

NEC4 Engineering and Construction

Short Contract

FCRM Operational Framework – Central Hub

A contract between

**The Environment Agency
Horizon House
Deanery Road
Bristol
BS1 5AH**

And

**Breheny Civil Engineering Ltd
Flordon Road
Creeping St Mary
Ipswich
Suffolk
IP6 8NH**

For

Brandon Staunch Fish Pass

Contract Forms

- **Contract Data**
- **The *Contractor's* Offer and *Client's* Acceptance**
- **Price List**
- **Scope**
- **Site Information**

Contract Data

The *Client's* Contract Data

	The <i>Client</i> is	
Name	Environment Agency	
Address for communications	[REDACTED]	
Address for electronic communications	[REDACTED]	
The <i>works</i> are	Designing and building a Larinier fishpass	
The <i>site</i> is	[REDACTED]	
The <i>starting date</i> is	To be determined by the successful <i>Contractor's</i> programme, but no earlier than 7/7/2020	
The <i>completion date</i> is	To be determined by the successful <i>Contractor's</i> programme, but no later than 18/12/2020	
The <i>delay damages</i> are	0	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	3	% per complete week of delay.
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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 <i>Contractor</i> to the <i>Client</i> for loss of or damage to the <i>Client's</i> property is limited to 100k	
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The <i>Client</i> provides this insurance	None
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Insurance Table

Event	Cover	Cover provided until
Loss of or damage to the <i>works</i>	The replacement cost	The <i>Client's</i> certificate of Completion has been issued
Loss of or damage to Equipment, Plant and Materials	The replacement cost	The defects Certificate has been issued
The <i>Contractor's</i> liability for loss of or damage to property (except the works, Plant and Materials and Equipment) and for bodily injury to or death of a person (not an employee of the <i>Contractor</i>) arising from or in connection with the <i>Contractor's</i> Providing the Works	Minimum £5,000,000 in respect of every claim without limit to the number of claims	
Liability for death of or bodily injury to employees of the <i>Contractor</i> arising out of and in the course of their employment in connection with this contract	The amount required by the applicable law	
Failure of the <i>Contractor</i> to use the skill and care normally used by professionals providing works similar to the works	Minimum £50,000 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
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The <i>tribunal</i> is	litigation in the courts
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The *conditions of contract* are the NEC4 Engineering and Construction Short Contract June 2017 and the following additional conditions

Only enter details here if additional conditions are required.

Z1.0	Sub-contracting
Z1.1	The <i>Contractor</i> submits the name of each proposed subcontractor to the <i>Client</i> for acceptance. A reason for not accepting the subcontractor is that their appointment will not allow the <i>Contractor</i> to Provide the Works. The <i>Contractor</i> does not appoint a proposed subcontractor until the <i>Client</i> has accepted them.
Z1.2	Payment to subcontractors and suppliers will be no more than 30 days from receipt of invoice.
Z2.0	Environment Agency as a regulatory authority
Z2.1	The Environment Agency's position as a regulatory authority and as <i>Client</i> under the contract is separate and distinct. Actions taken in one capacity are deemed not to be taken in the other.
Z2.2	Where statutory consents must be obtained from the Environment Agency in its capacity as a regulatory authority, the <i>Contractor</i> is responsible for obtaining these and paying fees (unless stated otherwise in

	the Scope). The <i>Client's</i> acceptance of a tender and the <i>Client's</i> instruction or variation of the works does not constitute statutory approval or consent.
Z2.3	An action by the Environment Agency as regulatory authority is not in its capacity as <i>Client</i> and is not a compensation event.
Z3.0	Confidentiality & Publicity
Z3.1	The <i>Contractor</i> may publicise the works only with the <i>Client's</i> written agreement.
Z4.0	Correctness of Site Information
Z4.1	Site Information about the ground, subsoil, ducts, cables, pipes and structures is provided in good faith by the <i>Client</i> but is not warranted correct. The <i>Contractor</i> checks the correctness of any such Site Information they rely on for the purpose of Providing the Works.
Z5.0	The Contracts (Rights of Third Parties) Act 1999
Z5.1	For the purposes of the Contracts (Rights of Third Parties) Act 1999, nothing in this contract confers or purports to confer on a third party any benefit or any right to enforce a term of this contract.
Z6.0	Design
Z6.1	Where design is undertaken, it is the obligation of the <i>Contractor</i> to ensure the use of skill and care normally used by professionals providing similar design services.
Z6.2	The <i>Contractor</i> designs the parts of the works which the Scope states they are to design.
Z6.3	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: The works are affected by any one of the following events <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
Z7.2	Additional Compensation Event COVID-19 Managing and mitigating the impact of Covid 19 and working in accordance with Public Health England guidance, as may vary from time to time, until 31 October 2020.
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	Delete the text of Clause 92.3 and replace with: 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.
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.

Contract Data

The *Contractor's* Contract Data

	The <i>Contractor</i> is	
Name	Breheny Civil Engineering Ltd	
Address for communications	[REDACTED]	
Address for electronic communications	[REDACTED]	
The <i>fee</i> percentage is	[REDACTED]	[REDACTED]
The <i>people rates</i> are	[REDACTED]	
category of person	unit	rate
The <i>published list of Equipment</i> is		[REDACTED]
The <i>percentage for adjustment for Equipment</i> 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

[REDACTED]

Enter the total of the Prices from the Price List.

Signed on behalf of the *Contractor*

Name

[REDACTED]

Position

[REDACTED]

Signature

[REDACTED]

Date

24.07.2020

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

Signed on behalf of the *Client*

Name

[REDACTED]

Position

Senior Commercial Officer

Signature

[REDACTED]

Date

10/08/2020

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	Employment of Designers during planning and construction phase	£	■		■■■■■
2	Prepare construction ready drawings using the parameter, dimensions, mAOD heights and sizing approved by NFPP FP:002 contained within drawings submitted for NFPP application <ul style="list-style-type: none"> 5182052-ATK-WB-BS-DR-C-002_P03 5182052-ATK-WB-BS-DR-C-003_P03 5182052-ATK-WB-BS-DR-C-004_P02 (003) 	£	■		■■■■■
3	Apply for an (EA) Environmental Permit	£	■		■■■■■
4	Mob/Demob (reduce crown on willow by lake)	£	■		■■■■■
5	Provide site supervision	£	■		■■■■■
6	Divert footpath as per Norfolk CC instruction	£	■		■■■■■
7	Installation of temporary works	£	■		■■■■■
8	Construction of; 8930mm long, 1800m wide Larinier, with Berry and Escott tile eel pas using the parameter, dimensions, mAOD heights and sizing approved by NFPP FP:002 contained within drawings submitted for NFPP application and using the construction ready drawing approved by the client;	£	■		■■■■■
8	Supply and Installation of metal Larinier tiles	£	■		■■■■■
9	Provide H&S File and O&M manual	£	■		■■■■■
10	Provide As-built drawings	£	■		■■■■■
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.

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.

Brandon staunch is the first barrier on the Little Ouse and is key to providing passage U/S to failing reaches. It will also link to habitat work carried out upstream, enabling migratory and coarse species to colonise new habitat. The site is owned by the Environment Agency, which provides amenity, flood defence and navigation functions. An appraisal of the structures and fish passage took place internally in 2013, with a Larinier pass chosen as the most beneficial pass at the site. In 2019 Atkins were employed to carry out a detailed design of the fish pass and submission of the FP002 to the National Fish Pass Panel.

The works involve building a new Larinier fish/eel/canoe* pass connecting the Downstream (*D/S*) and Upstream (*U/S*) section on the Little Ouse at Brandon Staunch on the Environment Agency's structure. This fish pass will be located on the left of the weir as per the detailed design drawings completed by Atkins accompanying the tender pack and National Fish Pass Panel (*NFPP*) form FP:002.

*The pass by default because of its width will allow canoe passage, canoe passage was designed into the detailed design drawings Atkins completed. If the asset owner accepts the risk to allow canoe passage through the pass, chains will be installed into the pass to allow for the passage of canoes as per design drawing approved by the NFPP. If it is not accepted the canoe element will be omitted, but the dimensions of the pass will be unchanged.

The aim of the project is to improve U/S passage for Salmonids, Coarse fish, Elver and Eel.

The *Contractor* will produce construction-ready design drawings using the levels (mAOD) parameters and dimensions set out and approved in the FP:002 and detailed design drawing approved by NFPP, which will be supplied with the contract. The contractor will employ a designer to; review data and drawing supplied, produce construction ready drawing for construction, provide design risk assessment and buildability statement for the PCI, to make reactive design decisions that may come up during the construction phase, liaise with principle designer and main contractor, provide info for the H&S file and produce As Builts.

The pass must be

- Larinier pass that works between Q95-Q10
- Eel pass to work between Q99-Q20
- The pass must have a design life of 50 years
- Constructed within the left hand area of the weir and on top of old canoe pass
- 8930mm long
- Three x 600mm metal Larinier tiles wide
- Slope angle of 15%
- 31 Larinier baffles of a height of 100mm
- Baffle thickness 20mm and constructed from metal

- Set out as per NFPP approved detailed design drawings
- mAOD levels set out in detailed design drawing to be taken from detailed design drawings
- Not modular in construction

The *Contractor's* key responsibilities include:

- Production of construction-ready design drawings and further information to aid in the construction phase
- Production of a buildability statement and design risk assessment for the Pre-Construction Information (PCI)
- Production of a Health & Safety file. Regular liaison with the *Client*-appointed Principle Designer is required to aid the creation of the file and any supporting documentation.
- Provision of as-built drawings.
- Construction of fish pass as per the *Client*-approved construction-ready design drawings.

The detailed design drawings will be made available in Auto Cad and the FP 002 application for fish pass approval and supporting documentations will be provided by the *Client*. All designs must be submitted and accepted by the *Client* prior to construction. If the *Contractor* proposes a design which does not meet the criteria in this Scope, this must be consulted and agreed with the *Client*.

The construction works consist of:

- Setting up a site compound
- Pollarding of one tree to enable access
- Diverting footpaths as per Norfolk CC footpath closure permit
- Installing temporary works so the weir area can be dewatered (FCRM automated gate must not dewatered, must remain operational during works)
- Removing part of the canoe portage
- Recasting part of the weir to a 15% slope
- Construction of two walls to contain the water within the pass
- Installation of metal Larinier tiles to the newly constructed channel
- Construction of an eel pass as per detailed design drawings using Berry and Escott eel tiles. Berry and Escott tiles and associated civils
- Construction of OPUS measures to ensure safe access for maintenance and removal of temporary works.

The works must be designed in accordance with CDM Regs 2015 constructed to the parameters set out in the design drawings and FP 002 issued by the *Client*. The *Contractor* will produce construction-ready design drawings using the parameters and dimensions approved in the FP:002 and detailed design drawing approved by NFPP, which will be supplied with the contract. The *Contractor* will employ a designer to; produce construction ready drawing for construction (to be approved by client), provide design risk assessment and buildability statement for the PCI, to make reactive design decisions that may come up during the construction phase, liaise with principle designer and main contractor, provide info for the H&S file and produce as built (as approved by the NFPP). The fish pass must be installed by 18th December 2020.

Tasks to be undertaken by the *Contractor*:

- Allowance of time for mobilisation, project meetings, site visits, procurement of specified items and construction
- Apply for an Environmental Permit
- Management of sub-contractors
- Work co-operatively with the *Client*-appointed Principle Designer
- Work co-operatively with Designer, as required by the *Client*
- Site set-up and mobilisation including welfare facilities, signage and public interface measures, where required as per the Brandon Stauch Site Information.
- Ensure sluice gate remains functional. Installing the dewatering system must be arranged with the *Client* before isolating the gate.
- Construction of fish pass and eel pass
- Provision of O&M manuals

- Provide information for H&S file and As-built drawing information
- Undertake a hand over meeting for *Client* Ops Delivery staff
- Liaise with the public while on site

Tasks to be completed by *Client*:

- Provide *Client* level data where available
- Provide survey data
- Provide drawings where available
- Provide Utility information where available
- Provide PCI
- Provide H&S file where available
- Consult with internal departments
- Arrange footpath closure
- Arrange internal departments to attend site meetings
- Liaise with FIDO
- Liaise with media and general public
- Apply for and obtain any additional Licences, Consents and Permissions other than the Environmental Permit

Brandon Staunch Site Information

- Access via Brandon leisure centre car park which is owned by West Suffolk District Council
- Site compound next to fishing lake
- Construction area on left hand side of the weir
- Footpath over sluice to be closed
- The *Client* must be able to access the structures at all times.
- Brandon Staunch gate to remain operational, power and telemetry left available to all structures

Drawing number	Revision	Title
Site information pack	1	Site information Pack

2. Drawings

List the drawings that apply to the contract.

Drawing Number	Revision	Title
5182052-ATK-WB-BS-DR-C-001		Brandon Staunch Fish Pass existing layout
5182052-ATK-WB-BS-DR-C-001_P01	PO1	Brandon Staunch Fish Pass existing layout
5182052-ATK-WB-BS-DR-C-002		Brandon Staunch Fish Pass General layout
5182052-ATK-WB-BS-DR-C-002_P03	PO3	Brandon Staunch Fish Pass General layout
5182052-ATK-WB-BS-DR-C-003		Brandon Staunch Fish Pass Plan and Section Sheet 1 of 2
5182052-ATK-WB-BS-DR-C-004	T1	Brandon Staunch Eel Pass Plan and Section Sheet 2 of 2

5182052-ATK-WB-BS-DR-C-004_P02	P02	Brandon Staunch Eel Pass Plan and Section Sheet 2 of 2
LJ01310	AutoCad	Brandon Staunch Weir & Sluice River Little Ouse, Brandon Suffolk. Long section & Location Plan sheet 1 of 1
LJ01310	PDF	Brandon Staunch Weir & Sluice River Little Ouse, Brandon Suffolk. Long section & Location Plan sheet 1 of 1
TJ01310	AutoCad	Brandon Staunch Weir & Sluice River Little Ouse, Brandon Suffolk. Topographic Survey Sheet 1 of 1
TJ01310	PDF	Brandon Staunch Weir & Sluice River Little Ouse, Brandon Suffolk. Topographic Survey Sheet 1 of 1
XJ01310	AutoCad	Brandon Staunch Weir & Sluice River Little Ouse, Brandon Suffolk. Cross Sections L001_000 to L001_0035 Sheet 1 of 1
XJ01310	PDF	Brandon Staunch Weir & Sluice River Little Ouse, Brandon Suffolk. Cross Sections L001_000 to L001_0035 Sheet 1 of 1
J01310	PDF	Brandon Staunch Survey Report
Technical note	PDF	50_7.4_Brandon NFPP application supporting document (003)

3. Specifications

List the specifications which apply to the contract.

Title	Date or Revision	Tick if publicly available
Minimum Technical Requirements		
The pass must meet the criteria set out in the EA Fish Pass Manual and designed to the application approved by the NFPP in the FP:002		

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*.

1. The *Contractor* shall not commence any work on the *site* until the *Client*, or their representative, has accepted the method statements and risk assessments related to this contract
2. The *Contractor* shall not commence any work on the *site* until all permits are obtained
3. The *Contractor* is to prepare, for the *Client's* acceptance, the Construction Phase Plan (CPP) and

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 he submits for acceptance (in form of Gantt chart showing the critical path, proposed order and timing to undertake the works and proposed plant and labour resources) the following:

- (a) Period required for mobilisation/ planning & post contract award
- (b) 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

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
Services drawing	July 2020
PCI	July 2020
As Builts if available	July 2020
H&S file if there is one for main structure	July 2020

7. Site Information

See Brandon Staunch Site Information pack.

Proposed sub-contractors

	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:	