers (Q&A) session
- 1.4 All participants have been requested to complete an on-line feedback survey after the Briefing.

## 2. PowerPoint Presentation for the Briefing

 渠務署  
Drainage Services Department





### Drainage Improvement Works in Happy Valley

## Briefing on The Adoption of NEC3 PSC

4 July 2013

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 渠務署  
Drainage Services Department



## Agenda

- Project Overview
- What is PSC
- GCE v PSC
- Key Benefits of Adopting PSC
- Q&A

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## Project Overview

Project Overview

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## Project Background

- Inadequacy of the existing drainage network
- Additional drainage works to enhance the overall hydraulic performance upon implementation of HVUSSS

Project Overview

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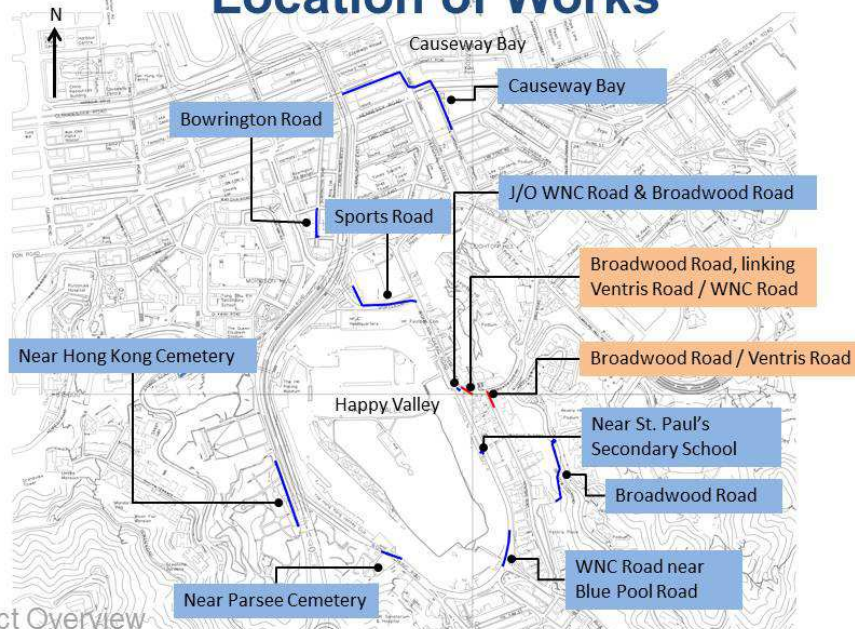
## Project Scope

- Investigation, design and construction consultancy:
  - 9 locations of stormwater drainage improvement works
  - 2 locations of sewerage rehabilitation and repair works
  - Estimated construction cost about HK\$80M

Project Overview



## Location of Works



Project Overview



## Bowrington Road



Bowrington Road



- Challenges**
- Utilities
  - Traffic
  - Environmental ...

Project Overview

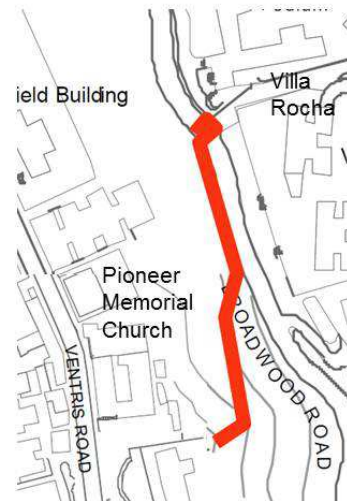
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## Broadwood Road



- Challenges**
- Geotechnical constraint
  - Interface with private premise



Project Overview

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## Difficulties and Challenges

- Complications in nature of underground utilities, traffic impact, geotechnical constraints and interface with stakeholders, etc.
- Tight Programme
  - Completion before raining season of 2018 (to tie in with HVUSSS completion)

**Innovative design is needed.**

Project Overview

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## Services to be provided by Consultant

Investigation Stage	Design Stage	Construction Stage
Overall hydraulic review  Develop innovative scheme	Detailed design of: - Conforming design - Accepted Innovative design	Design support and development (DSD will deploy in-house resources for site supervision)

Project Overview

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## Tentative Programme

- |  |                |
|--|----------------|
| • Invite Expression of Interest (EOI): | September 2013 |
| • Invite technical and fee proposals:  | November 2013  |
| • Commencement of consultancy:         | December 2013  |
| • Investigation stage                  | 2014/2015      |
| • Design stage                         | 2015/2016      |
| • Construction stage                   | 2016/2018      |

Project Overview

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## What is PSC

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## Overview of PSC

- NEC Suite of Documents
- Partnering contract driving collaborative behaviour
- Provides flexibility whilst maintaining a modular structure
- Fairer risk allocation
- Better programme control

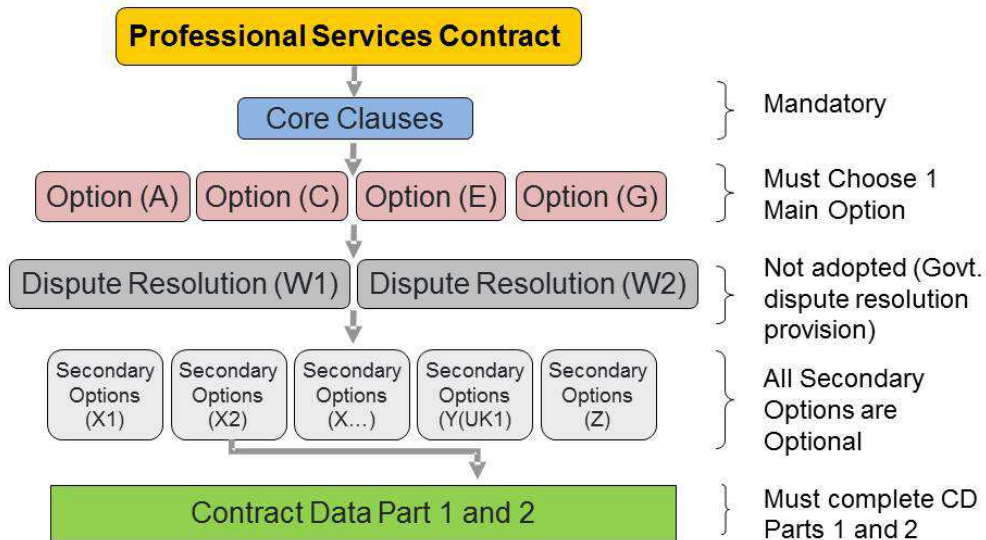


What is PSC

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## PSC Structure



What is PSC

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## Option G (Term Contract)

- *Consultant* prices a *task schedule* prepared by the *Employer*
- Task Orders issued for individual items of work
- Prices on the *task schedule* are based on **lump sum** or **time charge**
- *Consultant* carries out each Task only when instructed
- Any item not on *task schedule* are notified as **compensation events**

What is PSC

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## Option G (Term Contract) - Features

### Flexibility –

- At the *Employer's* discretion, he may
  - divide the services into different packages in a 'Task Schedule'
  - prescribed services on the 'Task Schedule' subject to incorporation
- Task Orders allow services to be provided at any time within service period

**Equitable risk sharing** – Lump sum prices and Time Charges

**Cost certainty** – Task Orders may be on lump sum basis

**Budgeting** – items for potential services to seek competitive prices

What is PSC

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## Secondary Options Selected

- Option X1 - Price adjustment for inflation
- Option X10 - *Employer's Agent*
- Option X11 - Termination by the *Employer*
- Option Z - *Additional conditions of contract*

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## Option G (Term Contract)

- *Consultant* prices a **task schedule** prepared by the *Employer*
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What is PSC

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What is PSC

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## PSC Contract Documents (1)

### 1. Contract Data

- Part one
  - prepared by the *Employer*
  - represent the *Employer's* contract strategy, e.g. main and secondary options selected, payment
- Part two
  - completed by the *Consultant*
  - include name of the *Consultant*, *key people*, Price, etc.
- Details specifics

### 2. Prices

- *Task schedule*

What is PSC

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## PSC Contract Documents (2)

### 3. Scope

- Specifies and describes the *services* and states constraints

### 4. Task Schedule (Option G)

- Prepared by the *Employer*
- Describes individual items which the *Employer* is likely to require the *Consultant* to carry out
- May include Lump Sum or Time Charge items

What is PSC

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## GCE v PSC

GCE v PSC

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### Philosophy, Structure and Format

HKG-GCE	NEC-PSC
Traditional Format + Legal and Construction Terms	Simple English + No Legal and Construction Terms
Detailed clauses	Short clauses
Limited pricing options	Modular form with choice of pricing options
Higher risk share by the Consultant	Various risk sharing options available
Supplemented by Special Conditions	Supplemented via Z Clauses

GCE v PSC

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### Management Style and Practice

HKG-GCE	NEC-PSC
Parties considering their own interest	Collaborative management working towards common goal
The Employer + Director's Representative	The <i>Employer</i>
No requirements on communication, period for reply and reasons for non-acceptance	Encourage effective communication, <i>period for reply</i> and reasons for non-acceptance

GCE v PSC

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## Key Benefits of Adopting PSC

Key Benefits of Adopting PSC

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## Key Benefits of Adopting PSC

- Partnering
- Risk sharing and management
- Compensation Event

Key Benefits of Adopting PSC

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### Additional Services/Delays

HKG-GCE	NEC-PSC
Separate sections/provisions on <ul style="list-style-type: none"> <li>▪ Changes to the Brief</li> <li>▪ Payment for additional Services</li> <li>▪ Payment for delays</li> </ul>	One section covers all matters  “Compensation Events (CE)”  All time, cost and disruptive effects are compensated
Consultants to submit records and ascertained by the Director’s Representative	All changes are priced on Time Charge

GCE v PSC

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## Key Benefits of Adopting PSC

Key Benefits of Adopting PSC

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## Key Benefits of Adopting PSC

- Partnering
- Risk sharing and management
- Compensation Event

Key Benefits of Adopting PSC

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## Partnering

- Collaborative working environment
- *Parties* act in a spirit of 'mutual trust and cooperation'
- Maintain mutual respect between the *Parties*
- Promote innovative ideas

Key Benefits of Adopting PSC

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## Risk Sharing and Management

- Equitable risk allocation (e.g. Time Charge)
- Early warning
- Risk reduction meeting
- Risk register

Key Benefits of Adopting PSC

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## Compensation Event

- More equitable risk allocation
- Solid and more grounds for the *Consultant's* entitlement to Price adjustment (15 CE's under PSC vs 6 under GCE). e.g.
  - *Employer* fails to provide something
  - *Employer* instructs to stop or not to start any work
  - *Employer* does not reply to a communication within the *period of reply*

Key Benefits of Adopting PSC

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## Q&A

**3. Response to Comments Made at the Briefing**

3.1 Five queries were raised by the participants during the Q&A session of the Briefing.

3.2 The queries raised by the participants, together with the responses are as follows:

Query	Response
<p>Under NEC PSC, the Parties are required to respond to any communication within a specific period of time. Does DSD consider such requirement difficult to abide with?</p>	<p>Quick decision making from the Parties is required under NEC PSC. Accordingly, it is anticipated that more resources are required, both from the Employer and the Consultant, to provide response within the stipulated period of time. DSD is prepared to devote more resources in complying with such requirement.</p>
<p>Under NEC PSC, the Consultant is required to provide the subcontract to the Employer for acceptance. The Consultant may find it difficult to comply with due to the existence of some sensitive information such as pricing information under the subcontract.</p>	<p>Under NEC PSC, the Consultant is only required to provide the proposed conditions of contract for each subcontract to the Employer for acceptance. Pricing information is not required to be submitted for the Employer’s acceptance. Furthermore, the Employer may agree that the Consultant is not required to submit any subcontract conditions to the Employer for acceptance.</p>
<p>In comparing with the conventional government consultancy, there are more circumstances in which the Consultant can request for additional fee under NEC PSC. The 10% notional value as allowed under the conventional government consultancy seems insufficient for this project.</p>	<p>If the 10% notional value allowed is considered insufficient for this project, same as conventional government consultancy, it is required to request for additional funding via EACSB.</p>
<p>Will the cost of preparing quotations for compensation events by the Consultant be reimbursed by the Employer?</p>	<p>Under PSC Option G clause 62.7, it states that “The cost of preparing quotations for compensation events is not included in the assessment of compensation events”. As Option G is adopted for this Project, the cost of preparing quotations for compensation events is accordingly not reimbursable and it is assumed that such cost should be included in the Consultant’s overhead.</p>

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<b>Query</b>	<b>Response</b>
As only one consultant will be awarded for this Project, will there be more projects adopting PSC be launched by DSD in the future?	This is the first DSD project adopting NEC3 PSC. Based on the experience gained on this Project, DSD will consider adopting NEC3 PSC for other DSD projects in the future.

**4. Response to Concerns Raised in the Feedback Survey**

4.1 After the Briefing, all participants have been requested to complete an on-line feedback survey after the Briefing.

4.2 Regarding the use of the NEC3 PSC for this Project, the concerns received, together with the responses, are as follows:

a. General

Area of Concern	Response
A need to change the mindset of both the Government and the consultants	The Government is keen in advocating the integration of partnering approach into contractual relationship. Please note that the Government has already adopted NEC Engineering and Construction Contract for the public works and the result is considered satisfactory.
<ul style="list-style-type: none"> <li>• The additional inputs from the consultants for adopting NEC3 PSC</li> <li>• Heavy administration overheads for both the Government and the consultant</li> <li>• The Government is required to provide prompt decision making</li> </ul>	Quick decision making from the Parties is required under NEC PSC. Accordingly, it is anticipated that more resources are required, both from the Employer and the Consultant, to provide response within the stipulated period of time. DSD is prepared to devote more resources in complying with such requirement.
Funding approval by other parties	The Government will have the funding approved before tendering.
The format of the Task Schedule	The format of the Task Schedule is under development.

b. Risk Management

Area of Concern	Response
The Government should recognize that the Consultant is not developing a “claims mentality” when raising early warning	The Government understands that the intention of raising early warning is to oblige each party to warn the other of anything which could affect the outcome of the contract so as to promote co-operation between the parties to mitigate any adverse effects.

c. Payment

Area of Concern	Response
How will the Government audit the hours spent by the Consultant	As the consultants engaged by the Government are professionals and in order to maintain a ‘mutual trust and cooperation’ between the Government and the Consultant, it is not recommended that excessive control and checking over the Consultant’s record keeping system is required.  Instead, an endorsement from the senior management of the Consultant that all submitted time sheets are true and correct is considered sufficient.
The definition of compensation events and the time for processing additional payment.	Compared with the current government consultancies, NEC3 PSC provides a more equitable risk allocation and the mechanism of compensation events stated under NEC3 PSC gives the Consultant a solid and more grounds to Price adjustment.
Any ceiling for the fee to be reimbursed	Same as other conventional government consultancies, there will be a fee ceiling for this Project.



c. Payment (Cont'd)

Area of Concern	Response
<p>For NEC3 PSC Option G, there may be circumstances that the final Price received by the Consultant will be much lower than his tender sum due to some Task Orders may not be instructed</p>	<p>Under this Project in which NEC3 PSC Option G is adopted, all the services to be provided by the Consultant will be issued in the form of a Task Order and the Consultant is not allowed to start any work included in the Task Order until he has received the Task Order.</p> <p>As the Project covers investigation, design and construction stage, there will be situation that some tasks will no longer be required to be further developed at the subsequent stage after a thoroughly review at the investigation stage. In such circumstances, due to the adoption of Option G, the Employer will simply not instruct the Consultant to continue the task at subsequent stages.</p> <p>However, if other PSC Options is adopted, the Employer is required to issue an instruction to the Consultant for not proceeding the task at subsequent stages and such instruction will be regarded as a compensation event in accordance with PSC clause 60.1(1) as the instruction has changes the Scope. Upon the issuance of such instruction, the Consultant is required to submit a quotation for the omission of such tasks for the Employer's consideration. This would inevitably increase both the Employer and the Consultant's administrative burden as additional time is required in relation to the implementation of a compensation event.</p> <p>On the other hand, Option G provides flexibility for not requiring the Consultant to perform any task by simply not issuing any instruction to the Consultant. As no instruction is issued for any task no longer required to be performed by the Consultant, there is no need to go through the compensation event process.</p>

4.3 As the NEC3 PSC will replace the current General Conditions of Employment of Engineering and Associated Consultants (GCE) for this Project, the Government’s responses to the following areas of improvement suggested by the participants at the Briefing are as follows :

a. General

Area of Concern	Response
<p>a. More clarity and certainty in the Scope</p> <p>b. There is no time frame for the stakeholders to provide comment on the deliverables under the project which is beyond the control of the Consultant</p> <p>c. The method of procurement</p>	<p>The Government will take these concerns into consideration when drafting the contract conditions for the Project.</p>

b. Payment

Area of Concern	Response
<p>The Schedule of Fees under the GCE cannot tie in with the work done by the Consultant causing negative cashflow problem</p>	<p>There will no longer be any Payment Schedule. For this Project in which Option G is adopted, the Consultant is paid in accordance with the following formula:</p> <p>“Time Charge for work which has been completed on time based items on the Task Schedule</p> <p style="text-align: center;">+</p> <p>A proportion of the lump sum price for each other item on the Task Schedule which is the proportion of work completed on that item”</p> <p>In other words, the payment is assessed in accordance with the work completed by the Consultant and not on a pre-determined payment schedule.</p>

c. Compensation Event

Area of Concern	Response
<p>a. Greater opportunities for additional fees for elements of work which cannot be clearly defined at tender stage</p> <p>b. More exact term for extension of time and monetary compensation</p> <p>c. Greater recognition of prolongation claims</p> <p>d. Resolution of compensation events</p> <p>e. The project may be prolonged due to reasons outside the control of the Consultant, however it is difficult for the Consultant to agree with the compensatory terms</p>	<p>Compared with the current government consultancies, NEC3 PSC provides a more equitable risk allocation and the mechanism of compensation events stated under NEC3 PSC gives the Consultant a solid and more grounds to Price adjustment. Furthermore, there is a stated time frame for resolution of compensation event under NEC3 PSC in which both the Employer and the Consultant need to abide with.</p>

d. Dispute Resolution

Area of Concern	Response
<p>The use of Dispute Resolution Advisor</p>	<p>The Dispute Resolution Advisor is not adopted under current government consultancies and the Government is not intended to use Dispute Resolution Advisor for this Project.</p>

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