

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

For

Lower Chance Access Track

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	Oliver Roden - Environment Agency	
Address for communications	Red Kite House, Howbery Park, Wallingford, Oxon, OX10 8BD	
Address for electronic communications		
The <i>works</i> are	<p>Installing new 450m long access track from the existing concrete road near the Environment Agency's observation borehole along the byway and across the fields footpath to the Ridgeway track.</p> <p>Fabrication and installation of steel hollow 4m wide security gate including on-site modifications with welder, with security boxed padlock system. Small amount of fencing and 100m hedging.</p> <p>Re-surfacing of 25m length & 5m wide driveway within the pumping station grounds.</p>	
The <i>site</i> is	Lower Chance (RG20 7PR)	
The <i>starting date</i> is	12/09/2022	
The <i>completion date</i> is	31/03/2023	
The <i>delay damages</i> are	nil	Per day
The <i>period</i> for reply is	2	weeks
The <i>defects date</i> is	104	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 *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.
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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
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The <i>Client</i> provides this insurance	None
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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 <i>Contractor's</i> 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 <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	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</i> nominating body is	The Institution of Civil Engineers
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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		
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 (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	<p>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.</p> <p>The <i>Contractor</i> does not proceed with the relevant work until the <i>Client</i> has accepted this design.</p>	
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"> • 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 	

	<ul style="list-style-type: none">• 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 Client recognises the ongoing pricing uncertainty in relation to materials for the period from 1 July 2021 to 30 June 2023 the Client 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 30 June 2023 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 June 2023 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></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
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
30 th Jun 23	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	Breheny Civil Engineering Ltd	
Address for communications	Unit 5, The Courtyard Business Centre, West Malling, Ryarsh, Kent, ME19 5AA	
Address for electronic communications	<div></div> <div></div>	
The fee percentage is	<div></div>	%
The people rates are	As Per Framework Agreement	
category of person	unit	rate
The published list of Equipment is		As Per Framework Agreement
The percentage for adjustment for Equipment is		As Per Framework Agreement

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 12/09/2022

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

Signed on behalf of the *Client*

Name

[REDACTED]

Position

[REDACTED]

Signature

[REDACTED]

Date 13/09/2022

Price List

Item Number	Description	Unit	Quantity	Rate	Price
1	Apply for the Temporary Traffic Regulation Order (TTRO), including producing and submitting all necessary documents to Oxfordshire County Council.	Sum			
2	Site mobilisation, including provision of compound if necessary.	Sum			
3	Fabrication and installation of steel hollow security gate on steel posts, including on-site modifications with welder.	Sum			
4	Fabrication and installation of new steel padlock security box and long gate ramp, and functional check.	Sum			
5	No longer required	Sum			
6	No longer required	Sum			
6a	Design of the track	Sum			
7	Excavate grass and topsoil for new track along the byway and in the field, with minimum of 375mm in depth, to receive the quantity of material for the track.	Sum			
7a	Plant hire for item 7	Day			
8	Install minimum 300mm of compacted granular hardcore base to the track dimensions (approx. 450m x 3m).	Sum			
9	Install minimum 75mm depth of crushed concrete to the track dimensions (approx. 450m x 3m).	Sum			
9a	Plant hire for item 8 and 9	Day			
10	Roll flat and compact the surface along the track (after excavating). Crown the track – make sure it slopes off to the sides and is sufficiently high in the middle to allow good drainage.	Sum			
10a	Plant hire for item 10	Day			
11	Demobilisation	Sum			
12	Waste disposal	Sum			
13	Provision of as-built drawings	Sum			
14	Provision of Health and Safety files	Sum			
15	Weed matting	Sum			
The total of the Prices					

Optional 16	Install fixed retaining edges for the 450m length of access track (concrete or similar hardwearing material – please specify) - flush with surrounding land.	Sum			
17	Supply and Install cell grid system (VubaGrid or equivalent to minimise spreading of the crushed concrete & prevent potholes).	Sum			
18	Excavate 25m (5m wide) driveway in the pumping station. Roll flat. Lay either crushed concrete or MOT Type 1 and roll flat.	Sum			
	Please note the optional items will be excluded from the total of the Prices, and may be instructed at the <i>Client's</i> discretion.				

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

1. Description of the *works*

The Environment Agency is the owner and operator of the West Berkshire Groundwater Scheme, a groundwater augmentation scheme consisting of 32 pumping stations and 4 major outfalls. It is essential that these sites are kept safe, secure and accessible to Environment Agency staff and Contractors.

The following tasks shall be undertaken by the *Contractor*:

- Apply for the TTRO (Temporary Traffic Regulation Order) upon contract award, including producing and supplying all necessary documents to Oxford County Council. The TTRO is expected to take a minimum of 12 weeks to process.
- Management of the people / plant interface including temporarily moving the public footpath alongside the works area or closing it during the works.
- Design the new access track, work cannot commence on site before the *Client* accepts the design.
- Liaison with landowners to agree access and the location of any compound or welfare facility.
- Provision of welfare facilities and a compound area/site office.
- Production of a Designer's Risk Assessment for contractor led design elements and a Construction Phase Plan, that must be submitted to the *Client* for review at least one week before construction work starts. The Designer's Risk Assessment must include consideration for public safety.
- Fabricate and install the new 4m wide gate on steel posts, with 100mm x 100mm square galvanised steel tubes, including on-site modifications with welder.
- Fabricate and install security boxed padlock system on steel posts, (can be rolled steel joists), with anti-theft pins (pointing at each other). (Please see drawings in Lower Chance track proposal)
- Functional check on padlock system, it should be easy to use but secure.
- To prevent vehicular access either side of the gate, install 2-meter length of simple wooden fencing on both sides of the gate. On one side, allow a 1.2m gap for pedestrian access to the footpath.
- Install new access track from the existing concrete road near the Environment Agency's observation borehole along the byway and across the fields footpath to the Ridgeway track (where the new metal security gate will be located).
- The track shall be 3m wide and approx. 450m in length. Construction to be minimum 300mm compacted granular hardcore base on a prepared excavated and compacted ground. With minimum 75mm depth of crushed concrete on top (potentially cell grid system and edge protection).
- Crown the track to make sure it slopes off to the sides and is sufficiently high in the middle for good drainage.
- Re-surface 25m length & 5m wide driveway within the pumping station grounds, excavate top layer, roll flat and install top layer of crushed concrete (or MOT type 1) and rolled flat.
- Production and provision to *Client* upon works completion of Health & Safety files and as built drawings.
- Management and disposal of waste in accordance with the *Client's* SHEW Code of Practice.

The *Contractor* shall also:

- As agreed by the Oxfordshire County Council, no other materials than crushed concrete shall be used for the access track, no alternative material will be accepted.
- Make sure materials and machinery are delivered to site on time.
- Make sure correct machinery are used for the work with experienced staff as needed. Work cannot commence without using the correct machinery.

2. Drawings

Lower Chance Access Track

Drawing Number	Revision	Title
1	1	Lower Chance track proposal

3. Specifications

Title	Date or Revision	Tick if publicly available
Minimum Technical Requirements (V12)	Dec 2021	Yes
LIT 16559 SHEW Code of Practice	Jun 2022	No
Guidance on the classification and assessment of waste (Technical Guidance WM3)	Jan 2021	Yes

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

The *Contractor* is responsible for applying for the TTRO, which takes a minimum of 12 weeks to process.

The *Contractor* must carry out the work taking into consideration the information provided in the Pre-Construction Information and Designers Risk Assessment.)

The *Contractor* is to prepare, for the *Client's* acceptance, the Designers Risk Assessment, Construction Phase Plan (CPP) prior to starting the works.

The *Contractor* shall not commence any work on the *site* until the *Client*, or their representative, has accepted the method statements, risk assessments and *Contractor* led design 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.

No alternative materials than crushed concrete shall be used for the access track.

Waste transfer regulations- *Contractor* shall provide waste carrier licence.

Works may need to stop due to adverse weather.

This work is funded solely by budget allocated for financial year 2022/23, the project must be completed by 31/03/2023, without extension.

Working times

The *Contractor* will be permitted to work between 7.30 and 18.00 on weekdays (Monday to Friday)

Out-of-hours working may be required 08:00-15:00 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
Pumping stations have mains electricity supply if required but generators should be used as primary option.	N/A
Water cannot be provided	N/A

Site Information

Lower Chance access reinstatement (ii)

PCI Lower Chance drive works_v1

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:	
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