

NEC4 Engineering and Construction

Short Contract

FCRM Operational Framework – South Eastern Hub

A contract between

**The Environment Agency
Horizon House
Deanery Road
Bristol
BS1 5AH**

And

Land and Water Services Ltd

For

Provision of routine vegetation maintenance activities as primary FOF Lot 2 supplier in Area 14 Solent & South Downs (SSD)

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	Guildbourne House, Chatsworth Road, Worthing, West Sussex, BN11 1LD	
Address for electronic communications		
The <i>works</i> are	The routine maintenance activities in Area 14 as stated in Appendix 1	
The <i>site</i> is	Various in Area 14 – individual site locations are contained in the programme schedule as FCRM System locations	
The <i>starting date</i> is	14 th August 2023	
The <i>completion date</i> is	31 st March 2024	
The <i>delay damages</i> are	nil	Per day
The <i>period for reply</i> 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 *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		% per complete week of delay.
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	£100,000	
The <i>Client</i> provides this insurance	None	
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 <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	£nil 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</i> nominating body is	The Institution of Civil Engineers	
The <i>tribunal</i> is	litigation in the courts	

The conditions of contract are the NEC4 Engineering and Construction Short Contract June 2017 and the following additional conditions	
Only enter details here if additional conditions are required.	
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 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 <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.												
Z30.0	Material Price Volatility The <i>Client</i> recognises the ongoing pricing uncertainty in relation to materials for the period from 1 July 2021 to 31 March 24 the <i>Client</i> will mitigate this additional cost through this clause. Payment is made per assessment based upon a general average material proportion within assessments, calculated at 40%.												
Z30.1	Defined terms a) The Latest Index (L) is the latest index as issued by the <i>Client</i> . The L, which is at the discretion of the <i>Client</i> , is based upon the issued consumer price index ((CPI) based upon the 12-month rate) before the date of assessment of an amount due. b) The Price Volatility Provision (PVP) at each date of assessment of an amount due is the total of the Material Factor as defined below multiplied by L for the index linked to it. c) Material Factor (MF) 40% is used, based on a general average material proportion across our programme. The volatility provision is only associated with material element. No volatility provision is applicable to any other component of costs.												
Z30.2	Price Volatility Provision Through a Compensation Event the <i>Client</i> shall pay the PVP. PVP is calculated as: Assessment x MF x L = PVP If an index is changed after it has been used in calculating a PVP, the calculation is not changed and remains based upon the rate issued by the <i>Client</i> . The PVP calculated at the last assessment before 31 March 24 is used for calculating the price increase after that date.												
Z30.3	Price Increase Each time the amount due is assessed, an amount for price increase is added to the total of the Prices which is the change in the Price for Work Done to Date for the materials component only (and the corresponding proportion) since the last assessment of the amount due multiplied PVP for the date of the current assessment.												
Z30.4	Compensation Events The <i>Contractor</i> shall submit a compensation event for the PVP on a monthly basis (where applicable) capturing Defined Cost only for the PWDD increase in month. Forecasted costs should only be considered for the March 24 period compensation event. <table><tr><td>Assessment Date</td><td>Defined Cost?</td><td>Forecasted Cost?</td></tr><tr><td>31st Jul 21</td><td>In period costs only</td><td>No</td></tr><tr><td>31st Aug 21</td><td>In period costs only</td><td>No</td></tr><tr><td>30th Sept 21</td><td>In period costs only</td><td>No</td></tr></table>	Assessment Date	Defined Cost?	Forecasted Cost?	31 st Jul 21	In period costs only	No	31 st Aug 21	In period costs only	No	30 th Sept 21	In period costs only	No
Assessment Date	Defined Cost?	Forecasted Cost?											
31 st Jul 21	In period costs only	No											
31 st Aug 21	In period costs only	No											
30 th Sept 21	In period costs only	No											

31 st Oct 21	In period costs only	No
30 th Nov 21	In period costs only	No
31 st Dec 21	In period costs only	No
31 st Jan 22	In period costs only	No
28 th Feb 22	In period costs only	No
31 st Mar 22	In period costs only	No
30 th Apr 22	In period costs only	No
31 st May 22	In period costs only	No
30 th Jun 22	In period costs only	No
31 st Jul 22	In period costs only	No
31 st Aug 22	In period costs only	No
30 th Sept 22	In period costs only	No
31 st Oct 22	In period costs only	No
30 th Nov 22	In period costs only	No
31 st Dec 22	In period costs only	No
31 st Jan 23	In period costs only	No
28 th Feb 23	In period costs only	No
31 st Mar 23	In period costs only	No
30 th Apr 23	In period costs only	No
31 st May 23	In period costs only	No
31 st Jul 23	In period costs only	No
31 st Aug 23	In period costs only	No
30 th Sept 23	In period costs only	No
31 st Oct 23	In period costs only	No
30 th Nov 23	In period costs only	No
31 st Dec 23	In period costs only	No
31 st Jan 24	In period costs only	No
28 th Feb 24	In period costs only	No
31 st Mar 24	In period costs only	Forecasted costs for remainder of contract

The Defined Cost for compensation events is assessed using:

- the Defined Cost at *base date* levels for amounts calculated from rates stated in the Contract Data for People and Equipment and
- the Defined Cost current at the date the compensation event was notified, adjusted to the *base date* by 1+PVP for the last assessment of the amount due before that date, for other amounts.

Contract Data

The Contractor's Contract Data

	The Contractor is	
Name	Land and Water Services Ltd	
Address for communications	Weston Yard, Albury, Guildford, Surrey, GU5 9AF	
Address for electronic communications		
The fee percentage is	15	%
The people rates are	As per framework	
category of person	unit	rate
The published list of Equipment is		As per framework
The percentage for adjustment for Equipment 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	£144,133.85
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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

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	The Price List is contained in Appendix 1 – L&W – SSD Workbook v1	sum	1	£144,133.85	£144,133.85
The total of the Prices				£144,133.85	

The method and rules used to compile the Price List are

The Framework Price Workbook and the Framework Deed of Agreement.

Scope

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.

The *Contractor* is to undertake routine maintenance activities as described in Appendix 1 and in accordance with the Specification and the FCRM Asset Maintenance Standards 2021.

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
Appendix A2 to the Framework Deed of Agreement Section 6 – Lot 2 Specification	V1 September 2017	No
FCRM Asset Maintenance Standards	2021	Yes

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*.

The *Contractor* will receive "Work Orders" through the *Client's* asset planning portal (AIMS: OM). These Work Orders will contain any specific constraints relating to the individual *site*. The *Contractor* is expected to use AIMS:OM in accordance with training provided by the *Client*.

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 Environmental Action Plan (EAP)

The *Contractor* shall be responsible for arranging site storage of any plant.

Working times

The *Contractor* will be permitted to work between 7.30am and 6.00pm on weekdays (Monday to Friday)

5. Requirements for the programme

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).

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

(f) The *Contractor* shall submit a full works programme including key milestones, and the programme shall be updated as items of individual works are completed (Weekly) or changed.

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

Item	Date by which it will be provided
None.	

Site Information	
The Site Information for each "Work Order" will be provided prior to the <i>Contractor</i> arriving on <i>site</i> in accordance with Statutory guidelines for 'Services' Gas, Electric, Water (3 month validation period) and specific detailed information related to the environmental or agricultural changes dependent upon seasonal changes.	
This information will be contained in the draft Pre-Construction Information (PCI) for External Works, PCI main body template 11_12_SD17 Version 3 and the Maintenance Schedule for the individual sites.	
Individual Maintenance Schedules / <i>site</i> maps will be provided by the <i>Client</i> to the Field Team Specialist Team Member for dissemination prior to the programme of works.	

Proposed sub-contractors		
	Name and address of proposed subcontractor	Nature and extent of work
1.	Forget Me Not Rail Ltd 14 Kings Road Petersfield GU32 3QY Form of Contract: NEC4 ECSS	Hand/weed grass cutting
2.	SGL Forestry Ltd 26 High Street Haslemere Surrey GU27 2HW Form of Contract: NEC4 ECSS	Machine grass cutting.
3.	 Form of Contract:	

4.	Form of Contract:	
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