

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

For

Flood defence maintenance on the Bourne Eau and the prevention of future badger burrowing.

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	Ceres House, Lincoln	
Address for electronic communications	Alec.richardson@environment-agency.gov.uk	
The <i>works</i> are	Bringing flood defence back to its expected maintenance standard and prevent future burrowing in the meshed areas.	
The <i>site</i> is	Bourne Eau River between Pumping Station and Cherry Holt Bridge	
The <i>starting date</i> is	June 15th 2020	
The <i>completion date</i> is	August 31st 2020	
The <i>delay damages</i> are	Nil	Per day
The <i>period</i> for reply is	2	week
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		0.5% per complete week of delay.
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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	n/a
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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	£1,000,000	

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

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. 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 <i>works</i> 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
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
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 30 June 2020.'

Contract Data

The *Contractor's* Contract Data

	The <i>Contractor</i> is	
Name	Breheny Civil Engineering Ltd	
Address for communications	Flordon Road, Creeting St Mary, Ipswich, Suffolk, IP6 8NH	
Address for electronic communications	S.holland@breheny.co.uk	
The <i>fee</i> percentage is	As submitted in the Lot 1 Price Workbook	
The <i>people rates</i> are	As submitted in the Lot 1 Price Workbook	
category of person	unit	rate
The <i>published list of Equipment</i> is		
The <i>percentage for adjustment for Equipment</i> is		As submitted in the Lot 1 Price Workbook

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	£ 102,867.00 plus VAT
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Signed on behalf of the <i>Contractor</i>	
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Name	Stephen Holland
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Position	BCE FCRM Framework Manager (Central region)
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Signature	
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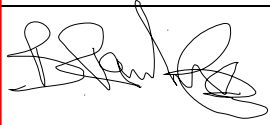
Date	02 June 2020
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The *Client* accepts the *Contractor's* Offer to Provide the Works

Signed on behalf of the <i>Client</i>	
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Name	Ben Rawlings
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Position	Senior Commercial Officer
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Signature	
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Date	11 June 2020
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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	Carry out the main contract works as per the works information and scope.	Sum			£102,867.00
The total of the Prices					£102,867.00

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.

12x previously excluded outlier badger setts are to be fully deconstructed. The Contractor shall provide an ecologist to inspect the site to confirm no further burrowing by badgers has taken place on site prior to starting work.

At each outlier sett the temporary meshing is to be removed and all tunnel systems are to be deconstructed in a systematic and methodical manner.

Once deconstructed, the bank is to be rebuilt to existing profile and design. The successful contractor doesn't need to provide designs for this. They just need to rebuild the banks to the existing profile.

Using the deconstructed area as the central point, permanently mesh 25m of bank in a full wrap design. Mesh to be anchored with pins and buried 125mm below the surface.

Typical dimensions for the embankment – Landward Face - 8m @ 20 degrees – Crest width - 3.5m
– Front Face – 3m @ 30 degrees

Specification for mesh - HT Galvanised Welded Mesh Rolls 2.4m x 25m, 12 gauge, 50mm x 50mm aperture

Specification for pins – 450' mm long 'U' shaped steel pins – for tender purposes please make provisions to supply 1800.

Grid references of 12x previously excluded badger setts:

Sett 1 - TF14853 18960
Sett 2 - TF14370 19190
Sett 3 - TF14083 19286
Sett 4 - TF14040 19306
Sett 5 - TF14018 19311
Sett 6 - TF13326 19564
Sett 7 - TF13252 19589
Sett 8 - TF13228 19596
Sett 9 - TF13193 19606
Sett 10 - TF13133 19617
Sett 11 - TF13004 19664
Sett 12 - TF12825 19722

Further details of the location of the badger set can be found in doc: 'Site Permission 80 Bourne Eau outliers, Lincolnshire.docx' and 'Bourne Eau - NEC4 Information.docx' “.

The *Contractor* shall design and build of an artificial sett on the landward berm, constructed on the rear face of the embankment, which is multi-tiered consisting of a minimum of 6 chambers and 3 turns. The area of the artificial sett and 25m either side of the sett is to be permanently meshed to prevent badgers from burrowing outside of the provided area. The Environment Agency will adopt and accept the design risk of the artificial badger sett.

Localised re-seeding of embankment (seed to be provided by the Environment Agency)

Under the Construction (Design and Management) Regulations 2015 the Environment Agency will carry out the duties of both the *Client* and Designer. The successful tenderer will be appointed as *Principal Contractor* and expected to carry out the duty.

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
Civil Engineering Specification for the Water Industry	7 th Edition	Yes
Lot 1 Specification Supplementary clauses	V1	No
Lot 1 Specification Supplementary clauses for culvert works	V1	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*.

Works to be completed before the end of August 2020.

The *Contractor* will be permitted to work between 8 am and 6.00pm on weekdays (Monday to Friday) and 09:00 to 17:00 Saturday and Sunday

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).

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
Full service search	Attached in PCI Document
Site Permission 80 Bourne Eau outliers, Lincolnshire.docx	Attached via Bravo question
Bourne Eau - NEC4 Information.docx'	Attached via Bravo question

Please see PCI pack provided for detailed site information

Proposed sub-contractors

	Name and address of proposed subcontractor	Nature and extent of work
1.	Dr Julian Brown Form of Contract: NEC4 Short Subcontract	Badger Ecologist/specialist and design and construct consultant for new badger sett.
2.	Form of Contract:	
3.	Form of Contract:	
4.	Form of Contract:	