Engineering and Construction Short Contract

Contract Data Forms

June 2017
(with amendments January 2023)

Template version history

V1 (as per bidder pack)	Go live template (this document)
V2 Tender Contract first draft	12/07/2024
V3 Tender Contract second draft for PM review	15/07/2024
V4 Tender contract final	17/07/2024

NEC4 Engineering and Construction Short Contract

A contract between	**The Environment Agency** [redacted]
And	**Breheny Civil Engineering Limited**
For	**Turf Lock Fish Pass Project**
	Contract Forms included in this document - **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 (EA)	
Address for communications	[redacted]	
Address for electronic communications	[redacted]	
The *works* are	To produce a circa 58m concrete rip rap rock ramp fish and eel pass on a historic lock, removing two weirs.	
The *site* is	Turf Lock, River Lark, Mildenhall, West Suffolk, IP28 7DL. The works are positioned within the existing river channel extending from NGR TL 70936 74229-TL 70862 74249.	
The *starting date* is	01/09/2024	
The *completion date* is	01/01/2025	
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.
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	The Contract Price	
The *Client* provides this insurance	None	

Insurance Table

Event	**Cover**	**Cover provided until**
Loss of or damage to the *works*	Replacement Cost	The *Client's* certificate of Completion has been issued
Loss of or damage to Equipment, Plant and Materials	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	Minimum £5,000,000 in respect of every claim without limit to the number of claims	

employee of the *Contractor*) arising from or in connection with the *Contractor's* Providing the Works		
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 Contract Price 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 (including 2023 amendments) 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 correct 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 – Not Used
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
Z110	Inflation At the Contract Date the total of the Prices does not include a sum to cover inflation. The total of the Prices [at the Contract Date] shall be adjusted by a fixed number of Price Adjustments. The number of Price Adjustments shall be equal to: The number of months between the Completion Date included at the *starting date* and the Contract Date.

	The proportion of Price Adjustment shall be equal to: The total of the Prices at the Contract Date / The number of Price Adjustments Each time the amount due is assessed, the Price Adjustment shall be: The proportion of Price Adjustment x [80% x Construction Output Price Indices (OPIs) New work output prices: Infrastructure Index 1 – month rate] The Construction Output Price Indices (OPIs) New work output prices: Infrastructure Index 1 – month rate shall be the value determined by the Office of National Statistics for the applicable month of the amount due assessment Provided always that the fixed number of Price Adjustments has NOT been exceeded. The Price Adjustment adjusts the total of the Prices. If a compensation event under this contract omits original Scope covered by the total of the Prices at the Contract Date the Price Adjustments made under this clause shall be corrected accordingly.

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	8	%
The *people rates* are	As per the AOMR Workbook	
category of person	unit	rate
The *published list of Equipment* is		AOMR Workbook
The *percentage for adjustment for Equipment* is		8%

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	BCE AOMR Commercial Manager
Signature	
Date	12 August 2024
The *Client* accepts the *Contractor's* Offer to Provide the Works	
Signed on behalf of the *Client*	
Name	[redacted]
Position	EAN Environment Programme Manager

Signature	
Date	29/8/24

Price List

[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

The main objectives of this project are to improve the overall status of the Lark and associated tributaries specifically fish and eels. By providing an opportunity for fish and eel passage we will ensure greater green connectivity, a more resilient riverine community, one that is buffered from the effects of climate change as well as creating a better place for people and wildlife

The work is part of a widescale catchment project Brecks Fen Edge and Rivers, Landscape Partnership Scheme, which is Heritage Lottery Funded (HLF) project being managed by Suffolk County Council with a variety of water-based projects within the Brecks River catchments involving 80 different partners, fish passage will feed into restoration work U/S in the catchment being delivered by partners.

The main work is to produce a circa 58m concrete rip rap rock ramp fish and eel pass on a historic lock, removing two weirs. The existing upstream apron/fixed weir shall be removed and replaced with the substrate that forms the rock ramp. The design for replacement of the weir with the rock ramp will not increase flood risk and will remain within the curtilage of the structure.

This structure is the second structure on the River Lark and sits within the South Level System with fish and eel easements downstream of Mildenhall. The structure is currently impassable and acts as a blocker to enhancing and providing fish passage. Works are key to opening up the River Lark which is now classed as a gateway chalk stream

The designs produced mean there is not breaking out of the structure. The wingwalls will require some repair at the time of rock ramp construction. The rock ramp will need to be constructed from concrete with boulders embedded into this, formed in-situ. Additional roughness will need to be added by some embedded cobbles in the concrete surface. This design requires rip-rap and earth infill of the large pool between the upper and lower weirs of Turf Lock. Access for construction is assumed to be via the downstream true right bank and will require construction of a temporary access ramp.

1. Description of the *works*

Chalk River restoration project that includes the installation of a circa 50m concrete rip rap rock ramp between two existing weirs, at Turf Lock, Mildenhall.

The *Contractor* shall provide the following *works:*

(a) Rock ramp to be 58 m long, 2.5% slope rock ramp which is designed to fit within the existing wing walls of Turf Lock.
(b) The existing upstream apron/fixed weir shall be removed and replaced with the substrate that forms the rock ramp. The wingwalls shall require some repair at the time of rock ramp construction.
(c) The rock ramp shall have a base width of 2.58 m with 1-in-2 side slopes until these reach the existing vertical lock walls.
(d) The upstream invert of the rock ramp shall be 3.90 m AOD and the downstream invert shall be 2.44 m AOD.
(e) There shall be 58 rows of perturbation boulders, with 2 to 3 perturbation boulders per row, each perturbation boulder with an approximate diameter of 0.5 m and an approximate height above the rock ramp invert of 0.7 m.
(f) The rock ramp shall need to be constructed from concrete with boulders embedded into this or formed in-situ. Additional roughness shall be added by some embedded cobbles in the concrete surface. This design (prepared by [redacted] - see existing outline drawings in Appendix 3) requires rip-rap and earth infill of the large pool between the upper and lower weirs of Turf Lock. [redacted] are currently finalising detailed design drawings, which will be completed and available w/c 22nd July 2024. The *Contractor* shall carry out the *works* in accordance with the design as specified in the detailed drawings.
(g) Access for construction is assumed to be via the downstream true right bank and will require construction of a temporary access ramp. The rock ramp shall chieve approximate depths (from base invert) of 0.23 m at Q95 and ~0.88 m at Q10. Average velocities shall e approximately 0.66 m/s at Q95 and ~0.84 m/s at Q101

Other *works* and *considerations*:

White Poplar tree will need to be felled at location TL 70797 74308, then cut into sections, moved to

- the edge of the site and stacked into habitat piles (see appendix 3 - TURFL_2024_400_001A – Site

Location & access Plan), to allow access for EQUIPMENT, PLANT & MATERIALS from the site compound to the river. *Contractor* to undertake this work. An outage date is being arranged with UK Power Networks and a date for the tree felling will be confirmed prior to *Contractor* getting into contract.

- *Contractor* to arrange for diverting water out of river, see appendix 2 – [redacted] – Survey Report).
- *Contractor* is required to commence construction work is required to commence early / mid-Sept 2024 and be completed by end Nov 2024 (dates will be determined once licences are approved).
- *Contractor* to use track matting for access track and site compound areas (as identified in appendix 3 'Site Location & Access Plan' (TURFL_2024_400_001A).
- Public Rights of Way (PROW) application has been submitted for footpath closure during the *works*. *Contractor* expected to provide all signage and prepare footpath diversion, as well as maintain this diversion during the *works*.
- All Ground Investigation (GI) work has been completed.
- The following licences have been submitted and awaiting approval:
    - Flood Risk Assessment Permits (FRAPs) for temporary and permanent works
    - Impoundment licence.

2. Drawings

List the drawings that apply to the contract (appendix 3)

Drawing Number	Revision	Title
101_3259	P02	Rock Ramp Site Plan
102_3259	P02	Rock Ramp General Arrangement
103_3259	P02	Rock Ramp Sections
TURFL_2024_400_001A	A	Site Location & Access Plan

3. Specifications

List the specifications which apply to the contract.

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

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

In order to legally remove water from the river, the Environment Agency must secure an Impoundment Licence from the appropriate authorities. This permit is necessary for the business operations to pump water effectively and in compliance with regulations. Obtaining this license ensures that the *Client* adhere to environmental guidelines and fulfil the Client's obligations as a responsible entity utilising natural resources. The *Client* is currently in the process of obtaining an Impoundment License, which is anticipated by mid-September 2024. Upon receipt, the *Contractor* will be able to commence construction works.

The *Contractor* will work within the designated *site* boundaries and use the *site* compound and storage areas identified within the drawings as listed in appendix 3 only unless prior agreement is made with the *Client* and local landowners.

General site timings and working hours

Work will be carried out between the hours of 7am and 7pm only, 7 days a week, to ensure there is no undue disturbance to local landowners.

Due to heavy Equipment traffic being used the *Contractor* shall ensure that:

a) Temporary Works are completed to protect or improve existing tracks and surfaces as appropriate to the *Contractor's* planned vehicle use. In particular, there is an Anglian Water sewage mains pipe under the access track. A methodology is being produced to ensure adequate reinforcement is provided to protect this pipe during the *works* (to be provided) which should be followed by the *Contractor*;

b) Access ways damaged by construction traffic shall be reinstated to a condition better or as good as their original condition;

Temporary Works are to be removed unless otherwise agreed with the *Client*.

The *Contractor* is to maintain access security control of all personnel and vehicles through all the perimeter gates when in use.

The *Contractor* shall draft, implement, and update the following documents:

a) Construction Phase Plan. This plan shall include hours of work; access arrangements for *Contractor*'s vehicles (locations and times); details of the siting; road surface treatment; alteration or re-routing of any permanent or temporary access track to be used by vehicular traffic serving the development for the purposes of construction or operation, *Contractor*'s operatives, and method(s) for avoiding mud from the site tracking onto the highway with a strategy for remedy of this should it occur;

b) Construction Flood Management Plan (or Construction Flood Response Strategy);

c) Restoration and Maintenance Plan;

d) Site Waste Management Plan as described in Safety, Health, Environment, Welfare Code of Practice (May, 2018) (SHEWCOP);

e) Emergency Pollution Response Plan;

f) Materials Management Plan (details to be included)

g) These documents shall be submitted to the *Client* for review 1 week prior to commencement of site *works*.

Copies of documents a) to f) shall be provided to the *Client* for information.

These documents shall be reviewed and updated by the *Contractor* monthly and controlled copies kept on *site* for inspection by the *Client*.

The *Contractor* shall adhere to the requirements of the Environmental Action Plan (EAP) and Environmental constraints on the construction activities (TBC).

The *Contractor* is to ensure appropriate Unexploded Ordnance (UXO) risks and mitigation measures are identified for all construction activities and executed prior to and during construction activities, as required.

The Contractor will undertake a thorough review of the UXO Risk Assessment for Turf Lock River, considering the further possible risk mitigations outlined within it, advising the *Client* accordingly as to whether these measures should also be implemented.

On discovery of a suspicious object (UXO) the *Contractor* shall:

a) Cease Works in the immediate area;

b) Contact the *Client*

c) Contact Police;

d) The *Client* to inspect and advise.

The *Contractor* shall make themselves familiar with the following document: Unexploded ordnance (UXO): A guide for the construction industry (CIRIA C681).

Working times

The *Contractor* will be permitted to work between 7am and 7pm, seven days a week.

5. Requirements for the programme

The *Contractor* submits their programme with the *Contractor's* Offer for acceptance. The *Contractor* shows on each programme which they 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*

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**
N/A	N/A

Site Information

The Norfolk Rivers Internal Drainage Board (NRIDB) have undertaken all enabling works, e.g. surveys such as UXO (see appendix 5), underground services (only Anglian Water sewage pipe to consider), archaeological (low risk), vegetation clearance etc. in February 2024, to ensure a route through a forested area has been created in preparation for the construction to commence during the Summer period. The surveys showed that there were no issues with use of the land, except an Anglian Water sewage pipe running circa 500mm below ground level, therefore steps were taken to reinforce the ground above this pipe to avoid any damage to it.

Ongoing maintenance / veg clearance of this route is in place to ensure it is suitable to be used as planned once construction works commence.

The following surveys were undertaken by the ecologist and reports prepared (appendices 6 & 7):

- A Preliminary Ecological Appraisal (PEA) in April 2024
- Water Vole and Otter survey in May 2024

Proposed sub-contractors

	Name and address of proposed subcontractor	**Nature and extent of work**
	[redacted]	Fabrication and installation of Walkway/access platform.

Appendices

Appendix Number	**Document No**	**Title**
There is no Appendix 1		
Appendix 2	N/A	[redacted] - Survey Report
Appendix 3	101_3259_Turf Lock Fish Pass OD 102_3259_Turf Lock Fish Pass OD	Rock Ramp Site Plan Rock Ramp General Arrangement

	103_3259_Turf Lock Fish Pass OD TURFL_2024_400_001A 200_3259_Turf Lock DD	Rock Ramp Sections Site location and access plan Site location plan and hazard map
There is no Appendix 4		
Appendix 5	PA19566-00	Preliminary UXO Risk Assessment
Appendix 6	N/A	Preliminary Ecological Appraisal (PEA)
Appendix 7	N/A	Water Vole and Otter survey