

NEC4 Engineering and Construction Short Contract

A contract between

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

And

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

For

EMD Asset Recovery_Embankment sub-programme_Quick
Wins South & East

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		
Address for communications		
Address for electronic communications		
The <i>works</i> are	Embankments investigation and repair works Quick Wins South & East	
The <i>site</i> is	<p>Multiple locations:</p> <ul style="list-style-type: none"> • URN 2-304 Toton Stables - bank erosion repair & conveyance improvements • URN 2-305 Toton Corner Flood Embankment, Toton Corner • URN 2-306 Shelford Ring Bank Embankment, Waterfurrow Lane, Shelford • URN 2-409 Rothley flood bank repairs <p>Detailed site information can be found in each Project Identification Form (PIF)</p>	
The <i>starting date</i> is	07/10/2024	
The <i>completion date</i> is	06/12/2024	
The <i>delay damages</i> are	nil	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 <i>Adjudicator</i> 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 <i>Adjudicator</i> . The application to the Institution includes a copy of this definition of the <i>Adjudicator</i> . The referring Party pays the administrative charge made by the Institution. The person appointed is also <i>Adjudicator</i> 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		
The Client provides this insurance	None	
Insurance Table		
Event	Cover	Cover provided until
Loss of or damage to the works	The replacement cost	The Client's certificate of Completion has been issued The defects Certificate has been issued
Loss of or damage to Equipment, Plant and Materials	The replacement cost	
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 <i>Contractor</i> to use the skill and care normally used by professionals providing works similar to the works	Minimum £..... 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 <i>Adjudicator nominating body</i> 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 correct 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	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. The <i>Contractor</i> does not proceed with the relevant work until the <i>Client</i> has accepted this design.	
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	Delete the text of Clause 60.1(11) and replace by:	

	<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 • 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.
Z12.0	Packaging
Z12.1	For contracts containing packages of projects the <i>Client's</i> Contract Data, Scope and Site Information particular to an individual project is contained within its Site Specific Pack
Z110	<p>Inflation</p> <p>At the Contract Date the total of the Prices does not include a sum to cover inflation.</p> <p>The total of the Prices [at the Contract Date] shall be adjusted by a fixed number of Price Adjustments.</p> <p>The number of Price Adjustments shall be equal to:</p> <p>The number of months between the Completion Date included at the <i>starting date</i> and the Contract Date.</p> <p>The proportion of Price Adjustment shall be equal to:</p> <p>The total of the Prices at the Contract Date / The number of Price Adjustments</p> <p>Each time the amount due is assessed, the Price Adjustment shall be:</p> <p>The proportion of Price Adjustment x [80% x Construction Output Price Indices (OPIs) New work output prices: Infrastructure Index 1 – month rate]</p> <p>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</p> <p>Provided always that the fixed number of Price Adjustments has NOT been exceeded.</p> <p>The Price Adjustment adjusts the total of the Prices.</p> <p>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.</p>

Contract Data

The *Contractor's* Contract Data

The <i>Contractor</i> is		
Name		
Address for communications		
Address for electronic communications		
The <i>fee</i> percentage is		%
The <i>people rates</i> are	As per framework	
category of person	unit	rate
The <i>published list of Equipment</i> is		As per framework or CECA
The <i>percentage for adjustment for Equipment</i> is		

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

[REDACTED]

Enter the total of the Prices from the Price List.

Signed on behalf of the *Contractor*

Name

[REDACTED]

Position

[REDACTED]

Signature

[REDACTED]

Date 02/10/2024

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

Signed on behalf of the *Client*

Name

[REDACTED]

Position

[REDACTED]

Signature

[REDACTED]

Date	03/10/2024

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	2-304_EMB Toton Stables Bank Erosion Repair Topographical Survey and Report	Item	1		
2	2-305_EMB Toton Corner Flood Embankment Topographical Survey and Report	Item	1		
3	2-306_EMB Shelford Ring Bank Repair Topographical Survey and Report	Item	1		
4	2-409_EMB Rothley Flood Bank Repair Topographical Survey and Report	Item	1		
The total of the Prices					

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.

In line with Tender Submissions ref T6493/GG/01, T6494/GG/01, T6495/GG/01, T6497/GG/01

Scope

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

1. Description of the works

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

The Environment Agency maintains several flood embankment assets that were impacted by Storm Babet & Henk. The typical issues reported are:

- seepage through the embankments seen during high water levels
- embankment damage following Storm Babet & Henk
- Bank collapse at isolated location + some erosion / encroachment to crest
- Scour and loss of grass cover to crest and exposed face from cattle poaching
- Material wash-out around outfall structure + loss of crest height
- Multiple locations of severe scour / slips to crest and landward face ; grass cover poor on exposed face; narrow / non-existing berm in places ; deep vehicle rutting on crest
- more pronounced crest low spots and new mole activity
- Significant animal damage on landward face

As part of the *works*, the *Contractor* shall attend the site with the *Client* to investigate the failing asset and to produce the report which outlines the problem and potential solutions to repair the asset to acceptable conditions.

Minimum two persons in attendance and with appropriate health and safety training e.g. working near water.

Contractor's design responsibility: no design responsibility is envisaged as part of this scope

Contractor's is to undertake the topographical survey at all sites but URN 2-384 Erewash Asset, Erewash as per the agreement with the Senior User. For extents and the scope of the topographical surveys, see e-mail "EA Flood Embankment Sites - Proposed Scope of Works - Phase (1)" dated 24.09.24 and attached maps prepared by the *Contractor*.

The *Contractor's* report is to be shared with the *Client* and to include:

- Identification of the problem
- Identify the cause of the asset failure
- Identify the potential repair solutions

- Site photo* log with location reference
- Proposed logistical access/preliminary site setup plan and
- Hazards map
- Confirmation of the works extents in agreement with the *Client* and Senior User
- Identify access constraints i.e. vegetation clearance, INNS, nearby construction works, structures/ bridges with weight limit etc.
- Identification of any permits/ consents including footpath/ road closures
- Identification of potential opportunities/efficiencies

* Each photograph of a defect shall include date, a reference to adopted chainage system, and include a visible colour scale, grey scale and size scale.

Contractor to engage with the *Client* for any uncertainties and queries when producing the report.

Contractor shall submit the draft report within 10 working days from the site visit and allow one review of the report by the *Client* with 5 working days to respond to the *Client's* comments.

Contractor is to support the *Client* to select the preferred option and advise the high-level estimate to deliver the main works within 10 working days.

2. Drawings

List the drawings that apply to the contract.

Drawing Number	Revision	Title

3. Specifications

List the specifications which apply to the contract.

Title	Date or Revision	Tick if publicly available
Environment Agency Blockage Management Guide (Gov.uk)	12/2019	yes

Latest Ciria Guidance: Culvert, screen and outfall manual - New CIRIA guidance	12/2019	yes
Environment Agency, SHEW- COP	Latest	NO- if not available, please request the <i>Client</i>
Lot 1 - Spec supplementary clauses - CULVERTS - CoP	V1- 09/07/24	NO
Lot 1 - Spec supplementary clauses - General	V1- 09/07/24	NO
LIT 18749 - National standard technical specifications for surveying services	V5.01 1 March 2023	NO

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

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

Landowners: The *Client* will issue Notices of Entry if and when needed. The *Contractor* will work within the period and parameters set out in the Notice

Working times

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

5. Requirements for the programme

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

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

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

- (a) Period required for mobilisation/ planning & post contract award
- (b) starting date
- (c) Each of the activities listed within the Price List
- (d) Any key third party interfaces: lead in periods for materials and sub-contractors; time required to obtain consents/waste permits; stated constraints; *Contractor's* risks.
- (e) Completion date

In addition, *Contractor* is to present *Contractor's* risks that could impact the completion date

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

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

Item	Date by which it will be provided
Statutory Notices of Entry for access across the private land to access working area.	When required- 7 days prior to possession dates.
Provide support to all communications with Landowners and another contractor on site	where required
Landowner contact information	if required

Site Information

Available information provided by the Asset Performance Team to the Project Manager have been saved in the Project folder on SharePoint (sub-folder 00 Existing Information).

Access to sites for a walkover using PRoW

Project Identification Form:

- URN 2-304 Toton Stables - bank erosion repair & conveyance improvements
- URN 2-305 Toton Corner Flood Embankment, Toton Corner
- URN 2-306 Shelford Ring Bank Embankment, Waterfurrow Lane, Shelford
- URN 2-409 Rothley flood bank repairs

The extends of each site has been agreed with the *Client's* representative on site and are as per the maps prepared by the *Contractor*:

- 2-304_EMB Toton Stables - Topographical Survey Extents
- 2-305_EMB Toton Corner - Topographical Survey Extents
- 2-306_EMB Shelford Ring Bank - Topographical Survey Extents
- 2-409_EMB Rothley - Topographical Survey Extents

Proposed sub-contractors

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