

# 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**

**Fairway Field Asbestos Remediation**

**Contract Forms**

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- **The *Contractor's* Offer and *Client's* Acceptance**
- **Price List**
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# Contract Data

## The *Client's* Contract Data

	The <i>Client</i> is	
Name	Environment Agency	
Address for communications	Environment Agency, Scots Float, Military Road, Playden, Rye, TN31 7PH	
Address for electronic communications		
The <i>works</i> are	<p>Following dredging works to the Clobdsen Sewer in 2019 approximately 1,294m<sup>3</sup> of the contaminated materials needs to be removed from the field. .</p> <p>Analysis was undertaken and identified asbestos material (white and brown) mixed into the silt which is classified as Hazardous Material.</p> <p>The works are to remove the spoil that is contaminated with asbestos down to a depth of 250mm and disposed of at suitably licenced waste disposal facility.</p> <p>These works include enabling works to gain access, installation of air monitoring and dust suppression controls and reinstatement of topsoil to the original ground level once the silt has been removed.</p>	
The <i>site</i> is	Fairway Field, Dymchurch, Romney Marsh, Kent, TN29 0QP Reference to Sketch_01 – Site Location in Fairway Field Site Information	
The <i>starting date</i> is	27/09/2021	
The <i>completion date</i> is	21/02/2022	
The <i>delay damages</i> are	nil	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	8	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) <b>does</b> 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.
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 <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 £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 <i>Adjudicator nominating body</i> is	The Institution of Civil Engineers	
The <i>tribunal</i> is	litigation in the courts	
The <i>conditions of contract</i> are the NEC4 Engineering and Construction Short Contract June 2017 and the following additional conditions		
<b>Only enter details here if additional conditions are required.</b>		
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 (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	<p>Delete the text of Clause 60.1(11) and replace by:</p> <p>The <i>works</i> are affected by any one of the following events</p> <ul style="list-style-type: none"> <li>• War, civil war, rebellion revolution, insurrection, military or usurped power</li> <li>• Strikes, riots and civil commotion not confined to the employees of the <i>Contractor</i> and sub-contractors</li> <li>• Ionising radiation or radioactive contamination from nuclear fuel or nuclear waste resulting from the combustion of nuclear fuel</li> <li>• Radioactive, toxic, explosive or other hazardous properties of an explosive nuclear device</li> <li>• Natural disaster</li> <li>• Fire and explosion</li> <li>• Impact by aircraft or other device or thing dropped from them</li> </ul>
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	<p>Delete the text of Clause 92.3 and replace with:</p> <p>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.</p>
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.
Z7.2	<p>Additional Compensation Event COVID-19</p> <p>Managing and mitigating the impact of Covid 19 and work in accordance with Public Health England guidance, as may vary from time to time, from 1st July to 31th August 2021.</p>

# Contract Data

## The Contractor's Contract Data

	The Contractor is	
Name	Land & Water Services Ltd	
Address for communications	Weston Yard, Albury, Guildford, Surrey, GU5 9AF	
Address for electronic communications	<div></div> <div></div>	
The fee percentage is	As framework	%
The people rates are	As framework	
category of person	unit	rate
The published list of Equipment is		As framework
The percentage for adjustment for Equipment is		As framework



# 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 £478,235.28

Enter the total of the Prices from the Price List.

Signed on behalf of the *Contractor*

Name

Position

Signature

Date 17<sup>th</sup> September 2021

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

Signed on behalf of the *Client*

Name

Position

Environment Agency

Signature

Date 27 September 2021

# Price List

Item Number	Description	Unit	Quantity	Rate	Price
1	Site Mobilisation	sum			
2	Provision of site pre-start soil analysis report	sum			
3	pre-delivery photographic survey	sum			
4	Design and installation of haul road	sum			
5	Installation of air monitoring stations with associated dust suppression systems	sum			
6	Application of Asbestos Licence	sum	1		
7	Removal of burnt material, 50-70mm across 3.5m2, from the bonfire site	sum			
8	Removal of 1,940 Tonne contaminated material containing asbestos	sum			
9	Removal of silt containing asbestos over 1,940 Tonne	Tonne	100		
10	Import 780 Tonne of topsoil and reinstatement of topsoil	sum			
11	Import additional topsoil to be spread at landowners discretion – this is to be stored at an agreed location with the Project Manager	Tonne	780		
12	Removal of haul road and full reinstatement	sum			
13	post-delivery photographic survey	sum			
14	Site demobilisation and reinstatement	sum			
15	Provision of Waste Transfer documentation (Certification), post work asbestos survey and certification, health and safety file	sum			
<b>The total of the Prices</b>					<b>£478,235.28</b>

The method and rules used to compile the Price List are

Civil Engineering Standard Method of Measurement 4<sup>th</sup> edition (CESMM4) as per the Framework Price Workbook.

677\_15 SHEW Code of Practice.



# Scope

## 1. Description of the *works*

Following dredging works to the Clobdsen Sewer two winters ago, approximately 1,940 Tonne of the silt was stockpiled in Fairway Field for dewatering.

Analysis was undertaken and identified asbestos material (white and brown) mixed into the silt which is classified as Hazardous Material.

The *works* are to remove the spoil that is contaminated with asbestos to a suitably licenced waste disposal facility.

The *works* include enabling works to gain access, installation of air monitoring and dust suppression controls and reinstatement of topsoil to the original ground level once the silt has been removed, as indicated below.

Prior to commencement of *work*, the *Contractor* shall:

- undertake a pre-works photographic condition survey of the site including access roads to the Site, curbs, gates, hedgerows and fences. This is to be issued to the *Client* for acceptance.
- Taking soil samples from 10 locations to be identified by the *Project Manager*, as recommended by guidance.

Provision of pre-start soil analysis report for any other contamination and soil productivity.

The *Contractor* shall ensure that the topsoil used to replace the removed material will have equivalent or better soil productivity relative to soil as sampled and analysed in the soil analysis report.

The pre-start soil analysis report is to be issued to the *Client* for acceptance before importing topsoil.

The *Contractor* shall obtain the Public Highway consent.

The *Contractor* is responsible of engaging with the public. The *Client* may be available to assist with letter writing or any site related issues with public/landowner/s.

The removal of asbestos is licenced work, the *Contractor* is responsible of obtaining the Asbestos Licence, which is granted by the HSE (Health and Safety Executive).

The *Contractor* shall remove the burnt material by 50-70mm across 3.5m<sup>2</sup>, from the bonfire site, as identified in the Fairway Field bonfire site Location Plan.

The *Contractor* is required to remove the asbestos contaminated as identified in the location plans to a quantity of 1,940 Tonne.

The *Contractor* shall excavate down to a minimum depth of 250mm, within the areas as identified in the location plan. The *Contractor* shall not remove or excavate material beyond a quantity of 1,940 Tonne, without prior instruction from the *Client*.

The *Contractor* is required to remove and dispose of the contaminated material in accordance with the waste removal and disposal regulations and legislation for the *works*.

Once removed, the *Contractor* shall allow for an inspection by a *Contractor*-appointed asbestos specialist and *Client* project manager of the area ahead of importing and reinstating with topsoil, to make sure the asbestos is removed. If asbestos is found, the *Contractor* shall raise early warning and seek advice from the *Client*.

The *Contractor* shall make provision of a suitable haul road from the field entrance to the location of the contaminated materials to be removed from the Site. The *Contractor* will be responsible for maintaining the haul road for the duration of the *works* including its removal and reinstatement at the end of the *works*, including addressing any compaction issues.

The *Contractor* shall ensure that there are adequate air quality monitoring stations around the site and shall maintain their operation throughout the period of the disposal works.

The *Contractor* shall provide sufficient dust suppression control measures and any necessary screening to mitigate dust, to be sure it complies with "Control of asbestos regulations 2012".

The *Contractor* shall take measures to minimise spread of contamination, including but not limited to making provision for a wheel wash and/or road sweep if it is required for the duration of the *works*. The *Contractor* will be responsible for its maintenance and operation during vehicle movements as necessary.

The *Contractor* shall obtain and adhere to any necessary consents for drainage, removal of contaminated material or haulage on the highway including noise permits for the duration of the *works*.

The *Contractor* shall undertake a post-works photographic condition survey of the site including access roads to the *site*, curbs, gates, hedgerows and fences. This is to be issued to the *Client* for acceptance prior to completion and signoff by the *Client*.

The *Contractor* shall provide all Waste Transfer documentation (Certification) for the transfer and removal/disposal to the *Client's* Project Manager within the required timescales to be agreed at the prestart meeting.

The *Contractor* shall provide certificate of cleanness as per template "Example of Post Works Certificate of Site Cleanliness.pdf"

The *Contractor* shall also provide:

- Summary of Total tonnage removed with transfer/disposal certificates including:-
  - Air Testing Results
  - Augean Weigh bridge report
  - Landfill Permits
  - Site Waste Management Plan
  - Waste Transfer Notes
  - Valid Certificate stating Removal of waste Complete (Certificate of Site Cleanliness)
  - Health & Safety files to be produced in collaboration with the environment agency appointed principal designer

The *Contractor* shall facilitate Environment Agency Waste Team Audits where required.

The *Contractor* may assume that works can continue throughout the period [20 Dec 2021 – 4 Jan 2022]. The *Contractor* shall notify the *Client* at the earliest opportunity if this assumption needs to be corrected in accordance with clause 60.1(1).

## 2. Drawings & Reports

### Fairway Field Asbestos remediation

Drawing Number	Revision	Title
Top Graphical Survey Data		
Report Number	Date	
Contaminated Land Survey (J634554)	Sept 2020	Rhodar Limited (Environtec) Contaminated Land Survey Report
Example of Post Works Certificate of Site Cleanliness		
Fairway Field bonfire site Location Plan		

### 3. Specifications

Title	Date or Revision	Tick if publicly available
Environment Agency Blockage Management Guide (Gov.uk)	12/2019	Yes
Minimum Technical Requirements	As per the SE FCRM Operations Framework	
677_15 SHEW Code of Practice	May 2018	No
Control of asbestos regulations 2012	April 2012	Yes
Guidance on the classification and assessment of waste (Technical Guidance WM3)	Jan 2021	Yes

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

Waste transfer regulations- *Contractor* shall provide waste transfer ticket.

The *works* are to be undertaken in accordance to "Control of asbestos regulations 2012"

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.

This Contract will involve working within land in private ownership. No works must commence until agreement has been secured with relevant landowners.

Works may need to stop due to adverse weather

#### Working times

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

Out-of-hours working may be required 0800-1500 Saturday if time is lost due to weather event, subject to agreement from the *Client's* Project Manager.

### 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
Site Information , including PCI	Tbc
Land entry notification issued by the Environment Agency	
Spraying of herbicide to the contaminated area will be arranged by the Environment Agency, to keep vegetation in check	

# Site Information

Fairway Field Site Information

PCI - The Fairway field haz. waste removal 10-9-20

## Proposed sub-contractors

	Name and address of proposed subcontractor	Nature and extent of work
1.	[REDACTED] [REDACTED]  [REDACTED] [REDACTED]	[REDACTED] [REDACTED]
2.	[REDACTED] [REDACTED] [REDACTED]  [REDACTED] [REDACTED]	[REDACTED] [REDACTED]
3.	[REDACTED]  [REDACTED] [REDACTED]	[REDACTED] [REDACTED]
4.	Form of Contract:	