



Framework:	Collaborative Delivery Framework
Supplier:	Jeremy Benn Associates Ltd
Company Number:	03246693
Geographical Area:	South East
Project Name:	Ashford FRM Model
Project Number:	ENV0003178C
Contract Type:	Professional Service Contract
Option:	Option C
Contract Number:	31154

Revision	Status	Originator	Reviewer	Date
V3b	Final			
V3c	Final	(Start date		18/12/2020

PROFESSIONAL SERVICE CONTRACT under the Collaborative Delivery Framework  
CONTRACT DATA

Project Name Ashford FRM Model

Project Number ENV0003178C

This contract is made on 18 December 2020  
between the *Client* and the *Consultant*

- This contract is made pursuant to the Framework Agreement (the "Agreement") dated 01st day of April 2019 between the *Client* and the *Consultant* in relation to the Collaborative Delivery Framework. The entire agreement and the following Schedules are incorporated into this Contract by reference.
- Schedules 1 to 22 inclusive of the Framework schedules are relied upon within this contract.
- The following documents are incorporated into this contract by reference  
2020-10\_5\_PSC\_Ashford FRM model\_V6a

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 secondary Options of the NEC4 Professional Service Contract June 2017.

Main Option	Option C	Option for resolving and avoiding disputes	W2
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## Secondary Options

X2: Changes in the law

X9: Transfer of rights

X10: Information modelling

X11: Termination by the *Client*

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 service is Flood risk modelling and mapping study relating to Ashford, Kent.

The *Client* is Environment Agency

Address for communications Horizon House, Deanery Road  
Bristol  
BS1 5AH

Address for electronic communications

The *Service Manager* is Environment Agency

Address for communications Orchard House, London Road  
Addington  
Kent  
ME19 5SH

Address for electronic communications

The Scope is in  
2020-10\_5\_PSC\_Ashford FRM model\_V6a

The *partner contract* is  
N/A

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 *period for retention* is 6 years following Completion or earlier termination

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 *Consultant's* main responsibilities

The <i>key dates and conditions</i> to be met are	
conditions to be met	key date
'none set'	'none set'
'none set'	'none set'
'none set'	'none set'

The *Consultant* prepares forecasts of the total Defined Cost plus Fee and expenses at intervals no longer than 4 weeks

## 3 Time

The *starting date* is 04 January 2021

The <i>Client</i> provides access to the following persons, places and things	
access	access date
FastDraft	04 January 2021
Asite	04 January 2021

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

The *completion date* for the whole of the service is 31 March 2022

The period after the Contract Date within which the *Consultant* is to submit a first programme for acceptance is 4 weeks

## 4 Quality management

The period after the Contract Date within which the *Consultant* is to submit a quality policy statement and quality plan is 4 weeks

The period between Completion of the whole of the service and the

defects date is 26 weeks

## 5 Payment

The *currency of the contract* is the £ sterling

The *assessment interval* is Monthly

The *Client* set total of the Prices is £108,932.16

The expenses stated by the *Client* are as stated in Schedule 9

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

Bank of England

The locations for which the *Consultant* provides a  
charge for the cost of support people and office  
overhead are

All UK Offices

If Option C is used

The *Consultant's share percentages* and the *share ranges* are:

share range	Consultant's share percentage
less than 80 %	0 %
from 80 % to 120 %	as set out in Schedule 17
greater than 120 %	as set out in Schedule 17

## 6 Compensation events

These are additional compensation events

- 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 1st November 2020 and 31st March 2021
- 'not used'
- 'not used'
- 'not used'
- 'not used'

## 8 Liabilities and insurance

These are additional *Client's* liabilities

- 'not used'
- 'not used'
- 'not used'

The minimum amount of cover and the periods for which the *Consultant* maintains insurance are

EVENT	MINIMUM AMOUNT OF COVER	PERIOD FOLLOWING COMPLETION OF THE WHOLE OF THE SERVICE OR TERMINATION
The <i>Consultant's</i> failure to use the skill and care normally used by professionals providing services similar to the service	£5,000,000 in respect of each claim, without limit to the number of claims	12 years after Completion
Loss of or damage to property and liability for bodily injury to or death of a person (not an employee of the <i>Consultant</i> ) arising from or in connection with the <i>Consultant</i> Providing the Service	£15,000,000 in respect of each claim, without limit to the number of claims	12 years after Completion
Death of or bodily injury to the employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with the contract	Legal minimum in respect of each claim, without limit to the number of claims	For the period required by law
The <i>Consultant's</i> total liability to the <i>Client</i> for all matters arising under or in connection with the contract, other than the excluded matters is limited to	£5,000,000	

## Resolving and avoiding disputes

The *tribunal* is litigation in the courts

The *Adjudicator* is  
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

### Z1 Disputes

Delete existing clause W2.1

### Z2 Prevention

The text of clause 18 Prevention is deleted.

Delete the text of clause 60.1(12) and replaced by:

The service is affected by any of the following events

- War, civil war, rebellion, revolution, insurrection, military or usurped power;
- Strikes, riots and civil commotion not confined to the employees of the *Consultant* and sub consultants,
- Ionising radiation or radioactive contamination from nuclear fuel or nuclear waste resulting from the combustion of nuclear fuel,
- Radioactive, toxic, explosive or other hazardous properties of an explosive nuclear device,
- Natural disaster,
- Fire and explosion,
- Impact by aircraft or other aerial device or thing dropped from them.

### Z3 Disallowed Costs

Add the following in second bullet of 11.2 (18) add:

(including compensation events with the Subcontractor, i.e. payment for work that should not have been undertaken).

Add the following additional bullets after 'and the cost of':

- Mistakes or delays caused by the *Consultant's* failure to follow standards in Scopes/quality plans
- Reorganisation of the *Consultant's* project team
- Additional costs or delays incurred due to *Consultant's* failure to comply with published and known guidance or document formats
- Exceeding the Scope without prior instruction that leads to abortive cost
- Re-working of documents due to inadequate QA prior to submission, i.e. grammatical, factual arithmetical or design errors
- Production or preparation of self-promotional material
- Excessive charges for project management time on a commission for secondments or full time appointments (greater than 5% of commission value)
- Any hours exceeding 8 per day unless with prior written agreement of the *Service Manager*
- Any hours for travel beyond the location of the nearest consultant office to the project unless previously agreed with the *Service Manager*
- Attendance of additional individuals to meetings/ workshops etc who have not been previously invited by the *Service Manager*
- Costs associated with the attendance at additional meetings after programmed Completion, if delay is due to *Consultant* performance
- Costs associated with rectifications that are due to *Consultant* error or omission
- Costs associated with the identification of opportunities to improve our processes and procedures for project delivery through the *Consultant's* involvement
- Was incurred due to a breach of safety requirements, or due 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 resulting of rectifying a non-compliance with the Framework Agreement and/or any call off contracts following an audit

### Z4 Share on termination

Delete existing clause 93.3 and 93.4 and replace with:

93.3 In the event of termination in respect of a contract relating to services there is no *Consultant's* share'

### Z6 The Schedule of Cost Components

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

### Z7 Aggregated Consultant's share

Delete existing clauses 54 and 93.3 and replace with:

54.1 The *Service Manager* assesses the *Consultant's* share of the difference between the Aggregated Total of the Prices and the Aggregated Price for Service Provided to Date.

The difference is divided into increments falling within each of the share ranges. The limits of a share range are the Aggregated Price for Service Provided to Date divided by the Aggregated Total of the Prices, expressed as a percentage. The

*Consultant's* share equals the sum of the products of the increment within each share range and the corresponding *Consultant's* share percentage.

54.2 If the Aggregated Price for Service Provided to Date is less than the Aggregated Total of the Prices, the *Consultant* is paid its share of the saving. If the Aggregated Price for Service Provided to Date is greater than the Aggregated Total of the

Prices, the *Consultant* pays its share of the excess.

54.3 If, prior to the Completion Date, the Price for Service Provided 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 *Consultant*.

54.4 The *Service Manager* makes a preliminary assessment of the *Consultant's* share at Completion of the Whole of the service using forecasts of the final Aggregated Price for Service Provided to Date and the final Aggregated Total of Prices. This share

is included in the amount due following Completion of the whole of the services.

54.5 The *Service Manager* makes a final assessment of the *Consultant's* share, using the final Aggregated Price for Service Provided to Date and the final Aggregated Total of the Prices. This share is included in the final amount due.

93.3 If there is a termination except if Z4 applies, the *Service Manager* assesses the *Consultant's* share after certifying termination. The assessment uses as the Aggregated Price for Service Provided to Date the sum of

- the total of
    - the Defined Cost which the *Consultant* has paid and
    - which it is committed to pay for work done before terminationand
  - the total of
    - the Defined Cost which the *Consultant* or *Contractor* has paid and
    - which it is committed to payin the *partner contract* before the date the termination certificate is issued under this contract.
- The assessment uses as the Aggregated Total of the Prices the sum of
- the total of
    - the lump sum price for each activity which has been completed and
    - a proportion of the lump sum price for each incomplete activity which is the proportion of the work in the activity which has been completedand
  - the total of
    - the lump sum price for each activity which has been completed and
    - a proportion of the lump sum price for each incomplete activity which is the proportion of the work in the activity which has been completedin the *partner contract* before the date the termination certificate is issued under this contract.

Add:

11.2(25) The Aggregated Total of the Prices is sum of

- the total of the Prices and
- the total of the Prices in the partner contract

11.2(26.) The Aggregated Price for Service Provided to Date is the sum of

- the Price for Service Provided to Date and
- the Price for Service Provided to Date or the Price for Work Done to Date in the partner contract.

### Z23 Linked contracts

Issues requiring redesign or rework on this contract due to a fault or error of the *Consultant* will neither be an allowable cost under this contract or any subsequent contract, nor will it be a Compensation event under this contract or any subsequent contract under this project or programme.

### Z24 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 *Service Manager's* certificate.

Delete existing clause 51.2 and replace with:

- 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 *Service 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

### Z25 Risks and Insurance

The *Consultant* is required to submit insurances annually as Clause Z4 of the Framework Agreement

## 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 X10: Information modelling

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

### OPTION X18: Limitation of liability

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

£1,000,000.00

The *Consultant's* liability to the *Client* for Defects that are not found until after the *defects date* is limited to

£5,000,000.00

The *end of liability date is* 6 years after the Completion of the whole of the *service*

### 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)2: The Housing Grants, Construction and Regeneration Act 1996

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

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

term *beneficiary*

## Part Two - Data provided by the *Consultant*

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

### 1 General

The *Consultant* is  
Name

Jeremy Benn Associates Ltd

Address for communications

1 Broughton Park Old Lane North  
Broughton  
Skipton  
North Yorkshire  
BD23 3FD

Address for electronic communications

[REDACTED]

The *fee percentage* is

Option C

[REDACTED]

The *key persons* are

Name (1)

[REDACTED]

Job

Principal Analyst

Responsibilities

Project Manager

Qualifications

BSc PhD MCIWEM C.WEM CENV MCM

Experience

20 years FRM

Name (2)

[REDACTED]

Job

Director

Responsibilities

Project Director

Qualifications

MSc Cenv MCIWEM C.WEM

Experience

20 years FRM

Name (3)

[REDACTED]

Job

Technical Director

Responsibilities

Hydrology Lead

Qualifications

BSc MSc PhD Cenv MCIWEM C.WEM

Experience

17 years FRM

Name (4)

[REDACTED]

Job

Principal Analyst

Responsibilities

Hydraulic Modelling Lead

Qualifications

BEng PGDip MSc

Experience

13 years FRM

Name (5)

[REDACTED]

Job

Technical Director

Responsibilities

Flood Warning Lead

Qualifications

BSc PhD MCIWEM C.WEM

Experience

20 years FRM

Name (6)

Job

Responsibilities

Qualifications

Experience

Name (7)

Job

Responsibilities

Qualifications

Experience

The following matters will be included in the Early Warning Register  
COVID-19 may have an impact on the project  
Data supply delays

### 3 Time

The programme identified in the Contract Data is

Q20-2370 - Ashford modelling PR v1.0

### 5 Payment

The *activity schedule* is  
Q20-2370 - Ashford modelling AS v2.0

The tendered total of the Prices is:  
£108,932.16

### Resolving and avoiding disputes

The *Senior Representatives* of the *Consultant* are

Name (1)

Address for communications

Jeremy Benn Associates Ltd  
35 Perrymount Road  
Haywards Heath  
West Sussex  
RH16 3BW

Address for electronic communications

Name (2)

Address for communications

Benn Associates  
1 Broughton Park Old Lane North  
Broughton  
Skipton  
North Yorkshire  
BD23 3FD

Address for electronic communications

### 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



KSL Area FCRM manager

Signature

Role

*Consultant* execution

*Consultant* execution

Signed under hand by

for and on behalf of      Jeremy Benn Associates Ltd



Director

Signature

Role