Engineering and Construction Short Contract

Contract Data Forms

June 2017
(with amendments January 2023)

Template version history

V1 (as per bidder pack)	Go live template (this document)

NEC4 Engineering and Construction Short Contract

A contract between	**The Environment Agency** **Horizon House** **Deanery Road** **Bristol** **BS1 5AH**
And	**Breheny Civil Engineering**
For	**South East Reconditioning Programme – Tranche 23/24: Conyer Creek East – Design and Build Works (SOP Code: ENV7005300R)**
	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	Horizon House, Deanery Road, Bristol, BS1 5AH	
Address for electronic communications		
The *works* are	Design and Build of the Conyer Creek embankment repairs, as per the Scope	
The *site* is	Conyer Creek East (Fowley Island, Teynham, Conyer, Borough of Swale, Kent, ME9 9HD) – as per Figure 1 in Scope 1.1.	
The *starting date* is	04/04/2025	
The *completion date* is	31/12/2025	
The *delay damages* are	£187.23	Per day
The *period* for reply is	1	weeks
The *defects date* is	104	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	0.5%	per complete week of delay.

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	The Contract Price
The *Client* provides this insurance	None

Insurance Table

Event	Cover	Cover provided until
Loss of or damage to the *works*	Replacement Cost	The *Client's* certificate of Completion has been issued
Loss of or damage to Equipment, Plant and Materials	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 Contract Price 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 *tribunal* is	litigation in the courts

The *conditions of contract* are the NEC4 Engineering and Construction Short Contract June 2017 (including 2023 amendments) and the following additional conditions	
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 correct 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 subcontractors • 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.
Z12.0	**Packaging (NOT USED)**
~~Z12.1~~	~~For contracts containing packages of projects the *Client's* Contract Data, Scope and Site Information particular to an individual project is contained within its Site Specific Pack~~
Z110	**Inflation** At the Contract Date the total of the Prices does not include a sum to cover inflation. The total of the Prices [at the Contract Date] shall be adjusted by a fixed number of Price Adjustments. The number of Price Adjustments shall be equal to: The number of months between the Completion Date included at the *starting date* and the Contract Date. The proportion of Price Adjustment shall be equal to: The total of the Prices at the Contract Date / The number of Price Adjustments Each time the amount due is assessed, the Price Adjustment shall be: The proportion of Price Adjustment x [80% x Construction Output Price Indices (OPIs) New work output prices: Infrastructure Index 1-month rate] The Construction Output Price Indices (OPIs) New work output prices: Infrastructure Index 1-month rate shall be the value determined by the Office of National Statistics for the applicable month of the amount due assessment, provided always that the fixed number of Price Adjustments has NOT been exceeded. The Price Adjustment adjusts the total of the Prices. If a compensation event under this contract omits original Scope covered by the total of the Prices at the Contract Date the Price Adjustments made under this clause shall be corrected accordingly.

Contract Data

The *Contractor's* Contract Data

	The *Contractor* is
Name	Breheny Civil Engineering Ltd
Address for communications	Flordon Road Creeting St Mary Ipswich Suffolk IP6 8NH
Address for electronic communications	
The *fee* percentage is	

The *people rates* are	As per Framework Agreement	
category of person	unit	rate

The *published list of Equipment* is	
The *percentage for adjustment for Equipment* is	As per framework agreement

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	£249,659.62
	Enter the total of the Prices from the Price List.

Signed on behalf of the *Contractor*

Name	
Position	
Signature	
Date	

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

Signed on behalf of the *Client*

Name	
Position	
Signature	
Date	

Price List

Where 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.

Where 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
1.1	Contract Management, Project Management and Programme	Sum	1	N/A	
1.2	Accommodation, site welfare and / or site compound, services and facilities	Sum	1	N/A	
1.3	Site surveys and intrusive surveys	Sum	1	N/A	
1.4	Design Pack & CDM including: • Outline Design • Detailed Design • Designer's Risk Assessment. • Red & Green list. • Specifications. • Design Statement that explains the design philosophy standard data used and any assumptions including Buildability, Operability & Maintainability Statement. • Carbon Calculator and Carbon Appendix for Gateways 3 and 4. • Design drawings. • Construction Phase Plan. • RAMS & other Health and Safety Documents • Site Waste Management Plan	Sum	1	N/A	
1.5	Environmental Action Plan	Sum	1	N/A	
1.6	Traffic Management plan and Footpath / PRoW closure application	Sum	1	N/A	
1.7	Flood Risk Activity Permit and MMO License including fees	Sum	1	N/A	
1.8	Ecological walkovers, ecological consents, Natural England (NE) liaison and NE permits.	Sum	1	N/A	
1.9	Other ecological surveys and related mitigation plans and measures.	Sum	1	N/A	
1.10	Other consents, permits and licences	Sum	1	N/A	
1.11	Removing vegetation and branches, trimming back tree line and scraping overburden from tarmac along the access road.	Sum	1	N/A	
1.12	Excavate topsoil from the entire length of the slope	Sum	1	N/A	

1.13	Installation and compaction of cohesive soil in layers on the embankment and crest	Sum	1	N/A
1.14	Reinstate the 150mm topsoil	Sum	1	N/A
1.15	Grass seeding	Sum	1	N/A
1.16	Installation of biodegradable erosion control matting	Sum	1	N/A
1.17	Placement of rocks on the slope of the stone pitching.	Sum	1	N/A
1.18	Manual handling of rocks to ensure interlocking is achieved	Sum	1	N/A
1.19	Place a suitable non- woven geotextile on excavated area	Sum	1	N/A
1.20	BIM Execution Plan and MIDP	Sum	1	N/A
1.21	Inspection and test plan	Sum	1	N/A
1.22	Health and Safety File including O&M Manuals and As-built drawings.	Sum	1	N/A
			The total of the Prices	£249,659.62

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. This contract is priced and awarded in Year 2, based on the Year 1 Framework Pricing Workbook. After the Year 2 Framework Pricing Workbook is issued, a single compensation event is permitted to change the total of the Prices according to the Year 2 Framework Pricing Workbook.

Scope

1. Description of the *works*

1.1 Project background

Conyer Creek embankment is located on the southern bank of the Swale, east of Conyer Creek, Conyer. It serves as tidal flood defence for mostly agricultural land. The total asset length is 2,765m and the whole site is within a Site of Specific Scientific Interest (SSSI). The seaward face of the slope comprises of variable interlocking concrete blocks and/or stone pitching with some areas of stone pitching covered with mass concrete (likely to be previous repairs). The seaward shoulder of the crest and the landward face comprises grass covered soils.

Figure 2- Conyer Creek embankment.

After consecutive surge tides during the winter of 2021/22, certain areas along the seaward side of the embankment have experienced significant erosion. On the 24 October 2023, a visual inspection was carried out by JBA Consulting, Volker Stevin and the Environment Agency to assess the entire length of Conyer Creek seaward embankment for defects. In total, approximately 300m linear length had defects, spread across various locations of the embankment. The defects could be categorised into three different groups according to the type:

Defect 1- **Erosion of embankment material** (2 locations, approx. total length of 16m and 32m^2 area)- Adjacent to the Conyer outfall there are signs of erosion of the soils comprising the embankment located above the concrete pour stone pitching.

Defect 2- **Displacement of stones and Voids in stone pitching** (18 locations, approx. total length of 141m and 150m^2 area) - Missing stone/rocks from the upper section of the stone pitching, exposing the underlying material of the embankment. Rocks slumped down at toe.

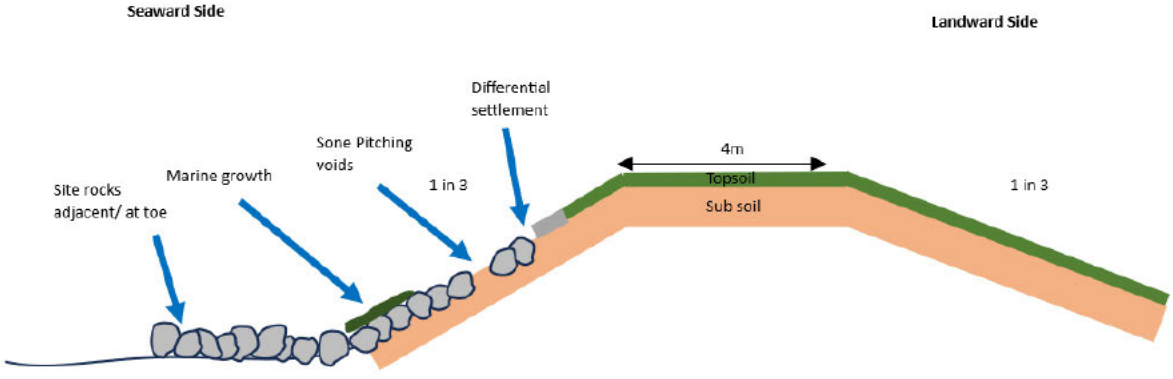

Figure 10- Section view, indicative sketch of voids on the stone pitching.

Defect 3 **Missing toe rock protection (3 locations, approx. total length of 131m) -** Interlocking concrete blocks have failed. Some rocks at toe are in place, but majority have moved further into the channel. Marine growth over time on the toe.

Note- For exact locations of the defects see document ENV7005293R-JBA-DK-00-AS-C-0001-S3-P02-B1500-EA1-LOD1-Conyer_Creek_Embankment_Repairs_Initial_Assessment Appendix K2- Table K2:1 Site defects and its location.

Defect 3 at the far eastern extent location is the highest priority. The *Contractor* shall prioritise the works at this location first before completing other works.

1.1.2 The overall objectives of this project are:

- Repair the defects identified in the embankment.
- Extend the residual life of the asset to a minimum of 10 years.

1.1.3 The objective for this contract is to restore Flood Coastal Risk Management asset to the required condition 2 or better to ensure they provide the standard of service originally intended.

1 Very good	2 Good	3 Fair	4 Poor	5 Very poor
Cosmetic defects that will have no effect on performance	Minor defects that will not reduce the overall performance of the asset	Defects that could reduce performance of the asset	Defects that have potential to deteriorate and significantly reduce performance of the asset. Further investigation required.	Severe defects resulting in significant or complete performance failure.

1.2 Description of the works

The *Contractor* shall undertake the following works:

- Review all available pre-existing information and the Initial Assessment Report held by the Environment Agency on this site (Appendix 6).
- Vegetation clearance.

For Defect 1:

- Excavate topsoil from the entire length (2no. areas,32m^2 and 16m) of the slope where there are signs of erosion of the clay embankment, this includes stripping the topsoil from the first 0.5m width of the seaward side of the crest.
- Install and compact cohesive soil in layers on the embankment and crest.
- Reinstate the 150mm topsoil on top of the cohesive material. Design with the cohesive material and compaction methodology will require *Client's* acceptance in prior.
- Seed the resurfaced areas, grass seed mix to match existing species and be of sufficient volume & quality to quickly establish an effective coverage.

- Install biodegradable erosion control matting on top of the topsoil anchoring it to 150x150mm trenches around the perimeter of the work extent.

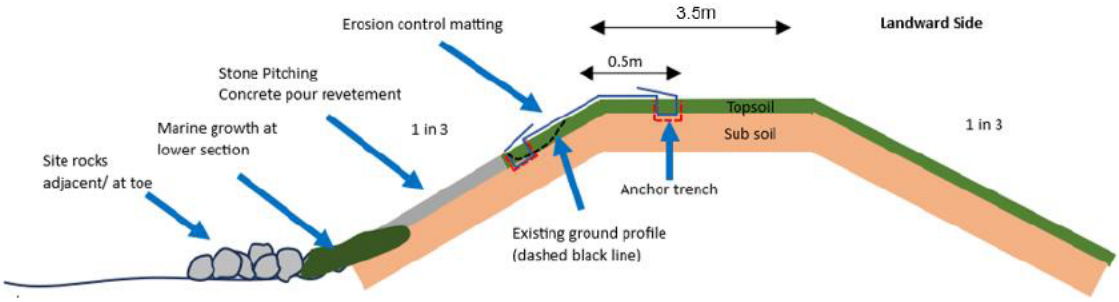

Figure 14- Section view, indicative proposed repair for defect 1.

For Defect 2:

- Place rocks on slope of the stone pitching to ensure that stability is achieved for the embankment. Total length of 141m and 150m^2 area) Approximate volume of rock required= 75m^3 (length 141m x 1m width x 0.4m high).
- Ensure rocks are interlocked into the smaller voids (void length less than 0.5m length). This may require some manual handling.

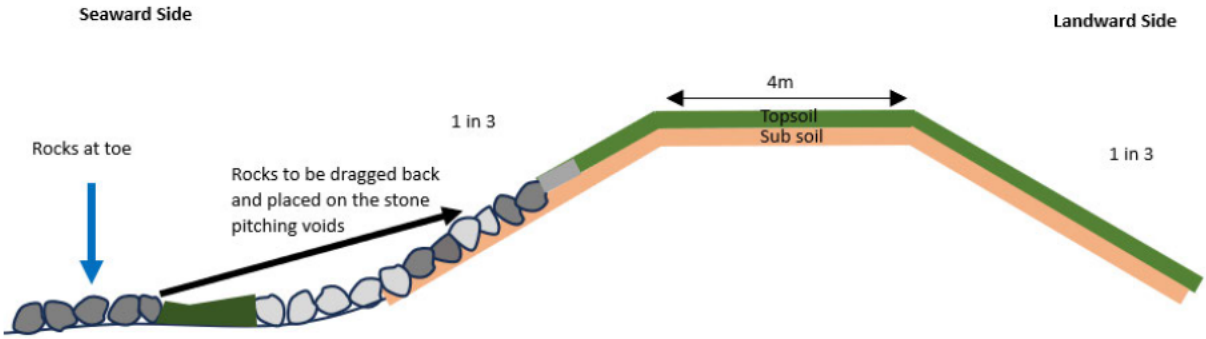

Figure 15- Section view, indicative proposed repair for defect 2.

For Defect 3:

- Place rock in the revetment section, matching the existing profile. 3 locations, approx. total length of 134m. The *Contractor* shall assume that the volume of rock required is 220m3 (length 134m x 3m width x 0.5m high).

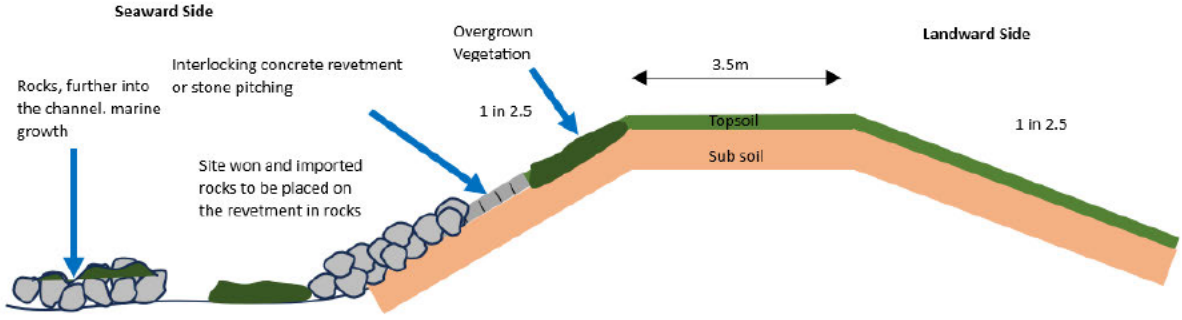

Figure 16- Section view, indicative proposed repair for defect 3.

The *Contractor* shall seek efficiencies such as the use of site-won rocks to carry out the works, provided that there are no consequential impacts such as removal of any habitat on or around the rocks and reduction to the stability of the embankment due to removal of the rocks. The *Contractor* shall obtain any required permissions, licences and consents required to use the site-won rocks.

The design life of the *works* is a minimum of 10 years.

1.3 *Contractor*'s design

1.3.1 The *Contractor* shall produce a design, appraised, and accepted by the *Client* that consists of the following items:

- Site investigations: The *Contractor* shall design, procure, and supervise all investigations required to complete the *works*.
- Detailed Design: *Contractor* shall:
  - Be responsible for attaining one comprehensive environmental survey to develop the design and support the Flood Risk Activity Permit (FRAP) and/ or Marine Licence (depending upon the *Contractor*'s methodology). Additionally, the *Contractor* shall produce all construction documentation to support the FRAP application and Construction Phase Plan in line with the CDM regulations. Additional documentation may be requested from stakeholders, and these will be delivered under a compensation event.
  - Provide a detailed design sufficient to construct the works. The documentation and activities that the *Contractor* undertakes and produces are listed below:
    - Designer's Risk Assessment.
    - Red & Green list.
    - Technical Specification.
    - Design Statement that explains the design philosophy standard data used and any assumptions including Buildability, Operability & Maintainability Statement.
    - Detail design drawings.
    - Construction Phase Plan.
    - Environmental Action Plan.
    - Carbon Calculator to be updated and returned upon completion of the design works. The *Contractor* must aim to reduce the amount of Carbon produced through their recommendations to help the Environment Agency meet its aim of zero net carbon by 2030.
    - Contract and Project Management.
    - Construction of asset repair including any: mobilisation, setup site and compound, welfare, site access, temporary works, material disposal, access reinstatement, demobilisation.
    - Traffic Management Plan and Footpath/ PRoW closure application including any fee.
    - Health and Safety File including As-built drawings.
    - MIDP.
    - Inspection and test plan.
  - Produce a detailed design that supports the *Client* to achieve efficiency targets set for this commission and future stages of the project using the Combined Efficiency Reporting Tool (CERT).
  - Create a BIM Execution Plan after contract award, and continual uploading of all final version produced files in the agreed BIM naming convention on to Asite Information Delivery Plan (IDP).

Ensure all deliverables are produced to comply with relevant British Standards and Eurocodes.

1.4 Accommodation

1.4.1 The *Contractor* shall provide accommodation, site welfare, services and facilities as is necessary to complete the works, as quantified and priced in the Framework Pricing Workbook.

1.5 Access to the Site

1.5.1 Prior to first entry to the site to undertake physical works, the *Contractor* shall record the condition of the site and accesses to the site through photographs and videos. These are submitted to the *Client* for record keeping. The *Contractor* shall leave the site and accesses to the site in as good a condition as prior to first entry.

1.5.2 The *Contractor* shall:

- Provide any access requirements such as a trackway to and from the site location. This will include any liaison with the landowner(s) to apply any mitigation measures that may be required to ensure no damage is caused by the works activities.

Provide any site demarcations and the closure of the PRoW as required.

1.5.3 Access Description

Access to the proposed site compound is gained from the south at the junction with the A2, London Road, then proceeding along Station Road towards Conyer Road. The route includes crossing a vehicular bridge over railway line with no load or width restrictions, traversing residential and farmlands. At the northernmost point of Conyer Road (what3words: wants.blunt.alongside), there is a locked EA gate.

The proposed site compound is situated 400m northwest from this gate, the access track is surfaced with tarmac and 2m wide, there is overgrown vegetation along the verges. There is also a Public Right of Way (PRoW) starting from the gate which continues along the entire length of the access route, an alternative footpath access to the embankment is also present.

Starting from the proposed site compound, the tarmac access track continues for 200m before transitioning into a grass track for the remaining 3.5km, leading to the furthest repair of the embankment.

Along the access track, there are four locked EA gates, with the first gate being 7.2m wide and the subsequent gates measuring 3.6m wide. The second and third gates are at the toe of the embankment and have sufficient space to allow plant access, while the fourth gate is at the embankment crest as such the slope will require traversing, therefore, temporary works including protection matting is needed to prevent damaging the embankment.

Additionally, two culverts (Conyer culvert and Luddenham gut outfall) cross the access track which require a structural assessment to determine condition and loading capacity in order to determine if there is also a requirement for any protection matting during plant access.

1.5.4 Use of the site

Conyer creek embankment serves as tidal flood defence for mostly agricultural land.

Limitations: normal works between 07.30 and 18.00 (daylight hours only) on weekdays (Monday to Friday excluding Bank Holidays) unless otherwise prior agreed with the *Client*. Tidal working hours.

1.5.5 Surrounding land / building uses

Residential properties on North Quay and Conyer Road.

Agricultural land immediate south of the embankment.

1.5.6 Health and safety hazards

General: Due to the nature of the site, following hazards are or may be present:

- Working near watercourse.
- Public Interface
- Working at height along embankment
- Tidal working
- Adverse weather & ground conditions
- Protected species

Information: The accuracy and sufficiency of this information is not guaranteed. The *Contractor* is to ascertain if any additional information is required to ensure the safety of all persons and the *works*.

1.6 Sharing the Site with the *Client* and Others

1.6.1 In the context of this contract, Others is defined as all stakeholders relevant to the scope of the contract.

1.6.2 The *Contractor* shall co-operate with Others in obtaining and providing information which they need in connection with the works, including:

- What is being done,
- Who is doing it,
- When it is being done, and for how long,
- Where is it being done,
- How the *Contractor* is to co-operate and share the Working Areas.

1.7 Management of the *Works*

1.7.1 The *Client* and *Contractor* administer the contract using the *Client*'s contract management tools. This is currently FastDraft but may be transferred to similar systems from time to time.

1.7.2 The *Client* and *Contractor* attend the following meetings:

- Project start meeting.
- Weekly progress meetings from the starting date. The *Client* confirms the date and venue of these meetings. The *Client* chairs and records these meetings.
- Monthly commercial meetings from the starting date. The *Client* confirms the date and venue of these meetings. The *Client* chairs and records these meetings as required.
- Site walkovers as requested by the *Client*.
- Early Warning meetings as instructed by either Party.
- Design workshop, Risk workshop, and a premobilisation meeting. The *Client* confirms the date and venue of these meetings. The *Client* chairs and records these meetings.

1.7.3 The *Contractor* shall produce a progress report and submit this with their updated programme before the 5th of each month. This report:

- Highlights the progress achieved since the last programme submission.
- Explains any deviation from the previous programme in terms of progress and/or changes to the planned activities.
- Explains what actions are being implemented to mitigate any delay.
- State the expected date when the *Contractor* forecast to complete the works compared to the contract Completion Date.
- Details any lost days due to weather.
- Summarises the latest commercial position with detail of the original Prices, the value of implemented Compensation Events, the forecast of unimplemented Compensation Events, the forecast of the Prices.
- Includes site photos of progress achieved since the previous progress report.

1.7.4 The *Contractor* shall:

- Independently obtain and include all costs associated with any environmental permits, licences and approvals required the site investigation works.
- Issue all construction documentation including CPP, RAMS, permitting, works programme for site investigation works.
- Implement a Safe System of Work.
- Include any temporary works required to undertake the *Contractor*'s method of working as deemed necessary to meet the work scope.
- Provide supervision of activities including any subcontractor works.
- Place signage boards at site locations a required.
- Implement any site security measures as required.

- Produce a Site Waste Management Plan (SWMP) prior to work starting on site. The *Contractor* is to allow for the cost associated with waste and this must be disposed of offsite in accordance with the (SWMP) and in accordance with the current Waste Management Regulations.

1.7.5 The *Client* shall delegate the duties of administering this contract to an appointed *Client*'s delegate and on-site quality assurance to an appointed Supervisor (who shall also carry out Environmental Clerk duties as well). The delegated roles shall support the management of works. The *Client*'s Project Manager shall issue a delegation letter to all parties. The delegation letter shall contain clauses delegated to the delegate roles.

1.7.6 The *Client*'s delegate and the *Contractor* shall utilise the *Client*'s contract administration tool 'Fastdraft' for contract administration purposes.

1.8 Weather Measurements

1.8.1 The nearest weather station is London Southend Airport weather station. The *Contractor* is to sign up to EA flood alerts and have contacts of the Flood Warning Duty Officer.

1.8.2 The *Contractor* shall monitor the weather conditions from reliable sources and react accordingly.

1.9 Quality Management

1.9.1 Until the defects date, the *Client* shall instruct the *Contractor* to search for a defect.

1.9.2 The *Client* shall notify a defect to the *Contractor* at any time before the defects date.

1.9.3 The *Contractor* shall correct a defect whether or not the *Client* has notified it.

1.9.4 Before completion, the *Contractor* shall correct a notified defect before the end of the defect correction period. This period begins at the later of the completion and when the defect is notified.

1.9.5 The *Client* shall issue the defects certificate at the defects date if there are no notified defects, or otherwise at the earlier of:

- The end of the last defect correction period and
- The date when all notified defects have been corrected.

1.9.6 The *Contractor* and the *Client* may each propose to the other that the scope should be changed so that a defect does not have to be corrected. If the *Contractor* and the *Client* are prepared to consider the change, the *Contractor* shall submit a quotation for reduced Prices or an earlier completion date or both to the *Client* for acceptance. If the *Client* accepts the quotation, it shall change the scope, the prices and the completion date accordingly.

1.9.7 If the *Contractor* has not corrected a notified defect within its defect correction period, the *Client* shall assess the cost of having the defect corrected by other people and the *Contractor* shall pay this amount.

1.10 Consents, Permits and Licenses

1.10.1 The *Client* shall obtain the necessary consents, permits, licenses and/or agreements from third parties for the permanent works.

- PCMT
- Approvals from council to carry out the works (if required - TBC)
- Liaise with landowners to provide the *Contractor* with the proposed site compound location.
- TPO / Felling licence (dependent on design solution)
- Use of ad-hoc stockpiles of stone (including offshore)-(dependent on design solution)

1.10.2 The *Contractor* shall obtain the necessary consents, permits, licenses and/or agreements from third parties for the temporary works, including but not limited to:

- SSSI & RAMSAR
- FRAP and/or MMO.
- Public Right of Way closure.
- Temporary suspension of opposite lane parking (duration of works)
- Natural England permits required for priority habitat, protected birds / nested birds.

1.11 Health, Safety & Environment

1.11.1 The *Client*'s SHEW CoP is applicable to the *Contractor* in providing the works.

1.11.2 The Considerate Constructors Scheme is applicable as per the *Client*'s SHEW CoP. The *Contractor* is responsible for registering the project unless otherwise instructed by the *Client*.

1.11.3 The Construction, Design & Management (CDM) Regulations are applicable to the works. The Principal *Contractor* duties under the CDM Regulations 2015 shall be undertaken by the *Contractor*.

1.11.4 The *Contractor* shall produce project specific risk assessments and method statements (RAMS) detailing how they will provide the works and submits these to the *Client* for acceptance. The *Contractor* does not commence activities until the relevant RAMS have been accepted by the *Client*. The *Client* has the period of reply to respond to the RAMS.

1.11.5 The *Contractor* undertakes the actions within the Environmental Action Plan (EAP)

1.11.6 The Designer duties under the CDM Regulations 2015 shall be undertaken by the *Contractor* for all the elements designed by the *Contractor*.

1.11.7 The *Contractor* must ensure that all designers engaged by the *Contractor* fully co-operate with the Principal Designer to enable compliance with the Principal Designer's statutory duties.

1.11.8 The *Client* has provided CDM Pre-Construction Information (PCI) in the Site Information.

1.11.9 The *Contractor* is to prepare a full Construction Phase Plan (CPP) to be issued and signed off by the *Client* prior to the commencement of any construction works, including Investigation works. This shall be presented to the *Client* no less than 14 days prior to when the *Contractor* intends to start work. This is to allow the *Client* to review the document, consult landowners on the proposed works methodology and obtain review and sign-off from the CDM Advisor.

1.11.10 The *Contractor* submits to the *Client* and Principal Designer an electronic copy of the health and safety file compliant with the CDM Regulations. If the *Contractor* does not submit this information the *Client* may not award Completion.

1.11.11 Procedures and policies as outlined in the Environment Agency 'Safety, Health, Environment, and Wellbeing (SHEW)' code of practice. Constructing a better environment' document shall be applied throughout the Contract. The *Contractor* shall familiarise themselves with this document.

1.12 Procurement of subcontractors

1.12.1 In accordance with Schedule 7 Clause 2.1.3, the *Contractor* shall use sustainability, quality and price criteria when selecting subcontractors, evidence of how this was undertaken to be retained and made available to the *Client* if required.

1.11.2 In accordance with Schedule 7 Clause 2.1.6, the *Contractor* shall ensure that supply chain opportunities are inclusive and accessible to Small and medium-sized Enterprises; Voluntary, Community and Social Enterprise organisations and under-represented groups of suppliers.

1.11.3 In accordance with Schedule 7 Clause 2.1.1, the *Contractor* shall use the Contracts Finder website to advertise any sub-contracting opportunities to encourage a diverse and inclusive supply base. Within ninety (90) calendar days of awarding a sub-contract to a subcontractor, the Delivery Partner updates the notice on Contracts Finder with details of the successful subcontractor.

1.13 Completion

1.13.1 Prior to Completion the *Contractor* shall arrange a joint inspection with the *Client*. The initial inspection shall take place a minimum of one week in advance of the Completion. Completion is achieved and certified only when the works have reached a stage of completion where the site is judged to be acceptable for handover and suitable and safe for its intended use. The *Client* is responsible for making their initial judgement following the joint inspection.

1.13.2 The following criteria must be met for the works to be certified as Complete:

- all construction work must be fully complete, and all construction plant, and machinery must have been removed from site.
- all site perimeter fencing, temporary works, materials storage and waste must be removed from site.
- all public open spaces must be safe for use by the public with no remaining hazards associated with construction operations.

1.13.3 The following are absolute requirements for Completion to be certified.

- Provision of all information required by the Principal Designer for the Health & Safety File including but not limited to:
    - CAD and PDF copies of As-built drawings.
    - A digital copy of Health and Safety File including Buildability, Operability & Maintainability Statement.
- The *Contractor* shall provide the Final Carbon Calculator and Carbon Appendix in line with Gateway 3 and Gateway 4 requirements.
- All deliverables and products show evidence of a quality control system.
- All deliverables shall satisfy the relevant latest necessary guidance, EA Minimum Technical Requirements and legislative requirements to meet the scope requirements, unless otherwise agreed with the *Client* in advance of submission.

1.13.4 The *Contractor* shall support the *Client* to complete the DMAT tool.

1.13.5 The *Contractor* shall be responsible for uploading any produced final version documentation to the project Information Delivery Plan (IDP) on the Asite system.

1.14 ACCOUNTS AND RECORDS

1.14.1 The *Contractor*'s application for payment shall be submitted on FastDraft and supported by a breakdown of the works for which payment is due in the format provided in the Price List, including any implemented Compensation Events.

1.14.2 The *Contractor* shall issue invoices to the following two (2) email addresses and shall quote "Asset OMR, the relevant Framework Hub / Area, and PO number" in the email subject line.

- apinvoices-env-u@gov.sscl.com and
- ea_invoices-pa@environment-agency.gov.uk

2. Drawings

Drawing Number	Revision	Title
None		

3. Specifications

Title	Date or Revision	Tick if publicly available
Environment Agency Blockage Management Guide (Gov.uk)	12/2019	✓
Latest Ciria Guidance: Culvert, screen and outfall manual - New CIRIA guidance	12/2019	✓
Asset OMR Framework Deed of Agreement and Schedules	04/03/2024	
SHEW CoP	V 6 December 2023	
Flood and Coastal Risk, Asset Management Environmental Maintenance Standards (LIT 12144)	V 2.0	

Control of Substances Hazardous to Health (COSHH) Regulations	2002	✓
Construction Design Regulations (CDM) 2015	2015	✓
Lot 1 – Spec supplementary clauses – CULVERTS – CoP	V1.0	
Lot 1 – Spec Supplementary clauses – General	V1.0	
Lot 1 & Lot 3 – Supply Chain Passport Template		
Exchange Information Requirements (LIT 17641)	V 3	
Civil Engineering Specification for the Water Industry (CESWI)	7th Edition	

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

4.1 In accordance with Clause 14.5 of the contract, all of the *Client*'s actions under the contract are delegated to *Client's* Project Manager. The *Contractor* shall only act upon instructions received from the *Client*'s delegate.

4.2 All communications from the *Contractor* to the *Client* shall be sent to *Client's* Project Manager.

4.3 Protection against Damage.

4.3.1 The *Contractor* shall ensure that flood embankments, access tracks, fences, hedges, structures etc. found on site are not damaged by their activities. Such features are fully reinstated to the satisfaction of the *Client* and the landowner/occupier within the timescales detailed in the Specification.

4.3.2 Particular attention is required when working in proximity to Armaflex and Enkamat systems, which may have exposed elements above the surface. Significant damage would be caused to assets should these elements get entangled in *Contractor*'s Equipment.

4.3.3 The *Contractor* shall not commence any work on the site until the *Client*, or their representative, has accepted the Construction Phase Plan, including method statements and risk assessments ahead of each project in this contract. Acceptance will be by way of a written communication from the *Client* confirming the *Contractor* may take possession of the site from the agreed starting date.

4.3.4 The *Contractor* must allow a minimum of 2 weeks to allow the Principal Designer to review construction phase plans.

4.3.5 In order to assess the extent of work, the *Contractor* shall visit each site when pricing the work. The *Contractor* shall inform the *Client* of the time and date of each site visit before going to site.

4.3.6 The *Client* has the contractual right to access the working area as shown on the drawings. The *Contractor* shall be required to determine the suitability of the access and agree any alternative routes with the landowner should the identified routes be unsuitable.

4.3.7 Details of the routes must be included within the method statements. Access conditions may deteriorate following wet weather and the *Contractor* should assume the worst conditions when preparing his quotation.

4.3.8 Compensation will be agreed and paid by the *Client* (via its appointed land agents) to affected landowners based on the *Contractor*'s Programme, proposed access routes and method statements. Compensation claims incurred due to the *Contractor*'s failure to comply with its Programme, access routes and/or method statements will be passed on to the *Contractor*.

4.3.9 Where necessary the *Contractor* shall include for the removal and replacement of any gates, fences or hedges or any other measures necessary such as installing temporary tracks or crossings to facilitate access. The *Contractor* shall be responsible for reinstating access tracks/routes to the same conditions as encountered on arrival to the site.

4.3.10 The *Contractor* shall take all reasonable steps to avoid damage and disruption to the surrounding land, to the designated sites and associated access routes. Such land may be privately owned, commercially managed for industrial, agricultural use, or part of the local social amenities etc. Any problems with access shall be reported directly to the *Client*.

4.3.11 A key, which must be returned on completion of the works, will be provided as necessary to allow access through the *Client*'s gates.

4.3.12 If access to a site has deteriorated (e.g. due to heavy rainfall) making it difficult or impossible for the *Contractor* to access, the *Contractor* shall immediately contact the *Client*. The *Contractor* shall inform the *Client* of their intention to continue work at this site or submit a request to the *Client* that they may either postpone work or be permitted to start work at another site. If the *Contractor* decides to continue at the original site, this will be at his own risk.

4.3.13 Seven (7) working days' notice of commencement of works shall be given to the *Client*.

4.3.14 Two (2) working days' notice must be given to the *Client* in advance of completion of the works.

4.3.15 All accidents, near misses, dangerous occurrences and environmental incidents shall be notified to the *Client*, or their representative.

4.3.16 The *Contractor* shall be responsible for obtaining and/or registering for any necessary waste exemptions.

4.3.17 The *Client* requires twenty-four (24) hour / seven (7) days per week emergency contacts from the *Contractor* including the provision of out of hour's response if required due to theft, fire, flood and vandalism. It is expected that any emergency procedures are carried out by a competent employee of the *Contractor*.

4.3.18 The *Contractor* shall undertake an inspection and obtain pre and post work condition photos of any access routes that are expected to be used. This shall be made available to the *Client*'s Project Manager upon request.

4.3.19 No mud or other debris to be deposited on any tarmac areas outside the site access gate, any such material to be removed immediately.

4.3.20 The *Contractor* shall ensure that any service diversions and protection measures required during the works have been arranged and agreed with the relevant Statutory Authority.

4.3.21 Un-scoped or additional projects shall be added to the package upon acceptance of the relevant Compensation Events (CE's) and revised programmes depending on *Contractor* performance.

4.3.22 No fires may be lit on site unless expressly authorised by the *Client*.

4.3.23 The site shall only be used for the works intended.

4.3.24 The *Contractor* shall manage the use of any Hazardous Materials.

4.3.25 *Contractor* interfaces with the Works and existing items on the site: Work areas will need to be defined by the *Contractor* within the site prior to works commencing.

4.3.26 *Contractor* interfaces with the Works and occupied premises and users affected by the works: Access to site will still be needed by the operations team during the Works.

4.3.27 The *Contractor* shall keep to a minimum any fuels and substances used on site and stored so that there is no possibility of potential contamination of the site or waterways through accidental spillage or vandalism.

4.3.28 The *Contractor* shall produce a Lifting Plan by a competent person and submit to the *Client* for approval prior to any lifting activities taking place.

4.3.29 The *Contractor* is responsible for the security of the Works at the site and is the interface between any visitors and the site operation.

4.3.30 The *Contractor* is responsible for traffic management including access routes.

4.3.31 Site is adjacent to residential properties, so consideration needs to be given to minimise noise impact.

4.4 Choice of Equipment

4.4.1 The *Contractor* shall choose the most appropriate plant to complete the works.

4.4.2 The *Contractor* ensures that all plant is maintained.

4.4.3 All Equipment with hydraulic systems shall use biodegradable hydraulic oil.

4.4.4 All plant traversing under overhead cables shall be fitted with a Prolec or other height limiting device.

4.5 Permits

4.5.1 Works will require the *Contractor* to obtain a Flood Risk Activity Permit from the Environment Agency where required.

4.5.2 The *Contractor* shall be responsible for obtaining the necessary Environmental Permits for Flood Risk Activities (if applicable). The *Contractor* shall ensure the permits are received a minimum of two (2) weeks prior to commencement of works. The *Contractor* shall be responsible for all costs associated with permit applications. The *Client* has, were possible, started the application process which will need to be transferred to the *Contractor* and finalised. Please be aware the Permitting process can take eight (8) weeks from receipt of payment, need for permits to be discussed with *Client*'s Project Manager prior to applying for permits.

4.6 Site Restrictions

4.6.1 Safe system of work near water should be in place, including monitoring of water level and weather conditions.

4.6.2 Potential erosion of embankment and flooding during high tides.

4.7 Environment and Heritage

4.7.1 All activities will be planned in accordance with Environment Agency's National Environment Assessment Service (NEAS) and their recommendations.

4.7.2 Comply with legislation regarding the protection of biodiversity.

4.7.3 Notify the relevant enforcing authority and take steps to prevent the damage if your activities pose an imminent threat to the environment and habitat. If your activities cause actual environmental damage, you must take remedial action to repair the damage.

4.7.4 Site Specific Environmental and Heritage Issues:

- Swale Ramsar & SPA
- Swale SSSI
- The site is within South East MMO area.
- Site within 100m of Coastal and floodplain grazing marsh, Saltmarsh and Mudflats priority habitat
- The habitat and features in this area are likely to support birds during nesting and overwintering.
- The habitat and features in this area are likely to support fish.

Working times

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

The *Contractor* will be permitted to work between 7.30am and 6.00pm on weekdays (Monday to Friday). In some instances, it may be deemed necessary for the *Contractor* to undertake weekend working, if required this will be limited to Saturday mornings and subject to advanced agreement with the *Client*.

5. Requirements for the programme

5.1 The *Contractor* shall submit their first programme with the *Contractor*'s Offer for acceptance.

5.2 The *Contractor* shall submit the programme in Adobe PDF and Microsoft Project 2016 formats for *Client*'s acceptance.

5.3 The *Contractor* shall show on each programme submitted for acceptance:

- The starting date and Completion Date.
- The critical path.
- The dates when the *Contractor* forecasts to need first access to each part of the Site to undertake physical works.
- The order and timing of the operations which the *Contractor* plans to do in order to provide the works.
- Lead in periods for materials and subcontractors, time required to obtain consents/waste permits; stated constraints; *Contractor*'s risk.
- The order and timing of the work of the *Client* and others required for the *Contractor* to provide the works.
- Provisions for float, time risk allowance, mobilisation, project planning and procedures set out in the contract.
- each of the activities listed within the Price List.

5.4 Within two (2) weeks of the *Contractor* submitting a programme for acceptance, the *Client* notifies the *Contractor* of the acceptance of the programme or the reasons for not accepting it. A reason for not accepting a programme is that:

- The *Contractor*'s plans which it shows are not practicable,
- It does not represent the *Contractor*'s plans realistically or
- It does not comply with the Scope.

5.5 If the *Client* does not notify acceptance or non-acceptance within the time allowed, the *Contractor* may notify the *Client* of that failure. If the failure continues for a further one (1) week after the *Contractor*'s notification, it is treated as acceptance by the *Client* of the programme.

5.6 The *Contractor* shall show on each revised programme:

- The actual progress achieved on each operation and its effect upon the timing of the remaining work.
- How the *Contractor* plans to deal with any delays and to correct notified Defects and
- Any other changes which the *Contractor* proposed to make to the Accepted Programme.

5.7 The *Contractor* shall submit a revised programme to the *Client* for acceptance:

- Within the period for reply after the *Client* has instructed the *Contractor* to
- When the *Contractor* otherwise chooses to

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
Site Information (including Pre-Construction Information)	Within two weeks of s*tarting date.*
Hazard Map	Within two weeks of s*tarting date.*
FastDraft Access	Within two weeks of s*tarting date.*
Service Searches (up to date)	Within two weeks of s*tarting date.*
Flow levels (Culvert)	Within two weeks of s*tarting date.*
Tide levels	Within two weeks of s*tarting date.*
Archive/ As built drawings	Prior to contract award.
ASite - Online file storage and sharing platform	Prior to contract award.
Initial induction to be arranged to enable access to EA sites	At least seven days before the possession dates.
Landowners contact information where required	At least seven days before the possession dates.

Site Information

The Site

Description: Conyer Creek embankment is located on the southern bank of the Swale, east of Conyer Creek, Conyer. The proposed site compound is situated 400m northwest from this gate.

	Site	Proposed Site compound
National Grid Reference	TQ 97506550	TQ 95934652
Postcode	ME9 9HL	ME9 9HL
What3Words	enter.parked.brass	lifeguard.internal.agreeing

Existing utilities and services

Drawings:

Drawing reference	**Description**
None	

Proposed subcontractors

	Name and address of proposed subcontractor	Nature and extent of work
1.	Form of Contract:	
2.	Form of Contract:	
3.	Form of Contract:	
4.	Form of Contract:	