



Engineering and Construction Short Contract

Contract Data Forms

June 2017

(with amendments January 2023)

Template version history

V 1	Go live template
V 1.1	Reversion to Bidder pack conditions

NEC4 Engineering and Construction Short Contract

A contract between	The Environment Agency Horizon House Deanery Road Bristol BS1 5AH
And	JT Mackley & Co Ltd
For	Ferring Outfall Repairs
	Contract Forms - Contract Data - The <i>Contractor's</i> Offer and <i>Client's</i> Acceptance - Price List - Scope - Site Information

Contract Data

The *Client's* Contract Data

	The <i>Client</i> is	
Name	Environment Agency	
Address for communications	Guildborne House Chatsworth Road Worthing West Sussex BN11 1LD	
Address for electronic communications		
The <i>works</i> are	Replace seafront Tidal flaps at Ferring Rife and install missing baffles, as per the Scope.	
The <i>site</i> is	Ferring Rife Seafront Outfalls, as per Figure 1.	
The <i>starting date</i> is	02/12/2024	
The <i>completion date</i> is	30/06/2025	
The <i>delay damages</i> are	N/A	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	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	Contract Price
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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>	Replacement Cost	The <i>Client's</i> certificate of Completion has been issued
Loss of or damage to Equipment, Plant and Materials	Replacement Cost	The defects Certificate has been issued
The <i>Contractor's</i> liability for loss of or damage to property (except the <i>works</i> , 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 £5,000,000 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 <i>conditions of contract</i> 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 <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 a valid 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 <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.
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.
Z110	Inflation At the Contract Date the total of the Prices does not include a sum to cover inflation. The total of the Prices [at the Contract Date] shall be adjusted by a fixed number of Price Adjustments. The number of Price Adjustments shall be equal to: <ul style="list-style-type: none"> • The number of months between the Completion Date included at the Contract Date and the Contract Date. The proportion of Price Adjustment shall be equal to: <ul style="list-style-type: none"> • The total of the Prices at the Contract Date / The number of Price Adjustments Each time the amount due is assessed, the Price Adjustment shall be: <ul style="list-style-type: none"> • The proportion of Price Adjustment x [80% x Average Weekly Earnings index (Construction)(AWE) 1 – month rate] The Average Weekly Earnings index (Construction)(AWE) 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. The Price Adjustment adjusts the [Client set] total of the Prices. 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 <i>Contractor</i> is
Name		J T Mackley & Co. Ltd.
Address for communications		Bankside House, Henfield Road, Small Dole, West Sussex, BN5 9XQ
Address for electronic communications		
The <i>fee</i> percentage is		
The <i>people rates</i> are		
category of person	unit	rate
The <i>published list of Equipment</i> is		
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	£81,280.04
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Enter the total of the Prices from the Price List.
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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

The *Contractor* is to be paid an amount for the item which is not adjusted if the quantity of work in the item changes, with entries of the amount in the Price Column only: the Unit, Quantity and rate columns being left blank.

Item Number	Description	Unit	Quantity	Rate	Price
1.0	Project Management & Programme	Sum	1	£10,554.34	£10,554.34
1.1	Surveys and Site investigations	Sum	1	£10,673.66	£10,673.66
1.2	FRAP and other permits (if required)	Sum	1	£1,125.00	£1,125.00
1.3	Design and purchasing of 3no HDPE Tidal Flaps	Sum	1	£19,621.33	£19,621.33
1.4	Mobilisation and demobilisation	Sum	1	£7,923.56	£7,923.56
1.5	Installation of 3no HDPE Tidal Flaps	Sum	1	£26,908.37	£26,908.37
1.6	Security Cage baffles and fixings	Sum	1	£2,020.36	£2,020.36
1.7	CDM Documentation and Deliverables	Sum	1	£2,453.42	£2,453.42
The total of the Prices					£81,280.04

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

1. Description of the *works*

Overall asset detail. Located at The Strand, Ferring, Worthing BN12 5QX - W3W = lend.jumpy.think

The Ferring Outfall forms part of the flood protection along the Ferring Rife. Ferring Rife Outfall site consists of a mechanical weed raker, 6no inner flaps, culvert system of 160m long and 3no outer flaps that allow the Rife to flow out to sea and prevent tidal ingress. The culvert is made of 3no independent barrels.

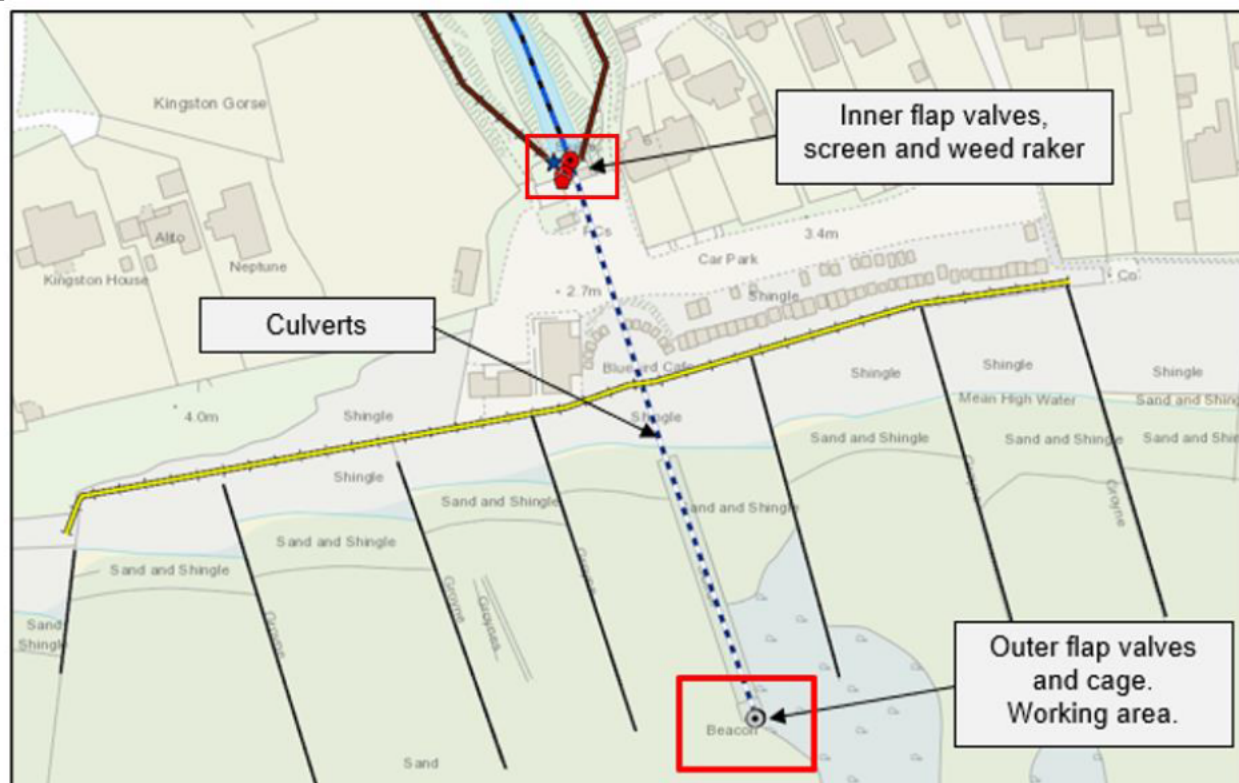


Figure 1. Ferring Rife outfall plan view. Site boundary in red boxes.

Project Objectives:

- Design and install three new outer tidal flap valves to prevent tidal ingress flooding back into the Ferring Rife.
- The new flap valves shall have a design life of 50 years as a minimum.
- Replace missing baffles and replace the existing baffles fixings.

The Scope of Works:

The *Contractor* shall design, supply and install 3no High-Density Polyethylene (HDPE) outer tidal flap valves, frames and associated fixings to replace existing flap and frames. The hinges and pins shall be uprated and have a minimum life span of 5years with minimal to no maintenance. The tidal flap valves shall incorporate eel dampeners as part of the design.

The new flap valves and associated elements shall be designed and constructed to withstand hard tidal and sea environment.

For pricing purposes, the *Contractor* shall initially use the surveys and drawings provided. However, the *Contractor* shall scope and undertake any surveys/investigation/inspections required to meet the *Client* requirements. The *Contractor* shall satisfy themselves with the nature, dimensions, scope and extent of the investigation/inspections.

The *Contractor* must review and satisfy themselves (and update as needed) the surveys previously done and the drawings provided, prior to undertaking any design, or any activities relating to delivery of the design. The *Contractor* shall notify the *Client* at the earliest opportunity of any material changes identified from the referenced drawings, and advise regarding the implications as an Early Warning.



Photo 1. General view of the flap valves



Photo 2. General view of security cage

The outfall security cage is a requirement under public safety and must be maintained throughout installation and operation of the Tidal flap valves. Currently the top sections of the security cage are welded shut, this prevents removal of the existing tidal flaps. The cage is to be fully reinstated and secured on completion of the project by the *Contractor*. The *Contractor* shall ensure that the culvert cannot be accessed by the public during the duration of the works.



Photo 3. Front view of the security cage and baffles.
Red lines indicate the missing baffles.



Photo 4. View of the end of the outfall

The security cage is covered by baffles fixed to the cage. The *Contractor* shall replace the fixings of all baffles (front and side) with new suitable fixings. The *Contractor* shall replace the 4no missing baffles boards (indicated in red in the photo above). The new baffles shall be made of approved reclaimed or recycled hardwood Timber ("LIT 11052 - TIMBER Contracting and purchasing requirement" is the EA policy to purchase and use hardwood timber).

The *Contractor* shall propose a method to manage the flow through the outfall to allow for the replacement of the Tidal Flap valves. This must be accepted by the *Client* prior to commencing works on site. A FRAP might be required depending on the methodology chosen by the *Contractor*. If the works require a FRAP and MMO, the *Contractor* shall be responsible for preparing, paying and submitting the FRAP and MMO application.

There is a temporary installation currently setup at the at the inner flaps which is preventing flow through the central culvert in both directions. The *Contractor* shall remove this installation as part of the works prior to commissioning the works. This part of the works is also considered confined space.

The *Contractor* shall provide safe management of the works, including Construction Design Management 2015, public safety management, working around the tide, confined space management and lifting operations required.

General

The *Contractor* shall complete the design and supply the 3no flap valves before 15/03/2025.

The *Contractor* shall seek to maximise the duration of the working window during low tides to undertake the works. The *Contractor* shall give consideration to a construction window for the works in May 2025, noting the corresponding timing of spring tides.

The *Contractor* is responsible for any enabling works required to undertake the investigations/inspections and the works, including those for accessing the sites.

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

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

The *Contractor* shall be responsible for preparing and deploying a flood emergency plan/protocol for the duration of the works. The *Contractor* shall sign up for flood alerts.

Public Safety Risk Assessments (PSRAs) where required should be provided by the *Contractor* with support from the Principal Designer. The design for each project must be accepted by the *Client*, including the Environment Agency's PSRA assessor and/or supervising engineer where required, and provide time allowed in the programme for review.

The *Contractor* shall undertake a pre-construction and post-construction condition survey (photographical and/or footage report) of access, work area and proposed site compound.

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.

The *Contractor* shall update Carbon Calculators and Carbon Appendix documents upon completion of design and completion of construction works. The *Contractor* must aim to reduce the amount of Carbon produced through their recommendations to help the Environment Agency meet its aim of zero net carbon by 2030.

The *Contractor* shall ensure all deliverables are produced to comply with relevant British Standards and Eurocodes.

The *Contractor* shall provide the following deliverables:

- Proportional Preliminary Ecological Appraisal (PEA) and Environmental Action Plan (EAP) which shall be used for the construction stage.
- Pre-construction and post-construction condition surveys.
- Design and CDM documents.
- As built information including drawings and H&S File.
- Operation and Maintenance (O&M) manuals in accordance with EA MEICA standards.
- Carbon calculator and report.
- Hardwood compliance certificates.

2. Drawings

List the drawings that apply to the contract.

Drawing Number	Revision	Title

3. Specifications

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 Minimum Technical Requirements	06/2024	No
LIT 13219 MEICA Standard Specification	05/2024	No
Safety, Health, Environment and Wellbeing Code of Practice (SHEW CoP)	V6	No
Flood and Coastal Risk, Asset Management Environmental Maintenance Standards (LIT 12144)	V2	
Civil Engineering Specification for the Water Industry (CESWI Eighth Addition)	V8	
British Standard Code of Practice and Euro codes	Latest version	
European Standards	Latest version	
LIT 11052 - TIMBER Contracting and purchasing requirements	V7	No

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

The 3 Seafront Tidal Flap valves are only accessible during low tides. Works will need to be planned and sequenced around this.

Resource to assist; [Ferring Beach Tide Times, West Sussex - WillyWeather](#)

There is a set of inner flaps located upstream which conveys flow from the Ferring Rife to the seafront outfalls. The majority of this flow is through the Eastern seafront outfall. The water level at this point will need to be assessed prior to commencing works on site to ensure that the flow is minimal. This needs to be assessed as a potential confined space.

The 3 Seafront outfall Tidal flap valves are located on a public beach, near a popular Café. The seafront outfalls are contained with a security cage. Management of the general public must be maintained throughout the site works.

There is a width restriction of 2.6m on the single vehicle access track junction of The Strand West Drive and South Drive to the site and beach access point (1)

Public right of ways adjacent to the site must if practicable be kept open and managed onsite using a TMP. If this is not the case the *Contractor* must apply for a footpath closure.

All plant must be suitable for marine conditions.

Limited points for plant to access the beach and outfall. Some enabling works will be required.

The beach is gravel / sand. Potential for Soft spots. There is a minimum distance of circa 35m between the access track to the outfall location. Any plant movement to the sea outfalls must be suitable for the terrain. For plant the Distance from beach access point (1) to the outfall is a minimum of 210m, from point (2) to the outfall is a minimum of 880m (Location map provided in the PCI).

Working times

The *Contractor* will be permitted to work between 7.30am and 6.00pm on weekdays (Monday to Friday). Weekend working will only be permitted with prior approval from the *Client*.

The *Contractor* shall consult with the tide times for the optimum maximum daily working window.

5. Requirements for the programme

The *Contractor* submits the programme with the *Contractor's* Offer for acceptance. The *Contractor* shows on the 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

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

Item	Date by which it will be provided
Access to FastDraft	Contract signed date

Site Information

Site Information is provided within the PCI;

Service searches BT, Gas, Southern Electric, Virgin Media and Water

ACE Outfall Survey Report. 2024.

Ferring Rife Outfall Report. 2023.

Ferring Outfall Drawings 1998 - 3938_001, 3939_001, 3940_001, 3941_001, 3942_001

Safety Cage survey Drawings 2017 - FERR-TS-001 Site Location & FERR-TS-004 Screen details.

Historic Drawings 062_7_1, 062_7_2, 062_7_3, 062_7_3_1, 062_7_3_2.

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:	