



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

Geographical Area: North East
Project Name: Inland FCRM (Pre-SOC) ESE
Project Number: ENV0003739C

Contract Type: Engineering Construction Contract
Option: Option E

Contract Number: project_32779

Stage: Other

Revision	Status	Originator	Reviewer	Date
0.1	Superseded			05/08/2021
0.2	Live (transfer to a new version only)			06/08/2021

**ENGINEERING AND CONSTRUCTION CONTRACT under the Collaborative Delivery Framework
CONTRACT DATA**

Project Name Inland FCRM (Pre-SOC) ESE

Project Number ENV0003739C

This contract is made on 1st September 2021
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
Inland FCRM (Pre-SOC) ECC ESE Option E 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

Inland FCRM (Pre-SOC) ESE contract - Assist Lot1 Supplier in development of SOC by providing input into optioneering, costing, programme and identifying constraints

The *Client* is

Environment Agency

Address for communications

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

Address for electronic communications [Redacted]

The *Project Manager* is [Redacted]

Address for communications [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Address for electronic communications [Redacted]

The *Supervisor* is [Redacted]

Address for communications [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Address for electronic communications [Redacted]

The Scope is in
Inland FCRM (Pre-SOC) ECC ESE Option E Scope V1.0

The Site Information is in
Inland FCRM (Pre-SOC) ECC ESE Option E Scope V1.0

The *boundaries of the site* are
Inland FCRM (Pre-SOC) ECC ESE Option E Scope V1.0

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 <i>key dates</i> and <i>conditions</i> to be met are	
<i>condition</i> to be met	<i>key date</i>
'none set'	'none set'
'none set'	'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 09 September 2021

The *access dates* are part of the Site
FastDraft 27 September 2021
Asite 27 September 2021

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

The *Completion Date* for the whole of the *works* is 09 September 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 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

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 The nearest calibrated Met Office Weather Stat on to the site

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
wh ch 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 Cov d 19 and working in accordance with Public Health England guidance, as may vary from time to time, between 1st July 2021 and 31st August 2021
2. 'not used'
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 connect on 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 connect on 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 commun cations

████████████████████
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Address for electronic commun cations

██

Name

██████████

Address for commun cations

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 ████████████████
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 ██████████████████
 ████████████████

Address for electronic commun cations

██

The *Adjudicator* is

'to be confirmed'

Address for commun cations

'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*."

After cl54.2 and before cl54.3, 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 110% of the total of the Prices, the amount in excess of 110% 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

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 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 other party which exists or is available apart from that Act. *LB*

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 £36 00 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 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	<i>beneficiary</i>
any	none

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

The working areas are BAM Nuttall site offices and premises

The key persons are

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

The key persons are

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

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

not applicable

3 Time

The programme identified in the Contract Data is

not applicable

Resolving and avoiding disputes

The *Senior Representatives* of the *Contractor* are

Name (1) [REDACTED]

Address for communications

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Address for electronic communications

[REDACTED]

Name (2) [REDACTED]

Address for communications

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Address for electronic communications

[REDACTED]

X10: Information Modelling

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

[REDACTED]

[REDACTED]

Contract Execution

Client execution

Signed Underhand by [REDACTED]

for and on behalf of the Environment Agency

[REDACTED]

Signature

Date

[REDACTED]

Role

Contractor execution

Signed Underhand by [PRINT NAME]

for and on behalf of

BAM Nuttall Ltd



[REDACTED]



[REDACTED]

[REDACTED]

Signature

Date

[REDACTED]

Role

Inland FCRM (Pre-SOC) ECC ESE Option E Scope



06/08/2021

Environment Agency NEC4 professional service contract (ECC) Scope

Project / contract information

Project name	Inland FCRM (Pre-SOC) ESE
Project IBIS reference	ENV0003739C
Contract reference	Project_32779
Date	24 June 2021
Version number	0.1
Author	Environment Agency

Revision history

Revision date	Summary of changes	Version number
22 June 21	First Draft	0.1
29 June 21	Second Draft	0.2
06 August 2021	Final Draft	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 *service* must be compliant with the Minimum Technical Requirements.

Document	Document Title	Version No	Issue date
LIT13528	Minimum Technical Requirements	Version 11	04/05/2021

customer service line
03708 506 506

incident hotline
0800 80 70 60

floodline
0845 988 1188

www.environment-agency.gov.uk

Overview

The Environment Agency (EA) are completing a programme of inland flood defence improvements within the north east of England. The overall objective of this contract is to provide early supplier engagement services and assist the Lot 1 supplier to develop a strategic outline case (SOC) for a number of projects. Initially this pre-SOC ESE ECC Option E contract will be for early supplier engagement (ESE) advice on buildability and budget quotes including site visits and meetings.

All additional work which could be investigative and intrusive in nature will be instructed by the Project Manager and will be dealt as compensation events as per NEC4 ECC Option E contract.

The Environment Agency (EA) will act as the *Client* and *Project Manager* in this service 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

1.0 Objective

The overall objective is to support the development of a SOC for inland flood defence projects.

The following five projects require Early Supplier Engagement under this contract:

1. Cockshaw and Halgut Burn FAS
2. Quayside Pre SOC-Appraisal
3. Skinningrove FAS Pre-SOC Appraisal
4. Butteryhaugh Pre-SOC Appraisal
5. Blackhall Mill Pre-SOC Appraisal

It is anticipated that a number of additional projects that are currently on the FCRM programme may fall within this FCRM pre-SOC package of work and will be instructed and implemented to the contract as compensation events.

Should the term of the Service needs to be extended to accommodate additional projects this will be managed through the NEC4 compensation event mechanism as outlined within the ECC Option E contract and in line with the CDF framework agreement.

This ESE contract is required to assist the *Consultant* through the pre-SOC stage.

2.0 Constraints on how the Contractor provides the works

1. The *Contractor* shall submit a quotation and programme to complete each task instructed by the *Client* for the early supplier engagement at pre-SOC 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* to ensure that their actions reflect the *Client's* objectives.
4. The *Contractor* shall notify the *Client* and *Project Manager* of any variation from the specification, including programme, cost and quality and await the *Project Manager's* written instruction on how to proceed

3.0 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.

4.0 Services and other things provided by the Client

1. All of the data to be supplied to the *Contractor* as part of this contract 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.

5.0 Services to be provided by the *Contractor*

1. The *Contractor* will attend monthly sub programme board meetings for the projects listed earlier in **1.0 Objective** section. For pricing purposes, the *Contractor* should allow for one representative to attend 12 meetings.
2. The *Contractor* will undertake a site visit for each project, with the *Client* and the *Consultant* to develop the understanding of the project. For pricing purpose, the *Contractor* should allow for maximum two representatives to attend site.

The following service requests may be instructed by the *Project Manager* specific to each project and should not be priced at this stage. The list below is not exhaustive and shows the typical activities that would be required to complete the pre-SOC process.

1. The *Contractor* will provide input into optioneering and provide advice on buildability, construction methods and Safety, Health and Environment (SHE) compliance.
2. The *Contractor* will produce high level methodology and buildability report for each options. This could be a short form summary for the agreed design options.
3. The *Contractor* will provide high level cost estimate for the concept design options.
4. 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

6.0 General Constraints

1. The *Contractor* shall undertake letter drop in advance to the nearby residents and businesses to make them aware of any construction activities (mainly ground investigation).
2. The *Contractor* should park its vehicles such that it does not cause any inconvenience to the general public.
3. Appropriate consents shall be in place to work near watercourse or any part of it.
4. Access and egress routes to and from the site are to be agreed with the *Client*.
5. No detrimental effects on habitats or species is allowed during investigatory works.

7.0 Completion Definition

The following are absolute requirement for Completion to be certified, without these items the *Client* is unable to use the works:

1. 2 relevant documentation to this commission
2. Population of the *Client's* latest version of the Project Cost Tool, or its successor
3. Transfer to the *Client* databases of BIM data
4. Delivery of the Final Carbon Report

8.0 BIM requirements

1. The BIM Information Manager is the Client Project Manager.
2. The *Contractor* will be expected to co-operate with the Client Project Manager for BIM related matters.

9.0 Additional Records

The following additional records shall be kept by the *Contractor*

1. Timesheets and site allocation sheets
2. Equipment records
3. Specific procurement and cost reports

The format and presentation of records to be kept are to be accepted by the *Client*.