

This document is executed as a deed and is delivered and takes effect at
the date written at the beginning of it



Framework:	Collaborative Delivery Framework
Supplier:	VolkerStevin Ltd
Company Number:	00288392
Geographical Area:	North West
Project Name:	Littleborough FRMS - Phase 1a ECC Contract
Project Number:	ENVIMN000100
Contract Type:	Engineering Construction Contract
Option:	[REDACTED]
Contract Number:	33164
Stage:	Construction

Revision	Status	Originator	Reviewer	Date

ENGINEERING AND CONSTRUCTION CONTRACT under the Collaborative Delivery Framework CONTRACT DATA

Project Name Littleborough FRMS - Phase 1a ECC Contract

Project Number ENVIMN000100

This contract is made on 15 November 2021
between the *Client* and the *Contractor*

- This contract is made pursuant to the Framework Agreement (the "Agreement") dated 01st day of April 2019 between the *Client* and the *Contractor* in relation to the Collaborative Delivery Framework. The entire agreement and the following Schedules are incorporated into this Contract by reference

- Schedules 1 to 21 inclusive of the Framework schedules are relied upon within this contract.

- The following documents are incorporated into this contract by reference

Part One - Data provided by the *Client* Statements given in all Contracts

1 General

The *conditions of Contract* are the core clauses and the clauses for the following main Option, the Option for resolving and avoiding disputes and the secondary Options of the NEC4 Engineering and Construction Contract June 2017.

Main
Option



Option for resolving and
avoiding disputes

W2

Secondary Options

X2: Changes in the law

X5: Sectional Completion

X7: Delay damages

X9: Transfer of rights

X10: Information modelling

X11: Termination by the *Client*

X15: *Contractor's* design

X18 Limitation of Liability

X20: Key Performance Indicators

Y(UK)1: Project Bank Account

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

Y(UK)3: The Contracts (Rights of Third Parties) Act 1999

Z: *Additional conditions of contract*

The *works* are

The principle construction scope of works for this phase of works includes a combination of new linear defences, top-up of existing sections of linear defences

The *Client* is

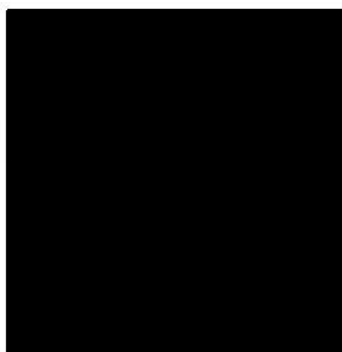
Environment Agency

Address for communications

Address for electronic communications

The *Project Manager* is

Address for communications



Address for electronic communications

The *Supervisor* is

Address for communications

Address for electronic communications

The *Scope* is in
IMNW000100-JAC-ZZ-4B0-SP-C-0001 version C05 14 October 21 and references therein.

The *Site Information* is in
IMNW000100-JAC-ZZ-4B0-SP-C002 A4 version C03 8 October 21 and references therein

The *boundaries of the site* are
IMNW000100-JAC-ZZ-4B0-DR-C-0102 version C02 20 May 21

The *language of the contract* is English

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

The period for reply is 2 weeks

The following matters will be included in the Early Warning Register
Advanced utility diversions to support the works may be completed later than programmed. (Riverstone Bridge and Foam Converters work packages)

Early warning meetings are to be held at intervals no longer than 2 weeks

2 The Contractor's main responsibilities

The *key dates and conditions* to be met are
condition to be met
'none set'
'none set'
'none set'

key date
'none set'
'none set'
'none set'

The *Contractor* prepares forecasts of the total Defined
Cost for the whole of the works at intervals no longer
than

4 weeks

3 Time

The *starting date* is

The *access dates* are
part of the Site
EA Project Team
All work packages associated with the accepted progr

The *Contractor* submits revised programmes at
intervals no longer than

The *Completion Date* for the whole of the works is

The *Client* is willing to take over the works before the Completion Date

The period after the Contract Date within which the *Contractor* is to
submit a first programme for acceptance is

2 weeks

4 Quality management

The period after the Contract Date within which the *Contractor* is to
submit a quality plan is

4 weeks

The period between Completion of the whole of the works and the
defects date is

52 weeks

The *defect correction period* is 2 weeks except that
• The *defect correction period* for
ways, footpaths, bridleways, cycleways is 1 Week

- The defect correction period for health and Safety matter incl is 24 Hours

5 Payment

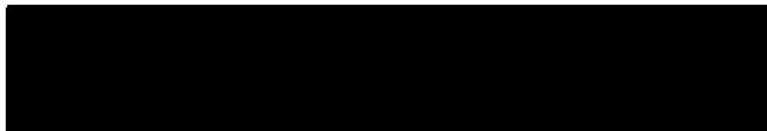
The currency of the contract is the £ sterling

The assessment interval is Monthly

The Client set total of the Prices is £5,135,632.00

The interest rate is 2.00% per annum (not less than 2) above the
Base rate of the Bank of England

The Contractor's share percentages and the share ranges are



6 Compensation events

The place where weather is to be recorded is The nearest calibrated Met Office Weather Station to the site is Rochdale - Location: 53.609, -2.177;

The weather measurements to be recorder for each calendar month are

- the cumulative rainfall (mm)
- the number of days with rainfall more than 5mm
- the number of days with minimum air temperature less than 0 degrees Celsius
- the number of days with snow lying at 09:00 hours GMT

and these measurements:

1. the cumulative rainfall (mm)
2. the number of days with rainfall greater tha
3. the number of days with minimum air temp
- 4.
- 5.

The weather measurements are supplied by The Contractor
The weather data are the records of past weather measurement for each calendar month
which were recorded at Rochdale - Location: 53.609, -2.177
and which are available from The Contractor

Assumed values for the ten year weather return weather data for each weather measurement for each calendar month are

Jan	not used	Jul	not used
Feb	not used	Aug	not used
Mar	not used	Sep	not used
Apr	not used	Oct	not used
May	not used	Nov	not used
Jun	not used	Dec	not used

These are additional compensation events

1. If the Client agrees then changes to Red Diesel and/or HVO duty will be a Compensation Event under this contract. For the avoidance of doubt, the fuel duty included in the Total of the Prices at the Contract Date is at the rate derived by HMRC at the Contract Date.
2. The contractor is responsible for managing Invasive species within the working areas up to a value of £20,000.00. Any costs in excess of this will be covered by CE.
3. No allowance has been included for dewatering or for application of discharge permits for dealing with water from construction related works. Note: ESE contract is assessing this risk. If the need for dewatering and/or a discharge permit application is required then CE will be instructed.
4. The target cost has included allowances for implementing a testing regime for contaminated material for waste classification purposes prior to disposal off site. Any additional work and costs in handling the material or cost of additional disposal costs should the material be different from the information derived from SI and GI is excluded and will be managed by CE.
5. The scope does not reference the need for a load test to be undertaken on a working pile at Riverstone Bridge work package. If a load test of a working pile is required this this will be managed by CE.
6. If the assumed cost of £42,400 for Riverstone Bridge design and installation of reinforced earth embankment changes by +/- 10% due to amended design and/or site specific requirements encountered during construction then a CE will be issued to manage the change.

7. The working area becomes flooded due to factors not caused by the Contractor with flooding arising from River Roch and/or key tributary - Townhouse Brook.
Flooding is deemed to be if water level exceeds top of existing flood defences and comes out of bank.
For the avoidance of doubt, if the contractor fails to fully comply with Method Statements submitted as part of Flood Risk permit applications (Contractor submission/task) and flooding occurs this would not be a CE.

8 Liabilities and insurance

These are additional *Client's* liabilities

- 1 'not used'
- 2 'not used'
- 3 'not used'

The minimum amount of cover for insurance against loss of or damage to property (except the *works*, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the *Contractor*) arising from or in connection with the *Contractor* Providing the Works for any one event is

£15,000,000

The minimum amount of cover for insurance against death of or bodily injury to employees of the *Contractor* arising out of and in the course of their employment in connection with the contract for any one event is

not less than the amount required by law

The insurance against loss of or damage to the *works*, Plant and Materials is to include cover for Plant and Materials provided by the *Client* for an amount of

Resolving and avoiding disputes

The *tribunal* is litigation in the courts

The *Senior Representatives* of the *Client* are

Address for communications

Address for electronic communications

Name

Address for communications

Address for electronic communications

The *Adjudicator* is

Address for communications

Address for electronic communications

The *Adjudicator nominating body* is

'to be confirmed'

'to be confirmed'

'not used'

The Institution of Civil Engineers

Z Clauses

Z1 Correctness of Site Information and other documents

Z1.1 Site Information about the ground, subsoil, ducts, cables, pipes and structures is provided in good faith by the *Client*, but is not warranted correct. Clause 60.3 does not apply to such Site Information and the *Contractor* is responsible for checking the correctness of any such Site Information they rely on for the purpose of pricing for or providing the *works*.
Z1.2 Information regarding construction methods or processes referred to in pre contract health and safety plans are provided in good faith by the *Client* but are not warranted correct (except for the purpose of promoting high standards of health and safety) and the *Contractor* is responsible for checking the correctness of any such information they rely on for the purpose of pricing for, or providing the *works*.

Z 2B: Water levels: *Contractor's* risk

Clause 60.1 (12) second bullet point is amended to: "are not weather conditions or floods and"

Z3 Prevention: No change to prices

Delete first sentence of clause 62.2 and replace with:

"Quotations for compensation events except for the compensation event described in 60.1(19) comprise proposed changes to the Prices and any delay to the Completion Date and Key Dates assessed by the *Contractor*. Quotations for the compensation event described in 60.1(19) comprise any delay to the Completion Date and Key Dates assessed by the *Contractor*. Delete 'The' At start of clause 63.1 and replace with:

"For the compensation event described in 60.1(19) the Prices are not changed. For other compensation events the..."

Z 4 The Schedule of Cost Components

The Schedule of Cost Components is as detailed in the Framework Schedule 9.

Z 6 Payment for Work

Delete existing clause 11.2 (31) and replace with:

"11.2 (31) The Price for Work Done to Date is the total Defined Cost which the *Project Manager* forecasts will have been paid by the *Contractor* before the next assessment date plus the Fee, not exceeding the forecast provided under clause 20.4 and accepted by the *Client*."

Z7 Contractor's share

After c154.2 and before c154.3, insert the following additional clause:

54.2A If, prior to Completion of the whole of the works, the Price for Work Done to Date exceeds 111% of the total of the Prices, the amount in excess of 111% of the total of the Prices is retained from the Contractor.

Z10 Payments to subcontractors, sub consultants and

Subcontractors

The *Contractor* will use the NEC4 contract on all subcontracts for works. Payment to subcontractors will be 28 days from the assessment date.

If the *Contractor* does not achieve payments within these time scales then the *Client* reserves the right to delay payments to the *Contractor* in respect of subcontracted work, services and supplies.

Failure to pay subcontractors and suppliers within contracted times scales will also adversely affect the *Contractor's* opportunities to work on framework contracts.

Z16 Disallowed Costs

Add the following bullets to clause 11.2 (26) Disallowed costs

- was incurred due to a breach of safety requirements, or due to additional work to comply with safety requirements.
- was incurred as a result of the client issuing a Yellow or Red Card to prepare a Performance Improvement Plan.
- was incurred as a result of rectifying a non-compliance with the Framework Agreement and/or any call off contracts following an audit.

Z19 Linked contracts

Delays and additional cost on this Contract resulting from the *Contractor's* fault or error on a previous contract on this project or programme will be a Disallowable cost under this contract and not be a Compensation event under this contract.

Z20 Defect Dates for Sections

Where a section of the works is defined and is located in a separate area of the Site, the time to the defects date for that section is the defined period after the Completion of that section, and is defined in the Contract Data.

Z21 Requirement for Invoice

Add the following sentence to the end of clause 51.1:

The Party to which payment is due submits an invoice to the other Party for the amount to be paid within one week of the *Project Manager's* certificate.

Delete existing clause 51.2:

51.2 Each certified payment is made by the later of

- one week after the paying Party receives an invoice from the other Party and
- three weeks after the assessment date, or, if a different period is stated in the Contract Data, within the period stated.

If a certified payment is late, or if a payment is late because the *Project Manager* has not issued a Certificate which should be issued, interest is paid on the late payment. Interest is assessed from the date by which the late payment should have been made until the date when the late payment is made, and is included in the first assessment after the late payment is made.

Z22 Resolving Disputes

Delete W2.1

Z23 Risks and insurance

Replace clause 84.1 with the following

Insurance certificates are to be submitted to the Client on an annual basis.

Z30 Material Price Volatility

The *Client* recognises the ongoing pricing uncertainty in relation to materials for the period from 1 July 2021 to 30 June 2022 the *Client* will mitigate this additional cost through this clause. Payment is made per assessment based upon a general average material proportion within assessments, calculated at 40%.

Z30.1 Defined terms

- a) The Latest Index (L) is the latest index as issued by the *Client*. The L, which is at the discretion of the Client, is based upon the issued consumer price index ((CPI) based upon the 12-month rate) before the date of assessment of an amount due.
- b) The Price Volatility Provision (PVP) at each date of assessment of an amount due is the total of the Material Factor as defined below multiplied by L for the index linked to it.
- c) Material Factor (MF) 40% is used, based on a general average material proportion across our programme. The volatility provision is only associated with material element. No volatility provision is applicable to any other component of costs.

Z30.2 Price Volatility Provision

Through a Compensation Event the *Client* shall pay the PVP. PVP is calculated as:

$$\text{Assessment} \times \text{MF} \times \text{L} = \text{PVP}$$

If an index is changed after it has been used in calculating a PVP, the calculation is not changed and remains based upon the rate issued by the *Client*. The PVP calculated at the last assessment before 30 June 2022 is used for calculating the price increase after that date.

Z30.3 Price Increase

Each time the amount due is assessed, an amount for price increase is added to the total of the Prices which is the change in the Price for Work Done to Date for the materials component only (and the corresponding proportion) since the last assessment of the amount due multiplied PVP for the date of the current assessment.

Z30.4 Compensation Events

The Contractor shall submit a compensation event for the PVP on a monthly basis (where applicable) capturing Defined Cost only for the PWDD increase in month. Forecasted costs should only be considered for the June 2022 period compensation event.

Assessment Date	Defined Cost?	Forecasted Cost?
31 July 2021	In period costs only	No
31 August 2021	In period costs only	No
30 September 2021	In period costs only	No
31 October 2021	In period costs only	No
30 November 2021	In period costs only	No
31 December 2021	In period costs only	No
31 January 2022	In period costs only	No
28 February 2022	In period costs only	No
31 March 2022	In period costs only	No
30 April 2022	In period costs only	No
31 May 2022	In period costs only	No
30 June 2022	In period costs only	Forecasted costs for remainder of contract

The Defined Cost for compensation events is assessed using

- the Defined Cost at base date levels for amounts calculated from rates stated in the Contract Data for People and Equipment and
- the Defined Cost current at the date the compensation event was notified, adjusted to the base date by 1+PVP for the last assessment of the amount due before that date, for other amounts.

Secondary Options

OPTION X2: Changes in the law

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

OPTION X5: Sectional Completion

The completion date for each section of the works is

section	description	completion date
1	SC01: Gale West - site set-up complete and sufficient/suitable for phase 1a use only.	10 March 2022
2	SC02: Foam Converters - civils works complete, asset fully operational and hand over accepted by Client.	21 October 2022
3	SC03: Charles Street - civils works complete, asset fully operational and hand over accepted by Client.	23 May 2022
4	SC04: Peel Street - civils works complete, asset fully operational and hand over accepted by Client.	12 May 2022
5	SC05: Carriage Drive - civils works complete, asset fully operational and hand over accepted by Client.	03 August 2022
6	SC06: Townhouse Brook - civils works complete, asset fully operational and hand over accepted by Client.	26 August 2022
7	SC07: Riverstone Bridge - civils works complete, asset fully operational and hand over accepted by Client.	27 September 2023

X7 plus X5

Delay damages for each section of the works are

section	description	amount per day
1	SC01: Gale West - site set-up complete and sufficient/suitable for phase 1a use only.	
2	SC02: Foam Converters - civils works complete, asset fully operational and hand over accepted by Client.	£70.00
3	SC03: Charles Street - civils works complete, asset fully operational and hand over accepted by Client.	£70.00
4	SC04: Peel Street - civils works complete, asset fully operational and hand over accepted by Client.	£35.00
5	SC05: Carriage Drive - civils works complete, asset fully operational and hand over accepted by Client.	£35.00
6	SC06: Townhouse Brook - civils works complete, asset fully operational and hand over accepted by Client.	£35.00
7	SC07: Riverstone Bridge - civils works complete, asset fully operational and hand over accepted by Client.	£70.00

The delay damages for the remainder of the works are £100.00

OPTION X10: Information modelling

The period after the Contract Date within which the Contractor is to submit a first Information Execution Plan for acceptance is 2 weeks

The minimum amount of insurance cover for claims made against the Contractor arising out of its failure to use skill and care normally used by professional providing information similar to the Project Information is, in respect of each claim £5,000,000

The period following Completion of the whole of the works or earlier termination for which the Contractor maintains insurance for claims made against it arising out of its failure to use the skill and care is 12 years

OPTION X15: The *Contractor's* design

The *period for retention* following Completion of the whole of the *works* or earlier termination is 12 years

The minimum amount of insurance cover for claims made against the *Contractor* arising out of its failure to use skill and care normally used by professionals designing works similar to the *works* is, in respect of each claim

£5,000,000.00

The period following Completion of the whole of the *works* or earlier termination for which the *Contractor* maintains insurance for claims made against it arising out of its failure to use the skill and care is

12 years

OPTION X18: Limitation of liability

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

£5,000,000

For any one event, the *Contractor's* liability to the *Client* for loss or damage to the *Client's* property is limited to

£5,000,000

The *Contractor's* liability for Defects due to its design which are not listed on the Defects Certificate is limited to

£5,000,000

The *Contractor's* total liability to the *Client* for all matters arising under or in connection with the contract, other than excluded matters, is limited to

£5,000,000.00

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

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

The *incentive schedule* for Key Performance Indicators is in Schedule 17.

A report of performance against each Key Performance Indicator is provided at intervals of 3 months.

Y(UK)1:Project Bank Account

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

Y(UK2): The Housing Grants, Construction and Regeneration Act 1996

The period for payment is 14 days after the date on which payment becomes due

Y(UK3): The Contracts (Rights of Third Parties Act) 1999

term *beneficiary*

not used not used

not used not used

not used not used

not used not used

term *beneficiary*

The provisions of
Y(UK)1

Part Two - Data provided by the *Contractor*

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

1 General

The *Contractor* is

Name VolkerStevin Ltd

Address for communications

Address for electronic communications

The *fee percentage* is

The *working areas* are

The site, off-site compounds, area offices and other areas th

The *key persons* are

The *key persons* are

The *key persons* are

The *key persons* are

The following matters will be included in the Early Warning Register

2 The Contractor's main responsibilities

The Scope provided by the *Contractor* for its design is in

Not applicable

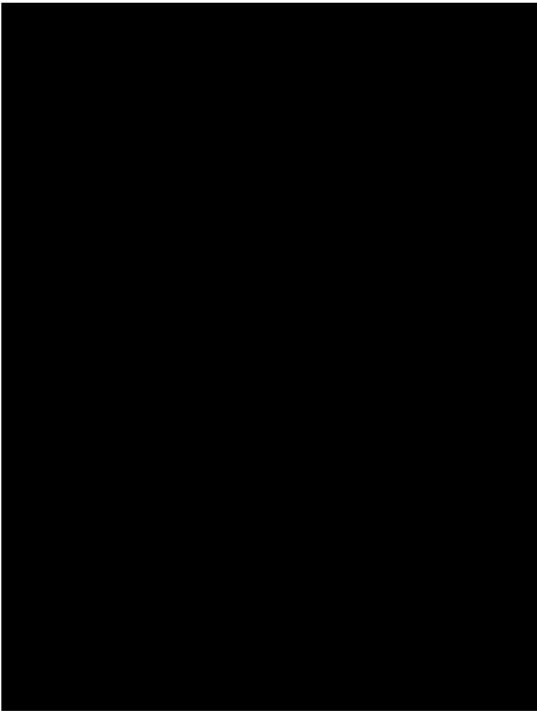
3 Time

The programme identified in the Contract Data is

5 Payment

The *activity schedule* is

Resolving and avoiding disputes



X10: Information Modelling

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

Y(UK)1: Project Bank Account

The *project bank* is

named suppliers are

Contract Execution

Client execution

Signed as a Deed by [PRINT NAME]

for and on behalf of the Endowment Agency

Signature

In the presence of:

Print

Contractor execution

Signed as a Deed by [PRINT NAME]

for and on behalf of

VolkerStevin Ltd

Signature

In the presence of:

Signature