# 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) |
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# NEC4 Engineering and Construction Short Contract

| | |
|---|---|
| | |
| **A contract between** | **The Environment Agency**<br>**Horizon House**<br>**Deanery Road**<br>**Bristol**<br>**BS1 5AH** |
| | |
| **And** | **Land & Water Services Ltd** |
| | |
| **For** | **SE REC Programme – Emergency Works – Normans Bay defective culvert (SOP Code: ENV7006292R)** |
| | **Contract Forms**<br>- **Contract Data**<br>- **The *Contractor's* Offer and *Client's* Acceptance**<br>- **Price List**<br>- **Scope**<br>- **Site Information** |
| | |

# Contract Data

## The *Client's* Contract Data

| | | |
|---|---|---|
| | The *Client* is | |
| Name | Environment Agency | |
| | | |
| Address for communications | Guildbourne House, Chatsworth Road, Worthing. BN11 1LD | |
| | | |
| Address for electronic communications | | |
| | | |
| The *works* are | to provide a design to repair the defective culvert panel and a cost estimate for further works to build the design at Norman's Bay Outfall. | |
| | | |
| The *site* is | Normans Bay, Pevensey BN24 6PX, as per 'Normans bay Info.docx' listed in the Site information. | |
| | | |
| The *starting date* is | 07/03/2025 | |
| | | |
| The *completion date* is | 26/09/2025 | |
| | | |
| The *delay damages* are | £187.23 | Per day |
| | | |
| The *period* for reply is | 2 | weeks |
| | | |
| The *defects date* is | 52 | 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.<br>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:<br>The *works* are affected by any one of the following events<br>• War, civil war, rebellion revolution, insurrection, military or usurped power<br>• Strikes, riots and civil commotion not confined to the employees of the *Contractor* and sub-contractors<br>• Ionising radiation or radioactive contamination from nuclear fuel or nuclear waste resulting from the combustion of nuclear fuel<br>• Radioactive, toxic, explosive or other hazardous properties of an explosive nuclear device<br>• Natural disaster<br>• Fire and explosion<br>• 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:<br>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~~ |
| ~~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**<br>At the Contract Date the total of the Prices does not include a sum to cover inflation.<br>The total of the Prices [at the Contract Date] shall be adjusted by a fixed number of Price Adjustments.<br>The number of Price Adjustments shall be equal to:<br>The number of months between the Completion Date included at the *starting date* and the Contract Date.<br>The proportion of Price Adjustment shall be equal to:<br>The total of the Prices at the Contract Date / The number of Price Adjustments<br>Each time the amount due is assessed, the Price Adjustment shall be:<br>The proportion of Price Adjustment x [80% x Construction Output Price Indices (OPIs) New work output prices: Infrastructure Index 1 – month rate]<br>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.<br>The Price Adjustment adjusts the total of the Prices.<br>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 | Land & Water Services Limited | |
| Address for communications | Albury Mill, Mill Lane<br>Chilworth<br>Guildford<br>GU4 8RU | |
| Address for electronic communications | | |
| The *fee* percentage is | As Framework | % |
| The *people rates* are | As Framework | |
| category of person | unit | rate |
| As Framework | | |
| | | |
| The *published list of Equipment* is | | |
| The *percentage for adjustment for Equipment* is | | As Framework |

# Contract Data

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

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

| | |
|---|---|
| The offered total of the Prices is | £56,324.14 |
| | **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 | Contract Management, Project Management and Programme | Sum | | | |
| 2 | Preparation and agreement of scope for design | Sum | | | |
| 3 | Detailed design *Including Temporary Works design for formwork / shuttering and Category 1 Design check. (Recommendations, Tender stage design drawings / details, further information required, significant Design and Construction hazards).* | Sum | | | |
| 4 | Site inspection, intrusive/non-intrusive surveys and reports | Sum | | | |
| 5 | Preliminary Ecological Assessment & Environmental Action Plan | Sum | | | |
| 6 | FRAP submission including fees | Sum | | | |
| 7 | BIM Execution Plan and MIDP | Sum | | | |
| 8 | Gateway 3 - Carbon calculator and carbon appendix | Sum | | | |
| 9 | Cost estimate and programme for design and build works | Sum | | | |
| 10 | | Sum | | | |

| | |
|---|---|
| **The total of the Prices** | £56,324.14 |

The method and rules used to compile the Price List are

Civil Engineering Standard Method of Measurement 4th edition (CESMM4) as per the Asset Operation, Maintenance and Response Lot 1 Framework Price Workbook.

# Scope

## 1. Description of the *works*

### 1.1 Project Background

The Normans Bay outfall is located in Eastbourne, approximately 130m east of Normans Bay Caravan Park. The outfall connects the Waller's Haven watercourse with the sea.


**Figure 1 – Site Map**

The outfall is formed of 3no. concrete box culverts (west, central and east) as shown in the photo below.

The objective for this contract is to:

- Complete an inspection survey to verify suitability of the Detailed Design.
- Complete a Detailed Design to repair the missing wall panel.

## 1.2 The *Works*

### 1.2.1 Assumption

The *Contractor* works on the basis that the following is assumed:

- The condition of the culvert will be as described in the Normans Bay Concrete inspection report 2024 and as shown in the drawings (both in section 2).

The *Contractor* shall verify these assumptions at the earliest opportunity and shall not undertake elements of the *works* that rely upon those assumptions without this verification having taken place, and with any proposed corrections to those assumptions having been notified to the *Client*.

### 1.2.2 Surveys and investigations

The *Contractor* shall carry out an inspection survey and necessary intrusive and/or non-intrusive works to support the development of a design solution for reinstating the section of the culvert where the panel failed. The *Contractor* shall produce a report based on the findings from the inspection.

In addition, the *Contractor* shall undertake the following surveys:

- A Preliminary Ecological Appraisal (PEA).
- An Environmental Action Plan (EAP) to support the design, construction and permits and consents.

Following investigations, the solution must provide for the section of this asset a minimum life of 10 years.

~~The *Contractor* shall submit their based on the findings from the inspection and results from the surveys to the *Client* for acceptance.~~

Any further surveys arising from the PEA/EAP will be instructed through the CE mechanism.

### 1.2.3 Detailed Design

The *Contractor* shall develop a detailed design based on the *Client*-accepted solution.

The detailed design must include sufficient detail (i.e. drawings, sketches, buildability, materials, methods of construction, risks and mitigations, etc.) that allows for the *Contractor* to:

- Price the works for construction, and other temporary formwork and risk associated to the assumptions, including details needed to repair the areas shown within the below sketch which include, invert scour and reconstruction of wall to include chambers at the toe.
- Develop a Programme for the Construction phase,

**1.2.4 Deliverables**

The *Contractor* shall supply the following documentation deliverables including but not limited to:

- Pre-Construction Information: The *Contractor* shall complete the sections that require input from Designer and Principal Contractor.
- Any detailed reports and test results from intrusive investigations
- Preliminary Ecological Appraisal (PEA).
- An Environmental Action Plan (EAP) to support the design, construction and permits.
- Detailed design (drawings and sketches)
- Additional service data required from utility companies and other relevant third parties.
- Carbon Calculator and carbon appendix for Gateway 3.
- Method of Works and any other supporting information that allows the *Contractor* to:
    - Obtain a FRAP permit
    - Submit a FRAP prioritisation request,
    - Submit information to satisfy the environmental permitting application being duly made. Should PSO require full designs/ methodology before being duly made, the development of the design/methodology would be subject to a CE,
- Price the works for construction (including temporary works),
- Programme for the construction phase.

**1.2.5 Consents and Permits**

The *Client* shall obtain the below consents, licenses, permits, and/or agreements from third parties:

- Appendix 3 - Sites of special scientific interest (SSSi)
- Marine Conservation Zone (MCZ)
- Health Risk Assessment

In delivering the *works,* the *Contractor* is required to produce all the relevant information that would allow them to apply for the consents and permits referred in section – **1.2.3 Detailed design.** If any Consents or Permits are required to be applied as part of this contract, this will be dealt through the Compensation Event mechanism.

**1.2.6 General**

The *Contractor* shall support the *Client* with the stakeholder engagement activities.

The *Contractor* is responsible for any enabling works required to undertake the *works*.

The Principal Designer shall review the Construction Phase Plan (CPP) within five (5) working days from the date of submission. The Principal Designer shall provide written feedback and approval, or identify any necessary revisions, within this 5-day period to ensure that the construction works can proceed without undue delay. This requirement aims to reduce time of the CPP review process, due to the emergency nature of the works.

As part of delivering the *works* the *Contractor* shall fulfil the duties of Principal Contractor and Designer in terms of the CDM 2015 regulations.

The *Contractor* shall provide, as a minimum, a detailed design for a solution to repair the defective culvert during the project. There is no obligation for the *Contractor* to submit CAD drawings for these solutions. This requirement aims to reduce time of the design and approval process, ensuring that works can be implemented swiftly and effectively.

The *Contractor* shall demonstrate sustainability leadership through fully considering and contributing to achieving the *Client*'s environment and sustainability ambitions and targets. These are set out in the EA2025 Action Plan, e:Mission 2030 Strategy, the Defra 25 Year Environment Plan and are in line with the principles of sustainability as described by the United Nation's Sustainable Development Goals.

All as-built drawings have been made available.

If any liaison with utility companies, local councils or any other third parties not mentioned in this contract is required, the *Contractor* shall undertake the liaison.

The *Contractor* shall produce a survey brief based on the information received from the permanent works designer.

The *Contactor* shall undertake an assessment of the environmental impacts and appropriate mitigation or compensation.

The *Contractor* shall upload all BIM deliverables onto Asite. The *Contractor* may use Asite solely for the upload of finalised document versions.

The *Contractor* shall assume that a compound can be set up in the area marked parking (image displayed under project background).

The *Contractor* shall utilise available data on flow levels, tide ranges, and cross-sectional areas to estimate the maximum flow velocity.

The *Contractor* shall assume that the working area water levels will be unaffected by the works upstream, at the Star gate Inn. The *Contractor* shall allow up to 3 no.1 Hour meetings with the *Contractors.* Any effect from these works would be subject to the Compensation Event mechanism.

The *Contractor* shall submit the Carbon Calculator and Carbon Appendix at the end of the Gateway 3 for the detailed design.

## 2. Drawings

**List the drawings that apply to the contract.**

| Drawing Number | Revision | Title |
|---|---|---|
| WNPODD-211-AB | | Normans Bay Long Section |
| WNPODD-213-AB | | Normans Bay Bank Stabilisation |
| 16652-HOP-ZZ-XX-DR-S-0001. | | Indicative culvert general arrangement |
| 16652-01 | | 2023.11.24 LRS Site Visit Record |
| A124035-TGEE-ZZ-0 4-DR-C-0410 - As Bui | | Normans Bay TW existing culvert layout as constructed drawing. |
| 240918_Normans Bay TW - EA docs., dra | | As Built drawings |
| Normans Bay Site Pics 26-09-2024.zip | | Normans Bay Site Pics 26-09-2024 |
| Normans Bay concrete inspection report 23.9.24..zip | | Normans Bay Concrete inspection Report 2024 |

## 3. Specifications

**List the specifications which apply to the contract.**

| Title | Date or Revision | Tick if publicly available |
|---|---|---|
| Asset OMR Framework Deed of Agreement and Schedules | 04/03/2024 | |
| Safety, Health, Environment and Wellbeing Code of Practice (SHEW CoP) | V6 | |
| Flood and Coastal Risk, Asset Management Environmental Maintenance Standards (LIT 12144) | V 2.0 | |
| Control of Substances Hazardous to Health (COSHH) Regulations | | |
| Construction Design Regulations (CDM) 2015 | | |
| Lot 1 – Spec supplementary clauses – CULVERTS – CoP | | |
| Lot 1 – Spec Supplementary clauses – General | | |
| Lot 1 & Lot 3 – Supply Chain Passport Template | | |
| Exchange Information Requirements (BIM) | V3 | |
| Exchange Information Requirements (EIR) | V3 | |
| LIT 16688 Working in Confined spaces | V2 | |
| | | |

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

The *Contractor* shall not commence works on site until all CDM documentation is in place and accepted by the *Client*.

The *Contractor* shall take into account the potential impact of high flows and high tides reducing the available working windows

The *Contractor* shall consider the potential impact of high flows and tides arising from Star inn Gates upstream.

**Working times**

The *Contractor* is not subject to specific working time restrictions due to the tidal nature of the works. The *Contractor* shall provide the *Client* with a notification at least one week in advance for any work planned outside the core working hours of 07:30 to 18:00 on weekdays (Monday to Friday). Such work shall only proceed with the *Client*'s acceptance.

## 5. Requirements for the programme

The *Contractor* submits his programme with the *Contractor's* Offer for acceptance. The *Contractor* shows on each programme which they submit 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

(f) Planned Completion

(g) The order and timing of the work of the *Client* and others as last agreed with them by the *Contractor* or, if not so agreed, as stated in the Scope,

(h) provisions for float, time risk allowances, health and safety requirements, environmental requirements and the procedures set out in the contract.

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

| **Item** | **Date by which it will be provided** |
|---|---|
| A-site access | TBC |
| FastDraft Access | Already provided |
| Site information (including Pre-Construction information). | Prior to Starting Date |
| Service Searches | Prior to Starting Date |
| Appendix 3 | Already provided |
| MCZ assessment | Already provided |

# 7. Site Information

**7.1 Site description:**

The Normans Bay outfall is located in Eastbourne, approximately 130m east of Normans Bay Caravan Park. The outfall connects the Waller's Haven watercourse with the sea. The access to Normans Bay outfall is from a narrow road (Normans Bay road).

**7.2 Site restrictions:**

Access to the outfall is possible through the upstream end of the outfall. The access requires the use of ladder and fall arrest system.

The concrete chamber and outfall are confined space.

The potential site compound (located at grid reference TQ 68907 05706) is normally used by the Pevensey Bay Maintenance team.

The chamber and outfall are in a tidal and fluvial environment, and it is prone to high flows in autumn and winter time.

The defective panel is located in a confined space.

**7.3 Health and safety hazards**

General: The nature and condition of the site/ building cannot be fully and certainly ascertained before it is opened. However, the following hazards are or may be present:

- Confined space.
- Services.
- Working in a tidal environment.
- Working in an asset (chamber) liable of flooding.
- Working near plant (Pevensey to Eastbourne beach management).
- Working near tidal doors.
- Working in a fast flow environment.
- Working at height.
- Use of vertical ladders.
- Working near culverts and weirs.

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

**7.4 Existing utilities and services**

1. Utility Drawings (date: 05/06/2024)

- BT Normans Bay 05 June 2024 Map 1
- SGN Normans Bay 05 June 2024 Map 1
- Southern Water Normans Bay 05 June 2024 Map 1
- Telecoms Normans Bay 05 June 2024 Map 1
- UKPN Normans Bay 05 July 2024 Map 1

2. Drawings:

   Original Access Outer Normans Bay Outfall

3. Other information:
   - Chamber access arrangement (2024):
     3 Open Mesh and Load Tables
     NORMANS BAY ACCESS DRAWINGS_AS BUILT
     Normans Bay Access Platform Structural Calculations
     Normans Bay Outfall Ladder Access PCI_HK Comments
   - Normans Bay East Gate Report (2024)
   - Normans Bay Inspection Report (2003)
   - Normans Bay Outfall general view
   - Normans Bay Permit Screening report

**7.5 Site investigation**

Report:

- Normans Bay East Gate Report (2024).
- Normans Bay – Comparative Condition Survey Technical Note (2024)

**7.6 Site location plans**

Issue details:

- Normans bay Info.docx
- Refer to Health and Safety File (Normans Bay Outfall HSF (2012)).

**7.7 Health and safety file**

Issue details:

- Normans Bay Outfall HSF (2012).
- Normans Bay Outfall HSF (2024)

# Proposed sub-contractors

| | Name and address of proposed subcontractor | Nature and extent of work |
|---|---|---|