

NEC4 Engineering and Construction

Short Contract

FCRM Operational Framework – Eastern Hub

A contract between

The Environment Agency
Horizon House
Deanery Road
Bristol
BS1 5AH

And

Land & Water Services Ltd

For

Mapledurham Fish Pass Construction

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 <i>Client</i> is	
Name	Environment Agency	
Address for communications	Kings Meadow House, Kings Meadow Road, Reading, Berkshire. RG1 8DQ	
Address for electronic communications	defra.bravosolution.co.uk	
The <i>works</i> are	The Construction of a naturalised Fish Pass Channel, providing fish passage from downstream to upstream of Mapledurham Weir. The channel is approximately 130m in length, comprises two bridges (one pedestrian and one vehicular), and includes a technical section.	
The <i>site</i> is	Near Mapledurham Lock Grid Ref SU 66618 76978	
The <i>starting date</i> is	To be determined by the successful <i>Contractor's</i> programme, but no sooner than 07/06/21	
The <i>completion date</i> is	To be determined by the successful <i>Contractor's</i> programme, but no later than 31/10/21	
The <i>delay damages</i> are	Not used	Per day
The <i>period</i> for reply is	2	weeks
The <i>defects date</i> is	52	weeks after Completion
The <i>defects correction period</i> is	4	weeks
The <i>assessment day</i> is	the last working day	of each month
The <i>retention</i> 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 <i>works</i>	The replacement cost	The <i>Client's</i> 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 <i>Contractor's</i> 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 <i>Contractor</i>) arising from or in connection with the <i>Contractor's</i> 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 <i>Contractor</i> 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 <i>Contractor</i> to use the skill and care normally used by professionals providing works similar to the works	Minimum £nil in respect of every claim without limit to the number of claims	6 years following Completion of the whole of the works or earlier termination

The *Adjudicator nominating body* is

The Institution of Civil Engineers

The <i>tribunal</i> is		litigation in the courts
The <i>conditions of contract</i> 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 <i>Contractor</i> submits the name of each proposed subcontractor to the <i>Client</i> for acceptance. A reason for not accepting the subcontractor is that their appointment will not allow the <i>Contractor</i> to Provide the Works. The <i>Contractor</i> does not appoint a proposed subcontractor until the <i>Client</i> 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 <i>Client</i> 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 <i>Contractor</i> is responsible for obtaining these and paying fees (unless stated otherwise in the Scope). The <i>Client's</i> acceptance of a tender and the <i>Client's</i> 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 <i>Client</i> and is not a compensation event.	
Z3.0	Confidentiality & Publicity	
Z3.1	The <i>Contractor</i> may publicise the works only with the <i>Client's</i> 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 <i>Client</i> but is not warranted correct. The <i>Contractor</i> 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 <i>Contractor</i> to ensure the use of skill and care normally used by professionals providing similar design services.	
Z6.2	The <i>Contractor</i> designs the parts of the works which the Scope states they are to design.	
Z6.3	<p>The <i>Contractor</i> submits the particulars of their design as the Scope requires to the <i>Client</i> for acceptance. A reason for not accepting the <i>Contractor's</i> design is that it does not comply with either the Scope or the applicable law.</p> <p>The <i>Contractor</i> does not proceed with the relevant work until the <i>Client</i> has accepted this design.</p>	
Z6.4	The <i>Contractor</i> 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	<p>Delete the text of Clause 60.1(11) and replace by:</p> <p>The <i>works</i> are affected by any one of the following events</p> <ul style="list-style-type: none"> • War, civil war, rebellion revolution, insurrection, military or usurped power • Strikes, riots and civil commotion not confined to the employees of the <i>Contractor</i> 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 	

	<ul style="list-style-type: none"> • Natural disaster • Fire and explosion • Impact by aircraft or other device or thing dropped from them
Z8.0	Framework Agreement
Z8.1	The <i>Contractor</i> shall ensure at all times during this contract it complies with all the obligations and conditions of the Framework Agreement made with the <i>Client</i> .
Z9.0	Termination
Z9.1	<p>Delete the text of Clause 92.3 and replace with:</p> <p>If the <i>Contractor</i> 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.</p>
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.
Z7.2	<p>Additional Compensation Event COVID-19</p> <p>Managing and mitigating the impact of Covid 19 and working in accordance with Public Health England guidance, as may vary from time to time, from 1st November 2020 to 31st March 2021.</p>

Contract Data

The Contractor's Contract Data

	The Contractor is	
Name	Land & Water Services Ltd	
Address for communications	Weston Yard, Albury, Guildford, Surrey, GU5 9AF	
Address for electronic communications	<div></div> <div></div>	
The fee percentage is	<div></div>	%
The people rates are	As framework	
category of person	unit	rate
The published list of Equipment is		As framework
The percentage for adjustment for Equipment is		As framework

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	£430,968.78
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	Enter the total of the Prices from the Price List.
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Signed on behalf of the *Contractor*

Name	
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Position	Estimator
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Signature	
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Date	18 th May 2021
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The *Client* accepts the *Contractor's* Offer to Provide the Works

Signed on behalf of the *Client*

Name	
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Position	EA Project Executive
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Signature	
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Date	8 June 2021
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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	Mobilisation, including:	1	Item		£8,123.50
2	Preliminaries and supervision	1	Item		£121,701.29
3	Preparation of a detailed Construction Phase Plan (CPP) in accordance with the SHEW Code of Practice and any other information critical to be produced and accepted by the Client before commencement on site. The production of a Waste Management Plan. Maintenance and adherence to the Environmental Action Plan (EAP).	1	Item		£1,155.00
4	PR survey of areas of intrusive works and other areas as deemed necessary by Contractor	0	Item	£2,375.00	£0.00
5	Construction of Inlet (River Thames Side), including installation of pedestrian and vehicular bridges	1	Item		£69,503.32
6	Excavation and grading of naturalised channel	1	Item		£69,194.60
7	Construction of Outlet (Scraces Ditch side), including installation of technical fish pass	1	Item		£62,591.26
8	Landscaping (including fencing)	1	Item		£49,330.26
9	Demobilisation and reinstatement	1	Item		£14,165.75
10	Completion of the Environment Agency's Carbon Calculator and Final Carbon Report for the 'as built' project to be provided within a month of project completion.	1	Item		£717.50
11	Preparation of 'as built' drawings and provision of information to the Principal Designer to compile the Health and Safety File (including information on materials used and maintenance).	1	Item		£717.50

12	All surplus wastes generated by the works to be disposed of off-site in accordance with the current Waste Management Regulations.	1	Item		£33,768.80
The total of the Prices				£430,968.78	

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.

A Naturalised Fish Pass is to be constructed at Mapledurham to improve fish passage at the site.

The Fish Pass consists of:

- An inlet structure consisting of steel sheet piles and precast concrete units, with a pedestrian footbridge and vehicle access bridge to maintain access across the channel;
- A 130m sinusoidal naturalised channel;
- A resting pool and technical fish pass;
- Soft engineered outlet structure into the Scraces Ditch; and
- Landscaping and fencing

The *Client* will free issue the following elements (Contractor to make provision for collection from Environment Agency Caversham lakes depot / Osney Yard depot TBC):

- Steel sheet piles for the inlet structure
- Capping timber for piles
- Culvert and notches pre-cast concrete units
- Technical Fishpass pre-cast concrete units
- Fish pass brushes and baffles
- Timber and beams for pedestrian footbridge (see drawing 0252FB)

Detailed design is completed and is therefore not required as part of this Contract, however the *Contractor* will need to undertake the design of any temporary works required.

The *Contractor* must prepare a detailed Construction Phase Plan (CPP) in accordance with the SHEW Code of Practice and any other information critical to be produced and accepted by the *Client* before commencement on site. Note: A suitably developed CPP must be issued for approval not less than 10 days prior to planned mobilisation. Please refer to the Pre-Construction Information (PCI) at Appendix A for further clarification of requirements for the CPP.

A GPR survey of areas of intrusive works, and other areas as deemed necessary by the *Contractor* e.g. this could include survey of access routes where heavy plant is likely to be required to operate over possible service routes, is to be carried out prior to works commencing on site in accordance with the SHEW Code of Practice.

The *Contractor* must produce a Site Waste Management Plan (SWMP). The *Contractor* is to allow for the cost associated with waste not suitable for reuse within the permanent works. This must be disposed of off-site in accordance with the site specific Site Waste Management Plan (SWMP) and the current Waste Management Regulations.

The landowner has requested that topsoil is retained on site, however the *Contractor* should cost for removing all material from site. In the event that topsoil is to be retained the *Client* will provide further an instruction to confirm if and where topsoil should be placed

Maintenance and adherence to the Environmental Action Plan (EAP) is also a requirement. (See Appendix B).

Upon award, the *Contractor* will satisfy himself with all dimensions for all works.

The *Contractor* must accept any risk surrounding likely damage caused by his method of working for all works.

The *Contractor* is to cost for all preliminary activities and supervision including welfare, site accommodation (including provision for site progress meetings a member of the *Clients* team) etc. in accordance with the SHEW Code of Practice

The *Contractor* must independently obtain and include all costs associated with any environmental permits licences and approvals required to deliver the works (with the exception of Flood Risk Activity Permit (FRAP), see below).

The *Client* has an existing Flood Risk Activity Permit (FRAP) licence in place which will be transferred to the *Contractor* (See Appendix C). The *Contractor* must include in their tender return whether any amendments to the FRAP will be required, for example if the *Contractor's* method is different to the method included in the FRAP licence. The *Contractor* must accept all responsibility and liability for their methodology.

The *Contractor* shall include any temporary works required to undertake the *Contractor's* method of working as deemed necessary to meet the works scope.

A detailed photographic record of access routes and all working areas must be carried out by the *Contractor* prior to works commencing on site and provided to the *Client*. All access routes and working areas must be reinstated on completion of the works.

Prior to completion a input to a suitably developed Health and Safety File (the required content and responsibilities is set out in Appendix D) must be issued to the Principal Designer along with 'as built' drawings (provided in CAD and pdf format) showing any changes from the original design.

The Successful *Contractor* will be provided with a completed Carbon Calculator. This is the Environment Agency's tool for assessing whole life carbon. In order to support the *Client* in cutting carbon emissions, the *Contractor* must complete an 'as built' Carbon Calculator and Final Carbon Report within one month of completion of the works.

For the purposes of this contract, flooding is considered to be weather and is included within Clause 60.1(9)

Slump tests will be required prior to the pouring of concrete.

All communications are to be made electronically and will be agreed in detail at project start up. It is anticipated that monthly progress meetings will be held and an allowance should be made for this, as well as ad hoc meetings as required to deliver the project.

The *Contractor* must assume full responsibility for their chosen methods of construction, including temporary works.

2. Drawings

List the drawings that apply to the contract.

Drawing Number	Revision	Title
0250	2021/01	Mapledurham Fish Pass - Channel GA and Sections
0251	2021/01	Mapledurham Fish Pass - Brush Pass
0252	2021/01	Mapledurham Fish Pass - Deep Notches and Crossing
0252B	2021	Mapledurham Fish Pass Foot Bridge
0253	2021/01	Mapledurham Fish Pass - Brush Pass Ancillary Works
0254	2021/01	Mapledurham Fish Pass - Deep Notches and Crossing Ancillary Works
0255	2021/01	Mapledurham Fish Pass - Brush Pass RC Details
0256	2021/01	Mapledurham Fish Pass - Deep Notches and Crossing RC Details
0260	2021/01	0260 Mapledurham Fish Pass - General Landscaping & Management

3. Specifications

List the specifications which apply to the contract.

Title	Date or Revision	Tick if publicly available
The civil engineering works are to be constructed to the 'Civil Engineering Specification for the Water Industry, Seventh Edition', published by the Water Industry Research Ltd in 2011.	7 th Edition	Yes

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* needs to maintain safe public access/interface during the construction works and implement appropriate safety measures to manage this risk. The Thames Path crosses the site and must be maintained throughout the project. The *Client* is arranging a footpath diversion to allow for this, this is based on the

alignment shown in Appendix E. The *Contractor* will be responsible for establishing and maintaining the footpath diversion.

A site specific Traffic Management Plan must be included within the CPP, this must include provision for scheduling lorry deliveries and movements outside of school opening (08:30 – 09:00) and closing times (14:45 – 15:15). The *Contractor* will liaise with the local school (Purley C of E Primary School) to take account of school activities that may impact the works and any impact of Covid restrictions in place with respect School opening and closing times. Provision must be made for ensuring that the access road is regularly cleaned.

The project has been screened by the Environment Agency's National Environmental Assessment Service (NEAS) as low risk, however, the *Contractor* should manage all activities in line with the EAP (see Appendix B) for each project to minimise and mitigate environmental risks e.g. pollution.

The project is currently awaiting Planning Approval. The *Contractor* should familiarise themselves with the planning application. Where a conflict is identified (for example in construction methodologies based on the planning application) this should be highlighted in your tender return. The *Contractor* must comply with any requirements set out as a result of conditions placed upon the Environment Agency by the planning authority, which will be advised to the *Contractor* as an instruction.

The *Contractor* will ensure that a good level of communication is maintained with the project team and the lock keeper and any relief lock staff for each project, as well as members of the public, so that the *Contractor's* activities whilst carrying out the works are mutually understood. However, formal public relations shall be managed by the *Client*. The *Contractor* shall notify the *Client* of all press or media enquiries.

The *Contractor* shall notify the *Client* of any issues that may affect residents or the public and the dates and times of expected disturbances.

The *Contractor* (or any of his *Sub Contractor*s or suppliers) shall not publish information about the works or use the site to demonstrate equipment or material to third parties without the written acceptance of the *Client*.

The *Contractor* shall notify the *Client* of any meetings requested by third parties so that the *Client* has the option to attend or send a representative.

The *Contractor* shall erect at the start of the Contract and remove at the end of the Contract two notice boards on site (these will be provided by the *Client*). The notice boards shall be erected on Environment Agency land unless otherwise directed by the *Client*. The *Contractor* shall agree the locations of the notice boards with the *Client*. The boards shall be securely fixed to site fencing and clearly visible to the public.

The *Contractor* shall not undertake or allow billposting or advertising of any kind in connection with the works without the written consent of the *Client*.

Access must be maintained at all times to the lock, lock house, other buildings and operational plant and areas on the lock/weir side.

The *Client* may have telemetry and electrical supply equipment cabinets and other buildings within the lock/weir area. These services are critical and should be avoided/protected from damage during the works. The *Client* may need access to these for operation and maintenance purposes so access should be maintained.

Due to the proximity of residential housing, noise levels shall be monitored and kept to a minimum whenever possible.

All temporary works and access arrangements around them will be sole responsibility of the *Contractor* and should be priced in the tender submission.

The contractor will provide a list of proposed method statements to the *Client* at the pre start meeting. The *Client* will advise which method statements they wish to view, and these should be provided to the client no less than 5 days before the commencement of these activities.

The *Contractor* must sign up to the Considerate Contractors scheme, and should ensure that the site is kept in a clean and tidy state at all times.

At the pre Start up meeting the *Client* will advise which activities in the *Contractors* programme will be the subject of tests or inspections.

Working times

The *Contractor* will be permitted to work between 7.30am and 6.00pm on weekdays (Monday to Friday), with piling restricted to the hours 9am – 5pm

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) Contract starting date
- (c) Construction starting date
- (d) The order and timing of the operations which the Contractor plans to do in order to Provide the Works including each of the activities listed within the Price List
- (e) Any key third party interfaces: lead in periods for materials and sub-contractors; time required to obtain consents e.g. waste permits; stated constraints; Contractor's risks.
- (f) Completion date
- (g) Information to be provided, who it is to be provided by, and the date by which it is to be provided including anything required from the Client
- (h) Provision for float
- (i) Order and timing of tests, inspections and commissioning activities whether done by the Contractor or Client or others

Following contract award, a programme is to be submitted every 4 weeks for acceptance by the *Client*

Time is a key programme constraint on this Contract. Construction is to be completed no later than 31st October 2021. This is based on experience that the risks of high flows preventing works on site increase significantly after this 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
Steel sheet piles for the inlet structure	Available immediately. Contractor to give 2 weeks' notice of planned date of collection from Caversham Lakes EA Depot / Osney Yard TBC
Capping timber for piles	
Culvert and notches pre-cast concrete units	
Technical Fishpass pre-cast concrete units	
Fish pass brushes and baffles	
Timber and beams for pedestrian footbridge (see drawing 0252FB)	
Steel sheet piles for the inlet structure	

Site Information

The Pre-Construction Information (PCI) contains relevant site information. *Contractors* should be aware that the PCI contains information on assumed design methodologies. It should be noted that any such suggestions **do not** constitute scope or represent an instruction. The *Contractor* must fully develop and assume full responsibility for their chosen methodology.

Flood Risk Activity Permit (Appendix C)

Submitted Planning Application (20/02847/COMIND)

Proposed sub-contractors

	Name and address of proposed subcontractor	Nature and extent of work
1.	Tony Gee & Partners Form of Contract: NEC4 PSC	Temporary works design
2.	 Form of Contract:	
3.	 Form of Contract:	
4.	 Form of Contract:	