



Framework: Collaborative Delivery Framework
Supplier: BAM Nuttall Ltd
Company Number: 00305189

Geographical Area: North East
Project Name: Hartlepool West Park ESE Contract
Project Number: ENV0002560C

Contract Type: Engineering Construction Contract
Option: Option E

Contract Number: project_ 31442

Revision	Status	Originator	Reviewer	Date
1	Superseeded			17/12/2020
1.1	Live			

ENGINEERING AND CONSTRUCTION CONTRACT under the Collaborative Delivery Framework CONTRACT DATA

Project Name Hartlepool West Park ESE Contract

Project Number ENV0002560C

This contract is made on
between the *Client* and the *Contractor*

- This contract is made pursuant to the Framework Agreement (the "Agreement") dated 10th 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
Hartlepool West Park SOC - OBC ESE Scope v1.0

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 E

Option for resolving and
avoiding disputes

W2

Secondary Options

X2: Changes in the law

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)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

Hartlepool West Park SOC-OBC ESE - Assist Lot1 Supplier in development of SOC-OBC appraisal by providing input into optioneering, costing, programme and identifying constraints

The *Client* is

Environment Agency

Address for communications

[Redacted Address for communications]

Address for electronic communications

[Redacted Address for electronic communications]

The *Project Manager* is [REDACTED]

Address for communications [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Address for electronic communications [REDACTED]

The *Supervisor* is [REDACTED]

Address for communications Environment Agency
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Address for electronic communications [REDACTED]

The *Scope* is in
Hartlepool West Park SOC - OBC ESE Scope v1.0

The *Site Information* is in
Hartlepool West Park SOC - OBC ESE Scope v1.0

The *boundaries of the site* are
Hartlepool West Park SOC - OBC ESE Scope v1.0

The *partner contract* is

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

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 29 March 2021

The *access dates* are
 part of the Site date

The *Contractor* submits revised programmes at
 intervals no longer than 4 weeks

The *Completion Date* for the whole of the *works* is 29 July 2021

The *Client* is not 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

4 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 is
 • The defect correction period for is

5 Payment

The currency of the contract is the £ sterling

The assessment interval is Monthly

The *Client* set total of the Prices is £19,545.02

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

6 Compensation events

The place where weather is to be recorded is Durham

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.
- 2.
- 3.
- 4.
- 5.

The weather measurements are supplied by Met Office

The weather data are the records of past weather measurement for each calendar month

which were recorded at Durham
 and which are available from Met Office

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

Jan	Jul
Feb	Aug
Mar	Sep
Apr	Oct
May	Nov
Jun	Dec

These are additional compensation events

1. Managing and mitigating the impact of Covid 19 and working in accordance with Public Health England guidance, as may vary from time to time, between 30th
2. 'not used' November 2020 to 31st March 2021
3. 'not used'

4. 'not used'
5. 'not used'

8 Liabilities and insurance

These are additional *Client's* liabilities

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

The minimum amount of cover 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

Environment Agency

Address for electronic communications

Name

Address for communications

Environment Agency

Address for electronic communications

The *Adjudicator* is

'to be confirmed'

Address for communications

'to be confirmed'

Address for electronic communications

['to be confirmed'](#)

The *Adjudicator nominating body* is

The Institution of Civil Engineers

Z Clauses

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 Done to Date

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*."

Z10 Payments to subcontractors, sub consultants and Supplier

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.

Z11Y(UK) 3 The Contracts (Rights of Third Parties)

The design consultant employed by the *Contractor* is required to fulfil the obligations of the warrantor under the primary contract for design works that they complete. This includes:

Transfer of rights clause Z11

Professional indemnity insurance cover to same cover as that specified for the *Contractor*

Z11.1 The *Client* ('the third party') may in its own right enforce the provisions of this clause, subject to and in accordance with the provisions of the Contracts (Right of Third Parties) Act 1999 and the following provisions:

Z11.1.1 the parties may not rescind or vary any provision(s) of this agreement, including this clause, at any time without the consent of the third party; and

Z11.1.2 each third party's rights against party A under this agreement shall be subject to the same conditions, limitations and exclusions as apply to party B's rights against party A under this agreement.

Z11.2 Except as provided in clause Z1.1, this agreement does not create any right enforceable by any person who is not a party to it (Other Party') under the Contracts (Rights of Third Parties) Act 1999, but this clause does not affect any right or remedy of a other party which exists or is available apart from that Act.

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.

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.

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 X7: Delay damages

X7 only Delay damages for Completion of the whole of the *works* are £29 14 per day

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

£5,000,000.00

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 year(s)

OPTION X15: The *Contractor's* design

The *period for retention* following Completion of the whole of the *works* or earlier termination is 6 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

6 years

OPTION X18: Limitation of liability

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

£1,000,000

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

£1,000,000

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 6 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(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

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 BAM Nuttall Ltd

Address for communications

[Redacted]
[Redacted]
[Redacted]
[Redacted]

Address for electronic communications

[Redacted]

The fee percentage is

Option E

[Redacted]

The working areas are

The Site, the Contractors premises, the Consultants premises, the Subcontractors premises, the Clients premises and / or the residence of any of the Contractors, Consultants or Subcontractors staff either temporarily or permanently used in connection with this Contract.

The key persons are

Name (1) [Redacted]
Job [Redacted]
Responsibilities [Redacted]
Qualifications [Redacted] nt
Experience [Redacted]

The key persons are

Name (2) [Redacted]
Job [Redacted]
Responsibilities [Redacted]
Qualifications [Redacted]
Experience [Redacted]

The key persons are

Name (3) [Redacted]
Job [Redacted]
Responsibilities [Redacted]
Qualifications [Redacted]
Experience [Redacted]

The key persons are

Name (4)
Job
Responsibilities
Qualifications
Experience

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

3 Time

The programme identified in the Contract Data is

Resolving and avoiding disputes

The Senior Representatives of the Contractor are

Name (1) [Redacted] (Framework Manager)

Address for communications

[Redacted]

Address for electronic communications

[Redacted]

Name (2) [Redacted] (Divisional Director)

Address for communications

[Redacted]

Address for electronic communications

[Redacted]

X10: Information Modelling

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

Contract Execution

Client execution

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

[Redacted Signature]

Signature

[Redacted Role]

Role

Contractor execution

Consultant execution

Signed under hand by for and on behalf of BAM Nuttall Ltd

[Redacted Signature]

Signature

[Redacted Role]

Role



ECC Scope Early Supplier Engagement (ESE)scope



Environment
Agency

02/03/2021

Environment Agency NEC4 Engineering and Construction Contract (ECC) Scope

Project / contract information

Project name	Hartlepool West Park SOC – OBC ESE Scope
Project IBIS reference	ENV0002560C
Contract reference	project_31442
Date	2 nd March 2021
Version number	1.0
Author	██████████

Revision history

Revision date	Summary of changes	Version number
10/11/2020	First issue	0.1
22/01/2021	Second issue	0.2
01/02/2021	Final	1.0

This Scope should be read in conjunction with the version of the Minimum Technical Requirements current at the Contract Date. In the event of conflict, this Scope shall prevail. The *works* must be compliant with the Minimum Technical Requirements.

Document	Document Title	Version No	Issue date
LIT13528	Minimum Technical Requirements	Version 2.0	18/03/2020

customer service line
03708 506 506

incident hotline
0800 80 70 60

floodline
0845 988 1188

www.environment-agency.gov.uk

Overview

Hartlepool is a town located on the North East Coast of England, approximately 7 miles north of Middlesbrough. The West Park Estate lies at the western extreme of the town. The Burn Valley Beck drains agricultural land to the west before flowing through the residential estates and Burn Valley Gardens Park. As with many urban watercourses flooding periodically occurs during significant rainfall events and from blockage of the numerous culverts along its length.

In 2011 the Tunstall Farm Beck Flood Storage (TFBFS) area on Burn Valley Beck was completed in partnership between Hartlepool Borough Council (HBC) and the Environment Agency (EA). At the time the TFBFS area was designed to provide protection to properties around Valley Drive, from events with a 1.33% or greater annual exceedance probability (AEP). This standard of protection was confirmed by detailed modelling in 2011. The Burn Valley Beck flows in a North Easterly direction along Valley Drive, a predominantly residential street. Burn Valley Beck is a partially culverted watercourse, with a total of 6 culverts along its reach through Hartlepool West Park. The 6 culverts are under the riparian ownership of individual homeowners and HBC, as the Beck flows underneath entrances to properties and roads. The current arrangement is that the EA and HBC undertake ad-hoc maintenance of the culverts.

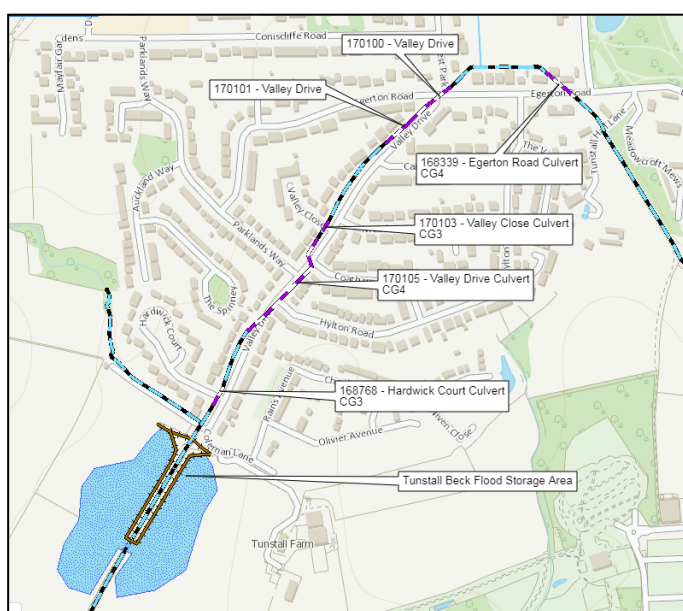


Figure 1. Location plan of West Park

It has since become apparent that several culverts and trash screens along the beck are coming towards the end of their functional life, and are in need of replacement. The West Park Flood Alleviation Scheme (FAS) will seek to reduce flood risk from all sources along the Burn Valley Beck in Hartlepool. The Northumbria Integrated Partnership has undertaken some integrated modelling during stage 1 of the study along the Burn Valley Beck, which will be incorporated into the appraisal.

A review of the 2016 culvert CCTV inspections has highlighted that a number of culverts are in generally poor condition with latest residual life estimates for some culverts being to 2028, less than 10 years. The culverts were constructed in the 1970s and have had minimal maintenance since their installation. The culverts are a mixture of concrete and brick construction with cross sections of less than 3m².

Currently, up to 62 homes and businesses are at risk of flooding.

The Environment Agency (EA) will act as the *Client* and *Project Manager* in this Scope and manage the contract through their project management team. The *Contractor* is BAM and the *Consultant* is Arup for the purpose of this Scope and the applicable ECC Option E contract.

Outputs and deliverables

Objective

In order to prepare for delivery of the *Client's* Hartlepool West Park Flood Alleviation project it is proposed to deliver a project appraisal and Outline Business Case (OBC). This ESE contract is required to assist the *Consultant* through the SOC to OBC stage.

Constraints on how the *Contractor* provides the works

1. The *Contractor* shall submit a quotation and programme to complete the task instructed by the *Client* for the early supplier engagement at SOC-OBC stage.
2. The *Contractor* shall only carry out work directly associated with the tasks instructed and agreed by the *Project Manager*.
3. The *Contractor* shall maintain close contact with the *Client* and *Project Manager* in order that their actions reflect the *Client's* objectives.
4. The *Contractor* shall:
 - I. Notify the *Client and Project Manager* of any variation from the specification, including programme, cost and quality.
 - II. cease all work, howsoever arising, associated with the task
 - III. await the *Project Manager's* written instruction on how to proceed

Standards to be achieved

Health and Safety

Health and Safety is the number one priority of the *Client*. The *Contractor* will promote and adopt safe working methods and shall strive to work in a safe manner.

Services and other things provided by the *Client*

1. All of the data to be supplied to the *Contractor* as part of this study remains the Intellectual Property of the *Client*.
2. The data custodian for project deliverables from this commission will be the area Partnership and Strategic Overview (PSO) team.
3. Licences for LiDAR Data, Ordnance Survey mapping, and historical data will be provided to the *Contractor*.
4. All survey information will be provided to the *Contractor* according to *Client* data security policy. It is expected that once the commission is complete, the original data sent to the

Contractor which is classed as commercially sensitive is returned following the *Client* data security policy.

5. Timesheets as normally utilised by the *Contractor* shall be submitted with fee notes unless otherwise agreed with the *Project Manager*. Electronic submissions in excel format would be acceptable.
6. Payment is subject to the procedure agreed in or under the framework.
7. The quality management system complies with the requirements of ISO9001 and ISO14001.
8. The *Client* will issue land entry notices. The *Contractor* is to provide minimum three weeks of notice to the *Client* to issue Land Entry Notices. The *Contractor* will provide a red line boundary drawing clearly identifying the Working Areas including entry and exit routes.

works to be provided by the *Contractor*

The *Contractor* will undertake a site visit, with the *Client* and the *Consultant* to develop the understanding of the project.

The *Contractor* will provide input into optioneering (maximum 3 options) and provide advice on buildability, construction methods and Safety, Health and Environment (SHE) compliance.

The *Contractor* will produce high level methodology and buildability report for each of the 3 design options. This could be a short form summary for each of the three design options.

The *Contractor* will provide high level cost estimate based on three concept design options.

The *Contractor* will provide a high level construction programme for the preferred option. Details to include:

- High level construction durations
- Identification of long lead items
- Ecological constraints
- Permitting requirements and durations

Further formal instruction may then be given to complete additional tasks for the appraisal.