NEC4 Engineering and Construction

Short Contract

FCRM Operational Framework – Eastern Hub

A contract between	**The Environment Agency** **Horizon House** **Deanery Road** **Bristol** **BS1 5AH**
And	**Breheny Civil Engineering Ltd**
For	**Moor Lane Offtake (Church Lammas Defences)**
	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	Horizon House Deanery Road Bristol BS1 5AH	
Address for electronic communications	[redacted]	
The *works* are	Cut trees & bank vegetation, dredging and weed clearance, restoring the embankment to its original condition / design including (grey) bank toe protection.	
The *site* is	12 Moor Lane, Staines, England, Postcode: TW19 6EA, NGR: TQ 0319 7219	
The *starting date* is	[redacted]	
The *completion date* is	[redacted]	
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		% per complete week of delay.
Insert a rate only if a rate less than 0.5% per week of delay has been agreed.		
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 £50,000 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

Only enter details here if additional conditions are required.

Z1.0	Sub-contracting
Z1.1	The *Contractor* submits the name of each proposed subcontractor to the *Client* for acceptance. A reason for not accepting the subcontractor is that their appointment will not allow the *Contractor* to Provide the Works. The *Contractor* does not appoint a proposed subcontractor until the *Client* 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 *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
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.
Z12.0	Packaging
Z12.1	For contracts containing packages of projects the *Client's* Contract Data, Scope and Site Information particular to an individual project is contained within its Site Specific Pack
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.

Contract Data

The *Contractor's* Contract Data

	The *Contractor* is	
Name	Breheny Civil Engineering Ltd	
Address for communications	[redacted]	
Address for electronic communications	[redacted]	
The *fee* percentage is	As per FCRM Framework Rates	%
The *people rates* are		
category of person	unit	rate
The *published list of Equipment* is	As per FCRM Framework Rates	
The *percentage for adjustment for Equipment* is	As per FCRM Framework Rates	

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	[redacted]
Signature	[redacted]
Date	[redacted]

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

Signed on behalf of the *Client*

Name	[redacted]
Position	[redacted]
Signature	[redacted]

Date	[redacted]

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. Contract Mobilisation / Design					
1.1	Review the existing information, drawings, and the latest embankment survey (2019) to assess in detail the embankment's condition.	Sum			[redacted]
1.2	In consultation with the client, produce detailed design, plans, construction drawings and specification for the embankment's toe protection.	Sum			[redacted]
1.3	Provide and maintain CDM Regulations 2015.	Sum			[redacted]
2. Implementation / Site Works					
2.1	Site Establishment & Enabling Works	Sum			[redacted]
2.2	Cut trees and bank vegetation	Sum			[redacted]
2.3	Temporary works including diversion of the river / cofferdam	Sum			
2.4	Dredging	Sum			[redacted]
2.5	Silt disposal per square meter of waste	Sum			[redacted]
2.6	(Grey) bank toe protection works	Sum			[redacted]

2.7	Earthworks (repair, raising) to restore the embankment to its original condition	Sum			
	a) Reinforced earth embankment stabilisation works (Chainage: 0 – 90)	Sum			[redacted]
	b) Unreinforced earth embankment stabilisation works (Chainage: 120 – 162)	Sum			
2.8	Topsoil and seeding	Sum			[redacted]
2.9	Site Demobilisation	Sum			[redacted]
3	Hand Back Documentation ('As Built Drawings', H&S File, Carbon Calculator File, Update AIMS)	Sum			[redacted]
4	Contractor's use: **Stage 1** of 2-stage design phase – Initial Investigation to aid understanding into extent of the damage of geogrid wrap.				[redacted]
5	Contractor's use				
6					
7					
				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

Background

Moor Lane Offtake (aka Church Lammas Defences) forms part of the Lower Colne Improvement Scheme (Area 3) and is located in Staines north of the A30 Staines Bypass. The works are on the right bank of the Wraysbury River, east of Moor Lane and run from the Staines – Network Rail line in the north to a disused railway area in the south.

Full reference to the Scope of Works can be found in the separate NEC4 ECSC Scope.

The objective of this project are:

- To identify and deliver on site a technically, environmentally and economically viable option for the embankment's repair and raising works, and the river dredging and weed clearance.

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.

1. Cut trees & bank vegetation as at the moment it's difficult to inspect erosion of the right bank.

2. Sensitive dredging and weed clearance:

Drainage improvements to intercept and drain away seepage flows, and desilting. *Contactor* should have the capacity to carry out silt sampling. The nature of the silt will determine how and where it can be disposed in case it is hazardous. The tendering cost estimation must include cost to silt disposal per square meter of waste.

Maintenance dredging should be carried out as the cross-section survey indicates that it is necessary. At least three quarters of the bed width of main channel shall be cleared of weed growth. No work should be carried out that will cause deterioration of the environmental features.

The *works* must not destabilise the riverbed and banks as the additional sediment can increase flood risk elsewhere.

3. Restoring the embankment to its original condition / design

a) Reinforced earth embankment stabilisation works (Chainage: 0 – 90)

b) Unreinforced earth embankment stabilisation works (Chainage: 120 – 162)

The embankment shows signs of settlement, erosion and damage. Where the level is found to be more than 75mm below the minimum flood defence level which is +16.58m (with approximately 250mm of freeboard) then the embankment shall be repaired and raised to the minimum flood defence level based on the existing as built drawings, specifications and standards. Re-grade, replace material lost due to erosion and build up the areas which suffered slumping. Burrows must be filled, and disturbed soil needs to be re-seeded to encourage grass growth.

Furthermore, the toe must be protected from existing and future damage to reduce the effects of scour and improve river / bank connectivity for wildlife.

This is like to like repair works that incorporate a design element for the embankment's raising and toe protection where needed.

2. Drawings

List the drawings that apply to the contract.

Drawing Number	Revision	Title
Appendix B		Lower Colne Improvement Scheme Church Lammas Defences – Phase 1 Details of Local NRA Survey Station
Figure 1		Lower Colne Improvement Scheme Church Lammas Defences – Phase 1 Location Plan
Figure 2		Lower Colne Improvement Scheme Church Lammas Defences – Phase 1 Plan of Embankment Works
Figure 3		Lower Colne Improvement Scheme Church Lammas Defences – Phase 1 Plan Embankment Cross Sections
Figure 4		Lower Colne Improvement Scheme Church Lammas Defences – Phase 1 Construction Details
Figure 5		Lower Colne Improvement Scheme Church Lammas Defences – Phase 1 Land Ownership Plan
		Church Lammas Defences (Moor Lane Offtake) Level and channel Survey (July 2019)

3. Specifications

List the specifications which apply to the contract.

Title	Date or Revision	Tick if publicly available
Y11 Church Lammas Embankment	1994	
Ciria C731: The International Levee Handbook	2013	
Lower Colne Improvement Scheme Overview	September 2019	
28_13 Lower Colne Improvement Scheme Area 3: Colne Brook Regrading Maintenance Manual	February 1995	

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*.

Land and assets: Right Bank – The embankment was built and is maintained by the *Client*.

Left Bank – a land registry search of the left bank shows that it is unregistered land. Given the old disused railway adjacent to the bank, it is possible the land belongs to Network Rail.

Health & Safety:

1. The structure is 'passive', and therefore there are no extraordinary hazards other than those associated with working adjacent to open water.
2. The area is within hostile site 3443. EA Field operatives – whilst assisting police – removed 80-90 cannabis plants in the area around the survey site in October 2017.

Environmental Constraints assessment: Site of Special Scientific Interest (SSSI Staines Moor

Constructability requirements (manage winter flows)

Minimise the risk of flooding to adjacent lands / road and violating environmental regulations regarding issues such as dredging, sedimentation and erosion control.

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 including preparation of design and construction drawings.

(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 before [redacted]

The programme is to be updated monthly and provided to the *Client* for approval.

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

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
Desktop utility services results	With PCI

Site Information

Pre-Construction Information
Public Safety Risk Assessment (PSRA)
28_13 Lower Colne Improvement Scheme Area 3: Colne Brook Regrading Maintenance Manual
Lower Colne Improvement Scheme Overview
Y11 Church Lammas Embankment

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:	