

JCT

MW 2016

Minor Works Building Contract 2016

2016

MINOR WORKS BUILDING CONTRACT

Agreement

This Agreement is made the _____ 20 24

Between

The Employer Ebbsfleet Development Corporation

(Company No. _____)⁽¹⁾

of/whose registered office is at The Observatory, Castle Hill
Drive, Swanscombe, Kent, DA10 1EE

And

The Contractor Michael Brady Ltd

(Company No. _____)⁽¹⁾

of/whose registered office is at Monument House, 215 Marsh
Road, Pinner HA5 5NE

[1]

Where the Employer or Contractor is neither a company incorporated under the Companies Acts nor a company registered under the laws of another country, delete the references to Company number and registered office. In the case of a company incorporated outside England and Wales, particulars of its place of incorporation should be inserted immediately before its Company number.

Recitals

Whereas

First the Employer wishes to have the following work carried out^[2]:

REPAIRS TO REINSTATE PEDESTRIAN

FOOTBRIDGE

at SITE 42011, SAWYERS LAKE, THAMES WAY

NORTHFLEET, HENT ('the Works')
under the direction of the Architect/Contract Administrator referred to in Article 3;

Second the Employer has had the following documents prepared which show and describe the work to be done:

~~the drawings numbered/listed in~~ _____ ('the Contract Drawings')^{[3][4]}

a Specification ('the Contract Specification')^[3]

~~Work Schedules~~^[3]

which for identification have been signed or initialled by or on behalf of each Party; those documents together with this Agreement, the Conditions and, if applicable, a Schedule of Rates as referred to in the Third Recital (collectively 'the Contract Documents')^[5] are annexed to this Agreement^[6];

Third the Contractor has supplied the Employer with a copy of the priced Contract Specification or Work Schedules or with a Schedule of Rates^[3];

Fourth for the purposes of the Construction Industry Scheme (CIS) under the Finance Act 2004, the status of the Employer is, as at the Base Date, that stated in the Contract Particulars;

Fifth for the purposes of the Construction (Design and Management) Regulations 2015 (the 'CDM Regulations') the status of the project that comprises or includes the Works is stated in the Contract Particulars;

[2] State nature and location of intended works.

[3] Delete as appropriate.

[4] State the identifying numbers of the Contract Drawings or identify the schedule of drawings or other document listing them.

[5] It is envisaged that in those cases where there is an applicable BIM or other communications protocol this will be included within one of the Contract Documents identified in the Second Recital.

[6] Where a Contract Document has been priced by the Contractor it is that version of the document that should be annexed.

Sixth where so stated in the Contract Particulars, this Contract is supplemented by the Framework Agreement identified in those particulars;

Seventh whether any of Supplemental Provisions 1 to 6 apply is stated in the Contract Particulars;

Articles

Now it is hereby agreed as follows

Article 1: Contractor's obligations

The Contractor shall carry out and complete the Works in accordance with the Contract Documents.

Article 2: Contract Sum

The Employer will pay the Contractor at the times and in the manner specified in the Conditions the VAT-exclusive sum of

[REDACTED]

[REDACTED] ('the Contract Sum')

or such other sum as becomes payable under this Contract.

Article 3: Architect/Contract Administrator

For the purposes of this Contract the Architect/Contract Administrator^[7] is

BNP PARIBAS REAL ESTATE

of 10 HAREWOOD AVENUE, LONDON NW1 6AA

or, if he ceases to be the Architect/Contract Administrator, such other person as the Employer nominates (such nomination to be made within 14 days of the cessation). No replacement appointee as Architect and/or Contract Administrator shall be entitled to disregard or overrule any certificate, opinion, decision, approval or instruction given by any predecessor in that post, save to the extent that that predecessor if still in the post would then have had power under this Contract to do so.

[7] Unless the person appointed by or under Article 3 is entitled to use the title 'Architect' under the Architects Act 1997, the term 'Architect' shall so long as that person holds that post be deemed deleted throughout this Contract. Any appointee as Contract Administrator should be suitably experienced for the role. Irrespective of experience or qualifications, the Employer should not at any time appoint himself to the role without the Contractor's prior agreement.

Article 4: Principal Designer

The Principal Designer for the purposes of the CDM Regulations is the ~~Architect/Contract~~ Administrator

(or)^[8] _____

of _____

or such replacement as the Employer at any time appoints to fulfil that role.

Article 5: Principal Contractor

The Principal Contractor for the purposes of the CDM Regulations is the Contractor

(or)^[8] _____

of _____

or such replacement as the Employer at any time appoints to fulfil that role.

Article 6: Adjudication

If any dispute or difference arises under this Contract either Party may refer it to adjudication in accordance with clause 7.2.^[9]

Article 7: Arbitration

Where Article 7 applies^[10], then, subject to Article 6 and the exceptions set out below, any dispute or difference between the Parties of any kind whatsoever arising out of or in connection with this Contract shall be referred to arbitration in accordance with Schedule 1 and the JCT 2016 edition of the Construction Industry Model Arbitration Rules (CIMAR)^[11]. The exceptions to this Article 7 are:

- any disputes or differences arising under or in respect of the Construction Industry Scheme or VAT, to the extent that legislation provides another method of resolving such disputes or differences; and

[8] Insert the name of the Principal Designer in Article 4 if the Architect/Contract Administrator is not to fulfil that role and that of the Principal Contractor in Article 5 if that is to be a person other than the Contractor. Under the CDM Regulations 2015, regardless of whether or not a project is notifiable, there is a requirement to appoint a principal designer and a principal contractor in all cases where there is more than one contractor, or if it is reasonably foreseeable that more than one contractor will be working on a project at any time. For these purposes, the term 'contractor' is broadly defined by the regulations and treats the Contractor's sub-contractors as separate contractors.

[9] As to adjudication in cases where the Employer is a residential occupier within the meaning of section 106 of the Housing Grants, Construction and Regeneration Act 1996, see the Guidance Notes.

[10] If it is intended, subject to the right of adjudication and exceptions stated in Article 7, that disputes or differences should be determined by arbitration and not by legal proceedings, the Contract Particulars must state that the arbitration provisions of Article 7 and Schedule 1 apply and the words "do not apply" must be deleted. If the Parties wish any dispute or difference to be determined by the courts of another jurisdiction the appropriate amendment should be made to Article 8 (see also clause 1.8).

[11] See the Guidance Notes.

- any disputes or differences in connection with the enforcement of any decision of an Adjudicator.

Article 8: Legal proceedings^[10]

Subject to Article 6 and (where it applies) to Article 7, the English courts shall have jurisdiction over any dispute or difference between the Parties which arises out of or in connection with this Contract.

Contract Particulars

Note: An asterisk * indicates text that is to be deleted as appropriate.

Clause etc.	Subject	
Fourth Recital and Schedule 2 (paragraphs 1.1, 1.2, 1.5, 1.6, 2.1 and 2.2)	Base Date	<u>FEBRUARY 2024</u>
Fourth Recital and clause 4.2	Construction Industry Scheme (CIS)	Employer at the Base Date * is a 'contractor' / is not a 'contractor' for the purposes of the CIS
Fifth Recital	CDM Regulations ^[12]	the project * is / is not notifiable
Sixth Recital	Framework Agreement (if applicable) (State date, title and parties.)	<div style="border-bottom: 1px solid black; height: 100px; position: relative;"><div style="position: absolute; top: 0; right: 0; bottom: 0; left: 0; transform: rotate(45deg); transform-origin: right top; border-left: 2px solid black;"></div></div>
Seventh Recital and Schedule 3	Supplemental Provisions ^[13] (Where neither entry against one of Supplemental Provisions 1 to 6 below is deleted, that Supplemental Provision applies.)	
	Collaborative working	Supplemental Provision 1 * applies / does not apply
	Health and safety	Supplemental Provision 2 * applies / does not apply
	Cost savings and value improvements	Supplemental Provision 3 * applies / does not apply
	Sustainable development and environmental considerations	Supplemental Provision 4 * applies / does not apply
	Performance Indicators and monitoring	Supplemental Provision 5 * applies / does not apply

[12] Under the CDM Regulations 2015 a project is notifiable if the construction work on a construction site is scheduled either to last longer than 30 working days and have more than 20 workers working simultaneously at any point in the project or to exceed 500 person days.

[13] Supplemental Provision 7 (Transparency) applies only where the Employer is a Local or Public Authority or other body to whom the Freedom of Information Act 2000 applies; Supplemental Provision 8 (The Public Contracts Regulations 2015) applies only where the Employer is a Local or Public Authority and this Contract is subject to the PC Regulations.

Notification and negotiation of disputes

Supplemental Provision 6

* ~~applies~~/does not apply

Where Supplemental Provision 6 applies, the respective nominees of the Parties are

Employer's nominee

Contractor's nominee

or such replacement as each Party may notify to the other from time to time

Article 7

Arbitration

(If neither entry is deleted, Article 7 and Schedule 1 do not apply. If disputes and differences are to be determined by arbitration and not by legal proceedings, it must be stated that Article 7 and Schedule 1 apply.)^[14]

Article 7 and Schedule 1 (Arbitration)
* apply/do not apply

2.2

Works commencement date

TBC 20

2.2

Date for Completion

TBC 20

or such later date for completion as is fixed under clause 2.7

2.8

Liquidated damages

at the rate of

£ 10 per week^[15]

2.10

Rectification Period

(The period is 3 months unless a different period is stated.)

3 months^[16]
from the date of practical completion

4.3

Interim payments – Interim Valuation Dates^[17]

(Unless otherwise stated, the first Interim Valuation Date is one month after the Works commencement date specified in these Particulars (against the reference to clause 2.2) and thereafter at monthly intervals.)

The first Interim Valuation Date is

8 MARCH 20 24

and thereafter at intervals of

1 MONTH

[14] On factors to be taken into account by the Parties in considering whether disputes are to be determined by arbitration or by legal proceedings. see the Guidance Notes. See also footnote [10].

[15] Insert 'day', 'week' or other period.

[16] An insertion is needed here only if the default position is not to apply. If no retention is required, insert '100' in the percentage entries for clause 4.3.

[17] The first Interim Valuation Date should not be more than one month after the Works commencement date and the intervals between Interim Valuation Dates should not be more than one month.

4.3	Payments due prior to practical completion – percentage of the total value of work etc. (The percentage is 95 per cent unless a different rate is stated.)	<u>95</u> per cent ^[16]
4.3	Payments becoming due on or after practical completion – percentage of the total amount to be paid to the Contractor (The percentage is 97½ per cent unless a different rate is stated.)	<u>100</u> per cent ^[16]
4.3 and 4.8	Fluctuations provision (Unless another provision or entry is selected, Schedule 2 applies.)	<ul style="list-style-type: none"> Schedule 2 (Contribution, levy and tax-changes) applies/ no fluctuations provision applies/ the following fluctuations provision applies
4.3 and 4.8	Percentage addition for Schedule 2 (paragraph 13) (if applicable)	<u> </u> per cent
4.8.1	Supply of documentation for computation of amount to be finally certified (The period is 3 months unless a different period is stated.)	<u>3</u> months ^[16] from the date of practical completion
5.3	Contractor's Public Liability insurance: injury to persons or property – the required level of cover is not less than	<u>£ 10,000,000 (TEN MILLION)</u> for any one occurrence or series of occurrences arising out of one event
5.4A, 5.4B and 5.4C	Insurance of the Works etc. – alternative provisions ^[18]	<ul style="list-style-type: none"> Clause 5.4A (Works insurance by Contractor in Joint Names) applies/ Clause 5.4B (Works and existing structures insurance by Employer in Joint Names) applies/ Clause 5.4C (Works and existing structures insurance by other means) applies
5.4A and 5.4B	Percentage to cover professional fees (If no other percentage is stated, it shall be 15 per cent.)	<u>15</u> per cent

[18] As to choice of applicable insurance provisions, see the Guidance Notes.
Where there are existing structures, it is vital that any prospective Employer – in particular any Employer who is a tenant or a domestic homeowner – who is not familiar with clause 5.4B and the possible solutions under clause 5.4C, or an appropriate member of their professional team, should consult the Employer's insurance advisers prior to the tender stage. Any Employer who is a tenant should also consult his insuring landlord prior to that stage.

5.4C

Insurance arrangements – details of the required policy or policies

are set out in the following document(s)

7.2

Adjudication^[19]

The Adjudicator is _____

Nominating body – where no Adjudicator is named or where the named Adjudicator is unwilling or unable to act (whenever that is established)^[20]
(Where an Adjudicator is not named and a nominating body has not been selected, the nominating body shall be one of the bodies listed opposite selected by the Party requiring the reference to adjudication.)

- * ~~Royal Institute of British Architects~~
- * The Royal Institution of Chartered Surveyors
- * constructionadjudicators.com^[21]
- * ~~Association of Independent Construction Adjudicators~~^[22]
- * ~~Chartered Institute of Arbitrators~~

Schedule 1
(paragraph 2.1)

Arbitration^[23] – appointor of Arbitrator (and of any replacement)^[24]
(If no appointor is selected, the appointor shall be the President or a Vice-President of the Royal Institute of British Architects.)

- President or a Vice-President:
- * ~~Royal Institute of British Architects~~
 - * The Royal Institution of Chartered Surveyors
 - * ~~Chartered Institute of Arbitrators~~

-
- [19] The Parties should either name the Adjudicator and select the nominating body or, alternatively, select only the nominating body. The Adjudication Agreement (Adj) and the Adjudication Agreement (Named Adjudicator) (Adj/N) have been prepared by JCT for use when appointing an Adjudicator.
- [20] Delete all but one of the nominating bodies asterisked.
- [21] constructionadjudicators.com is a trading name of Contractors Legal Grp Ltd.
- [22] Association of Independent Construction Adjudicators is controlled by and acts as an agent of the National Specialist Contractors' Council for the purpose of the nomination of adjudicators.
- [23] This only applies where the Contract Particulars state (against the reference to Article 7) that Article 7 and Schedule 1 (*Arbitration*) apply.
- [24] Delete all but one of the bodies asterisked.

As witness

the hands of the Parties
or their duly authorised representatives

Signed by or on behalf of
the Employer

in the presence of:

witness' signature

witness' name

witness' address

EDC, The Observatory, Castle Hill Drive, Castle Hill, Ebbsfleet, Kent DA10 1EE

Signed by or on behalf of
the Contractor

in the presence of:

witness' signature

witness' name

witness' address

**SITE 47001 BLUE LAKE, GRAVESEND, KENT
REMEDIAL WORKS TO FOOTBRIDGE
EBBSFLEET DEVELOPMENT CORPORATION**

			Quantity	Unit	MBL Rate	Spot	Cost (£)
Scope	1.00	The scope of works comprises the lifting, repair and reinstatement of the metal footbridge that spans across the access road into the Blue Lake site. The works include a temporary design package for lifting and support.					
	1.01	The steel footbridge is located over the gated entrance to the site and comprises a double span continuous structure formed from fabricated steel box sections, supported on concrete abutments and a central pier. The bridge has a clear height underneath of 3.4m, which is highlighted (3m) on the bridge.					
	1.02	The structure comprises a ladder frame construction comprising two parallel 260mm x 150mm steel box section beams on either side with smaller circa 60-80mm deep crossbeams spanning perpendicularly between the main beams supporting a metal walkway, which is finished with a non-slip mineral faced surface. The bridge is 2.1m wide overall with a span north-south of approximately 13m, with a mid-span support (at 6.4m). There is a box section balustrade built in 1.63m wide uniform panels on either side.					
	1.03	The bridge has been struck by a skip lorry pushing the bridge off its supports.					
Welfare Unit	1.04	There are no welfare or site facilities. The contractor should allow for supplying and maintaining a secure welfare unit (ie Groundhog) for the duration of the works with WC, welfare and seating area in accordance with CDM Regulations 2015. Allow for all consumables in electricity and water as well as toilet paper, tissues etc.					
	1.05	Welfare unit to include generator or power supply / battery as necessary.					
		Site management					
		Project management					
		Surveyor					
		Signage					
		H&S					
		Tower access for structural engineer to inspect works					
		SPECIFIED WORKS					
	2.00	Enabling Works					
Temporary Works Design	2.01	The contractor shall prepare a temporary works design which allows to temporarily raise the footbridge and rotate and reset the bridge once the bearings have been inspected and repaired.					
Scaffold	2.02a	Option 1 Supply and construct new structural scaffold towers x3 plus scaffold deck spanning beneath either end and middle of the bridge suitable for jacking the bridge clear of supports to enable inspection and repair. Note the ground behind the central bridge support may be uneven. The contractor should review a suitable working					
Jacks	2.02a	Supply and install new specialist jacking devices to lift bridge 750mm away from concrete supports to enable inspection.					
Crane	2.02b	Option 2 As an alternative the contractor may employ a specialist lifting contractor using a crane lift to remove the footbridge. They may set down on the road way where vegetation has been cleared or raise the bridge into an elevated position supported on scaffold as above. Allow to ensure there is suitable space to avoid obstructing roadway. H&M have estimated the footbridge to weight 5.6T.	£				
		Extra over for moving bridge further into site if required					

Access	2 03	Access beneath the bridge must be maintained suitable for small vans and cars	
Vegetation	2 04	Allow to access footpath area on both sides of bridge and cut back overhanging branches and vegetation to allow bridge to be lifted without catching or obstruction. Dispose of vegetation	
	2 05	Provisional Allow to cut back trees and vegetation along roadway to a depth of approximately 4m, between the secondary gates in front of the bridge and for a distance for 20m behind the bridge position	
	2 06	Cuttings and waste vegetation can be left on the site provided it is taken beyond the roadway to the rear and neatly piled	
Landscaping Contractor	NB	Below are the details of a landscaping contractor who is familiar with the premises and whom you may wish to use. Fryer Cleaning and Maintenance Ltd Tel 01622744111 info@fryergroup.co.uk Contact person: Mark	
Fencing	2 07	Prior to the lift, the contractor shall construct a secure scaffold tube fence to the full width either end of the footpath comprising scaffold pole framework and scaffold boards / plywood sheet on outside across the footpath to prevent unauthorised access. Assume fence to be 8ft high and extend to sides to prevent stepping around Poles Plywood Sundres Install	
Inspection	2 08	Following completion of enabling works, the contractor shall raise the bridge and liaise with the structural engineer (Nick Bray of Hurst Pierce & Malcolm - 0207 2423593) to examine the bearing positions, and plates	
Survey	2 09	Provisional Allow to commission specialist laser survey of bridge to assess any distortion and submit report to engineer	
Remedial Works	2 10	Provisional Allow to cut back cracked and damaged concrete pads and make good using epoxy resin mortar, drill holes and regrout using epoxy resin grout and reseal pins and plates and make good with matching concrete. Assume 3no bearings to be repaired	
Reinstatement	2 11	Upon completion of repairs specified and reinspection by engineer, allow to lower footbridge back into position	
Completion	2 12	Following reinstatement of the footbridge, allow to clear site and removal all temporary fencing, and access scaffold, welfare unit and all rubbish (except vegetation), and sweep site to leave clean and tidy	
		Sub Total	
		Pre-lims G.P	
		Total excl VAT	