

# NEC4 Engineering and Construction Short Contract

Crown Commercial Services Framework – Lot 1.2.1 North - CWAS RM 6088

**A contract between**

**The Environment Agency**

**Horizon House**

**Deanery Road**

**Bristol**

**BS1 5AH**

**And**

**AE Yates**

**For**



**GMMC RECON MEICA Ince Marshes Asset – Tang Running**

**Contract Forms**

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- **Price List**
- **Scope**
- **Site Information**

# Contract Data

## The *Client's* Contract Data

	The <i>Client</i> is	
Name	Environment Agency	
Address for communications	 Project & Contract Management (PCM) Department Richard Fairclough House Knutsford Road, Warrington WA4 1HT	
Address for electronic communications		
The <i>works</i> are	To undertake works of a minor civils nature to Tang Running. The works have an agreed design previously completed by AE Yates (under the FOF contract) and require Construction.	
The <i>site</i> is	Tang Running Asset – Ince Marshes Pump Station, Ellesmere Port, CW5 5EA (Grid Reference: SJ4648277373).	
The <i>starting date</i> is	22 <sup>nd</sup> April 2024	
The <i>completion date</i> is	30 <sup>th</sup> September 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) <b>does</b> 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
Loss of or damage to Equipment, Plant and Materials	The replacement cost	The defects Certificate has been issued
The Contractor's liability for loss of or damage to property (except the works, Plant and Materials and Equipment) and for bodily injury to or death of a person (not an employee of the Contractor) arising from or in connection with the Contractor's Providing the Works	Minimum [REDACTED] 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 £..... 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		
<b>Only enter details here if additional conditions are required.</b>		
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"> <li>• War, civil war, rebellion revolution, insurrection, military or usurped power</li> <li>• Strikes, riots and civil commotion not confined to the employees of the <i>Contractor</i> and sub-contractors</li> </ul>	

	<ul style="list-style-type: none"> <li>• Ionising radiation or radioactive contamination from nuclear fuel or nuclear waste resulting from the combustion of nuclear fuel</li> <li>• Radioactive, toxic, explosive or other hazardous properties of an explosive nuclear device</li> <li>• Natural disaster</li> <li>• Fire and explosion</li> <li>• Impact by aircraft or other device or thing dropped from them</li> </ul>
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
<b>Z12.1</b>	<b>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</b>
Z110	<p>Inflation</p> <p>At the Contract Date the Client set 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 Contract Date and the Contract Date.</p> <p>The proportion of Price Adjustment shall be equal to:</p> <p>The Client set 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 CPI 1 – month rate]</p> <p>The CPI 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 [Client set] 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>
	Guidance Note – This is intended to provide a remedy for inflation on ECSC contracts. ed, we selected to use this simpler methodology for a remedy. In the rare circumstance that CPI is less than zero, it would be applied at the zero rate.

# Contract Data

## The Contractor's Contract Data

	The Contractor is	
Name	A E Yates Limited	
Address for communications	Cranfield Road, Lostock Industrial Estate, Lostock, Bolton BL6 4SB	
Address for electronic communications	[REDACTED]	
The fee percentage is	[REDACTED]	%
The people rates are		
category of person	unit	rate
Contracts Manager	Day	[REDACTED]
Site Manager	Day	[REDACTED]
Skilled Operative	Day	[REDACTED]
Machine Driver	Day	[REDACTED]
The published list of Equipment is		CECA 2022
The percentage for adjustment for Equipment is		[REDACTED]

# Contract Data

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

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

The offered total of the Prices is **£448,442.79**

**Enter the total of the Prices from the Price List.**

Signed on behalf of the *Contractor*

Name

Position

Signature

Date 15.04.2024

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

Signed on behalf of the *Client*

Name

Position


Signature

Date	18/4/24



# Price List

Item Number	Description	Unit	Quantity	Rate	Price
<b>1</b>	<b>Preliminaries</b>				
1.01	Contracts manager/ Site Manager	Week			
1.02	H&S Advisor	Day			
1.03	Site Foreman	Week			
1.04	Quantity Surveyor	Day			
1.05	Weekly site set up	Week			
1.06	Insurances	Item			
<b>2</b>	<b>Schedule of works</b>				
	Project Management				
2.01 PM	Attendance at on-site meeting with EA representatives to discuss the works and view each site.	Item			
2.02 PM	Attendance at weekly progress meetings with the Client or Client representative.	Item			
2.03 PM	Production of an initial programme at the start of the Contract and update on a monthly basis for acceptance by the Client.	Item			
<b>3</b>	<b>MEICA Assets – Tang Running, Ince Marshes Pump Station</b>				
3.01	Initial site set up including trackway, pipe protection and Dam works.	Item			
3.02	Undertake investigations and Installation of Piling works.	Item			
3.03	Construction of a like for like structure which will consist of 1 penstock and 1 tidal flap valve to ensure the functionality remains the same. The tidal flap is to be eel regulation compliant.  There is a requirement to utilise two 1050mm concrete pipes as per the present to support the clearing of silt.	Item			
3.04	To prevent access to the structure there is a requirement to install a standard detail fence and locked gate, this shall be accessed via an access pathway and new access stairs from the track on the MSC side of the structure (physical location tbc).	Item			
3.05	Embankment erosion is to be infilled	Item			
3.06	Once the new structure is in place the existing structure, clay bund and headwall are to be removed and the embankment is to be reinstated to a pre works condition. This	Item			

	includes removal of the current membrane material and temporary works.				
Assumptions & Clarifications					
					
The total of the Prices					£448,442.79

The method and rules used to compile the Price List are

Civil Engineering Standard Method of Measurement 4<sup>th</sup> edition (CESMM4) as per the Framework Price Workbook.

# Scope

## 1. Description of the works

The Environment Agency (EA) Project and Contract Management (PCM) team for the North West Hub are seeking to appoint AE Yates through the Crown Commercial Services (CCS) Framework to deliver a reconditioning project on a MEICA Asset at Tang Running, Ince Marshes Pump Station. The works are to construct a new structure at Tang Running to replace the currently installed clay bund. The works have been designed by AE Yates under the FOF contract and are required to be constructed through the CCS Framework.

### Project Management:

- Attendance at on-site meetings with EA representatives to discuss and view the works.
- Attendance at Fortnightly progress meetings with the Client or Client representative.
- Production of an initial programme at the start of the Contract and update on a monthly basis for acceptance by the Client.
- The Contractor will carry out the role of CDM 'Designer' and 'Principal Contractor' for the construction period

- The Contractor is required to provide the relevant Health and Safety, Construction Phase Plan (CPP), Risk Assessment, Method Statements (RAMS) and CDM Documentation to the Client for the site. The Contractor must ensure that the documents satisfy the PD-PCMT checklist requirements.
- The Contractor is to produce a Carbon Calculator for the works.

#### **Construction and Handover:**

- The Contractor is required to provide all site set up in accordance with the SHEW Code of Practice
- The Contractor is required to comply with the EA Minimum Technical Requirements.
- Where appropriate, the Contractor is required to comply with the Civil Engineering Specification for the Water Industry 7<sup>th</sup> Edition.
- The Contractor is to liaise with the Client's CDM Principal Designer to produce the Health and Safety File and reinstate the site post construction.
- Where appropriate, the Contractor is required to provide any temporary works to facilitate safe access, dry working areas or any required and safe environment for conducting the works.
- The Contractor is required to provide the relevant Traffic Management Plan (TMP) for each site.
- The Contractor is required to provide the relevant Site Waste Management Plan (SWMP) for each site.
- The Contractor is required to remove all waste/soil from site straight away to an appropriate licensed waste handler.
- The Contractor is required to provide site photographs and records of the site before starting construction, during construction and post-construction.
- The Contractor is required to ensure that the area and surrounding environment are returned to their original state upon completion.
- The Contractor is required to issue all as-built drawings and associated H&S file information to the Client at completion of the site.

#### **Specific activities expected within this project include but are not limited to the following:**

- Works activities can only commence once [REDACTED] undertaken water vole displacement (displacement season commences on [REDACTED])
- Detailed Design has been carried out to undertake the removal of the current structure and clay bund and install a new like for like structure.
- Details for the works are shown on the drawings listed in Section 2 below and include:
  - Initial site set up including trackway access to site, pipe protection and dam works.
  - Undertake investigations and Installation of Piling works.
  - Construction of a like for like structure which will consist of 1 penstock and 1 tidal flap valve to ensure the functionality remains the same. The tidal flap is to be eel regulation compliant.
  - There is a requirement to utilise two 1050mm concrete pipes as per the present to support the clearing of silt.
  - To prevent access to the structure there is a requirement to install a standard detail fence and locked gate, this shall be accessed via an access pathway and new access stairs from the track on the MSC side of the structure.
  - Embankment erosion is to be infilled accordingly.
  - For ease of access to the work area, access shall be across the farmers field, as per the access used for installation of the clay bund [REDACTED]
  - The clay bund in act as a temporary bund whilst the new structure is installed. Once the new structure is in place the existing structure, clay bund and headwall are to be removed and the embankment is to be reinstated to a pre works condition. This includes removal of the current membrane material and temporary works.
  - Any waste material that cannot be re-used within the site is to be taken off site by a licensed waste carrier and disposed of at a suitably authorised land fill site.
- A Flood Risk Activity Permit (FRAP) has been submitted and Duly Made.

## **2. Drawings**

Drawing Number	Revision	Title
30008605_P2	A	Location Plan and existing site layout
30008606_P4	A	Proposed Site Layout, Section A-A

30008607_P7	A	Proposed Site Layout, Section B-B
30008608_P2	A	Proposed Buildability and site work area
S3-ARF-1000-GA – Flap Valve details	A	Flap Valve details

### 3. Specifications

Title	Date or Revision	Tick if publicly available
Constructing a Better Environment Safety, Health, Environment and Wellbeing (SHEW) Code of Practice (CoP)	V6 September 2023	
Environment Agency Minimum Technical Requirements	Version 12	
Civil Engineering Specification for the Water Industry 7 <sup>th</sup> Edition	03/2011	yes

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

The Contractor will adhere to any environmental constraints identified within the scoping document for the site e.g. (but not limited to) in-channel working seasonal restrictions, ecological constraints/survey requirements such as including but not limited to burrowing mammals and badgers, SSSI/SAC requirements. The works will be undertaken working closely with EA FBG and [REDACTED]. Works cannot commence until [REDACTED] have displaced water vole (season for displacement commences on 15<sup>th</sup> February 2024).

The Contractor is to prepare a full Construction Phase Plan (CPP) to be issued and signed by the Client prior to the commencement of any construction works. This should 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 Principal Designer.

The Contractor will not begin works on site until the Client has formally signed off the Construction Phase Plan and all Risk Assessments and Method Statements (RAMS).

The Contractor will consider Public and Operational Safety in all designs and every effort must be made during the planning and management of activities to reduce the impact on the public and the impression of a 'considerate constructor' should be given at all times. This includes reducing noise, dust and vehicle/plant movements as far as reasonable.

Prior to commencement, the Contractor will consider and identify up-to-date service locations using drawings and review the SHEW Code of Practice in relation to services.

The Contractor will remove waste from site straight away by a licensed waste handler.

The *Contractor* will support the *Client* representative with the relevant information to update or create the Health and Safety file and Operation and Maintenance manual for each scheme.

Client will have the right to cancel/postpone the construction phase, without significant financial penalties, if the timing of the construction work due to seasonal constraints and the weather conditions means that it is not safe/appropriate for the work to be carried out or if funding is stopped.

The Contractor may publicise information about the works, so long as the Client has agreed in writing following review of the publication.

The Contractor, whilst supplied with all known service information available to the Client, must demonstrate relevant due diligence when excavating/ breaking ground. The Contractor accepts liability for excavations / breaking out works, including the safe management of these works.

The <i>Contractor</i> will ensure the working area and access tracks are reinstated to the original condition in which it was, prior to the commencement of the works.
The <i>Contractor</i> is to advise the <i>Client</i> of any land registry required for a site compound. The <i>Client</i> is responsible for the compensation or agreements relating to securing the compound area.
The <i>Contractor</i> will ensure access along footpaths is maintained, or a suitable diversion planned and agreed with the relevant landowner/local council, throughout the duration of the works for public use.
The <i>Contractor</i> and <i>Client</i> will abide by the SHEW Code of Practice at all stages of the project.

#### Working times

The Contractor will be permitted to work between 8am and 5pm on weekdays (Monday to Friday).

Additional hours outside of those listed above, including weekend hours, must be communicated to and signed off by the Client. The Contractor should allow at least 5 working dates notice to the Client if additional working hours are required.

## 5. Requirements for the programme

The *Contractor* submits their programme with the *Contractor's* Offer for acceptance. The *Contractor* shows on each programme which they submit for acceptance in Microsoft Project (in form of Gantt chart showing the critical path, proposed order and timing to undertake the works) 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/Flood Risk Activity Permit; stated constraints; *Contractor's* risks.
- (e) Completion date

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

Item	Date by which it will be provided
Notice of Entries	At least 10 days prior to <i>works</i> commencement.
Services and Land Registry details (to be updated by <i>Contractor</i> )	Along with this contract

## Site Information

All Site Information details have been provided previously to AE Yates as they have completed Detail Design under the FOF contract.

# Proposed sub-contractors

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