

DATED 23 February 2011

CERTIFICATE

SECTION 3 – LOCAL GOVERNMENT (CONTRACTS) ACT 1997

PROJECT AGREEMENT

Relating to

North West Fire and Rescue PFI Project



**DICKINSON DEES**

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**CERTIFICATE ISSUED UNDER SECTION 3 OF THE LOCAL GOVERNMENT (CONTRACTS)  
ACT 1997 ("the Act")**

This certificate is given by Cumbria County Council ("the Authority") under section 3 of the Act in respect of a Project Agreement dated 23 February 2011 ("the Contract") between the Authority, Lancashire Combined Fire Authority, and Merseyside Fire and Rescue Authority (1) and Balfour Beatty Fire and Rescue NW Limited ("the Contractor") (2).

**1. PERIOD OF CONTRACT – s3(2)(a) OF THE ACT**

The Contract is to operate (subject as provided therein) from the Commencement Date (as defined in the Contract), until the earlier of the Expiry Date (as defined in the Contract) or the Termination Date (as defined in the Contract).

**2. PURPOSE OF THE CONTRACT – s3(2)(b) OF THE ACT**

The purpose of the Contract is to provide for the design, build, financing and operation and maintenance of replacement fire stations and the undertaking of certain ancillary, demolition and site clearance works at various sites in Cumbria, Lancashire and Merseyside as more particularly specified in the Contract.

**3. CONTRACT TYPE – s3(2)(c) OF THE ACT**

The Contract falls within section 4(3) of the Act.

**4. POWERS TO ENTER INTO THE CONTRACT – s3(2)(d) OF THE ACT**

The Authority has the power to enter into the Contract pursuant to section 2 of the Local Government Act 2000, section 111 of the Local Government Act 1972 and section 1(1) of the Act.

**5. COPIES OF CERTIFICATE – s3(2)(e) OF THE ACT**

A copy of this certificate is to be given to each person to whom a copy is required to be given by the Local Authorities (Contracts) Regulations 1997 (as amended) ("the Regulations") as follows:-

- 5.1 pursuant to regulation 3 of the Regulations, to the Contractor, to Lancashire Combined Fire Authority and to Merseyside Fire and Rescue Authority; and
- 5.2 pursuant to regulation 4 of the Regulations, to the monitoring officer and auditor of the Authority.

**6. MATTERS TO BE DEALT WITH IN THE CERTIFICATE – s3(2)(f) OF THE ACT AND REGULATION 6 OF THE LOCAL AUTHORITIES (CONTRACTS) REGULATIONS 1997**

The main relevant functions, the discharge of which the Contract is calculated to facilitate, and/or is conducive to or incidental to, are those conferred by sections 6 to 20 of the Fire and Rescue Services Act 2004.

**7. COMPLIANCE WITH REGULATIONS – s3(2)(g) OF THE ACT**

The Authority has complied or will comply with all requirements imposed by the Regulations with respect to the issue of certificates under section 3(2) of the Act.

8. **CONSENT OF OTHER PARTIES TO THE CONTRACT – s3(4) OF THE ACT**

The Contractor, Lancashire Combined Fire Authority and Merseyside Fire and Rescue Authority are the only other parties to the Contract, and by clause 84.2 of the Contract those parties have consented to the issue of this certificate.

Signed this 23<sup>rd</sup> day of February 2011



Name:- KATE MCLAUGHLIN - FLYNN

being duly authorised by the Authority and being a chief finance officer/a person who, as respects all or most of the duties of their post, is required to report directly or is directly accountable to the chief finance officer, as required by regulation 7(3) of the Local Authorities (Contracts) Regulations 1997.

Cumbria County Council  
The Courts  
Carlisle  
Cumbria  
CA3 8NA

Copies to:-

The Contractor  
Lancashire Combined Fire Authority  
Merseyside Fire and Rescue Authority  
The Authority's Monitoring Officer  
The Authority's Auditor

DATED 23 February 2011

CERTIFICATE

SECTION 3 – LOCAL GOVERNMENT (CONTRACTS) ACT 1997

DIRECT AGREEMENT

Relating to  
North West Fire and Rescue PFI Project



**DICKINSON DEES**

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**CERTIFICATE ISSUED UNDER SECTION 3 OF THE LOCAL GOVERNMENT (CONTRACTS)  
ACT 1997 ("the Act")**

This certificate is given by Cumbria County Council ("the Authority") under section 3 of the Act in respect of a Funders Direct Agreement dated 23 February 2011 ("the Direct Agreement") between the Authority, Lancashire Combined Fire Authority, and Merseyside Fire and Rescue Authority (1), Dexia Crédit Local ("the Facility Agent") (2), Dexia Management Services Limited ("the Security Trustee") (3) and Balfour Beatty Fire and Rescue NW Limited ("the Contractor") (4).

**1. PERIOD OF DIRECT AGREEMENT – s3(2)(a) OF THE ACT**

The Direct Agreement is to operate from the date of execution and remain in force until the later of:-

- 1.1 the expiry of the period for which the project agreement dated 23 February 2011 between the Authority, Merseyside Fire and Rescue Authority and Lancashire Combined Fire Authority (1) ("the Authorities") and the Contractor (2) ("the Contract") is intended to operate (as provided in the Contract); or
- 1.2 the date on which all amounts which may be or become owing by the Contractor to the persons providing finance to the Contractor for the project as contemplated by the Senior Financing Agreements (as such term is defined in the Contract) have been irrevocably paid in full.

**2. PURPOSE OF DIRECT AGREEMENT – s3(2)(b) OF THE ACT**

The purpose of the Direct Agreement is to provide, inter alia, for:-

- 2.1 the Authority's consent to the granting of security over the Contractor's rights under the Contract;
- 2.2 in the event that the Authorities would otherwise have the right to terminate the Contract, a suspension of the rights of the Authorities to terminate the Contract;
- 2.3 "step-in" and "step-out" rights for the Facility Agent or the Security Trustee through a Representative (as defined in the Direct Agreement) in respect of the Contract;
- 2.4 a pre-agreed novation mechanism in respect of the Contract;
- 2.5 the application of insurance proceeds; and
- 2.6 certain related undertakings given by the Authorities, the Facility Agent and the Security Trustee.

**3. AGREEMENT TYPE – s3(2)(c) OF THE ACT**

The Direct Agreement falls within section 4(4) of the Act.

**4. POWERS TO ENTER INTO THE DIRECT AGREEMENT – s3(2)(d) OF THE ACT**

The Authority has power to enter into the Direct Agreement pursuant to section 2 of the Local Government Act 2000, section 111 of the Local Government Act 1972 and section 1(2) of the Act.

5. **COPIES OF CERTIFICATE – s3(2)(e) OF THE ACT**

A copy of this certificate is to be given to each person to whom a copy is required to be given by the Local Authorities (Contracts) Regulations 1997 (as amended) ("the Regulations") as follows:-

- 5.1 pursuant to regulation 3 of the Regulations, to the Contractor, the Facility Agent, the Security Trustee, Lancashire Combined Fire Authority and Merseyside Fire and Rescue Authority; and
- 5.2 pursuant to regulation 4 of the Regulations, to the monitoring officer and auditor of the Authority.

6. **MATTERS TO BE DEALT WITH IN THE CERTIFICATE – s3(2)(f) OF THE ACT AND REGULATION 6 OF THE LOCAL AUTHORITIES (CONTRACTS) REGULATIONS 1997**

The main relevant functions, the discharge of which the Direct Agreement is calculated to facilitate, and/or is conducive to or incidental to, are those conferred by sections 6 to 20 of the Fire and Rescue Services Act 2004.

7. **REQUIREMENTS WITH RESPECT TO ISSUE OF CERTIFICATE – s3(2)(g) OF THE ACT**

The Authority has complied or will comply with all requirements imposed by the Regulations with respect to the issue of certificates under section 3(2) of the Act.

8. **CONSENT OF OTHER PARTIES TO THE DIRECT AGREEMENT – s3(4) OF THE ACT**

By clause 84.2 of the Contract, the Contractor, Lancashire Combined Fire Authority and Merseyside Fire and Rescue Authority have consented to the issue of this certificate, and by clause 19.2 of the Direct Agreement the Facility Agent and the Security Trustee have consented to the issue of this certificate, and the Contractor, Lancashire Combined Fire Authority, Merseyside Fire and Rescue Authority, the Facility Agent and the Security Trustee are the only other parties to the Direct Agreement.

Signed this 23<sup>rd</sup> day of February 2011



Name: KATE MCLAUGHLIN - FLYNN

Being duly authorised by the Authority and being a chief finance officer/a person who, as respects all or most of the duties of their post, is required to report directly or is directly accountable to the chief finance officer, as required by Regulation 7(3) of the Local Authorities (Contracts) Regulations 1997.

Cumbria County Council  
The Courts  
Carlisle  
Cumbria  
CA3 8NA

Copies to:-

The Facility Agent  
The Security Trustee  
The Contractor  
Lancashire Combined Fire Authority  
Merseyside Fire and Rescue Authority  
The Authority's Monitoring Officer  
The Authority's Auditor



11 February 2011  
Your reference:  
Our reference: BB/EF

To whom it may concern

Dear Sirs

**North West Fire and Rescue Services PFI Project**

I confirm that for the purposes of Regulation 7(2) of The Local Authorities (Contracts) Regulations 1997, the Assistant Director, Finance/Finance Director (Kate McLaughlin-Flynn) is a statutory chief officer within the meaning given to that expression in section 2(6) of the Local Government and Housing Act 1989 and is therefore authorised to certify that the Project Agreement, its Schedules and the Direct Agreement are intra vires in accordance with the Local Government (Contracts) Act 1997 as confirmed in the minutes of a Cabinet meeting of Cumbria County Council dated 16 September 2010 (the "Minutes").

I further confirm that for the purposes of Regulation 7(2) of The Local Authorities (Contracts) Regulations 1997, the Corporate Director Resources (Diane Wood) is a non-statutory chief officer within the meaning given to that expression in section 2(7) of the Local Government and Housing Act 1989 and is therefore authorised to certify that the Project Agreement, its Schedules and the Direct Agreement are intra vires in accordance with the Local Government (Contracts) Act 1997 as confirmed in the Minutes.

The Minutes referred to "Chief Finance Officer". I confirm that this post has been renamed (but is otherwise the same post), "Assistant Director, Finance/Finance Director". This change was made in amendments to the Council's Financial Standing Orders. A certified copy extract of the relevant sections of the Financial Standing Orders is appended to this letter together with certified minute no 69 of the full Council meeting held on 19 November 2010 approving the revised Standing Orders agreed within the Council Constitution.

Signed

AB Harwood

Dated

11/2/11

Name

AB HARWOOD

Position

ASSISTANT DIRECTOR - LEGAL  
AND DEMOCRATIC SERVICES



## 1 STATUS AND DEFINITIONS

### 1.1 Introductions

- 1.1.1 To conduct its business efficiently a local authority needs to ensure that it has sound financial management. Part of this process is the establishment of financial regulations which set out the financial policies of the authority.
- 1.1.2 In approving the Financial Standing Orders, the Council has sought to provide a strong corporate framework for conducting the financial affairs of the Council, incorporating appropriate controls and providing those responsible for delivering services with financial responsibility. The Financial Regulations provide clarity about the financial accountabilities of officers and Members including those managing resources where the County Council is acting as Trustee, accountable body or where services are provided by a third party on behalf of the County.
- 1.1.3 All Members and Officers have a general responsibility for taking reasonable action to provide for the security and use of the resources and assets under their control, and for ensuring that the use of such resources and assets is legal, is consistent with the Council's policies, is properly authorised, provides value for money and achieves best value.

### 1.2 Definitions

- 1.2.1 In the context of Financial Regulations and Procedures generic terms are included to avoid the need for regular amendment due to changes in post titles.
- **"Director"** means the Council's Chief Executive and all senior officers designated as Corporate Directors, or reporting to corporate Directors and with delegated financial responsibilities nominated by the Corporate Director
  - **"Finance Director"** means the Section 151 Officer who is currently the Assistant Director - Finance.
  - **"Monitoring Officer"** means the section 114 Officer who is currently the Assistant Director – Legal and Democratic Services.
  - **"Head of Paid Service"** means the Chief Executive.
  - **"Internal Audit"** means the Management Audit Unit.
  - **"Executive"** means the Cabinet.
  - The **"Finance Manager"** relates to the **Group Manager** for each Directorate.
  - **"Budget"** means plan for Revenue and Capital expenditure and income relating to activities of the Council

I hereby certify that this is  
a true copy of two pages of the  
original Cumbria County Council  
Financial Standing Orders approved by  
Cumbria County Council on

- **“Capital Programme”** means the Capital Budget approved by the Council for the forthcoming Financial Year and indicative programme of Capital Schemes for the subsequent two financial years
- **“Financial Year”** means the Council’s accounting period which runs from 1<sup>st</sup> April to 31<sup>st</sup> March
- **“Three Year Financial Plan”** means the Revenue Budget approved by the Council for the forthcoming Financial Year together with indicative figures for the subsequent two financial years

### **1.3 Financial Management of Schools**

- 1.3.1 The Council’s Scheme for Financing Schools shall include Financial Regulations for Schools, relating to those matters where decisions have been delegated to school governing bodies.

### **1.4 Rights of External Bodies**

- 1.4.1 The Finance Director will be the first contact within the Council for the External Auditor who has rights of access to all documents and information necessary for audit purposes.
- 1.4.2 The Council may, from time to time, be subject to audit, inspection or investigation of its financial systems by other external bodies such as OFSTED, and HM Revenue and Customs who have statutory rights of access to financial records. The Finance Director will be the principal contact within the Council on such matters.

### **1.5 MAIN RESPONSIBILITIES OF THE FINANCE DIRECTOR**

#### ***Proper Administration of the Council’s Financial Affairs***

- 1.5.1 The Finance Director is the Officer responsible for the proper administration of the Council’s financial affairs under Section 151 of the Local Government Act 1972, and Sections 112-114 of the Local Government Finance Act 1988.
- 1.5.2 The Finance Director has a duty under Section 114(2) of the Local Government Act 1988 to make a report if it appears that the Council, Cabinet, or any Committee is about to or has already carried out either:
- a) a decision which involves or would involve the Council in incurring expenditure which is unlawful, OR
  - b) a course of action which if pursued would be unlawful and likely to cause a loss or deficiency to the Council.

**RESOLVED, that**

- (1) the proposed arrangements for developing the Council Plan and Budget be agreed;
- (2) the proposed strategic planning timeline to support the development of a three year Council Plan and Budget for 2011 – 14 set out in the report be agreed;
- (3) the consultation arrangements for the Council Plan and a series of budget options be noted.

*The Council adjourned for lunch from 12.40pm until 1.30pm*

#### **69. REPORT OF THE CONSTITUTION REVIEW GROUP**

The Chairman of the Constitution Review Group presented a report which dealt with a review of the Constitution.

Mr Young moved, duly seconded, that:-

- (1) the revised Constitution be approved
- (2) the proposed amendments regarding contracts procedure rules (as tabled at the meeting) be agreed
- (3) delegated authority be granted to the Assistant Director - Legal and Democratic Services to make further amendments to the Constitution in cases where further revisions are deemed necessary before the document is published, provided that the members of the Constitution Review Group are notified in writing of the proposed changes before they are made.

Mr Young noted that the Council had not yet appointed a Designated Scrutiny Officer. He asked the Scrutiny Management Board to consider the issue and make a recommendation to Council accordingly.

**RESOLVED, that**

- (1) the revised Constitution be approved subject to the following further changes to contract procedure rules being agreed

#### **Paragraph 4.10 (page 268)**

The reference to "£1000,000" should read £100,000

*I hereby certify that this consisting of two pages is a true copy of the original minute 69 of the meeting of Cumbria County Council held on 19 November 2010*

*Signed C.B. Howson*



