NEC4 Engineering and Construction

Short Contract

FCRM Operational Framework – South East Hub

A contract between	**The Environment Agency** **Horizon House** **Deanery Road** **Bristol** **BS1 5AH**
And	**Land & Water Services Ltd**
For	Tilford Gauging Station and Hell Ditch Improvements
	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 *Client* is	
Name	Environment Agency	
Address for communications	[redacted]	
Address for electronic communications	[redacted]	
The *works* are	Installation of fish pass bristles at Tilford Gauging Station (Tilford, River Wey). Habitat improvement works including introduction of gravel, woody debris on the Hell Ditch (Godalming, River Wey).	
The *site* is	[redacted]	
The *starting date* is	31/07/2020	
The *completion date* is	18/01.2021	
The *delay damages* are	nil	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	£100,000
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 £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 £1,000,000 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 *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 and the following additional conditions

Z1.0	Sub-contracting
Z1.1	The *Contractor* submits the name of each proposed sub-contractor to the *Client* for acceptance. A reason for not accepting the sub-contractor is that their appointment will not allow the *Contractor* to Provide the Works. The *Contractor* does not appoint a proposed sub-contractor until the *Client* has accepted them.

Z1.2	Payment to sub-contractors 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 *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. 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: The *works* are affected by any one of the following events • War, civil war, rebellion revolution, insurrection, military or usurped power • Strikes, riots and civil commotion not confined to the employees of the *Contractor* 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 *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: 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.

Contract Data

The *Contractor's* Contract Data

	The *Contractor* is	
Name	Land & Water Services Ltd	
Address for communications	[redacted]	
Address for electronic communications	[redacted]	
The *fee* percentage is	[redacted]	%
The *people rates* are	[redacted]	
category of person	unit	rate
The *published list of Equipment* is	[redacted]	
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	[redacted]
	Enter the total of the Prices from the Price List.

Signed on behalf of the *Contractor*

Name	[redacted]
Position	Project Manager
Signature	[redacted]
Date	29/06/2020

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

Signed on behalf of the *Client*

Name	[redacted]
Position	Senior Category Officer
Signature	[redacted]
Date	31/07/2020

Price List

Items for which the *Contractor* is to be paid an amount which is not adjusted if the quantity of work in the item changes, are indicated by their Unit being denoted as "Sum". The tenderer enters the amount in the Price Column only: the Quantity and rate columns being left blank.

Otherwise, 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
Hell Ditch – Preparation, Site Set Up and CDM					
1	Produce a Designers Risk Assessment and Construction Phase Plan and Designers Risk Assessments (to be submitted to the *Client* 1 week before work starts)	Sum			[redacted]
2	Produce a Flood Risk Assessment including plan/drawing of proposed works in consultation with *Client*'s Project Team and apply for a FRAP	Sum			[redacted]
3	Produce an EAP for the works considering impacts on protected species (to be submitted to the *Client* 2 weeks before work starts)	Sum			[redacted]
4	Mobilise (including provision of welfare facilities)	Sum			[redacted]
Hell Ditch – Reach 1					
5	Remove nicospan and submerged in-channel wooden stakes at SU9644744374.	Sum			[redacted]
6	Install upstream facing groynes in reach 1 (see page 1 of WTT 'Instream Structures' report).	Item	4	[redacted]	[redacted]
7	Install anchored tree kicker in reach 1 (see 7 page of WTT 'Use of Large Woody Debris' report).	Item	1		[redacted]
8	Re-profile left hand bank over a length of 10m and use material tocreate low level marginal shelves on right hand bank in reach 1 (see page 2 of WWT 'Erosion Control' report and slides 5-8 of the Hell Ditch Enhancement Scheme PowerPoint)	Item	5	[redacted]	[redacted]
9	Re-profile left hand bank in reach 1 over a length of 10m and take all arising off site for disposal/reuse (see page 2 of WWT 'Erosion Control' report and slides 5-8 of the Hell Ditch Enhancement Scheme PowerPoint)	Item	5	[redacted]	[redacted]
10	Create riffle features (using imported angular gravel of 20mm-50mm, assuming each riffle feature will require 10t).	Item	5	[redacted]	[redacted]
Hell Ditch – Reach 2					
11	Introduce 40t of 20mm-50mm imported angular gravel into reach 2 to create one continuous feature.	Sum			[redacted]
Hell Ditch – Reach 3					

12	Create riffle features using imported angular gravel and stone to raise the water level and provide fish passage at the road bridge.	Item	2	[redacted]	[redacted]
Hell Ditch – Making Good					
13	Make good all areas impacted by the works and demobilise.	Sum			[redacted]
Tilford – Preparation, Site Set Up and CDM					
14	Produce Construction Phase Plan and Designers Risk Assessments for works (to be submitted to the *Client* 1 week before work starts)	Sum			[redacted]
15	Produce a Flood Risk Assessment including a detail plan of proposed works (and temporary works) in consultation with *Client*'s Project Manager and apply for a FRAP	Sum			[redacted]
16	Produce an EAP for the works considering impacts on protected species (to be submitted to the *Client* 2 weeks before work starts). Particular consideration should be given to the management of flows.	Sum			[redacted]
17	Mobilise (including provision of welfare facilities)	Sum			[redacted]
18	Purchase bristles	Item	280	[redacted]	[redacted]
Tilford – Construction Works					
19	Design of temporary works				[redacted]
20	Install temporary works (including provision to manage flows)	Sum			[redacted]
21	Fix two 'sets' of bristles to the face of the weir in an arrangement to create a 1.5m wide pass at either end of the weir as set out in drawing named 'drill hole template CBC fish pass'	Sum			[redacted]
22	Facilitate a site inspection by *Client* staff to ensure the bristles are fixed according to the exacting requirements	Sum			[redacted]
23	Remove temporary works, make all areas good and demobilise	Sum			[redacted]
Covering both Tilford and Hell Ditch					
24	Health and Safety Files	Sum			[redacted]
25	Waste management and disposal	Sum			[redacted]
				The total of the Prices	[redacted]

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

This contract covers work at two separate sites:

1. Hell Ditch between [redacted]
2. Tilford Gauging Station at [redacted]

A more detailed description of the works is set out in section 1 below.

1. Description of the *works*

The work required at each of the sites is described in turn in the sections that follow.

1. Hell Ditch

There are three areas of work on the Hell Ditch:

Hell Ditch Reach 1

- The aim of the works in reach 1 is toimprove the in-channel habitat. The Hell Ditch is generally uniform in nature with limited variability in flow and habitat. This project aims to increase heterogeneity within the channel by creating new riffles and installing woody debris of various types.

- Riffles area shallow gravel habitats. These will be created by importing gravel material and placing it on the existing river bed to reduce the river depth. The *Contractor* will need to create five riffles of 5-7m in length..Woody debris occurs naturally in rivers but is often absent due to historic management of river channels. Reintroducing wood into rivers helps to increase the variability in flow, which in turn creates habitats, and provides refuge areas for fish and other wildlife. The techniques used to successfully create woody debris features are described by the Wild Trout Trust in the documents referenced in the drawing list.

- The *Contractor* will be required to undertake habitat improvement works as follows:

  - Remove nicospan and submerged in-channel wooden stakes at SU9644744374.
  - Install four upstream facing groynes in reach 1 (see page 1 of WTT 'Instream Structures' report).
  - Install one anchored tree kicker in reach 1 (see 7 page of WTT 'Use of Large Woody Debris' report).
  - Note: Trees could be partially felled and pushed into the river rather than wired, if agreed with the *Client*.
  - Create five low level marginal shelves in reach 1 by reusing material generated through re-profiling of 10m of the left hand bank (see page 2 of WWT 'Erosion Control' report and slides 5-8 of the Hell Ditch Enhancement Scheme PowerPoint). The *CONTRACTOR* should also price for an alternative option (item 9 in the price list) in which all material generated through the re-profiling is be taken off site for reuse or disposal.
  - Create five riffle features (using imported angular gravel of 20mm-50mm, assuming each riffle feature will require 10t).

Hell Ditch Reach 2

- The aim of the work in reach 2 is to distribute 40 tonnes of angular gravel of 20mm-50mm under the supervision of the Environment Agency Fisheries, Biodiversity & Geomorphology (FBG) specialists.

Hell Ditch Reach 3

- The aim of the works in reach 3 is to improve fish passage within the Hell Ditch by raising the water level downstream of the footings of a bridge located at SU9680044271. This should be achieved by creating two gravel riffles downstream of the bridge footings.

  The base of each feature should be built up using gabion stone (or similar) and dressed with angular gravel of 20mm-50mm. The *Contractor* should allow 10t of gabion stone and 20t of gravel in totalwhich should be distributed between the two featuresunder the supervision of the Environment Agency Fisheries Technical Specialist.

A location plan for the Hell Ditch is provided in the PowerPoint document named 'Hell Ditch Enhancement Scheme - Plan'.

2. Tilford Gauging Station

- Tilford Gauging station currently presents an impassable barrier to fish movement that needs to be addressed in order to achieve WFD objectives for the River Wey. The *Contractor* is required to install a 1.5m wide bristle pass at either side of the gauging weir (against the wing walls).

  The *Contractor* must allow for the purchase of the bristles (from Berry and Escott) and fit them to the face of the gauging weir as set out in the drawing named 'drill hole template CBC fish pass'. In order to achieve this the *Contractor* will need to design and install temporary works (as required). The *Contractor* must maintain the flow of water within the Wey to avoid affecting the ecology in the downstream reach.

- The *Contractor* must ensure that the bristles are fitted according to the spacing shown in the example designs titled 'Bristle Board Arrangement Tilford 4' and 'Tilford and bristles scaled' to create two passes on either side of the weir that are each 1.5m wide and 2m long. There will be a requirement for the works to be inspected and signed-off by the *Client*'s Hydrometry and Telemetry team to ensure that the fish pass is fitted correctly and, therefore, does not have a negative impact on flow or level gauging.

The *Contractor* shall undertake the following for the work at Hell Ditch, and separately for the work at Tilford Gauging Station:

- Production of a Designer's Risk Assessment and Construction Phase Plan which must be submitted to the *Client* for review at least one week before construction work starts.

  - The Designer's Risk Assessment must include consideration for how the work can be done safely as well as any ongoing risks for members of the public as a result of the planned works.
  - The *works* will likely require the *Contractor* to work in and near water. The *Contractor* must include details of their approach to this within their Construction Phase Plan

- Design of any temporary works needed. Dam sections must adhere to all current temporary works regulations. Work cannot commence on site before the *Client* approves the design.

- Provision of welfare facilities and a compound area/site office.

- Production of a Flood Risk Assessment (FRA) and submission of a Flood Risk Activity Permit (FRAP) for the planned works. The FRA must be sufficient to demonstrate that the proposed works will not result in an increase in flood risk to people and property.

- Production of an Environmental Action Plan (EAP) which demonstrates how the *Contractor* will manage the works to avoid any negative impacts on the environment or ecology. The EAP must be submitted to the *Client* for review at least two weeks before construction work starts.

- Liaison with landowners to agree access and the location of any compound of welfare facility.

- Management of the people plant interface including provision for footpath closures/diversions or traffic management as necessary.

- Production of Health & Safety files

- Management and disposal of waste in accordance with the *Client*'s SHEW Code of Practice

The *Contractor* will need to ensure that contingency planning is in place to remove any temporary works, plant, compound, welfare facilities etc in the event of a flood.

The *Contractor* shall also*:*

- Fulfil the duties of both Principal Contractor and Designer in terms of the CDM 2015 regulations. Duties will include, but are not limited to, producing the buildability statement, Designer's Risk Assessment, temporary works schedule, completing the RAG list and liaising with the *Client* and Principal Designer.

- Liaise with the *Client* and the Principal Designer on matters relating to the delivery of the project, compliance with the CDM regulations, flood risk management, regulatory compliance, ecological stewardship and the programme.

2. Drawings

Hell Ditch

Drawing Description	Revision	Title
Channel narrowing guidance		WTT Channel_Narrowing
Instream structures guidance		WTT Instream_Structures
Large woody debris guidance		WTT Large_Woody_Debris
Hell Ditch enhancement plan and maps		Hell Ditch Enhancement Scheme – Plan

Tilford

Drawing Description	Revision	Title
Bristle component design	Issue date: 25/03/19	920951-MA-02-001-A
Bristle drill hole template		Bristle Board Arrangement Tilford 4
Tilford topographic survey	August 2013	T11762-01

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
Minimum Technical Requirements	As per the SE FCRM Operations Framework	

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

The *Contractor* must carry out the work taking in to consideration the information provided in the Pre-Construction Information.

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

The *Contractor* is to prepare, for the *Client's* acceptance, the Designers Risk Assessment, Construction Phase Plan (CPP) and the Environmental Action Plan (EAP) prior to starting the *works*

Work at both sites (Hell Ditch and Tilford) will involve working within land in private ownership. No works must commence until agreement has been secured with relevant landowners.

Working times

The *Contractor* will be permitted to work between 9am and 6.00pm on weekdays (Monday to Friday)

5. Requirements for the programme

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*

Item	**Date by which it will be provided**
Photograph of Tilford Gauging Weir	**TBC**
Map of Tilford Gauging Weir	**TBC**

Site Information

Work at both sites (Hell Ditch and Tilford) will involve working within land in private ownership. No works must commence until agreement has been secured with relevant landowners.
Further site information is included within the PCI. Of particular note the works at both sites are located within the floodplain. *Contractor* will need to ensure that contingency planning is in place to remove any temporary works, plant, compound, welfare facilities etc in the event of a flood.
This contract will is likely to require the *Contractor* to work in and near water.
Site information can also be found in the PCI

Proposed sub-contractors

	Name and address of proposed sub-contractor	Nature and extent of work
1.	Form of Contract:	
2.	Form of Contract:	
3.	Form of Contract:	