NEC4 Engineering and Construction

Short Contract

FCRM Operational Framework – South West Hub Lot 1

A contract between	**The Environment Agency** **Horizon House** **Deanery Road** **Bristol** **BS1 5AH**
And	
For	**Chedzoy New Cut - Access Gateways and Culverts**
	Contract Forms - **Contract Data** - **The *Contractor's* Offer and *Client's* Acceptance** - **Price List** - **Scope** - **Site Information**

Contract Data

The *Client's* Contract Data

	The *Client* is	
Name	Environment Agency	
Address for communications	[redacted]	
Address for electronic communications	[redacted]	
The *works* are	Design and construction of new and replacement access gateways and culverts	
The *site* is	Chedzoy New Cut access track, between NGR ST 34706 35719 and ST 35670 36432.	
The *starting date* is	To be determined by the successful Contractor's programme, but no earlier than 22nd September 2022	
The *completion date* is	To be determined by the successful Contractor's programme, but no later than 31st March 2024	
The *delay damages* are	nil	Per day
The *period* for reply is	2	weeks
The *defects date* is	52	weeks after Completion
The *defects correction period* is	4	weeks
The *assessment day* is	the last working day	of each month
The *retention* is	nil	%
The United Kingdom Housing Grants, Construction and Regeneration Act (1996) **does** apply		
The *Adjudicator* is :		
In the event that a first dispute is referred to adjudication, the referring Party at the same time applies to the Institution of Civil Engineers to appoint an *Adjudicator*. The application to the Institution includes a copy of this		

definition of the *Adjudicator*. The referring Party pays the administrative charge made by the Institution. The person appointed is also *Adjudicator* for later disputes.

Contract Data

The *Client's* Contract Data

The interest rate on late payment is		% per complete week of delay.
Insert a rate only if a rate less than 0.5% per week of delay has been agreed.		
For any one event, the liability of the *Contractor* to the *Client* for loss of or damage to the *Client's* property is limited to	£100,000	
The *Client* provides this insurance	None	

Insurance Table

Event	**Cover**	**Cover provided until**
Loss of or damage to the *works*	The replacement cost	The *Client's* certificate of Completion has been issued
Loss of or damage to Equipment, Plant and Materials	The replacement cost	The defects Certificate has been issued
The *Contractor's* liability for loss of or damage to property (except the works, Plant and Materials and Equipment) and for bodily injury to or death of a person (not an employee of the *Contractor*) arising from or in connection with the *Contractor's* Providing the Works	Minimum £5,000,000 in respect of every claim without limit to the number of claims	
Liability for death of or bodily injury to employees of the *Contractor* arising out of and in the course of their employment in connection with this contract	The amount required by the applicable law	
Failure of the *Contractor* to use the skill and care normally used by professionals providing works similar to the works	Minimum £5,000,000 in respect of every claim without limit to the number of claims	12 years following Completion of the whole of the works or earlier termination

The *Adjudicator nominating body* is	The Institution of Civil Engineers
The *tribunal* is	litigation in the courts

The *conditions of contract* are the NEC4 Engineering and Construction Short Contract June 2017 and the following additional conditions	
Only enter details here if additional conditions are required.	
Z1.0	Sub-contracting
Z1.1	The *Contractor* submits the name of each proposed subcontractor to the *Client* for acceptance. A reason for not accepting the subcontractor is that their appointment will not allow the *Contractor* to Provide the Works. The *Contractor* does not appoint a proposed subcontractor until the *Client* has accepted them.
Z1.2	Payment to subcontractors and suppliers will be no more than 30 days from receipt of invoice.
Z2.0	Environment Agency as a regulatory authority
Z2.1	The Environment Agency's position as a regulatory authority and as *Client* under the contract is separate and distinct. Actions taken in one capacity are deemed not to be taken in the other.
Z2.2	Where statutory consents must be obtained from the Environment Agency in its capacity as a regulatory authority, the *Contractor* is responsible for obtaining these and paying fees (unless stated otherwise in the Scope). The *Client's* acceptance of a tender and the *Client's* instruction or variation of the works does not constitute statutory approval or consent.
Z2.3	An action by the Environment Agency as regulatory authority is not in its capacity as *Client* and is not a compensation event.
Z3.0	Confidentiality & Publicity
Z3.1	The *Contractor* may publicise the works only with the *Client's* written agreement.
Z4.0	Correctness of Site Information
Z4.1	Site Information about the ground, subsoil, ducts, cables, pipes and structures is provided in good faith by the *Client* but is not warranted correct. The *Contractor* checks the correctness of any such Site Information they rely on for the purpose of Providing the Works.
Z5.0	The Contracts (Rights of Third Parties) Act 1999
Z5.1	For the purposes of the Contracts (Rights of Third Parties) Act 1999, nothing in this contract confers or purports to confer on a third party any benefit or any right to enforce a term of this contract.
Z6.0	Design
Z6.1	Where design is undertaken, it is the obligation of the *Contractor* to ensure the use of skill and care normally used by professionals providing similar design services.
Z6.2	The *Contractor* designs the parts of the works which the Scope states they are to design.
Z6.3	The *Contractor* submits the particulars of their design as the Scope requires to the *Client* for acceptance. A reason for not accepting the *Contractor's* design is that it does not comply with either the Scope or the applicable law. The *Contractor* does not proceed with the relevant work until the *Client* has accepted this design.
Z6.4	The *Contractor* may submit their design for acceptance in parts if the design of each part can be assessed fully.
Z7.0	Change to Compensation Events
Z7.1	Delete the text of Clause 60.1(11) and replace by: The *works* are affected by any one 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 *Contractor* and sub-contractors • 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 device or thing dropped from them
Z8.0	Framework Agreement
Z8.1	The *Contractor* shall ensure at all times during this contract it complies with all the obligations and conditions of the Framework Agreement made with the *Client*.
Z9.0	Termination
Z9.1	Delete the text of Clause 92.3 and replace with: If the *Contractor* terminates for Reason 1 or 6, the amount due on termination also includes 5% of any excess of a forecast of the amount due at Completion had there been no termination over the amount due on termination assessed as for normal payments.
Z10.0	Data Protection
Z10.1	The requirements of the Data Protection Schedule shall be incorporated into this contract
Z11.0	Liabilities and Insurance
Z11.1	Civil data protection claims and regulatory fines for breaches of Data Protection Legislation are excluded from any limit of liability stated.
Z30.0	Material Price Volatility The Client recognises the ongoing pricing uncertainty in relation to materials for the period from 1 July 2021 to 30 June 2022 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%.
Z30.1	Defined terms a) The Latest Index (L) 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) at each date of assessment of an amount due is the total of the Material Factor as defined below multiplied by L for the index linked to it. c) Material Factor (MF) 40% is used, 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.
Z30.2	Price Volatility Provision Through a Compensation Event the Client shall pay the PVP. PVP is calculated as: Assessment x MF x L = PVP
Z30.3	Price Increase 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.
Z30.4	Compensation Events 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 2023 period compensation event.

Assessment Date	Defined Cost?	Forecasted Cost?
31st Jul 22	In period costs only	No
31st Aug 22	In period costs only	No
30th Sept 22	In period costs only	No
31st Oct 22	In period costs only	No

30th Nov 22	In period costs only	No
31st Dec 22	In period costs only	No
31st Jan 23	In period costs only	No
28th Feb 23	In period costs only	No
31st Mar 23	In period costs only	No
30th Apr 23	In period costs only	No
31st May 23	In period costs only	No
30th Jun 23	In period costs only	Forecasted costs for remainder of contract

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.

Contract Data

The *Contractor's* Contract Data

	The *Contractor* is	
Name	Amalgamated Construction Ltd	
Address for communications	Whaley Road, Barugh, Barnsley S75 1HT	
Address for electronic communications	[redacted]	
The *fee* percentage is	[redacted]	%
The *people rates* are	CECA	
category of person	unit	rate
The *published list of Equipment* is		CECA
The *percentage for adjustment for Equipment* is		[redacted]

Contract Data

The *Contractor's* Offer and *Client's* Acceptance

The *Contractor* offers to Provide the Works in accordance with these *conditions of contract* for an amount to be determined in accordance with these *conditions of contract*.

The offered total of the Prices is	£228,095.00 (Two hundred twenty eight thousand ninety five pounds)
	Enter the total of the Prices from the Price List.

Signed on behalf of the *Contractor*

Name	[redacted]
Position	Managing Director
Signature	[redacted]
Date	21st September 2022

The *Client* accepts the *Contractor's* Offer to Provide the Works

Signed on behalf of the *Client*

Name	[redacted]
Position	Commercial Manager
Signature	[redacted]
Date	17th October 2022

Price List

Entries in the first four columns in this Price List are made either by the *Client* or the tenderer.

If the *Contractor* is to be paid an amount for the item which is not adjusted if the quantity of work in the item changes, the tenderer enters the amount in the Price Column only: the Unit, Quantity and rate columns being left blank.

If the *Contractor* is to be paid an amount for the item of work which is the rate for the work multiplied by the quantity completed, the tenderer enters the rate which is then multiplied by the expected quantity to produce the Price, which is also entered.

Item Number	Description	Unit	Quantity	Rate	Price
1	Attend start up meeting and provide progress updates	No.	5		6069
2	Design of generic strike post, gate and fencing replacement	Sum	1		4924
3	Prepare programme and update monthly	sum	1		2249
4	Design of generic culvert replacement	Sum	1		4124
5	Vegetation control at gateway and culvert	No.	14		16628.20
6	Ground Investigation and Topographic Survey	Sum	1		9749
7	Produce CPP and co-operation with Principal Designer. Provide information and submit FRAP applications	Sum	1		2800
8	Mobilisation and site set-up	Sum	1		7136
9	Design of any location-specific details and construction of works at field boundary 1	Sum	1		4927
10	Design of any location-specific details and construction of works at field boundary 2	Sum	1		3488
11	Design of any location-specific details and construction of works at field boundary 3	Sum	1		6187.4
12	Design of any location-specific details and construction of works at field boundary 4	Sum	1		16897
13	Design of any location-specific details and construction of works at field boundary 5	Sum	1		16682
14	Design of any location-specific details and construction of works at field boundary 6	Sum	1		13812
15	Design of any location-specific details and construction of works at field boundary 7	Sum	1		7117
16	Design of any location-specific details and construction of works at field boundary 8	Sum	1		14312
17	Design of any location-specific details and construction of works at field boundary 9	Sum	1		15122.2

18	Design of any location-specific details and construction of works at field boundary 10	Sum	1		13872.2
19	Design of any location-specific details and construction of works at field boundary 11	Sum	1		14682.2
20	Design of any location-specific details and construction of works at field boundary 12	Sum	1		14982.2
21	Design of any location-specific details and construction of works at field boundary 13	Sum	1		14797.2
22	Design of any location-specific details and construction of works at field boundary 14	Sum	1		2237.2
23	De-mobilise and site tidy-up	Sum	1		9100.20
24	Produce Health and Safety File including topographic as-constructed drawings	Sum	1		3700
25	Complete ERIC carbon monitoring spreadsheet and submit to client.	Sum	1		2500
				The total of the Prices	£228,095.00

The method and rules used to compile the Price List are
Civil Engineering Standard Method of Measurement 4th edition (CESMM4) as per the Framework Price Workbook.

Scope

The Scope should be a complete and precise statement of the *Client's* requirements. If it is incomplete or imprecise there is a risk that the *Contractor* will interpret it differently from the *Client's* intention.

1. Description of the *works*

Give a detailed description of what the *Contractor* is required to do and of any work the *Contractor* is to design.

The *Contractor* is to undertake ALL design and ALL construction tasks (including temporary works design) to improve access adjacent to Chedzoy New Cut.

The *Contractor* shall undertake all co-ordination, design and construction in relation to the *works*. The *Contractor* is required to liaise with the *Client's* CDM Principal Designer. The *Contractor* is required to prepare and obtain a FRAP. The *Contractor* is required to work collaboratively with *Client* and its agents to form a programme that allows ecology safeguards to be followed. The *Contractor* shall carryout out strimming or vegetation control to keep growth low at each gateway and culvert when required by the programme.

The *Contractor* shall complete topographic and ground investigational survey of the gateways necessary to form a design and complete topographic survey culvert post installation.

The *Contractor* shall remove accumulated silt in culverts and channels where necessary to re-facilitate flow

The *Contractor* shall provide their own welfare and power for all sites. The *Contractor* shall:

- Field boundary 1 – remount 1 no. bolt receiver to enable existing gate to be secured with bolt.
- Field boundary 2 – new strike post with 15 ft wide metal field gate and fencing between strike post and Chedzoy New Cut, remount 1 no. bolt receiver to enable existing gate to be secured with bolt.
- Field boundary 3 – install new twinwall culvert 300mm diameter (replacing Asset ID 226091 removed following damage), setting access track back to 2m from the bank of Chedzoy New Cut and infilling end of drainage ditch. Remove 1 no. existing gate, strike posts and fencing between strike post and Chedzoy New Cut, and install 2 no. 15ft wide metal field gates with strike posts and fencing.
- Field boundary 4 - remove 1 no. existing gate, strike posts and fencing between strike post and Chedzoy New Cut, rebuild existing headwalls and install 2 no. 15ft wide metal field gates with strike posts and fencing. The design at this location shall consider the presence of the Wessex Water rising main in the vicinity.
- Field boundary 5 - remove 1 no. existing gate, strike posts and fencing between strike post and Chedzoy New Cut, set access track back to 2m from the bank of Chedzoy New Cut, extending existing 300mm diameter culvert (Asset ID 226090), infilling end of ditch and cutting top of existing trench sheets down to 300mm below track surface, and install 2 no. 15ft wide metal field gates with strike posts and fencing. The design at this location shall consider the presence of the Wessex Water rising main in the vicinity.

- Field boundary 6 - remove 1 no. existing gate, strike posts and fencing between strike post and Chedzoy New Cut, set access track back to 2m from the bank of Chedzoy New Cut, extending existing 300mm diameter culvert (Asset ID 226089) and infilling end of ditch and hole created by cattle poaching, and install 2 no. 15ft wide metal field gates with strike posts and fencing.
- Field boundary 7 – fill voids in side of track adjacent to existing trench sheets, install 1 no. new strike post with 15 ft wide metal field gate and fencing between strike post and Chedzoy New Cut
- Field boundary 8 - remove two existing gates, strike posts and fencing, replace with equivalent and 15ft wide metal field gates set back 2m from the bank of Chedzoy New Cut, extending existing 300mm diameter culvert (Asset ID 226086) and infilling end of ditch.
- Field boundary 9 - remove 1 no. existing gate, strike posts and fencing between strike post and Chedzoy New Cut, set access track back to 2m from the bank of Chedzoy New Cut, infilling end of drainage ditch, and install 2 no. 15ft wide metal field gates with strike posts and fencing.
- Field boundary 10 - remove 1 no. existing gate, strike posts and fencing between strike post and Chedzoy New Cut, set access track back to 2m from the bank of Chedzoy New Cut and install 2 no. 15ft wide metal field gates with strike posts and fencing, extending existing 300mm diameter culvert (Asset ID 226085) and infilling end of ditch
- Field boundary 11 - remove 1 no. existing gate, strike posts and fencing between strike post and Chedzoy New Cut, set access track back to at least 2m from the bank of Chedzoy New Cut, infilling end of drainage ditch, and install 2 no. 15ft wide metal field gates with strike posts and fencing. Design for
- Field boundary 12 - remove 1 no. existing gate, strike posts and fencing between strike post and Chedzoy New Cut, set access track back to 2m from the bank of Chedzoy New Cut, extending existing 900mm diameter culvert (Asset ID 226084), infilling end of drainage ditch, and install 2 no. 15ft wide metal field gates with strike posts and fencing.
- Field boundary 13 - remove 1 no. existing gate, strike posts and fencing between strike post and Chedzoy New Cut, set access track back to 2m from the bank of Chedzoy New Cut, infilling end of drainage ditch, and install 2 no. 15ft wide metal field gates with strike posts and fencing.
- Field boundary 14 – remount 1 no. bolt receiver to enable existing gate to be secured with bolt.

The cross-sections / diameters of strike posts and timber used in fencing shall match the existing. Treated redwood shall be used for all new timber construction.

The *Contractor* shall produce the Health & Safety File for the *works* including as-built drawings.

The *Contractor* shall produce the Site Waste Management Plan for the *works*.

The *Contractor* shall use the ERIC tool to determine the approximate carbon footprint in delivering the works.

2. Drawings

List the drawings that apply to the contract.

Drawing Number	Revision	Title
-	-	**Chedzoy gateways - EA field boundary Locations.pdf**

3. Specifications

List the specifications which apply to the contract.

Title	Date or Revision	Tick if publicly available
SHEW Code of Practice	2017	No
Minimum Technical Requirements		No
Environment Topographic Survey Standard Specification	2022	No

4. Constraints on how the *Contractor* Provides the Works

State any constraints on the sequence and timing of work and on the methods and conduct of work including the requirements for any work by the *Client*.

The *Contractor* shall not commence any work on the site until the *Client*, or their representative, has accepted the method statements and risk assessments related to this contract

The *Contractor* is to prepare, for the *Client's* acceptance, the Construction Phase Plan (CPP) and the Environmental Action Plan (EAP) prior to starting the works

The *Contractor* is to prepare and submit the Environmental Permit application prior to starting the works

Working times

The *Contractor* will be permitted to work between 7.30am and 6.00pm on weekdays (Monday to Friday)

5. Requirements for the programme

State whether a programme is required and, if it is, state what form it is to be in, what information is to be shown on it, when it is to be submitted and when it is to be updated.

State what the use of the *works* is intended to be at their Completion as defined in clause 11.2(1).

The *Contractor* submits his programme with the *Contractor's* Offer for acceptance. The *Contractor* shows on each programme which he submits for acceptance (in form of Gantt chart showing the critical path, proposed order and timing to undertake the works and proposed plant and labour resources) the following:

(a) Period required for mobilisation/ planning & post contract award

(b) starting date

(c) Each of the activities listed within the Price List

(d) Any key third party interfaces: lead in periods for materials and sub-contractors; time required to obtain consents/waste permits; stated constraints; *Contractor's* risks.

(e) Completion date

6. Services and other things provided by the *Client*

Describe what the *Client* will provide, such as services (including water and electricity) and "free issue" Plant and Materials and equipment.

Item	Date by which it will be provided
Template for Health & Safety File	**On contract award**
Estates Land access agreement	
Baseline ecology survey	
Watervole extraction under Environment Agency licence	

Site Information

Chedzoy New Cut - Access Gateways and Culverts PCI

Proposed sub-contractors

	Name and address of proposed subcontractor	Nature and extent of work

1.	Clarke Bond design consultants	Design
2.	Glanville Contractors	Civils
3.	Form of Contract:	NEC4 subcontract
4.	Form of Contract:	NEC4 subcontract