

JCT

MW 2016

Minor Works Building Contract 2016

2016

MINOR WORKS BUILDING CONTRACT

Agreement

This Agreement is made the _____ 20 24

Between

The Employer Ebbfleet Development Corporation

(Company No. _____)⁽¹⁾

of/whose registered office is at The Observatory, Castle Hill
Drive, Swanscombe, Kent, DA10 1EE

And

The Contractor Michael Brady Ltd

(Company No. _____) [1]

of/whose registered office is at Monument House, 215 Marsh
Road, Pinner HA5 5NE

[1] Where the Employer or Contractor is neither a company incorporated under the Companies Acts nor a company registered under the laws of another country, delete the references to Company number and registered office. In the case of a company incorporated outside England and Wales, particulars of its place of incorporation should be inserted immediately before its Company number.

Recitals

Whereas

First the Employer wishes to have the following work carried out^[2]:

EXAVLING WORKS TO CLEAR VEGETATION FOLLOWING
COLLAPSED WALL

at SITE 47008, NORTHFLEET EMBANKMENT, LONDON ROAD

NORTHFLEET HENT ('the Works')
under the direction of the ~~Architect~~ Contract Administrator referred to in Article 3;

Second the Employer has had the following documents prepared which show and describe the work to be done:

~~the drawings numbered/listed in~~ _____ ('the Contract Drawings')^{[3][4]}

a Specification ('the Contract Specification')^[3]

~~Work Schedules~~^[3]

which for identification have been signed or initialled by or on behalf of each Party; those documents together with this Agreement, the Conditions and, if applicable, a Schedule of Rates as referred to in the Third Recital (collectively 'the Contract Documents')^[5] are annexed to this Agreement^[6];

Third the Contractor has supplied the Employer with a copy of the priced Contract Specification or ~~Work Schedules or with a Schedule of Rates~~^[3];

Fourth for the purposes of the Construction Industry Scheme (CIS) under the Finance Act 2004, the status of the Employer is, as at the Base Date, that stated in the Contract Particulars;

Fifth for the purposes of the Construction (Design and Management) Regulations 2015 (the 'CDM Regulations') the status of the project that comprises or includes the Works is stated in the Contract Particulars;

[2] State nature and location of intended works

[3] Delete as appropriate

[4] State the identifying numbers of the Contract Drawings or identify the schedule of drawings or other document listing them

[5] It is envisaged that in those cases where there is an applicable BIM or other communications protocol this will be included within one of the Contract Documents identified in the Second Recital

[6] Where a Contract Document has been priced by the Contractor it is that version of the document that should be annexed

Sixth where so stated in the Contract Particulars, this Contract is supplemented by the Framework Agreement identified in those particulars;

Seventh whether any of Supplemental Provisions 1 to 6 apply is stated in the Contract Particulars;

Articles

Now it is hereby agreed as follows

Article 1: Contractor's obligations

The Contractor shall carry out and complete the Works in accordance with the Contract Documents.

Article 2: Contract Sum

The Employer will pay the Contractor at the times and in the manner specified in the Conditions the VAT-exclusive sum of

[REDACTED]

[REDACTED] ('the Contract Sum')

or such other sum as becomes payable under this Contract.

Article 3: Architect/Contract Administrator

For the purposes of this Contract the Architect/Contract Administrator^[7] is

BNP PARIBAS REAL ESTATE
of 10 HAREWOOD AVENUE, LONDON NW1 6AA

or, if he ceases to be the Architect/Contract Administrator, such other person as the Employer nominates (such nomination to be made within 14 days of the cessation). No replacement appointee as Architect and/or Contract Administrator shall be entitled to disregard or overrule any certificate, opinion, decision, approval or instruction given by any predecessor in that post, save to the extent that that predecessor if still in the post would then have had power under this Contract to do so.

[7] Unless the person appointed by or under Article 3 is entitled to use the title 'Architect' under the Architects Act 1997, the term 'Architect' shall so long as that person holds that post be deemed deleted throughout this Contract. Any appointee as Contract Administrator should be suitably experienced for the role. Irrespective of experience or qualifications, the Employer should not at any time appoint himself to the role without the Contractor's prior agreement.

Article 4: Principal Designer

The Principal Designer for the purposes of the CDM Regulations is the ~~Architect/Contract~~ Administrator

(or)^[8] _____

of _____

or such replacement as the Employer at any time appoints to fulfil that role.

Article 5: Principal Contractor

The Principal Contractor for the purposes of the CDM Regulations is the Contractor

(or)^[8] _____

of _____

or such replacement as the Employer at any time appoints to fulfil that role.

Article 6: Adjudication

If any dispute or difference arises under this Contract either Party may refer it to adjudication in accordance with clause 7.2.^[9]

Article 7: Arbitration

Where Article 7 applies^[10], then, subject to Article 6 and the exceptions set out below, any dispute or difference between the Parties of any kind whatsoever arising out of or in connection with this Contract shall be referred to arbitration in accordance with Schedule 1 and the JCT 2016 edition of the Construction Industry Model Arbitration Rules (CIMAR)^[11]. The exceptions to this Article 7 are:

- any disputes or differences arising under or in respect of the Construction Industry Scheme or VAT, to the extent that legislation provides another method of resolving such disputes or differences; and

[8] Insert the name of the Principal Designer in Article 4 if the Architect/Contract Administrator is not to fulfil that role and that of the Principal Contractor in Article 5 if that is to be a person other than the Contractor. Under the CDM Regulations 2015, regardless of whether or not a project is notifiable, there is a requirement to appoint a principal designer and a principal contractor in all cases where there is more than one contractor, or if it is reasonably foreseeable that more than one contractor will be working on a project at any time. For these purposes, the term 'contractor' is broadly defined by the regulations and treats the Contractor's sub-contractors as separate contractors.

[9] As to adjudication in cases where the Employer is a residential occupier within the meaning of section 106 of the Housing Grants, Construction and Regeneration Act 1996, see the Guidance Notes.

[10] If it is intended, subject to the right of adjudication and exceptions stated in Article 7, that disputes or differences should be determined by arbitration and not by legal proceedings, the Contract Particulars must state that the arbitration provisions of Article 7 and Schedule 1 apply and the words "do not apply" must be deleted. If the Parties wish any dispute or difference to be determined by the courts of another jurisdiction the appropriate amendment should be made to Article 8 (see also clause 1.8).

[11] See the Guidance Notes.

- any disputes or differences in connection with the enforcement of any decision of an Adjudicator.

Article 8: Legal proceedings⁽¹⁰⁾

Subject to Article 6 and (where it applies) to Article 7, the English courts shall have jurisdiction over any dispute or difference between the Parties which arises out of or in connection with this Contract.

Contract Particulars

Note: An asterisk * indicates text that is to be deleted as appropriate.

Clause etc.	Subject	
Fourth Recital and Schedule 2 (paragraphs 1.1, 1.2, 1.5, 1.6, 2.1 and 2.2)	Base Date	<u>FEBRUARY 2024</u>
Fourth Recital and clause 4.2	Construction Industry Scheme (CIS)	* Employer at the Base Date is a 'contractor' / is not a 'contractor' for the purposes of the CIS
Fifth Recital	CDM Regulations ^[12]	the project * is / is not notifiable
Sixth Recital	Framework Agreement (if applicable) (State date, title and parties.)	<div style="border: 1px solid black; height: 100px; width: 100%; position: relative;"><div style="position: absolute; top: 0; right: 0; bottom: 0; left: 0; background: linear-gradient(to top right, transparent 49%, black 49%, black 51%, transparent 51%); background-size: 4px 4px;"></div></div>
Seventh Recital and Schedule 3	Supplemental Provisions ^[13] (Where neither entry against one of Supplemental Provisions 1 to 6 below is deleted, that Supplemental Provision applies.)	
	Collaborative working	* Supplemental Provision 1 applies / does not apply
	Health and safety	* Supplemental Provision 2 applies / does not apply
	Cost savings and value improvements	* Supplemental Provision 3 applies / does not apply
	Sustainable development and environmental considerations	* Supplemental Provision 4 applies / does not apply
	Performance Indicators and monitoring	* Supplemental Provision 5 applies / does not apply

[12] Under the CDM Regulations 2015 a project is notifiable if the construction work on a construction site is scheduled either to last longer than 30 working days and have more than 20 workers working simultaneously at any point in the project or to exceed 500 person days.

[13] Supplemental Provision 7 (Transparency) applies only where the Employer is a Local or Public Authority or other body to whom the Freedom of Information Act 2000 applies. Supplemental Provision 8 (The Public Contracts Regulations 2015) applies only where the Employer is a Local or Public Authority and this Contract is subject to the PC Regulations.

Notification and negotiation of disputes

Where Supplemental Provision 6 applies, the respective nominees of the Parties are

Supplemental Provision 6
~~applies~~/does not apply

Employer's nominee

Contractor's nominee

or such replacement as each Party may
 notify to the other from time to time

Article 7

Arbitration

*(If neither entry is deleted, Article 7 and
 Schedule 1 do not apply. If disputes and
 differences are to be determined by arbitration
 and not by legal proceedings, it must be stated
 that Article 7 and Schedule 1 apply.)^[14]*

Article 7 and Schedule 1 (Arbitration)
 apply/do not apply

2.2

Works commencement date

TBC 20 _____

2.2

Date for Completion

TBC 20 _____
 or such later date for completion as is fixed
 under clause 2.7

2.8

Liquidated damages

at the rate of

£ 10 per week ^[15]

2.10

Rectification Period

*(The period is 3 months unless a different
 period is stated.)*

3 months ^[16]
 from the date of practical completion

4.3

Interim payments – Interim Valuation Dates^[17]

*(Unless otherwise stated, the first Interim
 Valuation Date is one month after the Works
 commencement date specified in these
 Particulars (against the reference to clause
 2.2) and thereafter at monthly intervals.)*

The first Interim Valuation Date is

8 MARCH 20 24
 and thereafter at intervals of

1 MONTH

[14] On factors to be taken into account by the Parties in considering whether disputes are to be determined by arbitration or by legal proceedings, see the Guidance Notes. See also footnote [10].

[15] Insert 'day', 'week' or other period.

[16] An insertion is needed here only if the default position is not to apply. If no retention is required, insert '100' in the percentage entries for clause 4.3.

[17] The first Interim Valuation Date should not be more than one month after the Works commencement date and the intervals between Interim Valuation Dates should not be more than one month.

4.3	Payments due prior to practical completion – percentage of the total value of work etc. (The percentage is 95 per cent unless a different rate is stated.)	<u>95</u> per cent ^[16]
4.3	Payments becoming due on or after practical completion – percentage of the total amount to be paid to the Contractor (The percentage is 97½ per cent unless a different rate is stated.)	<u>100</u> per cent ^[16]
4.3 and 4.8	Fluctuations provision (Unless another provision or entry is selected, Schedule 2 applies.)	<ul style="list-style-type: none"> * Schedule 2 (Contribution, levy and tax changes) applies/ * no fluctuations provision applies/ * the following fluctuations provision applies
4.3 and 4.8	Percentage addition for Schedule 2 (paragraph 13) (if applicable)	<u> </u> per cent
4.8.1	Supply of documentation for computation of amount to be finally certified (The period is 3 months unless a different period is stated.)	<u>3</u> months ^[16] from the date of practical completion
5.3	Contractor's Public Liability Insurance: injury to persons or property – the required level of cover is not less than	<u>£ 10,000,000 (TEN MILLION)</u> for any one occurrence or series of occurrences arising out of one event
5.4A, 5.4B and 5.4C	Insurance of the Works etc. – alternative provisions ^[18]	<ul style="list-style-type: none"> * Clause 5.4A (Works insurance by Contractor in Joint Names) applies/ * Clause 5.4B (Works and existing structures insurance by Employer in Joint Names) applies/ * Clause 5.4C (Works and existing structures insurance by other means) applies
5.4A and 5.4B	Percentage to cover professional fees (If no other percentage is stated, it shall be 15 per cent.)	<u>15</u> per cent

[18] As to choice of applicable insurance provisions, see the Guidance Notes.
Where there are existing structures, it is vital that any prospective Employer – in particular any Employer who is a tenant or a domestic homeowner – who is not familiar with clause 5.4B and the possible solutions under clause 5.4C, or an appropriate member of their professional team, should consult the Employer's insurance advisers prior to the tender stage. Any Employer who is a tenant should also consult his insuring landlord prior to that stage.

5.4C

Insurance arrangements – details of the required policy or policies

are set out in the following document(s)

7.2

Adjudication^[19]

Nominating body – where no Adjudicator is named or where the named Adjudicator is unwilling or unable to act (whenever that is established)^[20]

(Where an Adjudicator is not named and a nominating body has not been selected, the nominating body shall be one of the bodies listed opposite selected by the Party requiring the reference to adjudication.)

The Adjudicator is _____

- ~~Royal Institute of British Architects~~
- The Royal Institution of Chartered Surveyors
- constructionadjudicators.com^[21]
- ~~Association of Independent Construction Adjudicators~~^[22]
- ~~Chartered Institute of Arbitrators~~

Schedule 1
(paragraph 2.1)

Arbitration^[23] – appointor of Arbitrator (and of any replacement)^[24]

(If no appointor is selected, the appointor shall be the President or a Vice-President of the Royal Institute of British Architects.)

President or a Vice-President:

- ~~Royal Institute of British Architects~~
- The Royal Institution of Chartered Surveyors
- ~~Chartered Institute of Arbitrators~~

-
- [19] The Parties should either name the Adjudicator and select the nominating body or, alternatively, select only the nominating body. The Adjudication Agreement (Adj) and the Adjudication Agreement (Named Adjudicator) (Adj/N) have been prepared by JCT for use when appointing an Adjudicator.
- [20] Delete all but one of the nominating bodies asterisked.
- [21] constructionadjudicators.com is a trading name of Contractors Legal Grp Ltd.
- [22] Association of Independent Construction Adjudicators is controlled by and acts as an agent of the National Specialist Contractors' Council for the purpose of the nomination of adjudicators.
- [23] This only applies where the Contract Particulars state (against the reference to Article 7) that Article 7 and Schedule 1 (Arbitration) apply.
- [24] Delete all but one of the bodies asterisked.

As witness

the hands of the Parties
or their duly authorised representatives

Signed by or on behalf of
the Employer

[Redacted signature]

in the presence of:

witness' signature

[Redacted signature]

witness' name

[Redacted name]

witness' address

EDC, The Observatory, Castle Hill Drive, Castle Hill, Ebbsfleet, Kent DA10 1EE

Signed by or on behalf of
the Contractor

[Redacted signature]

in the presence of:

witness' signature


[Redacted signature]

witness' name

[Redacted name]

witness' address

**LONDON ROAD (B1275), GRAVESEND, KENT
ENABLING WORKS TO FLINT WALL REPAIRS
EBBSFLEET DEVELOPMENT CORPORATION**

			Quantity	Unit	Rate	Spot	Cost (£)
Scope	1 00	The scope of works comprises the removal of partially collapsed flint wall (opposite Rural Vale), clearance of vegetation including brambles, bushes and trees to leave strip of land behind wall sufficiently clear to enable inspection of the inside face of the flint wall, and survey of the cliff face					
Extent	1 01	The extent of clearance works covers the strip of land behind the flint wall between Northfleet Nursery School and the footpath leading down the hill as shown below (appx 105m x 2-3m deep)					
							
Hazard	1 02	The contractor should appreciate that the strip of land behind the flint wall marks to top of a cliff over an old quarry. Trees growing from the edge of the cliff may be affording support to the stability of the ground		Item			
SSCW	1 03	The contractor shall design and implement a safe system of work to ensure the safety of their operatives and sub contractors. It is envisaged that this will take the form of a moveable counterweighted cantilevered safety line and harness with ratchet capable of restraining any operative who falls and allows for winching back rescue. The contractor shall set out their proposal for comment prior to the commencement of works		Item			
	1 04	It is therefore critical that the contractor approaches the works with caution, and sequence the works to maximise visibility of the cliff edge and checking the stability of the ground		Item			
Compound	1 05	The contractor may use the area at the base of the cliff for parking, and site set up, but should ensure that the area beneath the cliff is kept free and clear of persons at all times as a safety precaution against falling trees and ground		Item			
		SPECIFIED WORKS					
	2 00	Enabling Works					
Pavement Licence	2 01	The contractor shall apply to the local authority & highways dept for a pavement licence to close off the pavement adjacent to the works for the duration of the project. Allow to comply with all requirements of pavement licence including temporary lighting, signage etc		Item			
Hoarding	2 02	The contractor shall supply and construct a suitable self weighted or braced plywood and timber frame hoarding 2m high around the pavement to create a space to store debris and cutting or or to removal from site Alternatively The contractor shall heras fence off part of the paving to create a compound in which to store debris and cuttings prior to removal from site (£)		Item			

Bus Stop	2 03	The contractor shall apply to the local authority incl highways / licencing body for the temporary closure relocation or repositioning of the bus stop whilst the works take place		item	
Waste	2 04	The contractor shall allow to remove all waste debris including masonry, general rubbish behind wall and vegetation and trees / bushes etc from site		item	
Welfare	2 05	The contractor should supply and maintain a sufficient portable welfare unit comprising WC and welfare area for use by the operatives in line with the CDM Regulations 2015 The unit may be sited in the fenced area owned by the client at the base of the cliff		item	
Temporary Lighting	2 06	Allow to supply and maintain temporary lighting for duration of works, and remove upon completion		item	
	3 00	Clearance Works			
Collapsed Wall	3 01	Following construction of hoarding, allow to carefully clear away fallen flint wall in the area it has collapsed Bag up flint and cart away mortar in heavy duty bags			
Flint	3 02	Allow to store bags of flint walling separately and leave in hippo bag (s) or similar at base of cliff in car park The flit may be reused in the reconstruction of the wall by others Take collapsed section of wall down to pavement level Leave stable Ensure operatives do not venture beyond immediate work area		item	
	3 03	Stabilise both ends of flint walls by setting 100mmx 100mm timber post in concrete weighted base against wall, with 18mm plywood to create L shaped brace against edge	2 00	nr	
Vegetation	3 04	Following clearance of wall and creation of clear workspace, allow to gradually work to clear away bushes and brambles etc to expose more ground, checking stability as works proceed		item	
SSOW	3 05	Following erection of suitable cantilever safety harnesses, allow to clear vegetation from strip of land including bushes, brambles and trees to bare ground. <u>Care must be taken to cut back roots without disturbing the flint wall</u> Bag up and leave for collection from site within hoarding / fencing Leave tree cover adjacent corner with footpath			
Landscaping Contractor	NR	Below are the details of a landscaping contractor who is familiar with the client and whom you may wish to use subject to H&S checks, Fryer Cleaning and Maintenance Ltd Tel 01622744111 info@fryergroup.co.uk Contact person Mark			
Stumps	3 06	Tree stumps should be cut down to 150-200mm of ground level, and stumps left in place, and treat with herbicide pellets SBK to deter regrowth		item	
Safety Fence	3 07	The contractor should clear to the edge of the cliff and erect a metal stake @1.5m and red PVC coated wire or mesh safety fence to highlight the edge of the cliff Allow to set back from edge in stable ground	110 00	m	
Trial Pit	3 08	Once the land behind the flint wall has been cleared, and safety fence in place, allow to excavate small 500mm x 400mm x 500mm trial pit along line of foundation to collapsed flint wall, and allow for engineers inspection Allow to back fill upon completion of inspection	1 00	item	
Hoarding	3 09	Upon completion of the works, allow to remove hoarding / fencing, and reinstate hoarding across length of opening in flint wall where collapsed Leave site secure		item	

Completion	3 10	Leave pavement clean and swept and replace any damaged paving to leave level and even	Item	
		Sub Total		
		Preliminaries		
		OHP		
		Total excl VAT		