



Framework:	Collaborative Delivery Framework
Supplier:	[REDACTED]
Company Number:	[REDACTED]
Geographical Area:	North West
Project Name:	Low Crosby
Project Number:	[REDACTED]
Contract Type:	Engineering Construction Contract
Option:	[REDACTED]
Contract Number:	[REDACTED]
Stage:	Construction

[illegible]

ENGINEERING AND CONSTRUCTION CONTRACT under the Collaborative Delivery Framework
CONTRACT DATA

Project Name Low Crosby

Project Number

This contract is made on
between the Client and the Contractor

25 July 2022

• 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

Secondary Options

Option for resolving and
avoiding disputes

W2

X2: Changes in the law

X7: Delay damages

X9: Transfer of rights

X10: Information modelling

X11: Termination by the Client

X18: Limitation of Liability

X20: Key Performance Indicators

V(UK)1: Project Bank Account

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

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

Z: Additional conditions of contract

The works are

#REF!

The Client is

The Environment Agency

Address for communications

Horizon House
Deanery Road
Bristol
BS1 5TL
#REF!

Address for electronic communications

The Project Manager is

Address for communications

The Environment Agency
Richard Fairclough House
Knutsford Road
Warrington
WA4 1HT

Address for electronic communications

The Supervisor is

FBC

Address for communications

The Environment Agency
Horizon House
Deanery Road
Bristol
BS1 5TL

Address for electronic communications

The Scope is in

View File: ENV000503C-JAC-ZZ-3WH-SO-Z-0001-A3-C02-G0300-EA3-L003-Works Information.docx (asite.com)

The Site Information is in

<https://adoddle.asite.com/lnk/9AHM64atBr98XHjp4XLk>

The boundaries of the site are

ENV000503C-JAC-DE-3WH-DR-C-0101-A3-C03-B1300-EA3-L003-Warwick Holme Embankment Reprofile General Arrangement Overview Plan

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

Material price volatility

Contaminated ground, foreign objects and other unexpected material found during excavation which requires disposal

Identification of unexpected invasive species / ecological constraints

Flood event leading to demob and subsequent delays

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
'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

25 July 2022

The access dates are
part of the Site
Client Systems (FastDraft, ASITE, SharePoint)
Site / Working Area
#REF!

date
TBC
#REF!
1 August construction start date

If more than 5 areas are required add these in the Scope

The Contractor submits revised programmes at intervals no longer than

2 weeks

The Completion Date for the whole of the works is

21 October 2022

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

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
• The defect correction period for
• The defect correction period for

1 weeks
Health and safety issues
except that
is 24 Hours
defects which pose a flood risk is 2 Days

5 Payment

The currency of the contract is the £ sterling

The assessment interval is

Monthly

The Client set total of the Prices is

The interest rate is

Base

The Contractor's share percentages and the share ranges are

less than
from
greater than

share range

Contractor's share percentage
0 %
as set out in Schedule 17
as set out in Schedule 17

6 Compensation events

The place where weather is to be recorded is

Carlisle

The weather measurements to be recorded 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

and these measurements:

hours GMT

- 1.
- 2.
- 3.
- 4.
- 5.

The weather measurements are supplied by
The weather data are the records of past weather measurement for each calendar month
which were recorded at
and which are available from

Met Office

Carlisle
<https://www.gov.uk/research/climate/maps-and-data/>

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

Jan
Feb
Mar
Apr
May
Jun

Jul
Aug
Sep
Oct
Nov
Dec

These are additional compensation events

- 1.
- 2.
- 3.
- 4.
5. 'not used'

B 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

less than the amount required in

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

To be confirmed

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 10.4 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 suppliers

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) Act 1999

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 (Rights 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 Z11.1, 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 third party which exists or is available apart from that Act.

216 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.

221 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.

Delete W2.1

223 Risks and Insurance
Replace clause 84.1 with the following

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

The Client recognises the ongoing pricing uncertainty in relation to materials for the period from 1 July 2021 to 30 June 2023 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%.

2.30.1 Defined terms

a) The Latest Index (LI) 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) is each date of assessment of an amount due is the total of the Material Factor as defined below multiplied by the *LI* index (as in a).

c) Material Factor (MF) 400% is 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

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

$$\text{Assessment} \times \text{NE} \times 1 = \text{PVP}$$

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 2023 is used for calculating the price increase after that date.

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.

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.

[REDACTED]

The Defined Cost for compensation events is assessed using

- 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 X7: Delay damages

X7 only

Delay damages for Completion of the whole of the *works* are



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

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(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*

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

Address for communications

Address for electronic communications

The *fee percentage* is

The *working areas* are

The Site, Head Office and any other area required to complete

The *key persons* are

Name (1)
Job
Responsibilities
Qualifications
Experience

The *key persons* are

Name (2)
Job
Responsibilities
Qualifications
Experience

The *key persons* are

Name (3)
Job
Responsibilities
Qualifications
Experience

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

5 Payment

The *activity schedule* is

Resolving and avoiding disputes

The *Senior Representatives* of the *Contractor* are

Name (1)
Address for

Address for

[co.uk](#)

Name (2)
Address for

Address for electronic communications

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 Underhand by **Ian Lockhart**
[PRINT NAME]

for and on behalf of the Environment Agency

[Redacted Signature]

Signature Date

Commercial Manager, DEFRA Group Commercial
Role

Contractor execution

Signed Underhand by [PRINT NAME]

for and on behalf of

VolkerStevin Ltd

[Redacted Signature]

[Redacted Signature]

Signature Date

Role